

REPORT ON PROCEEDINGS BEFORE

**PORTFOLIO COMMITTEE NO. 2—HEALTH AND
COMMUNITY SERVICES**

INQUIRY INTO ROAD TOLLING

UNCORRECTED PROOF

At Macquarie Room, Sydney on Monday 22 May 2017

The Committee met at 9.15 a.m.

PRESENT

The Hon. G. Donnelly (Chair)

Dr M. Faruqi
The Hon. J. Graham
The Hon. P. Green
The Hon. T. Khan
The Hon. T. Martin
The Hon. D. Mookhey
The Hon. Dr P. Phelps

The CHAIR: Welcome to the third hearing of the Portfolio Committee No. 2—Health and Community Services inquiry into road tolling. This inquiry is examining a range of matters relating to tolling regimes in New South Wales, including the process for determining how tolls are set and how tolling contracts are negotiated, varied and scrutinised, as well as opportunities to increase assurances to the public that tolling arrangements represent the fairest possible outcomes.

Before I commence, I acknowledge the Gadigal clan of the Eora nation who are the traditional custodians of this land. I also pay respect to elders past and present of the Eora nation and extend that respect to other Aboriginal persons present or listening to this broadcast. Today is the third and final hearing to be held as part of this inquiry. This morning we will hear from representatives of the National Roads and Motorists Association, Professor David Hensher, University of Sydney Business School, and representatives from Infrastructure Partnerships Australia. This afternoon we will hear from the Sydney Motorway Corporation and representatives from a number of government bodies and agencies.

I will now make some brief comments about the procedures for today's hearing. Today's hearing is open to the public and is being broadcast live via the parliamentary website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with the Legislative Council's *Guidelines for the Broadcast of Proceedings*, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind members of the media that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at this hearing. I urge witnesses to be careful about comments they may make to the media or to others after they have completed giving their evidence. Such comments would not be protected by parliamentary privilege if another person decided to take defamation action. The guidelines are available from the secretariat.

There may be some questions that witnesses could only answer if they had more time or with certain documents to hand. In those circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days. Any messages for members of the Committee should be delivered through the secretariat staff. To aid the audibility of this hearing, I remind members of the Committee and witnesses to speak into the microphones. In addition, several seats have been reserved near the loud speakers for persons seated in the public gallery who may have hearing difficulties. I now welcome our first witnesses from the National Roads and Motorists' Association.

KYLE LOADES, Chairman, National Roads and Motorists Association, affirmed and examined

MATTHEW GIJSELMAN, General Manager, Public Affairs, National Roads and Motorists Association, affirmed and examined

CARLITA WARREN, Senior Manager, Public Policy and Research, National Roads and Motorists Association, affirmed and examined

The CHAIR: Thank you all for appearing before the Committee today. It is great to have so many representatives of the National Roads and Motorists' Association [NRMA] from senior positions making themselves available. The Committee has received the NRMA's submission, No. 115, so it is not necessary to go through it line by line. However, we would welcome an opening statement from one or all of you to set the scene. We will then proceed with questions.

Mr LOADES: Thank you for having the NRMA speak to the Committee on the important issue of tolling, which is an important part of the funding mechanisms for new and improved infrastructure. The NRMA began just under 100 years ago. Ironically, we talk about disruption today with the driverless car coming, when the disruptive motor car began to really haunt the horses the NRMA began to lobby for increased infrastructure and to build the right roads. In fact, not long after that the first lot of tolls were considered, as I think the Committee has already encountered in other areas of discussion. The NRMA began in 1920 as a lobby group on behalf of the motorists. What we know from the feedback from our members today—2.4 million—that is so important. We were born to help people move back then and it is the same scenario now, even though there are so many alternative, diverse forms of transport.

In that sense the NRMA, when you look at where things are going in terms of the driverless car, car share, car ride, all of the modern alternatives that are here and now or on their way, we are factoring those into our understanding of policy and lobbying and asking government to improve investment in the important road infrastructure. Indeed, the organisation over time, when the driverless car does turn up, will be impacted if we retain the same model that began 100 years ago. We need to evolve along the way. We have a mutual, we are owned by 2.4 million members and it is about looking after the interests of a diverse range of stakeholders, members, staff, other stakeholders and community. We call that shared value.

In terms of the road network itself we know how important that is, that most people get around by car on the road network. The New South Wales infrastructure backlog is estimated to be \$100 billion, which is a massive amount of money as a backlog—\$30,000 for every taxpayer. In addition, just under \$7 billion is lost annually in productivity to congestion. That is forecast to almost double by 2031. New South Wales has a problem today. Tolls are an important part of the funding mix. In the past funding for roads has been funded out of surpluses and at another level borrowing and debt. New South Wales has a problem, if the triple-A rating goes \$300 million is lost in annual interest. We pay more with higher interest and in three or four years that is \$1 billion, which is an enormous cost to the community on what would not happen, in terms of investment into the broader community, including infrastructure.

Other issues include a fast growing population, passenger and freight demand tripling by 2050, denser town centres, and declining fuel excise revenues. We need to solve the issue and move towards a user pay system. We will talk about that later on. There are issues with housing affordability. In terms of funding we know that Infrastructure NSW and Australia support financing options to address future needs, including tolling. Through private investment the NRMA believes that the M7 was delivered 30 years earlier than expected. Can you imagine that important piece of road not happening because it could not be funded? NorthConnex was brought forward by 10 years.

As I drove down from Newcastle today it was all good until I hit the 21 sets of traffic lights on Pennant Hills Road and trucks on both lanes of the three lanes; it is diabolical. To continue to move forward the vital projects the NRMA does support all funding models, including community pays or taxation revenue, beneficiary pays or value capture, and user pays, meaning tolls and fares. If you get this right the user-pay system would have to deliver on the following things: we want to see an improved transport network performance, improved asset quality and safety, reduced travel times, new access for on-and-off ramps, environmental benefits, productivity benefits and the broader economy-wide benefits.

The calculation, indexation and application of user charges must deliver the following: be transparent, including the user charge at commencement and escalation mechanism; consider wear and tear caused by different vehicle types; encourage and provide greater mobility choice; and make provision for future use of the demand of assets, including investment requirements. The mechanisms of various user charges could be

independently calculated by the Independent Pricing and Regulatory Tribunal [IPART] or a similar independent organisation. We believe that is very important.

It must consider the whole-of-life asset cost and maintenance and incentives for behavioural change. Tolling is not the primary issue. We believe the real issue is value and fairness and transparency of the project delivery. There are presently issues and disparities with the current arrangements that need to be solved. A supported broad-based model has the potential to provide fairness for all users, a wholesale review of pricing arrangements across the network is necessary and the NRMA will be involved as an advocate for fairness in that debate. Thanks so much for having me here and I welcome any questions.

The CHAIR: We will open for questions. We have representatives from the Opposition, crossbench and Government on the Committee. We will break it up to 20 minutes each. Are you happy about that?

Mr LOADES: Yes..

The Hon. PAUL GREEN: Thank you for your presentation. I think you put the heart of New South Wales motorists on record. It was very clear and concise. Can I come to your submission, the third point, you talk about the accelerating delivery of much needed infrastructure: "However, user-pay tolling needs to be transparent, equitable and independently assessed". How do we get it independently assessed and transparent when it comes down to explaining how we arrive at tolls and commercial-in-confidence?

Mr LOADES: This is one of the challenges. For the decade I have been involved with the NRMA we have been a frequent stakeholder contact with the government. We understand the high level benefits and the importance of the road system and toll funding. By the same token we believe if NRMA cannot get access to the deal, what is the deal and how it compares to others, we would like to rely on an independent body, such as the IPART or others. We respect and appreciate that the Government of the day and previous governments of different persuasions have fundamentally delivered tolling in a similar model, without IPART, and in recent times it has been Infrastructure NSW and other government agencies. As much as we respect that, we do believe it needs true independence to have oversight into the deal: what should the toll be? What should the escalation be? Is this a fair deal for motorists and New South Wales? That is why we argue that IPART is so important, or an equivalent.

The Hon. PAUL GREEN: I have been travelling in the Central West and they do not have confidence in IPART setting water prices, so I do not think they would have confidence in road pricing. It needs to be someone totally independent. Do you think it is unreasonable for an inquiry such as this to ask for clarity, equity and transparency in terms of how the government has arrived at the tolling prices?

Mr LOADES: From the NRMA's perspective, for us to have an informed view as an organisation making recommendations on behalf of our members, and to continue to deliver a high level of benefits, we understand the importance of every major road that is being built or that needs to be built and the importance of tolling. Ideally there would be more understanding of the deal to make a more informed view. We are comfortable that if we cannot access that information then an independent organisation—whether it is IPART or there is an independent organisation even better, we do not really care which it is as long as it somebody that really can delve into the detail. If it does not do that then it is probable the transparency is not there to the degree it could or should be.

Mr GIJSELMAN: It is very difficult for us to comment on particular circumstances relating to a particular commercial arrangement that the government has gotten into without getting some sort of transparency around what that commercial arrangement is. Obviously there are circumstances where pieces of information are publicly released, be that on behalf of the government or on behalf of a commercial partner, but it is very difficult for us as a third party to say whether or not that is actually giving full value to New South Wales residents without understanding the complexity of the deal. Respecting that commercial-in-confidence nature that sometimes relates to how these are executed, we think that there is definitely a place for another voice, another set of eyes in government to ensure that that value is being delivered.

The Hon. PAUL GREEN: In government or outside government? This is the problem, is it not? It is a bit clandestine. No-one except the government really knows what price has been set, how it has been set, how many vehicles movements there are per day, how many trucks are going to be on it and whether they are going to subsidise it. We do not know any of this. It is very hard to get to this detail.

Mr GIJSELMAN: I can certainly appreciate that.

The Hon. PAUL GREEN: Finally, the road users are feeling ripped off.

Mr LOADES: I am not sure that we are going to respond to that.

The Hon. PAUL GREEN: I have a question on that. I think you talked about share value. What is fair? When does it cross over from being ripped off to having a fair common investment from the road tolling? Where do you pitch that? Is it a percentage, or based on the consumer price index, or another method? Where do you say that motorists are sick and tired of being ripped off as opposed to it being a fair value toll?

Mr LOADES: If I can start with the cost of motoring and congestion, when we survey our members they are two of the most important issues that our members are faced with. The cost of motoring can be petrol pricing and all the other things that seem to go up. It would be fair to say that if you surveyed every member and asked them would they like to pay a toll or not they would prefer not. But that is like every tax in the world. Pragmatically it gets down to is there going to be a benefit to me so I might spend a bit but I get a lot of benefit back? The feedback we get is yes, as long as it is a fair amount.

When you look at where things have not worked here in the past in this market it has been that there has been higher pricing and not perceived value and other funnelling and other things which went on against motorists where that did not work. But if you look at the M7 and other examples, people save time, stress and money in a sense; they spend something but they get a lot more back. We just did a recent survey of 1,000 businesses and a lot of those are in the western suburbs. The feedback is very positive that, for example, WestConnex is the biggest priority and that just under 60 per cent could not wait to use the toll road because they understand the net benefit. If we extrapolate that right across the State it is the net benefit that matters. For myself coming off the freeway this morning and hitting 21 sets of lights mixing with trucks, give me a toll road any day so I can avoid that and feel safe and get from A to B quicker.

The Hon. PAUL GREEN: In section 4 you say that eventually the NRMA would like to see a comprehensive reform of road funding in New South Wales including consideration of a broad-based road user charge. Will you explain what your hope is there?

Mr LOADES: I can do. If you start with the fuel excise, roughly 40¢ a litre every time you fill up, that goes to the Federal government and over time between one-third and 50 per cent gets reinvested back into roads. When it first began it was 100 per cent back into roads. Over time the balance has gone into consolidated revenue and spread. What is happening recently is that more and more people are buying newer cars and you have got electric cars here now and more on their way, which means the revenue base is declining. From a Federal government perspective it is a flawed model that relies on a decreasing income to fund that \$100 billion backlog in New South Wales let alone what else is going on around the rest of the country. We actually need to move towards a fairer system that actually is fair and equitable where it is based on usage, whether that is per kilometre or other factors. The Federal government is talking 10 years, the State government is quite in tune with this. We would like to see it fast-tracked because that is when we can have a better model. This is not a new tax overlaying other taxes. This is genuine reform where the fuel excise will disappear and other State taxes will disappear and there will be a new tax that will be delivering net results where you actually only pay for genuine usage.

The Hon. PAUL GREEN: I think insurance companies are dancing around this and saying that if you only have a few trips from home we will lower your insurance premiums but if you travel lots we will lift it up. I think that is an indication that the user-pays situation is not a bad contribution.

Mr GIJSELMAN: There are a range of organisations and industries that are looking at user-pays situations. It is fairly common in other sectors. For example, you only pay for the water you use. It is not an unusual circumstance. Certainly, in the transport sector insurance companies are looking at that as an option. There are also moves in place of course in relation to truck movements and a charge per kilometre for truck use along some of the new infrastructure. I think NorthConnex is looking at that as well.

It is a circumstance that we think makes sense as a long-term funding mechanism. It would need to be part of a very large reform agenda. If you pull off your fuel taxation we think that there is probably a range of other charges that motorists currently pay that could come off as well. Perhaps registration and stamp duty, et cetera. That would allow a system where those that use the road the most pay the most to use the roads. We think that is an equitable situation.

The Hon. PAUL GREEN: I would like you to put in your rhetoric, Mr Loades, about SouthConnex. That is just for the record.

Mr LOADES: What is the question?

The Hon. PAUL GREEN: We talk about NorthConnex and WestConnex. I would just like you to put on the record your keen commitment to SouthConnex.

Mr LOADES: There are a number of major roads that are not committed to fully yet. As you know, SouthConnex is one of those. It needs to be done as soon as possible, along with the second harbour crossing and more public transport. They are the major priorities for the NRMA today and we will see that through one day, because you have a population of two million coming over the next few decades but the current infrastructure does not support today's population. We really need to set up the future and the SouthConnex is a very important part of that not just for Sydney but for the greater Illawarra region.

The Hon. JOHN GRAHAM: I want to move to those principles that you outlined for support for a user-pays system to be there and to be transparent, equitable and independently assessed. I was interested particularly in the equitable part of that. One of the things we have had put before the Committee is that people want to feel they are getting good value for money and that the tolls they are paying really reflect the benefits they are broadly getting. Can I ask you to talk to that aspect of your submission?

Mr LOADES: The user pay relative to tolls, as in not the 10 year vision of a true user?

The Hon. JOHN GRAHAM: Yes.

Mr LOADES: It is all over the shop at the moment and every toll road has a different escalation, has a different term and has a different toll price. I think ultimately that is frustrating for motorists who do not just stay around where they live. For work or for other reasons they have to travel all over Sydney. What we want to see over time is a true network which has consistent principles and pricing that people will understand. That is fair pricing. We are not saying to turn it all upside down right now and start again. Pragmatically, we would like to see us moving towards a consistent network so that there is consistent pricing per kilometre or per use, whatever is a fair model.

The Hon. JOHN GRAHAM: That feeling, what I am being asked to pay, is related to the benefit; it is fundamental to public support for the system we want to see.

Mr LOADES: That is true. Sometimes people forget where they travel to. Eventually you travel everywhere. Some people in the west think, "It is not fair, I am paying here." But when SouthConnex is built and when the NorthConnex comes on line, there will be tolls in a number of locations and we will all have to use every major road one day. It is fair they get to use that at the same time and there is a fairness in the whole thing of how it all links. That probably is not there at the moment.

The Hon. JOHN GRAHAM: Putting aside it is not there, it has also got to be seen to be there, so the transparency and the oversight becomes important. I note your views about the Independent Pricing and Regulatory Tribunal [IPART]. I welcome those comments; it is really useful. The argument put forward by the Government agencies who have come before us is when these deals are done, there are a lot of people in the room already, a lot of senior people, a lot of people who know this stuff backwards. They say that we do not need to add another level of bureaucracy to this. What do you say to those views?

Mr LOADES: We respect their multiple layers, which add up to the outcome that we have right now, including final oversight with Infrastructure NSW. We respect the Government and Infrastructure NSW. We are seen in addition, and IPART or other would provide additional independent oversight, so truly independent. From the community perspective, the NRMA, on behalf of our members, see value in that independent oversight. So if the NRMA cannot get access to that information because of some of the privacy reasons, commercial-in-confidence, then at least have somebody independent who can.

Mr GIJSELMAN: We link it back to the comment you were making about community support for these sorts of arrangements. There is a range of people in the room, as you note. We think that an independent view, if it cannot be us, as a final tick is something that we would support.

The Hon. JOHN GRAHAM: One of the issues, it seems, with the people in the room is that Roads and Maritime Services [RMS] is there, but they are keen to get on and do what they do and build the road; Treasury is in the room, but sometimes these involve significant up-front payments—I guarantee Treasury is often keen on those in the forward estimates—and Planning. When they presented here, it was clear they are not particularly involved in these calls and that they are often relying on the advice from the agencies. Do you think that is a fair characterisation of how these decisions are being made and where the gap might be?

Mr LOADES: We believe that no government can fund roads of significance as those that are being built and committed to over the coming decades and that tolling is part of the mix, and that the current systems—

The Hon. TREVOR KHAN: Sorry, when you say "no government", you mean irrespective of its colour?

Mr LOADES: Good question. So irrespective of politics, you have budget surpluses or debt, and my opening comments were fundamentally recognising that that will not do the job of funding the backlog. So tolls are an important part of the mix, not the only way. There are many other innovative funding mechanisms that we would support as well.

The CHAIR: Like what?

Mr LOADES: For example, many of the dollars invested to some of the projects now have come from the current Government that are funded from asset recycling, for example. We are very open-minded on alternate funding models. In fact, if Government surpluses are not going to do the job and debt will not, it has to be everything else and then considered independently by the independent model that we are talking about. We are not here to say one is better than the other. We are saying we are open-minded. It is the outcome that matters and time matters, because you cannot afford a NorthConnex to be built in 10 years time with the population growth, so fast-track it, but have an independent oversight to make sure that the deal stacks up and it is best for the community.

The Hon. DANIEL MOOKHEY: I will turn now to specific toll roads and the way in which they have been designed. I will start with WestConnex, which I am sure you are aware is the largest one that has been proposed. Has anyone explained to you why the concession period is 43 years?

Mr LOADES: I do not have the detail of that, no, so whether somebody has explained it to the NRMA in the past—and I have been around a decade—no, I do not have that detail, I am sorry.

The Hon. DANIEL MOOKHEY: Has anyone explained to you why the escalation mechanism has to be 4 per cent per year on the tolls?

The Hon. JOHN GRAHAM: At least.

The Hon. DANIEL MOOKHEY: At least.

Mr LOADES: At a high level, the explanation is that is how the deal stacked up to make it happen.

The Hon. DANIEL MOOKHEY: Who told you that?

Mr LOADES: I cannot give you specific names, because I cannot know that.

The Hon. DANIEL MOOKHEY: Can you take that on notice?

Mr LOADES: I am just commenting. You have asked me a question, I have answered. I am generalising what I would think the response is.

The Hon. DANIEL MOOKHEY: Your response is that you were told that the reason the escalation is 4 per cent is essentially because that is how the deal stacks up. Would it be wrong to conclude from that—

Mr LOADES: Well, there are a number of factors—

The Hon. DANIEL MOOKHEY: Can I conclude the question, sir? I was going to ask—

Mr LOADES: So do you want me to answer the first question or the second one?

The Hon. DANIEL MOOKHEY: I am trying to ask you the second question.

The Hon. TREVOR KHAN: Point of order: Clearly this witness is attempting to assist. He does not need to be spoken over when he is trying to answer the question. I would invite the Chair to encourage Mr Mookhey to relax.

The CHAIR: I will not do that. I think the member has put a very specific question to the witness, and he has invited the witness to answer it. Do you want to repeat the question?

The Hon. DANIEL MOOKHEY: It was not the totality of the question. Sir, when you were told that predominantly it was to make the deal stack up, did you conclude from that that the motivation of the people who provided that communication was to satisfy the requirements of the financial model?

Mr LOADES: Yes.

The Hon. DANIEL MOOKHEY: Are you aware that in respect to the Brisbane roads, the escalation mechanism on all of them bar none is, at a minimum, consumer price index [CPI]?

Mr LOADES: Personally, no, but I am sure the NRMA may know that fact.

The Hon. DANIEL MOOKHEY: Are you aware that CPI currently is about 2.1?

Mr LOADES: Yes.

The Hon. DANIEL MOOKHEY: Are you aware that on the WestConnex proposal, each year New South Wales road users will find themselves in a scenario that they will be paying 1.9 per cent above the cost of living. Do you think that is fair? Does that meet your threshold of affordability, equity and the other principles that you have outlined?

Mr LOADES: I have to say, the NRMA could not assess fairness without knowing every aspect of the deal. You are naming components of it. I cannot possibly comment on one or two components without looking at the whole deal. That is again why we come back to independent oversight, or show us every aspect of the deal and we will have our own assessment.

The Hon. DANIEL MOOKHEY: You have some familiarity with the business case that was put forward for the WestConnex, I presume?

Mr LOADES: At a high level.

Mr GIJSELMAN: Very minimal.

Mr LOADES: Very high level, as in what outcomes it would produce.

The Hon. DANIEL MOOKHEY: You may or may not be aware that the business case states that the affordability criteria that was used by RMS was based on real wage growth each year of 4.25 per cent. Are you aware that the wage figures that came out last week said that we are now at 1.9 per cent, which means all of Australia is copping a wage cut. Are you at all concerned that we have a scenario where the prices are going to go up each year by 4 per cent, at least, and people's pays are going down? Do you not think there is a problem here in people's ability to pay these tolls?

Mr LOADES: I will answer the question by making a comment on our overall views on CPI, or 4 per cent. We would like to understand all aspects of the deal. If we cannot, I will repeat that is why IPART or another need to understand it. Judging the CPI or 4 per cent is only one component of it.

The Hon. DANIEL MOOKHEY: It is a big component, though, is it not?

Mr LOADES: The toll price, the length of the term of the toll—there are other factors which are part of the judgement of is the deal fair or not. I cannot comment on your specific aspect without considering every aspect of the bigger picture.

The Hon. DANIEL MOOKHEY: Has the NRMA taken a position on whether or not the WestConnex deal is fair?

Mr LOADES: We have taken a position that this project was the number one priority for our members. Having seen that commitment made, we cannot wait to see it implemented because—I will give you a very good example. The thousand people that we interviewed in the last week have said they are being costed in time one hour extra a day in the past year, and the WestConnex will go a long way to alleviating that pain. They know what the toll costs will be and 70 per cent have said they will utilise the WestConnex. So when we get feedback like that, we think overall people are happy.

The Hon. DANIEL MOOKHEY: In some earlier questions you likened the models to energy charges and water charges as being things to look at in terms of alternative design for road charging models.

Mr GIJSELMAN: I do not think that is actually the case. I was saying that there are circumstances where user pays is implemented in other sectors. There are a range of options that can be used to pay for it for different aspects.

The Hon. DANIEL MOOKHEY: I am looking at those two systems and both of those systems, water and energy, contain essentially a regulated rate of return to private operators, and that is reflecting the fact that they are essentially monopoly assets of which there is very limited competition. Do you think that there is a parallel between that and the circumstances of the toll roads that would apply in New South Wales?

Mr GIJSELMAN: We are very strong on supporting circumstances where consumers have a choice. So where a consumer can choose to use a toll road or use another means of getting around, mobility, whether that is a public transport option or other sort of option we would support that. So I am not entirely sure that it is directly comparable.

The Hon. DANIEL MOOKHEY: Would you think that perhaps a company like Transurban, which is earning a return on its capital of roughly 25 per cent, operating essentially—as they describe it quite accurately—as a network model is obscene?

Mr GIJSELMAN: I am not going to comment about the commercial arrangements Transurban has for their company. I am not aware of any details in relation to how Transurban runs their company.

The Hon. DANIEL MOOKHEY: Do you accept from a public policy view that of course that is our interest because if a person is having to use a toll for 43 years, and it goes up each year by a minimum of 4 per cent when their wages are going back, that maybe they might object to the idea that a market that is lacking in competition, essentially they are being set up for highway robbery?

Mr LOADES: I am happy to answer. Whether it is Transurban or any other entity is not the point to us. The Government needs to partner with somebody as part of the mix. What is the cost of not doing that? It would be diabolical. The names do not matter to us.

The Hon. JOHN GRAHAM: The point you have made about not being able to respond to individual bits of a deal without seeing the deal overall is a good one. I think that is a frustration which is shared by the public in general, by motorists. One of the things that would assist in providing some sort of scrutiny separate to the other measures you have recommended is releasing the base case financial model for a major road project like WestConnex. That has happened in the past—it has happened with projects like the Lane Cove Tunnel, it has happened with the Westlink M7. Is the release of that sort of information a step in the right direction as far as the NRMA is concerned?

Mr LOADES: The more information the better. Ultimately, ideally, you would want to understand every individual deal or road and then how it fits the bigger picture—that is the ultimate. We have economists and other support staff that can do analysis. We have not been able to access the information. I am not saying Government has not consulted, they have, and we have worked very closely with government of all sides over the last decade, but the more information the better. If we cannot get it we are happy with an independent body.

The Hon. JOHN GRAHAM: But if this has been done in the past it is one of the steps we could presumably take in this case to assist the problem you are identifying.

Mr LOADES: It sounds right, but I want to reserve that with the understanding of speaking to our economists and staff about what information do we need to make a more informed view. That may well deliver on that. But certainly more information can only help.

The Hon. JOHN GRAHAM: And it may not get us all of the way there, but certainly an independent body looking at it would be a better step perhaps.

Mr LOADES: Because ultimately you need every aspect of it, where possible, to be considered.

The Hon. JOHN GRAHAM: But are you aware of any reason why the base case financial models could not be released?

Mr LOADES: No.

The Hon. JOHN GRAHAM: I was keen to ask about your point about the change in the expectations for the Federal Government excise, because I think that really is fundamental to where this is going.

Mr LOADES: It is.

The Hon. JOHN GRAHAM: The point I took from your opening presentation was really this is changing. Regardless of what either side of politics does in the short term in New South Wales, the regulation, how people pay for these roads, how we pay the bills for these roads, is changing regardless of where we head. How quickly do you think that change will be driven by this change that you are identifying?

Mr LOADES: The forecasts are five years for trucks, 10 years for cars nationally. We would love to see that fast-tracked because what we know over time is that there are more fuel-efficient cars being driven and electric cars may well be where it all ends up. It is hard to know exactly but the mix of electric cars within 10 to 20 years, including driverless cars, mean that there will be very little fuel excise under the current model. So if we think that backlog is bad now, how bad will it be when there is less revenue coming in to fund infrastructure? That is one of the reasons.

The other area is that if you really get a user pays system going per kilometre or any other way, you can actually use it to influence and manage congestion to a better degree. So there are other factors. At the moment we do not see it as fair and equitable. This is a wonderful opportunity to build a fair and equitable system for all, whether you live out in the country or in the city.

Mr GIJSELMAN: It is a really interesting moment in time that we have in relation to cars and mobility. There are significant changes happening in terms of car technology at the moment, and I am not just talking about electrification; there are also significant changes in relation to driverless cars, automatic vehicles,

et cetera. We are at the moment now where we have an opportunity to step back and have a think about where and how we are going to address the \$100 million backlog but also how we are going to fund circumstances moving forward. If we do not take the opportunity, if we skip forward five years, the change is upon us and we think that there will be massive changes in mobility in 10 years, we think there will be significant driverless car or automatic vehicle usage, and if we do not get the situation fixed there will be significant funding problems moving forward.

The Hon. DANIEL MOOKHEY: You are describing essentially the tax mix switch from fuel excise to distance-based charging that the Henry Tax Review recommended.

Mr LOADES: Yes.

The Hon. DANIEL MOOKHEY: If we were to go to that review is that a fair way to get a representation of your position, or at least in principle?

Mr GIJSELMAN: We provided a submission to the Henry tax review, much of which was taken up by Henry. We would be happy to provide that to the committee.

The Hon. DANIEL MOOKHEY: That essentially describes distance-based charging for all road users, which is akin to congestion charging that we have seen in other jurisdictions like London, Singapore and elsewhere. Is your view that they are applicable models to Sydney and, if so, where do you think we should be drawing our boundary?

Mr LOADES: In terms of London, in some ways it was the simplicity of what happened over there: it was a ring around the city. But that is not what is being considered. This is for all users nationally—

The Hon. DANIEL MOOKHEY: On all roads.

Mr LOADES: On all roads, and basically you use what you travel on and you pay then. But most people today do not realise they pay today; they pay 40¢ per litre every time they fill up, and that will escalate by CPI over the years. So it will go up to 50¢ and keep going. So they are already paying, and the more you do the more you pay. So, in effect, it is already there today, it is just that one replaces the other and then you do not overload on the State taxes, they will be factored in. We think that motorists will be better off.

Dr MEHREEN FARUQI: Thank you so much for coming in to provide evidence. The NRMA has previously raised concerns about forcing motorists on one toll road to pay for another, which they may never use—those concerns have been raised in the media; for example, M7 for NorthConnex. I think the comment in the media was that this breaches public trust. Have you raised that issue with anyone in the Government, and if you have what has been the response?

Mr LOADES: In terms of forcing motorists to do anything, our principle has always been if there is going to be a toll road there must be a free alternative and/or public transport. Where it has gone wrong in the past is when some of the funnelling went on and people did not like that at all. So that is, firstly, one of our core principles.

The Hon. TREVOR KHAN: Labor's Cross City Tunnel.

Mr LOADES: Sure.

Dr MEHREEN FARUQI: This was particularly in response to paying for NorthConnex where M7 motorists would be paying for that and there were comments in the media saying the NRMA was really concerned. I am just wondering if you raised those concerns with the Government?

Mr LOADES: Overall, our principle would be that the motorists who are going to benefit from the road are the ones that pay; that would be our significant principle. Again, without knowing the deal, it is hard for us to make a comment of is that the right thing or not. We cannot comment right now on the fact is another road that motorists are paying from it and funding this extra road. It is hard for us to make an assessment.

Dr MEHREEN FARUQI: We know that that is the case though, that is pretty clear.

Mr LOADES: Sure, that is a fact. But in terms of why it is and what the beneficiaries are, I can only presume. What I do know is that many of our members from one area travel onto another road and they are in fact going to be a beneficiary as well. Ultimately, though, it is hard for us to assess until we know the deal. So that is why we have got to come back to—

Dr MEHREEN FARUQI: It is not a concern for you, is that what you are saying?

Mr LOADES: I will tell you what is a bigger concern: Is the road not happening?

Dr MEHREEN FARUQI: I think you have mentioned that before. In response to the Hon. Daniel Mookhey's question earlier when he raised the issue of Transurban's monopoly on toll roads, you said names did not matter to you. My question is that names may not matter, but we do know that Transurban runs and owns the vast majority of toll roads in Australia.

Mr LOADES: Sure.

Dr MEHREEN FARUQI: Is it a concern for you that there is just one company and no competition in that sector, that your members are not getting the best value for money, and how could we improve competition?

Mr LOADES: We are really not going to comment on an operator, but we understand all the issues.

Dr MEHREEN FARUQI: I am not asking you to comment on the operator, I am just asking about value for money for your members when there is a monopoly on toll roads. Does that give your members value for money?

Mr LOADES: It almost relates to my last comment. If a Transurban or any other individual company has the majority of the roads it is not a true monopoly because there are other operators here nationally and in the world. But eventually there are two scenarios that government must consider. One is the stronger the operator it gives them buying power and efficiencies, which means it is an even better deal, versus increased competition. We are not here to judge either of those extremes or anywhere in the middle. What we know is that that is the job of the government to assess that. If they want us to be involved with assessing, show us the numbers and we will have a look, but at this point we cannot. We will leave it with the system to do that.

Mr GIJSELMAN: I think the other point to make, coming back to transparency around the circumstances, we are not aware of any circumstances that speak to monopolistic behaviour in terms of how the Government undertakes its processes and we think that each individual infrastructure should be determined on its own merits. I think that is a very reasonable position for us to adopt.

Dr MEHREEN FARUQI: But to be fair, no one knows how the Government undertakes its public-private partnerships [PPPs]. So we cannot make comment either way; we do not know in that sense.

Mr GIJSELMAN: Exactly.

Mr LOADES: If you look at the history, there have been other operators that did not work. Transurban have not been there the whole time. There have been others in the business but it did not work, so they have then ended up with it. It has not always been the scenario it is now.

Dr MEHREEN FARUQI: As we all know, tolls are being reintroduced on the M4 and they are being extended on the M2 and M7. Are you concerned that your members will never reach a stage where tolls will end on any of these motorways once they have been paid off and that they will have toll free road use? Is that a concern for the NRMA?

Mr LOADES: The first concern is—and I went out overnight and came in on the M4 and the M5 with the peak, and by the time you get halfway in you can get out and walk quicker than the cars are going—fixing that problem. That is what the motorists want. They are not thinking of any other issues, they just want their lives fixed. So that is the main game, and that is why we are comfortable with the principle of the WestConnex and the NorthConnex alleviating that pain; it is significant. In terms of when things end, again, it is hard for us to assess that. I keep coming back to it because that is only one of the factors of is it a good deal or not. Show us the whole deal and we will maybe give you a more emphatic answer to your question.

Dr MEHREEN FARUQI: Do you think there are other ways, as you call it, ending the pain of motorists or commuters than just building toll roads? Do you think the public transport alternatives may be a better option for users? You said earlier that you surveyed your members and they cannot wait to use the WestConnex, but do you ask them questions like "If there was better public transport, would you prefer to use that?"

Mr LOADES: The answer is you could build every arterial road and it still will not do the job when you factor in two million more people coming over the next two decades. So you must have an integrated approach, including all forms of public transport and cycling. It is very important. The NRMA advocates in our pre-budget submissions to State and Federal governments for all modes. You are on the money: it is very important, and we will continue to lobby to achieve integrated infrastructure, not just roads. That being said, there are many reasons why people need to use roads here and now today: tradies, mum or dad dropping children off to school, et cetera. The public transport does not service that.

Dr MEHREEN FARUQI: Of course, we all understand people need to use roads, but roads are different to continually building huge motorways like the WestConnex.

Mr LOADES: The other thing is if there is going to be a toll we want to see free road options and/or public transport access for the people that perceive they do not want to use toll roads.

The Hon. PAUL GREEN: Could I just have a clarification?

Dr MEHREEN FARUQI: You had your ten minutes.

The Hon. PAUL GREEN: Just a clarification on two million, is that State or Sydney?

The Hon. TREVOR KHAN: Paul can use a bit of our time.

The Hon. PAUL GREEN: Two million, is that State or Sydney-wide?

Mr LOADES: No, broader Sydney, two million.

Mr GIJSELMAN: If I can just speak, I think the nub of your question is really is the NRMA about toll roads or is the NRMA supportive of transport? The point that we would make is the point that we are happy to make here: a motorway is a vital part of the economic infrastructure. It enables economic development, it enables people to get back to their families quicker, it enables people to get to work quicker. It is a critical part of the way that the city moves. There are missing links in our infrastructure network in terms of motorways and we support those being built as soon as possible. However, they are part of the mix of how people move around and this comes back to the point that we were making earlier around the changes to fuel excise and how people move. People who move do not really care, they do not think about the concession arrangements on a tollway, they do not think about the financial arrangements between particular companies. They want to get from A to B. We support an integrated approach.

Dr MEHREEN FARUQI: They do care about what they are paying though to get from A to B. You think they do not care about what they are paying to get from A to B?

Mr GIJSELMAN: They certainly care about what they are paying, but they care about getting from A to B.

Mr LOADES: They care about the net result.

Mr GIJSELMAN: Whether they are paying for a toll road or whether they are paying for public transport, they want to get where they need to go. Study after study after study, including the studies that we do, say that where consumers are paying a reasonable fair value and what they perceive that to be is entirely up to them, they will pay that to get there quicker. We are about an integrated approach that allows people to move, be it public transport, motorways or any other circumstance in between—ridesharing, cycling, etcetera—that allows people to move as quickly as they can to get back to where they need to go.

Mr LOADES: Just on that, from our research only one in five members avoid toll roads whenever they can. So four out of five, they probably ideally do not want to pay it but they want the net positive result.

Dr MEHREEN FARUQI: Because there are no viable other alternatives. You cannot disregard that fact, that for many people in Western Sydney there are no viable alternatives because they have not been invested in.

The CHAIR: Dr Faruqi has another 30 seconds.

The Hon. Dr PETER PHELPS: Take a train; take Parramatta Road, the Great Western Highway, the Cumberland Highway.

Dr MEHREEN FARUQI: It is my question time.

The Hon. TREVOR KHAN: It is actually ours now.

The CHAIR: I will give you extra time if you want. Make it a minute now.

Dr MEHREEN FARUQI: Thank you, Mr Chair. The NRMA has previously called for proportional repayment of tolls in the event of traffic congestion. Could you elaborate on that a little for me and how that would work?

Mr LOADES: The repayment of tolls, if there is an incident that is from, I will say, mismanagement, but I do not necessarily mean mismanagement—that is, not just normal congestion and overload but if there is something that has not worked—we have asked for a refund to be made, which happens in other utilities in other areas.

Dr MEHREEN FARUQI: When you say it has not worked, what do you mean? Could you give me an example?

Mr LOADES: That is not in place at the moment. We have asked if there is something that could have been managed better—there are some examples that if something did not happen the way it should have from the management of the roads perspective, that if that is the fault of the agency then we would like to see a refund made, as opposed to just normal congestion. In other words, the fog this morning slowed up the traffic by an extra half an hour, which got me here half an hour later. That is not when you would give a refund.

Dr MEHREEN FARUQI: You mean when travel time savings that were predicted do not actually happen the motorists would get a pay back?

Mr LOADES: Only in the event that it could have been managed better.

Dr MEHREEN FARUQI: A bad design or whatever it was?

Mr LOADES: Yes.

The Hon. Dr PETER PHELPS: The Opposition raised a couple of projects in Brisbane that only had consumer price index [CPI] as opposed to the 4 per cent escalation. Are you aware that the M7 Clem Jones Tunnel went into receivership and had to be bought by Transurban after it failed economically?

Mr LOADES: Nobody wants to see projects fail. I think, again, in the past we have argued for CPI in the lack of other knowledge of the deal.

The Hon. Dr PETER PHELPS: The Airport Link tunnel also went into receivership using the wonderful CPI model advocated by the Opposition. Are you also aware of that?

Mr LOADES: Yes, I am.

The Hon. Dr PETER PHELPS: So perhaps CPI is not the greatest indicator of the financial viability of a project?

Mr LOADES: We would agree with that, in that—this is one of the changes that has evolved for us recently: What are the true costs of construction financing operating? Should they be factored into the escalation fee or charge? The simplicity of CPI or 4 per cent or any other number it is hard for us to say exactly what it should be, but what we do know is that you can track actual costs in forecasts and maybe that is a factor. But, again, it depends on the deal because it maybe that the upfront tolling charge is one of the factors as well that needs to be managed. So give us the lot and we will give you our view.

The Hon. Dr PETER PHELPS: You mentioned the role of the Independent Pricing and Regulatory Tribunal [IPART] and that you would like to see IPART involved. Presumably that is only on new infrastructure projects, not the existing infrastructure projects?

Mr LOADES: I think over time as the existing ones end then they will all form into the same. We would like IPART to consider the lot over time. We are not saying that the existing contracts should be turned upside now but there are other new ones coming so let's start the ball rolling with the new projects.

The Hon. Dr PETER PHELPS: At what stage should the Government go around unilaterally voiding contracts to bring IPART into it?

Mr GIJSELMAN: That is not our position. Our position, as the Chairman was just saying, is as contracts end. So for new agreements there should be independent scrutiny of those arrangements.

Mr LOADES: But there will be some new ones, in terms of SouthConnex and the second harbour crossing so maybe that is a good starting point.

The Hon. Dr PETER PHELPS: What failings do you see in Roads and Maritime Services and Treasury that lead you to believe that IPART would add additional scrutiny to the contracts entered into?

Mr LOADES: We do not see any failings. It is hard to assess failings when we do not know—it is really independent assessment of the deal so that we can make an informed view of what is best for our members. What we would like to see is either the NRMA get full access to that detail or, in the lack of that, an independent body like IPART.

The Hon. Dr PETER PHELPS: You speak about, if you like, homogenising tolls across various areas. Would you not agree there is, for example, a big construction cost difference between a three-lane each way freeway or tollway on a greenfields site in a corridor that has been reserved, as opposed to having to do two

lanes each way of extensive tunnelling, and that trying to equate kilometre-for-kilometre costs across various projects would be unfair?

Mr LOADES: I appreciate that there are differences; I acknowledge that. That being said, it is frustrating. Part of the frustration with motorists is not understanding that and/or there are other models around the world that have evolved to a network approach with consistent pricing. So maybe there is a middle ground but we think it is important to ask the question and get there eventually.

The CHAIR: Which other jurisdictions have provided the network tolling arrangements you have just referred to?

Mr LOADES: Around the world?

The CHAIR: That is what you just said.

Mr LOADES: I understand that—I have not got the detail but I am happy to take it on notice.

Mr GIJSELMAN: We might need to take that question on notice but I know that there are a number of jurisdictions that are working through a similar situation to what we are. We are certainly happy to provide the Committee with some information.

The CHAIR: That is not what was said. What was said was that there are jurisdictions where that actually operates. My question is: Which ones? You can take the question on notice.

Mr GIJSELMAN: Happy to provide the Committee with the information.

The Hon. Dr PETER PHELPS: Would it be fair to say that the nature of the motorway network has grown in a very patchwork way and that project-by-project basis has necessitated different financial arrangements based on the specific needs of that particular project?

Mr LOADES: Yes. Ideally there would have been long-term planning and a plan to achieve the optimum; that did not happen for a whole range of reasons. We are catching up, frankly, as a State with the infrastructure and doing a pretty good job in terms of the catch-up, but a lot more needs to be done. Your observation we would agree with.

The Hon. Dr PETER PHELPS: And part of the confusion that motorists might have in relation to varying tolls relates specifically to the cost of developing the individual projects at that specific period in time?

Mr LOADES: It is hard for us to assess that without knowing all the details of the deal. I do not want to generalise and agree with you without knowing. You have really got to go and assess every deal, all aspects of it.

The Hon. Dr PETER PHELPS: The argument has been raised that if tolls are put on they will stay there forever. Were there not toll gates at Berowra for the M1 originally?

Mr LOADES: There were.

The Hon. Dr PETER PHELPS: Are they still there?

Mr LOADES: I did not pass through one this morning.

The Hon. Dr PETER PHELPS: So the argument that once tolls go on they will stay on forever is a bit of a furphy by those people who like to raise it, is it not?

Dr MEHREEN FARUQI: Not really.

The Hon. Dr PETER PHELPS: Where are the toll gates at Berowra? They are invisible, are they? Someone sprinkled pixie dust over them and they became invisible.

The CHAIR: Dr Phelps, do you have a question?

The Hon. Dr PETER PHELPS: Do you know for how long the SouthConnex has been planned?

Mr LOADES: Not to the year, but let's pick a figure of 50 or 60 years that it has been spoken about. That would ring a bell.

The Hon. Dr PETER PHELPS: In fact, it is coming up to its sixtieth anniversary next year. So relying purely on government and government expenditure to build things has been an abject failure, at least in terms of that corridor, has it not?

Mr LOADES: Well if the WestConnex is \$16 billion, is it now? There is a substantial in the billions that government cannot, as far as I can see, fund out of normal surpluses—in the past or even right now it has to partner. That needs to happen sooner than later and we would encourage fast-tracking that.

The Hon. Dr PETER PHELPS: But the basic principle, which you have acknowledged, is that if governments cannot do it because of their financial circumstances, or do not want to do it, there is still a demand there for these projects that has to be met. Is that a fair comment?

Mr LOADES: The demand is there right now, let alone, as I have said, with two million more people arriving in Sydney. A lot of that growth will not be in the city; it will be south-west with a massive population and the growing population from the greater Illawarra who commute. That is a big priority for the NRMA to get on and commit to building that. There is planning going on, bring it on.

The Hon. TREVOR KHAN: You talk in terms of "commute". One of the realities of all these tollways is that a very significant percentage of the people who are using them are not commuters, they are—to use the term lightly—tradies. Is that not correct?

Mr LOADES: Yes.

The Hon. TREVOR KHAN: And they are heavy transport, are they not?

Mr LOADES: I think in the statistics that you have seen 40 per cent to 50 per cent of the users are light commercial and mid-sized trucks when you put it altogether, as opposed to passenger vehicles for private use.

The Hon. TREVOR KHAN: When we talk in terms of SouthConnex what we are talking about is an economic driver for the Illawarra, as well as a road that is being used by some of the commuters.

Mr LOADES: Time is money. We know that every hour you save is big dollars, not only to your personal life but to the company that then has more profits to employ more people. It is very important.

The Hon. TREVOR KHAN: And when we talk about NorthConnex what we are talking about, are we not, is an economic driver for Newcastle and the Central Coast?

Mr LOADES: With NorthConnex, let us call it a half an hour saving—20 minutes or 30 minutes. It is very important for people to spend more time at home with families and less time at work, but the economics are massive to business growth. This is the fastest growing State in the nation. We need infrastructure to support that.

The Hon. Dr PETER PHELPS: Following on from that, does the NRMA have any objection to triple tolling for heavy vehicles on motorways? By triple tolling I mean that the toll is set three times higher than that for private motor vehicles.

Mr LOADES: I understand. We do not. Again we are not privy to the detail. We agree with the principle. We believe that if a truck is two or three times bigger than a car, uses the road more and impacts on the road, effecting more maintenance, they should pay more. In terms of the detail of whether it should be three times or more, do we have a specific view on that?

Mr GIJSELMAN: I can speak to that. The reason you would charge three times for a heavy vehicle over a car is the impact of the heavy vehicle on the road. It has an impact on the surface. Cars driving on a road have very little impact on the road surface itself. It is estimated that the cost of those trucks is between zero and 10 times, but averaged out at about three times. That is why we support the three times multiplier.

The Hon. Dr PETER PHELPS: There is an additional factor and that is that you have to construct the road in the first place to be able to take those heavy vehicles. The uplift of the capital cost of producing a road which can have B-doubles on it is significantly higher than a road that only has private vehicles—is that not true?

Mr LOADES: We would agree with that.

The Hon. TAYLOR MARTIN: On point 20 in your submission, could you expand on value capture and third party revenue streams, specifically in the form of roadside advertising and the like? Is there more room for this kind of value capture? Are there any other avenues of value capture other than roadside advertising? If that is an area where a private third party can contribute to the funding, somewhat alleviating the burden, do you believe that is being maximised, especially in regional areas, outside of Sydney metro?

Mr LOADES: We are happy to make a more in-depth submission on some of the options. Overall, where I started with funding was in terms of surpluses and debt and what are the options outside of that to fund

growth? Whether it is roads, public transport or cycleways, it is very difficult to do that out of the previous funding models and mechanisms. We would encourage alternates to that, such as asset recycling. The value capture, for example, in not just roads but in public transport is well known. I had a briefing not long ago that one-third of funding one of the significant projects in London was from value capture. The beneficiaries commercially, whether land or business, basically funded a third. Without that, the project would not have happened. We would encourage innovative funding options to be considered including that. I am happy to provide more detail on that to the forum.

The Hon. Dr PETER PHELPS: While we are talking about London, can I get a clarification of the use of congestion charges? There is evidence to suggest that congestion charges did not reduce congestion in central London. What it did was allow the people who lived within central London to travel around without charges. It only stopped people coming into London. Congestion remained the same because those people who previously had walked, bicycled or taken the tube got into their cars. In other words, congestion charges simply excluded poor people from London and let rich people drive around in safety. What is your view?

Mr LOADES: We are not promoting or lobbying for a congestion charge so I would not like to comment on what happened in London. We have had some briefings on it in the past but we are not promoting that, so I am not here to comment on that.

The Hon. PAUL GREEN: Carrying on from value capture, do you know if that was included in terms of the overall costings to give the road user a benefit in terms of a reduced toll?

Mr LOADES: In London? It was for one of the rail systems—similar principles.

The Hon. PAUL GREEN: Not really. The ticket price—

Mr LOADES: Our overall view is that, on its own, government cannot do it. We recognise that and we are happy to be open minded on alternative funding options. Value capture is something that has happened here in Australia a little bit. It should consider it a lot more. It worked well elsewhere. In many instances, if it did not happen, the whole deal would not happen when you have massive growth in London and other places such as Sydney. As a nation and as a State we need to seriously consider that and develop the skills to understand it and deliver on it.

The Hon. Dr PETER PHELPS: Mr Loades, a couple of the submissions have suggested that a way to avoid the excise tax or fuel tax problem in future would be to dramatically extend the number of toll collection points around Sydney in particular to 30, 40 or 50, at a low-value tolling point on existing roads. What is the NRMA's view on that?

Mr LOADES: We are comfortable with the principle of every road user paying when they use the road, whether you live way out west or in the city. We have not considered the proposal you are talking about. I cannot imagine how we would move away from our current view that it needs to be a fair system for all. They pay on a similar system today. If you live in the country, you are paying 40 cents per litre. If those people way out west in Wagga Wagga are coming to Sydney, they are paying the most. You are simply replacing that system. We think it is a fair system.

The Hon. DANIEL MOOKHEY: As long as it replaces that system.

Mr LOADES: It is not as simple as that. The fuel excise is replaced with a new user charge.

The Hon. DANIEL MOOKHEY: It is not in addition to.

Mr LOADES: It is not an addition. The State taxes like stamp duty and registration would be incorporated within it so that there is a net benefit. We would only support it if every motorist had a net benefit.

The Hon. TREVOR KHAN: You were referring to some survey material earlier—I am not being in any way critical—and waving around a document. Can you explain what that document is that you have to hand?

Mr LOADES: Every year we survey over 1,000 business members of the NRMA. The NRMA has 2.4 million members. It has over 20,000 business members. Most of those are Sydney based; most of those are based out west. This particular survey asked a few questions that related to: "Are things getting better or worse?" The feedback is it takes an extra one hour per day to get around. To manage that they are having to start earlier or move outside the peak periods and so on. The other feedback was about tolls and the priority roads in particular. WestConnex will be a priority road to the majority of those businesses.

The Hon. TREVOR KHAN: What does "a priority road to all those businesses" mean?

Mr LOADES: They will use that compared to their option now, which is—

The Hon. Dr PETER PHELPS: Parramatta Road.

Mr LOADES: Yes—all the badly congested roads now. The other survey we have done is we have tracked cars travelling on a rat run—the local roads versus a major toll road. It shows an up to 70 per cent time saving—this is all over Sydney—and significant dollar savings in terms of using less fuel, let alone the positive flow-on effects. The net positive result to motorists with toll roads is significant.

The Hon. PAUL GREEN: In terms of tolling and access equity, with the ageing population, we talk about five million more people over the age of 65 by 2050, for instance. What about accessibility for those, because many of those will be grandparents and pensioners for whom affordability will come into question?

Mr LOADES: It is a fair question. The majority of our members are in the 60 to 80 bracket in many respects. We have given government our view for all modes. For public transport, for example, it is on how you consider looking after people as they age and what are the real issues with that. That is something that we do every year. It is the same with planning on future roads and other forms of transport that link. It is more than just cars and roads and buses and trains. How do you get people to and from public transport—that last mile, first mile—particularly when they are isolated? A lot of our policies are very relevant to that and we feed that into the department of transport and roads.

The Hon. TREVOR KHAN: Are the witnesses able to table that very useful survey for us?

Mr LOADES: Yes, sure.

The CHAIR: Thank you. The Committee has resolved that answers to questions taken on notice will be returned within 21 days. I think there might be at least one or two. Following the opportunity to read *Hansard* a member might wish to put forward some additional questions. Hopefully that will be okay. The secretariat will contact you in relation to those questions and any matters members may wish to raise. Once again, thank you for coming along. We appreciate your contribution.

(The witnesses withdrew)

(Short adjournment)

DAVID HENSHER, Professor of Management, and, Founding Director, Institute of Transport Logistics Studies, University of Sydney Business School, sworn and examined

Professor HENSHER: I founded the institute 28 years ago and I do believe we are the best in the country now.

The CHAIR: Thank you for joining us this morning. The Committee has been served well by a number of references to academic pieces you have either written or been associated with as a co-author. They have been circulated to Committee members. They are very good pieces and we thank you for them. They have served us well and will be used in our deliberations. Before we move to questions would you like to make an opening statement to provide a context and overview of what you would like to say to us?

Professor HENSHER: Thank you very much. I would like to make a few comments which are reflected in the documents that I have shared with you. The starting point is just to recognise that toll roads have served us well over the last 25 years, especially when we reflect on what road infrastructure we may have had without this initiative. So there is a positive to start off with. It was a good idea at the time. But, as I have said in the short review that I have shared with you, we have learnt a lot during that period and I think it is time to reflect on what might have been done better and can be done better moving forward. I would like to mention two or three areas which I think have come up in my work and have been discussed extensively over the last 10 or 15 years.

The first one relates to the actual setting of the toll. I think this is a fundamental area of concern that I have. Having been involved in most toll roads over the years in providing advice, one of the things that we have all been limited by is an instruction from government that the toll will be so much upon opening and will be indexed according to an agreed indexed arrangement. In my view, that fails to reflect and has failed to reflect changing traffic conditions and the value of travel time savings. We all agree that toll roads are built for a number of reasons, but the main one is to save time relative to other opportunities. If they do not save time given the toll that has been charged, we have to ask ourselves are we getting value for money in terms of the way in which those toll roads are being priced?

We know that the toll has been essentially defined as a commercial basis in terms of acceptable revenue streams. All the bidders or the successful consortia have based their business plan on that particular assumption rather than the opportunity to use toll infrastructure in the total road mix to achieve economic efficiency outcomes. I think economic efficiency is a critical issue in terms of the effectiveness of the network which the toll roads are being asked to join. They are a piece of a full network and the system-wide implications are what really matters, not what happens only on the toll roads, which has turned out to be essentially dominated by commercial criteria rather than network efficiency criteria.

Equity issues also need to be considered but I think they should be considered as a supplement, not an alternative to the efficiency criteria. Basically, another way of saying this, in my view, is that tolling has become a commercial proposition in contrast to a network efficiency solution, resulting often in a loss in network welfare gains when you look at the implications that has had on the rest of the network. Unfortunately, there is no incentive for the operator of a standalone asset to think network. Why would they? It is not what they have been asked to do. There currently exists, in my view, a significant failure across all toll roads in Australia—of which Sydney has the most—to optimise the level of the toll.

I believe this is generally opposed by the operating companies on many grounds. The main one, of course, is the certainty about revenue flows. They attach risk to change and they seem quite happy with leaving things as they are. The problem is though that then we get a mismatch between the commercial criteria and objectives and the efficiency or network effects. Only the State thinks network. That is my proposition. That is a key issue. Only the State thinks network. The State gives away pricing controls as a result of what we are doing and then finds it difficult to optimise the network when it only has control over this important lever for part of the network. If we only had one or two toll roads this may not be a concern, but as the toll roads become a significant part of the road network this suddenly becomes a massive concern because the privately operated toll roads start to look like a large chunk of the network.

One of the issues that I have assigned to this discussion in recent years has come out of some almost commonsense views about the notion of toll saturation. It is an idea that I proposed some time ago and we finally did some research a couple of years ago. When people are saying it gets to a stage when no matter whether there is time savings on offer, given the toll we have to pay, there is just simply not enough of the budget we wish to allocate to travel to justify wanting to spend even more money on tolls even though there

may or may not be the degree of time savings that is being promoted. The consequence of this, I believe, is that the value of travel time savings that we are using in appraisal of additional links is too high.

It does not necessarily mean, of course, that people will necessarily choose to not use that toll road relative to another toll road. They may in fact stop using another toll road in order to satisfy what I call toll saturation, or the proportion of money that people are prepared to spend on travel because they have competing needs of their fixed budget. This is a common idea in economics. It has been around for years. It is known as the Strotz utility function. It simply says that people budget to spend so much on different activities and there comes a threshold beyond which they are not willing to spend any more. The way we do our modelling and forecasting of demand is almost as if there is an open-ended budget to spend on tolls given the value of travel time savings. Given that the value of travel time savings as a consequence of ignoring that constraint is too high, then I would suggest this is a major concern. In fact, I have suggested on the WestConnex project that it is high by the tune of 50 per cent. If 30 per cent of the benefits that have been suggested from other studies are due to time savings and we have got that wrong then we are cutting roughly 15 per cent of the benefits down.

I think what is worth noting is that Sydney is the great laboratory to study toll roads. We have more toll road kilometres than anywhere else in the world in cities. I love it, being an academic in Sydney. We have 135 kilometres at the moment or you could call it 270 directional kilometres or 700 lane kilometres depending on how you want to measure it. That is going to 370 directional kilometres or 185 kilometres in total and 900 lane kilometres with current and pending construction. It is an impressive network that is slowly being connected, but at the same time can we continue to just throw the same old numbers at the incremental bits and assume that society is going to react the same as they did when we built the first one? I have to say also that the forecasts become more complex as you move from fixed tolls to distance-based tolls like the M7 where we do have some issues.

Toll saturation, to me, is very important. I have given seminars on this and I have had Transurban and others say, "You're right but we don't like it." So I do not know what we are going to do about it. It is one of those things. It often takes 10 years for people to listen to sense, so maybe in eight years time this might be part of the appraisal method. But it is serious issue, because we are evaluating the network. We should not be evaluating whether we build an individual toll road as if it operates on an island. In my view, it may be time to revisit this topic of networks and network pricing reform.

One of my suggestions is that toll roads may have been seen as a great transitional strategy to get users used to paying, but the benefits are not often there. Because we have underinvested in all our public transport infrastructure and our private transport infrastructure, we basically have congestion across the whole network. You have to wonder at some times of the day whether, in fact, it is worth using the toll road, given the relative congestion. What that tells me is we have got the toll wrong. If the toll is there to generate efficient use, given the value of travel time fee, we should be changing the toll to reflect that in order to generate a benefit. It is known as dynamic tolling. We do not do that. We have the technology to do it. We are world leaders, and because—

The Hon. Dr PETER PHELPS: We do it on the harbour tunnel.

Professor HENSHER: The difference is hardly significant to make a difference, in my view. It is lovely to see that we can do it, so technologically we can, but I do not think the numbers are right. We need to start thinking about network pricing. We have heard about this in the literature—road pricing reform. I hate the words congestion charging because this is not to do with congestion alone. This is to do with efficient pricing of the use of the roads, which includes the damage and wear and tear, and where there is congestion that is appropriately internalised by an appropriate adjustment in the price.

What you can do with the revenue is going to become critical to ensuring that we have an equitable outcome as well. As many studies in the world have shown, which is my last point, we can reform pricing. We can get buy-in—that is the crucial thing, how you sell this—so there are votes in it. We can, indeed, arrive at a new formula that has all of the equity controls in it as well, so that those who may end up paying more than they currently pay, if there is an argument that they should be supported, like we do with water and electricity, then we should adjust the amount that they pay. We should not do that across the board; we should do that according to the justified case.

The final point I would like to make is that in the papers I have sent you, a colleague of mine, Professor Corinne Mulley, who is the Chair in Public Transport, looked at what happens if we remove the registration charges and introduce a distance-based charge for the whole network, including maybe suburban streets. I can leave them out and go to all of the major arterials, sub-arterials and motorways, and focus on Sydney and cars for the time being, and leave the fuel excise as it is. We calculated that if you halved the registration charge and

introduced a peak period 5¢ per kilometre—peak period only, so people have a choice and the choice is the off peak—and for most car users, the choice is not public transport, it is to change the time of day they travel.

That public transport argument is often used as a constraint to say we cannot do anything until we invest in more public transport, so we do not do anything. The point is we know, as a result of congestion, that people start to switch the time of day in order to stay in their beloved car. Being realistic about that, certainly in the medium term, as much as I would like greater use of public transport, a 5¢ per kilometre with a halved registration charge will make the majority of people in Sydney financially no worse off and Treasury will be happy, because they would not be slugged either. You have to keep Treasury happy in these calculations, as you would know.

Once you put that in place and get buy-in—and I call that votes—then you can start increasing that cents per kilometre in order to raise revenue to reinvest in public transport, roads and so on. Until you convince people that this is worth doing, it does not hit their hip pocket and, "By God, I have got a time saving," they will say, "Wow, this is pretty good." We need to demonstrate it. I have been talking to the Federal Government, as difficult as it is to get them interested in this. The current Minister, Paul Fletcher, would love to be able to trial something like that, but we do not know where to trial it.

The CHAIR: Professor you have given us quite an entree to get the questioning going. We have representatives from the crossbench, Opposition and Government. Are you okay that we rotate through and have free-flowing discourse?

Professor HENSHER: Indeed.

The Hon. DANIEL MOOKHEY: Professor, thank you for your appearance. I am a long-time reader of your output and now first-time questioner. I was particularly drawn to your article "Toll Roads in Australia: An Overview of Characteristics and Accuracy of Demand Forecasts". This is the paper which you published seven years ago. In it, you have undertaken an analysis of 14 toll roads that were operating at the time to establish the extent to which the demand forecasts that preceded their construction aligned with actual use post their construction.

Professor HENSHER: That is correct, yes.

The Hon. DANIEL MOOKHEY: After some relatively fancy mathematics that is beyond my comprehension, you conclude that, in general, the first year projection, on average, is at 45 per cent less use than forecast. That is correct, is it not?

Professor HENSHER: That is right, yes.

The Hon. DANIEL MOOKHEY: That comes from roads that were constructed in Brisbane, New South Wales and Victoria?

Professor HENSHER: Yes, all the toll roads that were in place.

The Hon. DANIEL MOOKHEY: And they were constructed under a variety of governments. That is correct, is it not?

Professor HENSHER: Yes.

The Hon. DANIEL MOOKHEY: The obvious point you make, or at least that can be concluded, is that if your traffic forecasts in the first year are wrong, obviously there is an impact on revenue that is collected through those roads. That is correct, is it not?

Professor HENSHER: Absolutely correct.

The Hon. DANIEL MOOKHEY: Is your that generally within five years forecasting is more accurate or at least adjusts fast enough to obtain a point of accuracy for the purpose of projecting future revenue?

Professor HENSHER: Yes, that is right. It gets easier as time goes by.

The Hon. DANIEL MOOKHEY: One of the reasons you would not sell a toll road within the first five years is because you are not selling on the basis of a proper realisation of its full revenue over its entire life span.

Professor HENSHER: Yes.

The Hon. DANIEL MOOKHEY: Indeed, one of the reasons that was put forward for why the WestConnex ought not be sold, originally put by the Government, is that the big variation between their model

and other models that have applied is because the public will continue to own the equity for a longer period of time when it is sold and, therefore, the public's risk is a lot lower and people know what they are buying.

Professor HENSHER: I absolutely agree with that.

The Hon. DANIEL MOOKHEY: If the Government has announced prematurely that it is going to sell half the M4 next year, would it be right for the Committee to conclude that all of the benefits of accurate traffic forecasting are essentially lost?

Professor HENSHER: That one, of course, is an adjustment on what is already there. M4 East, of course, is new. The fundamental point I have is that the private equity guys want a return far too quickly and the way in which it is sold than the time in which the traffic can settle down and you can reduce the risk of the numbers being out of whack. Of course, you might say that if the equity guys want to take the risk, be it on their head, but that risk has other implications, as you know—not so much for the Government, because they get a nice asset; it is more in terms of the investors. We need a maturity in the market to say that these roads are major infrastructure, it is like a major consumer durable and that you do not get an instantaneous solution to the amount of consumption—that is, the amount of use.

I cannot believe after 25 years that many of these private equity guys have not woken up to the fact they are not going to do very well in the first few years. They insist on a dividend which will not come to fruition, and then we end up with the problems we have had with bargain basement sales. I add one more point, which is rather interesting. One of the major banks which is an adviser to the private equity market has said off the record, and I think it is a really important point, that they are increasingly advising these equity guys that the patronage forecasting has to be discounted down to 60 per cent, because then you have a greater chance that the number is meaningful.

The Hon. DANIEL MOOKHEY: If advice is being provided in the private market not to rely on the public forecast usage figures in constructing the bid, is it not the right conclusion, therefore, that the amount the taxpayers will get is a lot lower if the forecasts are accurate?

Professor HENSHER: First of all, most of the bid consortia hire consultants to do their forecast. Some of them, in my view, are based on good methods and others are based on poor methods. In the earlier days, and I cannot comment on the recent project, there was always a requirement that your forecast had to more or less align to the Government's forecasts coming out of their official models. My view is that the STM model is a poor model compared with the models developed and applied by various consortia.

The CHAIR: Professor, what is STM?

Professor HENSHER: STM is the Sydney travel model. That is the one used by Transport for NSW to do its forecasts and was the basis of the WestConnex forecasts.

The Hon. DANIEL MOOKHEY: In respect to your paper and in terms of all of the factors that you identify as being the reasons that usage forecasts are wrong, in your view, has Transport for NSW, RMS, and the Sydney Motorway Corporation with respect to WestConnex, NorthConnex, Transurban and the same government agencies, taking them into account and consequently modifying their forecast methodology to align with your findings, and the findings of other academics in this field, would you helpfully note it in this story?

Professor HENSHER: My general view is no.

The Hon. DANIEL MOOKHEY: The model is essentially stuck perhaps in an earlier period of academic knowledge and does not reflect best practice or the latest information—

The Hon. TREVOR KHAN: Or they disagree with you.

Professor HENSHER: And often they do, and that is fine. One of the big problems is that the new models are not being sensitive to the more complex networks that you are adding the link into. That is a fundamental error. The saying about value of travel time is very important in that context, and the values that have been obtained from the surveys have basically ignored that and not taken into account the sorts of things I have been mentioning. Having had a close look at the WestConnex work, as an adviser, I have made a lot of comments about the errors in the forecast. It is not just the value of travel time savings, by the way; it is the assumptions about predicting the levels of service on the competing routes. If you get them wrong, you will not get the switch. The example of the airport link, which I was also involved in—trying to save it, I might add—was that there was an assumption that the levels of service on the competing alternative were pretty bad and we would save people time. It turned out that it was just as quick to use the free road than going from the airport to the city on the Brisbane Airport Link—in those earlier years. So why were we building it? The errors are to do

with a number of factors: land use, growth assumptions, values of travel time savings and service levels on competing alternatives. We have got a lot more work to be done on understanding the role of those errors.

The Hon. DANIEL MOOKHEY: The other criticism that has been made about the modelling of the benefits of the WestConnex proposal specifically, and to some extent are equally applicable to NorthConnex, is that both underestimate the scope, magnitude and effect of induced demand. Do you agree with that?

Professor HENSHER: Induced demand is a very interesting issue, as to how you define it. It is not redistribution of traffic, it is additional traffic that would not otherwise have existed, in simple terms. When you are in built-up areas, induced demand is not that great; it is traffic that is around in the system somewhere that is going to use it. We have totally separately developed our own independent land use transport modelling system because I have been pretty upset with what is out there at the moment, and we found in many of the applications we have looked at recently in Sydney that the induced demand effects are quite minor. When you are going to areas way out of town where there could be some differences, and I do not think in Sydney that is the case, I am quite happy to have fairly small numbers.

The Hon. JOHN GRAHAM: Can I now turn to another issue? Travel times on WestConnex; we heard from the NRMA earlier that there is real enthusiasm from motorists looking to have their travel times cut as a result of this project—I think that is fair to say. I was interested in your view on some of those travel time savings that have been talked about with this project.

Professor HENSHER: WestConnex, in my view, is going to give us a few years of growth purchase; it is not going to give us massive travel time savings. In other words, we need it but we need much more.

The Hon. JOHN GRAHAM: The SGS review of the 2014 M4 EIS when it looked at the majority of the time savings they found it was often below five minutes. Have you got any views on that?

Professor HENSHER: I agree, and this comes back to the assumption about the value of travel time savings. If you have got that wrong in your calculation of the predicted patronage switch then you are going to get numbers like that. If we really want to get genuine time savings we have got to be more serious about changing the level of the toll, and the toll needs to be higher to capture more time savings. So that is the sort of number, I totally agree with you. I could quote other projects as well, including public transport projects.

The Hon. JOHN GRAHAM: That is quite different to some of the other numbers floating around out there about the travel time savings. I might come back to that point. I want to ask you about the view of your colleague Chris Standen, who was clear that some of those travel time savings that are talked about do not include delays at on ramps and off ramps. Chris Standen said these delays at on ramps and off ramps have been omitted from the travel time forecasts, so actual travel times would be significantly higher than those forecast.

Professor HENSHER: First of all, I would like to say he is not my colleague; he is a PhD student who tends to get out of line and we have to rein him in occasionally because he has got his very personal views and I say, "Concentrate on your PhD and not spend your time writing these papers". That is an aside.

The Hon. Dr PETER PHELPS: Supervisors do tend to say that quite a fair bit.

Professor HENSHER: He is not my supervisor. I happen to be the director.

The CHAIR: I think you have clarified that matter, Professor.

Professor HENSHER: He has often been called to my office. I would say that the ramps are allowed for in the work that was done by ACOM and Jacobs when they did the WestConnex work—they did make assumptions about the delays in getting on and off.

The Hon. JOHN GRAHAM: I want to turn to the question about particularly the claim that WestConnex will save 40 minutes from Parramatta to the airport. It has been repeatedly referred to by RMS at this committee, by the Premier and former Premiers; it has been one of the central claims to back up this project. Have you got any views about how realistic that saving is of 40 minutes, which has been projected from Parramatta to the airport?

Professor HENSHER: In the off peak maybe, not in the peak. Given the level of toll that is going to be set, I believe it will be quite congested.

The Hon. JOHN GRAHAM: Even though that is the case. Can I ask about the traffic models that you have referred to? You are quite critical of the Sydney travel model. Can you just explain to us why you are critical of that model in particular?

Professor HENSHER: One of the big areas which is missing is the time of day travel model. It is a very simple, traditional what is known as a four-step model; that is, it has at the top the number of trips

generated, below that is the distribution of the trips by origin and destination, and below that it has the mode that is chosen, and then below that it is the assignment to specific routes. One of the things that we know from the work that we have done is that many car users will opt to change the time of day they travel rather than the mode they choose. Consequently, what happens is that STM, because it lacks one of the most behaviourally sensitive responsive options that people do in reality, provides a very poor forecast of the actual use of each of the modes.

The Hon. JOHN GRAHAM: Chair, I just wanted to ask the witness about a particular public document. If I could table that?

Document tabled.

The Hon. JOHN GRAHAM: It is from the 2015 business case for WestConnex, it is Technical Paper No. 2. It is a matter of public record but I was going to get the Professor's help on this issue of the travel times.

The Hon. TREVOR KHAN: Can I just make the observation that it is not uncommon in committees for documents to be shown to witnesses without them being tabled? I thank the member for his courtesy in that regard; it is very useful.

The Hon. DANIEL MOOKHEY: I just wanted to ask about a couple of the figures here. These are the travel time savings as a result of WestConnex from Technical Paper No. 2, now public. Firstly, what it shows, as I understand it, is that Parramatta to the CBD saves about 15 minutes, looking at the difference between those two—the case of doing nothing or actually building WestConnex, you can save 15 minutes going from Parramatta to the CBD. Penrith to the CBD, down the bottom, looks like you save about 20 minutes, which was presumably saving five minutes getting from Penrith to Parramatta and then the previous saving of 15 minutes. The time for Penrith to the airport, also down the bottom, looks like you save about 15 minutes. Presumably that includes—

The Hon. TREVOR KHAN: It looks a bit more than that.

The Hon. JOHN GRAHAM: Maybe. Let us call it 17, generously. But presumably that includes the five-minute saving from Penrith to Parramatta and then let us call it 12 minutes getting from Parramatta to the airport. What I was struggling with with this is to see how the Government's claim of a saving of 40 minutes between Parramatta and the airport would stack up based on this information. I was just interested if you had any views on that.

Professor HENSHER: I think I have already said 40 minutes, to me, is too high. These figures suggest around 15 minutes, depending on what is what, and I would suggest that typically when you see these business case numbers they are the best-case scenario.

The Hon. JOHN GRAHAM: So this might be too optimistic?

Professor HENSHER: These are the optimistic numbers—at the given toll.

The Hon. JOHN GRAHAM: Correct.

Professor HENSHER: But, of course, if you started playing around with the toll, making it more efficient, you might get better outcomes. But then you have got to look at the network consequences.

The Hon. JOHN GRAHAM: But these figures are wildly different from a 40-minute time saving.

Professor HENSHER: Yes. These are more realistic, I believe, even though slightly optimistic. The trouble is with these models there is huge amount of forecast error. So what you always like to see in these things is the plus or minus, what is called the standard error: how confident can you be in this average? This is just an average. This average could go down as low as five, it could go as high as 30, but that is not reported.

The Hon. JOHN GRAHAM: I was concerned enough by these figures to Google the time from Parramatta to the airport and this morning that was only 40 minutes, the entire trip, which really makes the 40-minute saving look pretty difficult, does it not?

Professor HENSHER: It does indeed. It is too high; I do not believe it.

The Hon. JOHN GRAHAM: So that optimism that has been expressed this morning about the stated travel time benefits from WestConnex, if these figures are right or if Google Maps are right, probably some of that optimism is going to be let down when people actually drive along this road.

Professor HENSHER: I agree. I always love to stay at the given toll that is proposed, because you can actually make a big difference. Unfortunately, all the evaluation, as far as I am aware—and we did actually ask if government would allow us to modify the toll to see what it meant, but it was a done deal.

Dr MEHREEN FARUQI: You earlier alluded to the fact of the poor track record of over-predictions in traffic forecast and that has resulted in, I think you said, bargain basement sales for some of the toll roads. My question is: now that the toll road operators and also equity firms are aware of the risks with these forecast models, I am presuming that they will not be willing to take that risk and most of the risk is shifted back to the people who use the tolls, the taxpayers or the Government, in the sense that contracts are renegotiated to increase tolls, or going above consumer price index, such as 4 per cent. Would you think that is an accurate assumption to make?

Professor HENSHER: I think there is still an appetite to want to invest in toll roads compared with other, because the returns, after they have allowed for all the tax offsets and all the other, is still quite an attractive proposition. There definitely is the appetite, but because they have now understood the risk a lot better, clearly when they negotiate they want to have clarity as to what risk they are going to bear and how much government should bear. I think it is this allocation of risk that is fundamental to the extent to which government is willing to accept the fact that this is a good investment for society.

Clearly, WestConnex was an example where the Government said the risk is so speculative, so volatile, let us go to a debt funded model, in that it is still money borrowed, but you never know, it could come eventually from the equity markets, but it is government borrowing it. Until we get that risk better understood, which means let it settle down for a few years, then we will actually not invite the private equity guys in, although we do know since—I think this is right—there has been an assumption that those guys want to put up their hand and make an offer to participate, then we will consider them. The trouble is that risk spectrum is still volatile.

My view is that if you are going to start assigning the risk substantially on the patronage to the Government, you may as well not do a public-private partnership [PPP]. You may as well just run it as a government project, which was a discussion that we had in Queensland as to whether that was the way to go. The objective is government can still borrow the money, but why should they borrow the money and take all the risk if somebody else is there that wishes to share it. If they are not, do it yourself. That is my view.

Dr MEHREEN FARUQI: There has been quite a bit of discussion on the transparency of PPPs as well during the inquiry.

Professor HENSHER: Yes.

Dr MEHREEN FARUQI: In his testimony, Professor Graeme Hodge, who has studied PPPs quite extensively, mentioned two options that would help increase assurance to the public that the tolling arrangements represented a fair—or as fair as possible—outcome. One of the options was to be really transparent about performance characteristics of PPPs and to actually release contract details to the public. The other option was to allow for an independent regulator to oversee those PPP negotiations. Do you think either of those options might work?

Professor HENSHER: One has to at least recognise the commerciality of some aspects of it. Having some independent authority is desirable. At the same time, the critical issue that gets consumers and others concerned is: why are we paying that toll and we still have traffic congestion? We are not getting the benefits. That comes down to an issue about how you are going to regulate the setting of the tolls—that is the issue, in my view. But that does add risk because, as you know, the equity market likes to minimise risk. One way they are minimising is having an agreed toll forever, with an adjustment—indexation. That is the major failing in my view. If you have got that right, I am not even sure you need to do much more than get that right. That will make a huge difference to giving confidence to the public that we are going to deliver much better travel time savings—a little bit like the hot lanes in the United States of America in Southern California where you pay a premium to have a guaranteed travel time saving, but admittedly, that is only on one lane and quite easy to do. Doing it on a network is a bit more of a challenge.

Dr MEHREEN FARUQI: You mentioned earlier the issue of M7, comparing fixed based to distance based tolling, and you said there are some problems. Could you expand on that?

Professor HENSHER: It reflects on that paper that the Hon. Daniel Mookhey mentioned. It is to do with the fact that when you bring distance based tolling in, the forecast accuracy is at higher risk, simply because predicting where people get on and off is a lot harder than predicting whether they go through one single toll collection point—that is the main reason.

Dr MEHREEN FARUQI: Transport for NSW say in their submission that tolls are set using the user pays principle. They say whoever uses the toll road pays, but it has become apparent more recently that people using the M7 might be paying for the NorthConnex. What do you think about the fairness of this?

Professor HENSHER: If you set the toll to reflect the efficient use of each of the roads, then the issue about what you do with the revenue becomes a separate issue. As long as the user is getting the benefit that they are paying for, then how you reallocate the revenue really is something that I am not fussed about. What I do recognise though is we want to have a connected network and a very liveable city. I believe it is the efficiency of the whole network that matters, as long as anybody using a particular road is not being treated inequitably. All I am saying is: if whatever they pay gives them their benefit, problem solved—but this toll is wrong.

Dr MEHREEN FARUQI: You also said earlier that Sydney is the city that has the largest network of toll roads or kilometres of toll roads. Why do you think that is the case and do you think it needs to change? Should we just keep building toll road after toll road or does there need to be a change? How do we shift that?

Professor HENSHER: It is the largest in terms of a metropolitan area. Clearly, in Europe you have got a lot of out of town toll roads. I would like to generalise it and simply say that we want to build a network that can be partnered between government and the private sector and how we fund it, but the Government, not the consortia, should control the efficient use of the network. The Government, as I said in my opening speech, has lost control of the pricing mechanism, because it was all signed in as the agreed toll plus an adjustment. I would like to separate out pricing from the provider. I think there is a huge role for the private sector in the delivery of the infrastructure, but not in the pricing of it; that should be done from a network perspective. Only the Government, I believe, has that authority.

Dr MEHREEN FARUQI: I have asked this question of quite a few witnesses. Given that there is one company at the moment that runs most of the toll roads in Australia, do you think that has a bearing on the value for money the public or the Government gets, because there is very little competition in the market?

Professor HENSHER: It does. But then again, the way in which you can integrate the road network, the scalability argument, is in some ways offsetting, because one organisation has the capability of doing that. Once again it comes down to how that is regulated. In some senses it is not a matter of just because there is one operator that is bad news. It depends on what regulatory framework they are operating under to make sure we keep them efficient and effective. The best thing we could do is to take the control of the tolls away from them.

The Hon. PAUL GREEN: Interestingly, you are saying, "Separate the pricing from the provider." How then does the provider ensure that they are going to make a buck, given the fact that quite often it is shareholders or someone else that need to make a buck out of the system?

Professor HENSHER: They are just hired to build something. Once it is built, there is a contract to maintain it, and that is it. They are not being given any incentive to generate patronage to create revenue. It is like building a house or an apartment block. I am saying the Government wants a very efficient company to build and maintain.

The Hon. PAUL GREEN: Would you have evidence from across the globe whereby road builders use that method, where they provide a product and walk away?

Professor HENSHER: It is much more common. In fact, many of our non-tolled roads are like that. They build it and walk away. They get paid.

The Hon. PAUL GREEN: Who does that?

Professor HENSHER: Many construction companies. In many countries throughout the world the great majority of roads are built under that model. What we have now done is we have overlaid the running of the road after it is constructed by imposing a toll that generates a revenue stream. The construction risk and all that, the maintenance risk, is a separate contract—totally separate—of which people bid for the right to do that and they get their return on investment which keeps their shareholders happy. We do that in many, many contexts. Actually who then runs it—it is like having a railway where the railway is owned by the Government and we put the running of it out to tender to a third party because we claim that is where the great efficiencies gains are. It is a similar sort of model.

The Hon. PAUL GREEN: Do you think that the Government is using tolls in a way that it is actually inducing some interest in the matter of investment and ongoing investment, as opposed to build, own, operate and that is it?

Professor HENSHER: It all comes down to an understanding of the risk profile on the part that I am talking about separating out. There is still an appetite to do that under acceptable risk conditions. We do know that the funding base that the private sector has is substantial and they believe that the risk in investing in toll roads, despite all these problems, is less than, say, investing in a railway. It is partly due to the fact that there is a lot clearer quarantining of the bit that you are bidding for, whereas with a railway it is more complex because the people who use it, of course, are using the network as a whole. Although, having said that, since we

introduced Opal you can actually reallocate the revenue on a station-by-station basis—if you decided, for example, to put out a tender for the North Shore. Before we had the electronic capability it would never have been even considered. I have been with major banks that have said, "We might now start showing interest in the railways because we have more control over the revenue source." That has been the advantage of the toll roads to date, but that does not mean to say that is the good model for making the network work efficiently.

The Hon. PAUL GREEN: That is the clicking model—where you just keep clicking away and making revenue?

Professor HENSHER: That is it.

The Hon. PAUL GREEN: That is the bit they are attracted to.

Professor HENSHER: They are very attracted to that and they do not like changing it.

The Hon. Dr PETER PHELPS: I want to follow-up on this idea of splitting the operation and the building of it. Why would that not have significant upfront costs for government; the sort of things that governments are trying to avoid? If you are paying for the building of a road, why would that not result in the significant upfront payments from government, which would be required to pay for Transfield or Baulderstone Hornibrook or whoever to build a road? You are still having to make those big upfront payments whereas the model we have at the current time spreads that over a longer period of time and does not result in a big lump being taken out of consolidated revenue?

Professor HENSHER: Because you are saying that they have internalised the revenue flows as a way of supporting the construction costs in the consortia when they bid. Is that what you are saying?

The Hon. Dr PETER PHELPS: I am saying the utility of the system that we have at present relies on the fact that there is no large capital outlay from the State Government but is recouped from users over a significant period of time?

Professor HENSHER: Yes.

The Hon. Dr PETER PHELPS: Why would returning to that big capital outlay be desirable for governments that seek to reduce large-scale costs?

Professor HENSHER: It is clearly a trade-off in terms of the control you then have on the network as a whole once it is built in being able to manage and price it efficiently, rather than lose that control that currently they have lost because it is in the hands, in this case, of basically one dominant player.

The Hon. Dr PETER PHELPS: But it is a policy decision where we have said basically that we will rely on consumers to assess their own utility?

Professor HENSHER: Yes.

The Hon. Dr PETER PHELPS: And if they find it is not beneficial for them to use a motorway then they will either product substitute or time substitute or take route substitution?

Professor HENSHER: Indeed.

The Hon. Dr PETER PHELPS: So why is that not a good model to have?

Professor HENSHER: Even if you have a separate enterprise, be it government or a third party that they have hired through tendering to run it and you have got a separate construction agency, the revenue flows can still be used to pay off the debt of the construction phase. Whether it is being done through the same organisation of a separate organisation, there is still a revenue flow. I am not sure about the issue that they have a choice not to use it; they have a choice not to use it regardless of who actually runs it, it seems to me.

The Hon. TREVOR KHAN: So this is a good debt, bad debt sort of argument?

Professor HENSHER: Yes, exactly right. But the point is there is still a revenue flow and that revenue flow may even be higher because the Government has more control on adjusting the prices to make efficient use of that road. More importantly, making more efficient use of that road gives you a revenue flow that then can be used on other activities, not just that activity, which in the current arrangement goes into the pockets of the concession holder.

The Hon. TREVOR KHAN: There is another alternative—the builder/maintainer maintains ownership of the toll road and receives a fixed rental from the Government?

Professor HENSHER: Yes.

The Hon. TREVOR KHAN: By that model, whatever the strengths or weaknesses of it, the Government would acquire the risk of the patronage numbers using that toll road?

Professor HENSHER: Yes.

The Hon. TREVOR KHAN: So from a policy point of view if you used that model, keeping the debt off the Government's books, the real question would then become, again going back to your modelling issue, if the Government gets the traffic modelling wrong the taxpayer in due course will bear the burden of that error in modelling?

Professor HENSHER: There is always going to be that risk, I absolutely agree. But the Government has the opportunity to then adjust the pricing to minimise that risk of the taxpayer having the burden.

The Hon. TREVOR KHAN: For instance, if you look at the Cross City Tunnel or the Lane Cove Tunnel where for one reason or another the modelling was skew-whiff, if the Government had built it and paid a rental to the builder of those there would have been huge payments being made to the builder because of those errors in forecasting.

Professor HENSHER: I understand what you are saying and if the Government is quite happy to—

The Hon. TREVOR KHAN: I am not arguing with you.

Professor HENSHER: I understand. It is a great point. If the Government believes that it is appropriate to offload all that risk to these organisations because we do not want to have it in case something goes wrong, and then recognise that as we build more and more of these things we are losing control of the network in terms of what we might want to do with it, and indeed we are losing control of the excess revenue that is potentially there—and I bet there is some otherwise these guys would not be interested—then go with it.

The Hon. Dr PETER PHELPS: That gets back to a fundamental, philosophical point—that is, should governments be controlling the network or should the consumers who are using that network make their own assessments of the utility of using the network and then either go in peak hour or go early? From my perspective a better way of doing things would be to allow the consumers to make the determination.

Professor HENSHER: I would love to have a fully deregulated road market whereby the adjustments are based on demand and supply. At the end of the day the private sector has commercial interests on the bit they are responsible for and there is no guarantee that they are going to heed any of that market response under the model that we have observed over the past 25 years. They are quite happy with the way it is still structured now. You can still leave it within the hands of the private sector but change the way in which there is control over setting the tolls.

The Hon. Dr PETER PHELPS: But they have a commercial incentive to get throughput and you do not get throughput by discouraging consumers through heavy levels of congestion?

Professor HENSHER: But their commercial incentive is, unfortunately, linked to part of the network. If there is congestion built up they have limited ways of resolving it under the current tolling arrangements because it builds up and they have not done much about it.

The Hon. TREVOR KHAN: Are you not saying that if there is congestion on the network then the way of fixing that is to jack up the tolls to billyo and therefore discourage some of the users from using it?

Professor HENSHER: It has got to be done in the context of the whole network because the last thing you want is creating more congestion elsewhere. It is a system-wide test. The question is: How much of that congestion can we price efficiently without redistributing it somewhere else where others are worse off using other roads?

The Hon. Dr PETER PHELPS: But under that system you would have to start tolling roads that are already untolled at the current time—for example, you would toll the Cumberland Highway, Parramatta Road and Great Western Highway?

Professor HENSHER: Absolutely, that is my distance-based charging thing. We have got to get away from individual roads.

The Hon. Dr PETER PHELPS: Can I suggest the political ramifications of suggesting a vast new network of tolls may not be too attractive to any government of any sort?

Professor HENSHER: I do not call them tolls. They are use-related fees compensated initially by a reduction in registration charges.

The Hon. Dr PETER PHELPS: Given that we will be subject to a large scale scare campaign by those people opposite for putting one new toll point in on the M4, I am not sure that another 99 will be accepted.

The Hon. TREVOR KHAN: Can we move away from the politics for a second? On NorthConnex we will essentially have two parallel roads, Pennant Hills Road and the NorthConnex itself. A charge is determined based on modelling, putting aside the truck issue, and the assumption that people will find it attractive to use NorthConnex instead of Pennant Hills Road; is that right?

Professor HENSHER: No. I do not think the toll is determined by the modelling. The toll is being given to the modelling to evaluate. I have not yet come across a situation where we can optimise the toll.

The Hon. TREVOR KHAN: Perhaps I am putting it in a poor form. If the toll is too high on NorthConnex so that it discourages use then the answer is that people will continue to use Pennant Hills Road.

Professor HENSHER: Yes. Or if it is too low and it encourages too much use, you will get congestion and you lose the benefits you are trying to establish.

The Hon. Dr PETER PHELPS: Except that Pennant Hills Road will then be freed up. You indicated that the mode of transport generally does not change. You will not get product substitution. You will simply have more people using a congested road. That will free up—comparatively, to its existing state—Pennant Hills Road, will it not?

Professor HENSHER: We need to optimise the toll on NorthConnex to allow for what it might mean to the other routes we are trying to free up.

The Hon. TREVOR KHAN: The route we are trying to free up is Pennant Hills Road.

The Hon. Dr PETER PHELPS: The point is that if you over shoot or under shoot the existence of alternate transport routes will, assuming no change in modes—for example, people do not take the train—you will have consumers determining that the utility of taking NorthConnex is not so great as the charge and therefore I will take Pennant Hills Road that is 10 minutes longer but does not cost me anything.

Professor HENSHER: That is perfectly fine as long as we get that number right—in other words, we get a balance, so that the traffic on both routes—

The Hon. Dr PETER PHELPS: Why will the market not do that itself?

Professor HENSHER: The market should, if you allow it to determine the toll. The market does not determine the toll, does it?

The Hon. Dr PETER PHELPS: Well, no. If you have a toll which is fixed—

Professor HENSHER: Well, it is fixed, so that is not market determined. We are in trouble already.

The Hon. Dr PETER PHELPS: You have a fixed toll, so what you will have is people making a decision based upon that toll for the utility of that road. If they consider it not to be efficient to take that road, they will take another road.

Dr MEHREEN FARUQI: But the trucks cannot. You are really forcing people into it.

Professor HENSHER: I do not disagree with that. If you fix the toll then a person has a time-cost trade-off based on the fixed toll, that is it: you do that or you do that. But are we trying to build an efficient network or are we just trying to do something about the benefits to the local Pennant Hills versus NorthConnex, given the commercial realities of the toll to the investors?

The Hon. Dr PETER PHELPS: There is another alternative and that is the Government is trying to reduce risk and at the same time develop infrastructure that should have been developed decades ago—

Professor HENSHER: I agree.

The Hon. Dr PETER PHELPS: —using a method which can reduce the amount of possible risk to taxpayers themselves.

Professor HENSHER: I agree. It is catch-up.

The Hon. Dr PETER PHELPS: To do that, efficiency considerations may have to be set aside for the financial considerations.

Professor HENSHER: I suppose my comment is that we have 25 years of experience with toll roads now. We are one of the most experienced countries in the world; we have a lot of them. Looking forward, do we want to continue to deliver them on the same model that we have had in the past? We have learnt some lessons.

There are a number of lessons we could learn. Those lessons have to come back to risk allocation but also to recognising why we do it in the first place. We are trying to add value to the network. The network must be priced in such a way that the additional part adds value rather than purely seeing it as a link that is independent.

I fully understand the time-cost trade-off with Pennant Hills Road. We would all use the road where our value of travel time savings are such that we get a benefit beyond the toll, so we will use NorthConnex. I have no problems with that at all—that is absolutely right. If it turns out that the only way we will attract private equity is by fixing the toll so they minimise the risk of patronage forecast on that toll and they are smart enough now, I believe, to internally adjust the forecast and knock it down to 60 per cent, then you could argue they will put their hand up and want to be involved in that, and that is fine. The only thing I ask is: can we put that to the network test? Is that the best proposition? If it is, let us continue doing it that way.

The Hon. TREVOR KHAN: We have talked in terms of tolls being fixed. If an operator looking at the demand side decides that the toll is too high, are you saying that they cannot reduce the toll?

Professor HENSHER: They could, but they do not.

The Hon. TREVOR KHAN: That is a slightly different response. The mechanisms that are put into the contract essentially provide a maximum figure.

Professor HENSHER: Yes.

The Hon. TREVOR KHAN: If it was found that the price mechanism that was used was suppressing usage of that tollway to such an extent that a reduction in the toll would then increase it, that would be available.

Professor HENSHER: Yes.

The Hon. TREVOR KHAN: It is not fixed in that sense; it is simply capped.

Professor HENSHER: Fair point. The question is: Why are these companies not doing it if that is the evidence?

The Hon. Dr PETER PHELPS: Because demand for use of the motorway is inelastic.

The Hon. DANIEL MOOKHEY: Because they are a monopoly.

The Hon. Dr PETER PHELPS: No, because it is inelastic. Am I incorrect to say that demand for the eastern motorway is inelastic?

Professor HENSHER: These price elasticities are at about minus 0.4, which is inelastic in that definition.

The Hon. TREVOR KHAN: There was an interjection with regards to a monopoly. I am not being derogatory or pejorative when I say is your theory not based upon the fact that there are alternatives to using this toll road across the network?

Professor HENSHER: Absolutely. It is even the same toll road at a different time of day—that is an alternative.

The Hon. TREVOR KHAN: When the term "monopoly" is thrown around, it is not only unhelpful; it is inaccurate, isn't it?

Professor HENSHER: Yes. There are alternative routes, so in that sense there is a competitive market. It just happens to be a monopoly on who runs the toll roads—that is all.

Dr MEHREEN FARUQI: Exactly.

The Hon. TREVOR KHAN: That is right.

The Hon. Dr PETER PHELPS: But do they engage in monopoly pricing?

Professor HENSHER: They go for the maximum price that is allowed through the deal with indexation.

The Hon. Dr PETER PHELPS: Which is limited by the Government.

Professor HENSHER: Exactly.

Dr MEHREEN FARUQI: In negotiations with the monopoly.

The Hon. Dr PETER PHELPS: Hold on—

Professor HENSHER: So why do we not have off-peak pricing?

The Hon. Dr PETER PHELPS: —there are competitive tenders for these roads.

The CHAIR: Not NorthConnex. NorthConnex was an unsolicited bid.

Dr MEHREEN FARUQI: Unsolicited proposals—

The Hon. Dr PETER PHELPS: We can ask Treasury about that this afternoon.

Dr MEHREEN FARUQI: Yes, we will.

Professor HENSHER: I would like to see government, through Transport for NSW, doing a lot of sensitivity testing on what different toll regimes have on the efficiency of the network as a whole.

The Hon. TREVOR KHAN: That is distance based as opposed to—

Professor HENSHER: Yes, distance based and time of day based as well. It would be useful if we could see the evidence of what difference this makes as distinct from what we currently have in place that has been agreed to with the consortia.

The Hon. TREVOR KHAN: Do you think it would be relevant to look at whether there is some difference if one were to look at the different weights of vehicles, for instance?

Professor HENSHER: Absolutely. I think that is a very important point, of course—it is the damage to the pavement as well as the mere congestion. It is even suggested that a small car—

The Hon. TREVOR KHAN: Or a motorbike?

Professor HENSHER: If you are looking at the contribution to congestion, they contribute less to congestion than a larger vehicle. The amount of the toll that is related to the congestion component should be reflected in an adjustment. We can do that very easily, of course, with the technology to capture that. We have an arbitrary distinction between car and truck rather than the size of the vehicle.

The Hon. TREVOR KHAN: Indeed, if you look at those issues, it seems to be agreed in the evidence that around 50 per cent of the users of those toll roads would be described as commercial vehicles.

Professor HENSHER: Light commercial, tradies and things like that.

The Hon. TREVOR KHAN: Absolutely. They are a very significant part of the road users, are they not?

Professor HENSHER: And they have a much higher value of travel time savings. So a lot of them are more willing to pay the toll. They are less price sensitive.

The CHAIR: You have given us a lot of information. We appreciate you engaging with the Committee in the way that you have. The Committee will receive *Hansard* after today and read through it. Some questions might arise that will be provided to you and you will have 21 days to return your answers. I hope that will be satisfactory. Our secretariat will liaise with you in that regard. Once again, thank you very much for coming along. We appreciate your input.

(The witnesses withdrew)

BRENDAN LYON, Chief Executive Officer, Infrastructure Partnerships Australia, affirmed and examined

MICHAEL TWYCROSS, Policy Officer, Infrastructure Partnerships Australia, affirmed and examined

The CHAIR: We have received the detailed submission from Infrastructure Partnerships Australia, which is listed as submission No. 97. Thank you for that. You can take it as read, so there is no need to go through it in a lot of detail in your opening comments. We would like to maximise the time for questions, but we would like you to make an opening statement to set the scene if you wish to do so.

Mr LYON: Through you, Chairman, I wish to thank the entire Committee for the invitation to appear before you today. Tolling is a very important issue, as is the wider funding of public infrastructure, so we very much welcome the focus and the Committee's deliberations and discussions. As you know, our submission included a policy paper that we did nigh on a decade ago which looked at the substantive issues in your terms of reference but received little by way of political interest back then. We hope that your Committee might further demystify tolling and advance the discussion about how we fix Sydney's transport system and road tolling by making it fairer and, in time, by using pricing to reduce Sydney's growing road congestion to give more reliable journey times and to help fund the ongoing investment that is needed.

One issue I wish to respectfully submit from the outset is the contemplation in the terms of reference of the Independent Pricing and Regulatory Tribunal [IPART] in terms of toll regulation. I respectfully submit that this is misguided unless the Committee is considering a very large scale change to the existing models. Indeed, the terms of reference ask whether it is appropriate. I respectfully submit that it is not only not appropriate; there is in fact nothing for IPART to regulate because the tolls are set in sovereign contracts. In terms of the level of tolls, they were set in concrete when the road was built. This is the reality.

The tolls were set on the M2 in 1994 under a Liberal government. The tolls for the Cross City Tunnel were set in 2002 under a Labor government. The tolls on the M5 Motorway were set in 1991 under a Liberal government and for the Lane Cove Tunnel in 2003 under a Labor Government. Meanwhile, the tolls for WestConnex are already outlined in that company's business plan. They are the basis on which the taxpayer financed the delivery and are now the basis of the planned sale of the Sydney Motorway Corporation. This is reality and it means that in practice there is nothing for IPART to do and nothing to regulate because IPART can do nothing to change the structure of these contracts.

While saying that, the Sydney orbital network tolling system is a mess. It is not integrated, it sees unfairness in the way different segments of the network are priced and radically different costs based on where you live. This is because the road network was developed as a series of incremental concessions, not as an integrated network. This is just the reality and just how it is. New South Wales was learning as it went and learning on the job about how to structure and engage private funding into the delivery of public infrastructure. That also reflects that New South Wales was at the leading edge, was a global leader, in terms of the public-private partnership [PPP] model for roads. This sees, for example, the Westlink tolled both ways on a distance basis. The earlier M2 is a flat rate and the publicly owned harbour bridge and privately held harbour tunnel see a low, medium and high toll that varies on the time of day but only in a single direction. People in the north-west pay a lot more to travel to the central business district and people in the south-west pay nothing because of the cashback scheme, which was, and is, a bad public policy.

I am not saying that this inquiry or, more correctly, that term of reference is pointless. Far from it. I am signalling that there could indeed be a role for IPART or some other economic regulator to set tolls, but this would need to occur within a much larger change such as the type contemplated in our 2009 paper that formed our submission. That was one where we move from tolls set on recovering the cost of constructing and operating a particular asset toward a tolling model where the price is based on the capacity of the road network plus its operating costs and reflects the cost of an individual's use on the wider network. In effect, using a network toll as a demand side curb to ease congestion and to fund operating cost and potentially as a way of funding the wider rebuild and modernisation of Sydney's roads and railways.

This would not be easy in concept or commission. It would be very complex and probably not immediately popular or easily understood by users. But it is in everybody's interests—taxpayers, road users, concession holders. It is in the interests of the environment through lower emissions. It is in the interests of the New South Wales economy through lower costs of congestion. Fixing transport, road and rail is ultimately in the direct interests of this Parliament, this Committee and the Cabinet that represents our interests. But as I have already said, it could only occur on the basis that existing commercial interests are maintained and protected within any changed model.

In our research paper we explored the conceptual model where we would move from a series of disjointed tolls on individual assets in favour of some form of integrated network tolling. Because we at Infrastructure Partnerships Australia [IPA] do not need to be elected or re-elected, we also considered that this price would be fully dynamic—that is, would float according to how many vehicles were on the network. For example, imagine if we could price in a way that made it cheaper for commercial deliveries and freight to use Sydney motorways in the very early morning when the roads are empty so that commuters do not sit behind a truck in gridlock at 8 a.m. in the M5 East tunnel.

We also noted that experience across the globe shows that these types of reforms are more likely to be politically sustainable where people understand the problem and where any upsides in revenue collected from road users are protected and reinvested in road and rail projects. Our model has a lot of hairs on it. It has a lot of challenges and it was a concept, not a recommendation. It is complex to do because of the existing owners and tolling agreements, because dynamic pricing would serve to price a lot of people off the roads and could have unintended consequences, quite conceivably driving traffic off motorways and onto suburban streets, so-called rat runs.

It is also self-evident that a lot more public transport capacity and corridors would be needed to cater for the growth in public transport journeys. That would have to be in place first to give people options and choices, not just a higher charge for what they must consume. Rather, we would recommend a much wider reform that would see the fuel excise and registration charges axed and replaced with an on-vehicle time, mass, distance and location based road user taxation system—something that it will be a relief to the Committee to learn must be led by a national government and is being quietly considered at the moment in Canberra.

In closing my opening address, to some degree the formation of this Committee reflects the community's lack of love for paying a price. Tolling is not popular and it is true to say that we all love free things. The Premier herself said it last week regarding the M4 East toll when she said she does not love paying tolls when she drives round Sydney either. I point the Committee to a letter by Glebe resident John Pendrel on 10 January in the *Sydney Morning Herald*. He complained in part, "I can remember the time when I could go to Sydney for no toll." This is an incredibly good point, one which was just as true when he made it on 10 January 1863 as it is now as the M4 toll comes back on. I look forward to your questions.

The CHAIR: Thank you very much. Is that a joint opening statement? Can we commence with questioning now?

Mr LYON: Yes.

The Hon. JOHN GRAHAM: Thank you for your submission. I found it very useful sorting through these issues. We now have three groups of witnesses this morning that have really argued the case for dealing with this as a network problem rather than link by link, as you put it, and to argue the case that this is going to change at some point, for example, given the changes in the fuel excise. In particular, I was interested in the point you made on page 40 of your submission, which was a useful one, saying that this idea that tollway operators always want more cars coming through their tollway is not, in fact, how this works. In fact, your submission states:

This principle is essential in recognising that owners and operators of road infrastructure do not benefit from the infinite growth of traffic. Indeed, as demand for an asset grows beyond the capacity of an asset the revenue of the motorway owner will decline.

I wonder if you have anything to add to that particular point. Really, we are all in this together in some ways, both for the operators and the Sydney public. There is a point at which this all gets harder, less profit, less moving around the system if we do not get this right.

Mr LYON: I have nothing to add to it, other than it is even more the case now than it was in 2008 when we wrote the paper but published in 2009. The simple fact is that once the number of vehicles on a road reaches a particular point, then the throughput of the road collapses, and that is because of the tailbacks and the stop-start traffic. The overall number of vehicles that move through in a given period of time will reduce. We are all in this together. Whether you are the regulated owner of a toll road, a commuter, a Government policy-maker, most particularly for commuters trying to move around Sydney, it is very clear that we have got an accelerating problem, and one where we will continue to see a loss of levels of service unless we fix it.

The Hon. JOHN GRAHAM: What struck me when I read your submission is that there is going to be an ongoing discussion, certainly with Transurban, given the number of toll roads they operate, and certainly given how long these concessions operate for—some of them up to 2060. Government and the operators are going to be going backwards and forwards on this over the years to come. This is going to be an ongoing discussion about how these operate. Is that your view?

Mr LYON: That is my view. When we were preparing this paper, as part of it, we hosted a consultation meeting which, at the time, included the then director of motorways at the Roads and Traffic Authority, as it was then, representatives of all of the equity clubs that were in the motorways themselves, and also included Transurban and whichever other operating service providers were in the network back at that time, and Infrastructure Australia, indeed, Michael Deegan who then was head of it. The thing that was overwhelming at the time was that everyone from the equity owners, the operators, the regulators in respect of the New South Wales Government bureaucracy, all of them could see the benefit of moving toward a network toll, all of them, there obviously will be difficult discussions if you head down that path around the commercial outlook, and so on. Nonetheless, in respect of the outcome, there was total alignment but a view that a change of that scale is going to need a very heavy degree of political consensus.

The Hon. JOHN GRAHAM: Your point in advocating this principle is that if you get too many cars on the tollway, the tollway operator loses out. It means that we are going to have—between now and 2060—tollway operators coming back to us saying, "We need public transport to move some people off to get to the optimum traffic speed on our operation, or we are going to need improvements to the roadway. We have one here, and we would like you to assist us to pay for it." That really is the conversation we are going to be having between now and 2060.

Mr LYON: I would certainly hope that we continue to have discussions about how we increase the mobility around Sydney, and clearly Transurban and others in the road network will have a strong interest in making sure that happens. Everybody is united in Sydney by the fact that it is not working well as it stands and we have a very large growth outlook that is coming. The structure of the Sydney toll road network—to some degree this is binary. If we had not invented the private-public partnership [PPP], if we had not managed to shift the construction and operation of these motorways off the Government and on to the users in this way, then we would not be talking about a lot of these issues. In some ways it is a nice problem to have because we have the motorways.

The Hon. JOHN GRAHAM: When we have those discussions over time, those renegotiations of these contracts, surely there is a role then for some sort of scrutiny?

Mr LYON: Spot on. That is exactly what I said in my opening address. It is exactly what we have said in the submission that we made on the basis of the paper that we did a very long time ago. If you are going to move away from the contracted tolling structures, you will need, first of all, the agreement of the people who own those contracts, who are the counter party to the State, and then you will need a mechanism to set tolls in a way that deals with your demand, potentially deals with the scale of investment that is needed with metro rail and other things.

The Hon. DANIEL MOOKHEY: Who do you represent? Who is your membership?

Mr LYON: We have a range of government departments, private sector people, toll road operators.

The Hon. DANIEL MOOKHEY: Which toll operators?

Mr LYON: Transurban, EastLink in Melbourne, ConnectEast.

The Hon. DANIEL MOOKHEY: Which road financiers are members?

Mr LYON: All of them.

The Hon. DANIEL MOOKHEY: You made a point about the design of the existing Sydney road toll network, saying essentially that it is reflected in the contract design that exists between RMS and the respective operator—that is correct, is it not?

Mr LYON: Yes.

The Hon. DANIEL MOOKHEY: You are aware that over the course of the next 10 years we will be introducing new contracts, using predominantly the same principle—that is, it is a commercial negotiation between Government and a bidder. Is that correct?

Mr LYON: Yes.

The Hon. DANIEL MOOKHEY: In terms of the cost recovery models that the Government should be applying, what should they be if it is done through a contract framework, and should it be if it is done through a regulatory system like an IPART system? And you would accept, of course, that the Government would obviously be seeking to recover the cost of construction in that, wouldn't you?

Mr LYON: Yes.

The Hon. DANIEL MOOKHEY: Finance as well?

Mr LYON: I would have thought so.

The Hon. DANIEL MOOKHEY: Should the contract be bid, should the Government be putting any caps on returns for a private operator?

Mr LYON: Absolutely not.

The Hon. DANIEL MOOKHEY: Why?

Mr LYON: Because it is running a competitive process. Every single one of these caps on profit or other things are effectively what you are asking people to compete on to get the price down. You would have to say that the last number of roads that have been built in Sydney have not seen a high degree or a monopoly degree of return to the people who built them. I do not understand the basis on which we would want to do that, other than if we move toward the sort of system that I suggested in the paper, which is around setting up an integrated toll where there is agreement with the existing users in some form, and that the upsides are directed to funding State priority projects.

The Hon. DANIEL MOOKHEY: You have no objection, for example, to a private operator, as a condition of a concession agreement that it has with the Government and will hold for, say, 43 years, obtaining returns on equity or returns on capital of 25 per cent, 30 per cent?

Mr LYON: This is about the government sector running a competitive process and being a good steward. I do not support putting revenue caps, profit caps or other things. It is up to the government sector to design a good process and then not intervene in the commercials once it is done. That is a fairly fundamental—

The Hon. Dr PETER PHELPS: Hear, hear!

The Hon. TREVOR KHAN: Do you want to provide a guaranteed return?

The CHAIR: Order!

The Hon. DANIEL MOOKHEY: That is a good question. What about a guaranteed return?

Mr LYON: These are things that the Government puts into the mix. This is really about the Government being a good steward for the taxpayer and the commuter interest when it comes through and knowing what it is doing. In some cases, it may be that no market risk should go to the operator or the bidders at all. In others, there may be some comfort given around—this is really about governments making the right decisions based on the requirements for the taxpayer and the requirements for users of the network.

The Hon. DANIEL MOOKHEY: Under the existing WestConnex proposal and the existing tolling system that has been proposed in the business case, motorists commuting from the central business district [CBD] out to the western suburbs can pay, over the course of the full concession period, up to \$33 a day and up to \$169 a week, which can add up to \$8,500 a year. Surely from the perspective of the motorist who is paying that, do you not think they would object if they were to find out that 30 per cent of that is going to an operator by way of profit when the Government could borrow the same capital of 2.5 per cent?

Mr LYON: I do love the question. I certainly heard Professor Hensher talk along these lines a few minutes ago. This idea that somehow the cost of debt is the major driver of the cost of infrastructure is a fallacy. The cost of debt that is used by the commercial sector is a couple of hundred basis points above and there is plenty of research by the University of Melbourne, most notably, by the Victorian Treasurer and others, that government is poorly placed to take the complex upfront construction risk and is poorly placed to do the long-term operation and maintenance of complex assets.

The Hon. DANIEL MOOKHEY: Your evidence is because the Government and the—

Mr LYON: Sorry, just to finish my answer, the average cost overrun for a government-delivered public works style traditional procurement motorway of the type that you are talking about versus a privately financed concession is about 31 per cent. That blows out of the water any gap around the cost of debt because the taxpayer is absorbing the upfront risk that the project will be late, that it will cost more. So the statistics simply are not on your side, I am afraid.

The Hon. DANIEL MOOKHEY: So what you have just described is the WestConnex, which started with an original cost of \$10.1 billion and it is now \$16.8 billion.

Mr LYON: The WestConnex is a public procurement with a financing arrangement around it, but it is being done by the State—

The Hon. DANIEL MOOKHEY: I am just trying to ask whether or not—

The Hon. TREVOR KHAN: Point of order: This witness is entitled to the courtesy of being able to finish his answer before the Hon. Daniel Mookhey charges into him again. I ask that you encourage Mr Mookhey to do so.

The CHAIR: There is an exchange going on—a question and answer.

The Hon. DANIEL MOOKHEY: It is not dissimilar to other exchanges that happen which you have let, Trevor. Practice what you preach, Trevor.

The CHAIR: Let us have the question placed, the answer provided and the exchange take place in that order.

The Hon. DANIEL MOOKHEY: Your evidence is essentially that because both the Government and the private sector can borrow money cheaply, that should not be a relevant consideration anymore because of the Government terms of acceptable financial model.

Mr LYON: They are your words, not mine. What I said is that the statistics would suggest that—and these are measures of time and cost performance based on privately financed versus publicly delivered infrastructure projects—the average cost overrun for the government sector is circa 31 per cent by comparison. What I am saying is that if you are talking about a project worth \$5 billion and you have a cost overrun of 31 per cent, then debt costs are not going to be 125 basis points spread—

The Hon. DANIEL MOOKHEY: That is actually not what I asked. You are deliberately going in a different direction.

Mr LYON: I am not trying to. I apologise if that is so.

The Hon. DANIEL MOOKHEY: Can I move to the next question? In terms of the other principles that should be reflected in toll design, do you think affordability of the user should be incorporated into that?

Mr LYON: I think it is up to government if it is contemplating this scale of change, which again I say is a very large one—

The Hon. DANIEL MOOKHEY: I am not actually asking you about that in the context of your model; I am asking about that as a general principle.

Mr LYON: Affordability of users?

The Hon. DANIEL MOOKHEY: Yes. Do you think that should be factored in?

Mr LYON: We would describe it as equity of the pricing model. Again, it comes back to—and it is not my model that we are discussing, it is in broad terms around the design of a particular tolling model—it is really up to—

The Hon. DANIEL MOOKHEY: So if we use your description—

The CHAIR: Let the witness answer.

Mr LYON: It is really up to the government sector to specify. These are publicly regulated public markets where government specifies all of the rules, all of the behaviours, and in the case of the existing concessions has put those into contracts. We say in this paper and the subsequent ones we have done around a national road user charging model, which is the time, distance, mass, location, whole-of-network, whole-of-fleet type model, that it is really up to government to have clarity at the start, and we spend a lot of time in our research papers on this, around what actually is it that you are trying to achieve, because if it is a reduction in congestion then it is going to be quite different in terms of the pricing levers than if it is one based around affordability for people using the network or whether you are wanting to, for example, bring online lower-emission vehicle fleets and so on. What we say in all of our research papers is the most important thing is that the public sector that actually sets the rules, sets the behaviours, sets the costs, creates all of the powers—

The Hon. DANIEL MOOKHEY: But should we be setting that with affordability as a criteria? That is the basic question I have asked you.

Mr LYON: The long answer I am trying to give you is that—

The Hon. DANIEL MOOKHEY: It is a long answer.

Mr LYON: It is a long answer but it is a true one: it is really up to the government sector to specify what it wants. I would say that given the cost of congestion flows through to everyone, that affordability would

be a secondary consideration. But that relies, as I said in the opening statement, on having an alternative mode available for people. The reason I have to give you a long answer is these are not simple binary yes/no type issues because they rely on a whole degree of government policy setting around it in terms of the allocation of money to alternative modes, getting transport online, and clarity around what is it that you are actually trying to seek.

The Hon. DANIEL MOOKHEY: In your view, taking your long answer and all the criteria that you just laid out in that, are you satisfied that all the levels of disclosure around transparency that should apply to allow people to have informed views on that have taken place in respect to the WestConnex or NorthConnex projects?

Mr LYON: I have not studied WestConnex or NorthConnex particularly closely. Our view is pretty simple on this. We think that all of the contracts and all of the bases for decisions for everything—public and private—should be put up on a website and people should be able to go and look at them.

The Hon. DANIEL MOOKHEY: So the contract, for example, should be public?

Mr LYON: Yes, unless there is a particular commercial in-confidence aspect, which I cannot really imagine.

The Hon. DANIEL MOOKHEY: And the revenue models that the SMC has designed, should they be public?

Mr LYON: Again, I have not thought about it closely enough to give you an informed answer. To some degree they are going to be commercial in confidence because they are going through a tender process right at the moment for the sale of a public asset. You would probably be better placed to ask that of the Treasury, who are coming in this afternoon, I think. Our default position is that transparency is the best answer to concerns and that monsters only live in the dark. We have always said around PPP contracts, around everything else, the more transparency that you can give to the public the less excited they are going to be; monsters live in the dark. PPP contracts are generally 28,000 or more pages long and they specify the terms, the conditions and the basis of services to be delivered. So put them up. Certainly Victoria went down that path when they were being asked about the transparency of their PPP projects and other things. I think full transparency is always a good place to be.

Dr MEHREEN FARUQI: Thank you very much for coming in to provide evidence. There has been quite a bit of discussion earlier on competitive processes. I want to ask a question about non-competitive processes such as unsolicited proposals, for instance, and your view as to whether you think they provide value for money for the public. We have discovered recently through the FOI process that for the NorthConnex we know that trucks are going to be forced into NorthConnex, but then there is also compensation that is going to be paid to the operator if trucks do not go in there or use other roads. What is your view on value for money with these sorts of unsolicited proposals?

Mr LYON: Unsolicited proposals are a difficult beast, to be quite honest, because what they are trying to do is bring a degree of structure to an inherently opaque process where you are single-sourcing the procurement. So the unsolicited bid framework is a difficult one. On close examination you would have to say that it is relatively clear that there is a cross-subsidisation ability that is available on the NorthConnex project. That is probably one of the few things that is suitable to go through an unsolicited bid type process. At the same time, there is nothing quite like a competition between alternative providers to drive whatever behaviours are specified by government—things like the M5 widening, the M2 widening that were done under the previous Labor Government, I think—or certainly one of them was, the M2 was. They recognised the reality of the ownership of the motorway; NorthConnex you would have to say recognised that there was an additional revenue stream that was available to bring down the cost to the government sector in delivering it.

But, like all of these things, they are really based on the specifics of trying to make the project get up and pay for itself, and if you look at the development of Sydney's infrastructure more broadly, but the Sydney motorway network in particular, we basically stopped once we ran out of things that were free in terms of the government sector budget. One of the key drivers has been that ability to get the payment off the taxpayer and on to the user through the use of a PPP.

Dr MEHREEN FARUQI: You have also recommended that the cash-back scheme, such as the one on the M5, should be removed.

Mr LYON: Yes.

Dr MEHREEN FARUQI: Could you explain a little bit more about that? Who do you think will benefit from that and how?

Mr LYON: The taxpayer primarily, but also, if we are going to begin to deal with the equity problems that we have in terms of, as your colleague Mr Mookhey pointed out before, under the existing—

The Hon. TREVOR KHAN: He might take offence at that.

Dr MEHREEN FARUQI: I do not know why. Is he not my colleague?

The CHAIR: Please continue, Mr Lyon.

Mr LYON: There are inconsistencies, just because the road network has grown based on which segments can pay for themselves. It means that there is substantial inequity for people who live in north-western Sydney, for example. It does not make a great deal of sense when the M5 corridor is totally congested. My parents live down along that corridor, so I have the ability to use it often, and I often choose not to drive down Forest Road and others because it is terribly congested and has been since it opened. I cannot see the taxpayer benefit in footing the bill in effectively a shadow toll. I certainly cannot see the benefit for the users on that corridor who sit in bumper to bumper traffic. There was an estimate a couple of years ago that it has cost over a billion dollars cashback since it was brought in. That is money that could have delivered a couple of major regional hospitals or any of the other priorities that we have.

Dr MEHREEN FARUQI: Some more public transport maybe.

Mr LYON: Indeed.

Dr MEHREEN FARUQI: In your submission you advocate on the one hand for network tolling arrangements. I think you highlighted earlier that, if such a system were to go ahead, the toll concession holders should be guaranteed.

Mr LYON: They will have to be.

Dr MEHREEN FARUQI: Maintenance of expected returns. Given that some of these toll roads like NorthConnex have concession agreements until 2048 and others like the M7 have just been extended for a few more decades, do you think it is actually realistic and feasible that this could happen—that you could have an arrangement of a network of toll roads which is equitable while providing guaranteed revenues?

Mr LYON: Yes. It would be complex. One of the things we have to remember is that the investors in these existing concessions have a right to have their contract respected. In some senses it would rely on their agreement for the tolling model to change in that way. We did not deal with mechanisms other than, as you would have seen, in some degree of broad brushstroke detail because it is very complex and we do not have the traffic models or the utilisation models. It would be very difficult and complex but can only happen, I would think, with that sort of arrangement in place. We are a State and a country that respects contracts. They are long-term contracts that have been entered into in good faith, so that is a requirement.

Dr MEHREEN FARUQI: So it is a challenge.

Mr LYON: Is it a challenge? We would not have most of the road networks if we had not used the procurement model and if we did not have private owners. As I say, in some reflection it is a good problem to have, because we have the roads available and we are now getting to higher levels of discussion around whether transport pricing becomes a transport management tool rather than just a way of collecting the cost of a particular asset.

Dr MEHREEN FARUQI: Looking at the future of mobility—how people will move, with electric cars and driverless cars—

The Hon. TREVOR KHAN: And trams.

Dr MEHREEN FARUQI: Trams—well, yes. And with public transport basically changing, what is your view on investment of billions of dollars in, let us say, toll roads? Is that a wise investment to make now when we know in just a couple of decades or even less it is going to change completely? We had an inquiry into driverless cars. The witnesses told us that more and more driverless cars will mean fewer and fewer cars on the road. What is your view? Has your organisation given some thought to this?

Mr LYON: We have given it a lot of thought over time. The simple view I have is: people who say, "We are for rail but we are against roads," or, "We are for roads but we are against rail,"—

Dr MEHREEN FARUQI: It is not a question of for roads or for rail; it is a question of changing mobility.

Mr LYON: No, but it sort of borders on that.

Dr MEHREEN FARUQI: No, it does not. That was not my question. It is about changing mobility.

Mr LYON: In some senses, that sort of view—not from you but from others—is a little bit like saying I support breathing in but I do not support breathing out. The fact is that with the transport system, road and rail, even if we move to a fully connected and autonomous vehicle fleet, we are not going to see a reduction in mobility; we are going to see an increase in it. Whether the mode of vehicle ownership changes is another question. We are going to have more people and more demand. Every indicator suggests that, as society develops and as cities develop, you have more mobility. As the economy develops, you have more mobility requirements.

Whether the model of vehicle ownership changes and it becomes mobility as a service and therefore you have fewer roads, I do not think you are going to see fewer journeys taken on the road system or on the rail system. One of the challenges Sydney is coming up against is that we are almost built out in terms of the motorway network. There is a limit to the amount of capacity that you can bring in. That is where I say it is time to start looking at the pricing model, because that is the way that you begin to shape demand, but at the same time you have to radically increase the throughput and capacity of your heavy rail systems, your supporting arterial roads and other things. Sydney has got a big challenge. These are good problems to have. Perth has largely solved its congestion challenge in the short term and solved its property prices as well. Sydney and Melbourne are really suffering from the sorts of problems that you want to have as a city, but they are becoming costly and they are starting to have impacts.

The Hon. PAUL GREEN: I think it was Alan Jones I was listening to this morning as I was coming in. He quoted someone saying it was a good problem to have people stuck in traffic because it means they are on their way to work and that the place is prospering.

Mr LYON: That is right.

The Hon. PAUL GREEN: I thought that was an unusual way to look at it but it may be a good problem to have in terms of prosperity and the State thriving, but you are here on the other side of that. Thank you for your submissions, they are very concise and very helpful. Your points regarding population growth by 2051 and, of course, New South Wales and Sydney population growth, are probably what we need to be discussing here in terms of the tolling and the need for our infrastructure. In your submission you talk about four recommendations. Your first recommendation talks about driving better efficiency across the motorway network. You have taken time to put some recommendations to us. Could you quickly run us through them since there are only four, because I think they have got some innovative approaches?

Mr LYON: Sure. As I say, it is a very long time since we wrote this paper. Nonetheless, the first recommendation—

The Hon. PAUL GREEN: It was not 1863 though, was it?

Mr LYON: It was not quite 1863 but quite some period—

The Hon. PAUL GREEN: Or 1802 when they first starting tolling, according to your paper.

Mr LYON: As a brief aside, the tolling history of Sydney is in fact quite an amazing one. We went through it in some depth. It has largely been driven around these exact same problems: governments that have a very high level of demand but a low level of fiscal ability to cater for it.

The Hon. TREVOR KHAN: New South Head Road was very difficult in the early stages.

Mr LYON: Old South Head Road in particular, which was—

The Hon. PAUL GREEN: What is really amazing is that I am sure that was a monopoly back in 1802 too.

The Hon. TREVOR KHAN: I think it was the Rum Corps that was operating it.

Mr LYON: I think it was 1816 they built Old South Head Road. It was a lifestyle road that was built.

The Hon. DANIEL MOOKHEY: I am not sure at the time they called it Old South Head Road though.

The Hon. TREVOR KHAN: Or a monopoly.

Mr LYON: No—or a monopoly—but it was designed to get people down to the beach. There was a soldier in the Rum Corps that built it and levied a toll with permission. It does appear on the records that he did use his platoon to build it. I am not sure whether that is counted, but it is a very interesting aside.

The Hon. DANIEL MOOKHEY: You are calling for the return of conscripted labour.

Mr LYON: That is right. The first recommendation we had was basically that we get everyone together—the people who own the toll roads, the people who operate them, some representative of the user groups and so on—to have a discussion around the frameworks and the principles that might underpin it. To some degree, that is going to be an agreement with the existing concession holders around their revenue outlook under the existing model and their profitability, and some agreements around how they would be protected under a wider tolling model.

Because we said you need to begin to toll some sections of the Sydney orbital motorway network that are currently untolled—things like Southern Cross Drive, Gore Hill Freeway, Warringah Freeway and so on—there is going to be a revenue upside that comes, no matter how you deal with and satisfy the commercial arrangements. If you are moving to a capacity based toll and you are beginning to toll existing free sections of the network, there is going to be additional money that comes in. We included at the back of this paper some research around cordon pricing systems, showing quite clearly the ongoing political sustainability, which is really a factor of public support, is much higher where those upsides are not put through consolidated revenue but rather people can see them being reinvested back into the road network and the rail network.

We have put in a dot point around the protection of the commercial interests of the existing. The second recommendation is around the working group to look at the customer service focused network tolling. That really speaks to what Professor Hensher was thrusting at before—around a service level rather than a tolling level being the specification of what you are looking for. We then said that the New South Wales Government should prepare and commit to a detailed implementation strategy, incorporating key milestones and stages to transition towards a new tolling. That is really just a process recommendation. Then, and this is really the most fundamental of the recommendations, in any change to transport taxation—be it tolling models or be it the wider sort of reform around national road user charging—it needs to be publically acceptable. That is the real difficulty for the elected class in driving changes to these things.

If you look at the registration plus fuel tax model that underpins the entirety of the transport system, it is in fact horribly unfair to people in regional areas, it is horribly unfair to people who do not drive very much; it is very beneficial to people who live in capital cities and drive their cars to work every morning in peak hour. The problem is that it is totally flawed but thoroughly familiar to the public. One of the great things we have got is that the motoring clubs in Australia, the user groups around freight, these people are experiencing firsthand the problems with the existing model. We published a paper a couple of years ago now with all of the major motoring clubs in Australia calling for a time, distance, mass location-based charging system. We did some extensive modelling around the user impacts of it. It really showed that on this issue the user groups are way ahead of the policy makers because they can see that it will not fix itself without some fairly substantial interventions and changes.

The Hon. Dr PETER PHELPS: In relation to proposals for "efficiency tolling", does that extend to the tolling of roads that are currently untolled? For example, would you toll the Cumberland Highway, Great Western Highway and the Newell Highway in western New South Wales?

Mr LYON: Under the whole of network, whole of fleet type model that we are actually recommending and driving in part three—this was a conceptual piece around what you could do with the Sydney motorway system—we actually have a strong view that fixing transport in Australia will require a national government to lead it because it is going to have to be around the diminishing fuel excise as well. But under that sort of system everything would be included—the entirety of the road network, the few private concessions that exist but also the 95 per cent or 80 per cent or whatever it is of the road network that is owned and funded by councils and State roads as well.

The Hon. Dr PETER PHELPS: But you then get to a situation, particularly in rural and regional New South Wales, of equity issues?

Mr LYON: Because they have to drive a long distance?

The Hon. Dr PETER PHELPS: A person on a farm who goes 80 kilometres along the Newell Highway to Moree for their milk, eggs and bread, as opposed to someone who can drive two kilometres of untolled road to their local supermarket not having to pay anything. Does that not present a significant equity problem, especially in rural and regional New South Wales where, to be frank, incomes are lower than they are in the Sydney Basin?

Mr LYON: I just referred earlier to some work that we released with the motoring clubs. It looked at this issue of what would be the user impacts. Certainly people in regional areas are always concerned about any discussion of something that involves a distance-based charging mechanism. We applied some very visible and

clear parameters around how our tolling mechanism would be structured, how our road-user charging mechanism would be structured. The stunning part of those modelling results—I would encourage you to have a look at it, and I will certainly submit that paper to the Committee—or the fascinating part of it is the very high degree of cross subsidy that goes from users in regional areas to high-cost users in urban areas. So actually the costs would go down if you applied the model that we developed with the motoring clubs.

The Hon. Dr PETER PHELPS: Which includes reductions in excise?

Mr LYON: Time, distance, mass, location gone, abolished, excises abolished, registration and licensing fees abolished and you moved to a mass, time, distance location-based charging model. Under the structure that we put together in that paper you would actually see regional users have their costs come down very substantially.

The Hon. Dr PETER PHELPS: Let us assume the basis that no Federal Government is ever going to do that because no-one is going to introduce a national tolling regime and remain politically viable—or maybe it is. Maybe a Labor Government might like to consider that as part of its policy agenda in the lead-up to the 2019 election?

Mr LYON: This is actually one area of interesting partial agreement between the Labor and Liberal parties in Canberra.

The Hon. Dr PETER PHELPS: Of course it is, and no-one wants to do it first.

Mr LYON: No-one wants to implement it—

The Hon. Dr PETER PHELPS: That is exactly right. We are in solid agreement but no-one wants to do it because you know the political consequences of doing it.

Mr LYON: Well there is nothing to implement at the moment because no system has actually been developed with any depth. So one of the things that is on the to-do list for the Turnbull Government is to take forward the process which Labor, to its great credit, has not politicised and which the Australian Greens, to its great credit, has not politicised or characterised as a great big new tax on every kilometre you drive or anything along those lines. But when it comes to implementation—

The Hon. Dr PETER PHELPS: You have just given them their line.

Mr LYON: When it comes to implementation of change of that scale, of course, some of this agreement will fall away, but we are a good 10 years away from even knowing what to implement. I would not be too negative on the politics of it; it is still at a conceptual stage. It is one that really this State's interest and every other State Government's interest will only be served if we can fix the funding and allocation problems that sit underneath transport. That is the reason we don't have better railways, it is the reason we don't have better roads and it's the reason why in part we are seeing a continuing decline in the maintenance, the asset age, the process of major transport delivery, except in the two jurisdictions that have managed to privatise assets to get a sugar hit into the budget but once those proceeds are spent we are back to just the budget. So we do have to fix these problems because they are very important.

The Hon. Dr PETER PHELPS: Getting back to efficiency pricing within the Sydney region. Presumably you heard the views of the previous witness on efficiency pricing as opposed to recouping capital plus profit on the building and operation of the motorways?

Mr LYON: Yes.

The Hon. Dr PETER PHELPS: Is not the fact that we can only start to talk about efficiency pricing because of the creation of these infrastructure assets, which would not have come about without the existing pricing model?

Mr LYON: I agree with you 100 per cent. This is really the point that I was making in some of the previous answers.

Dr MEHREEN FARUQI: I am flabbergasted.

Mr LYON: The truth is if you look at the development of the Sydney road network from the Sydney Harbour Tunnel through till now, it has effectively been the projects where the tolling revenue was sufficient to meet the capital and operating costs. We then got through those and we got in, as it turned out, to a couple of motorways where the tolling revenue was not suitable to pay the capital and operating costs and the investors found that out within about a year or two of those assets opening. There is no doubt—and it is not a part of some comment or any other political-type comment—it is simply a reality that those roads were done because

governments of both persuasions found a way to pay for them not from the budget, but from users. That model has been taken globally since.

Our problem is not that people do not want to invest in market risk; our problem is that we sold off many of the corridors for the roads that need to be built. That means—you are an engineer—we are facing many times the cost because we do not have a surface corridor available, whether for cut or cover or something else, and as a result it is not possible to internalise the cost of building and operating those motorways within a toll that would be able to be paid, let alone want to be paid by users. Sydney has really caused a lot of its own problems. We did a very good planning scheme in 1951. We built some of it in terms of the transport connections and then we merrily sold off the other bits, and as a result we are in a bit of a bugger's muddle. We need to find a lot of money to build out the rest of the network and then we have got to get \$20 billion, \$30 billion, \$40 billion to do the metro rail system in the way that it should be done.

The Hon. Dr PETER PHELPS: The desirability of network efficiency pricing is quite clear. The problem is that you cannot have network efficiency pricing without the network being in place and effectively under the control of the Government. However desirable network efficiency pricing might be, as long as the existing contracts are in place, network efficiency pricing will not be able to be introduced without us either unilaterally voiding contracts or alternatively seeking to substantially renegotiate existing contracts.

Mr LYON: I think the first is almost unimaginable in a developed economy.

The Hon. Dr PETER PHELPS: Some are talking about bringing IPART in to look at how much is being charged.

Mr LYON: IPART cannot destroy a contract. I had a contract—it is enforceable at law. I do not see any risk of the former and I do agree with the latter. If you are going to look at a network toll, as I have said all of the way through my answers and in my opening address, it very much relies on having agreement with the existing invested capital that is built and has the property rights and the contracts and owns those corridors gifted by legislation through this place.

The Hon. TREVOR KHAN: There have been repeated references to Transurban. Am I right in saying that even though the individual projects are badged as Transurban, the structures that underlie the ownership of those individual projects is not simple?

Mr LYON: It has been a while since I have looked at the shareholding of the individual roads. There are a range of investors—largely superannuation funds such as QRC, AMP and others that sit alongside Transurban in those road corridors.

The Hon. TREVOR KHAN: I am not trying to be cute. The reason I am asking it is, if we say the bulk of the tollway network is owned by Transurban, we cannot simply say, because Transurban is the signature on each of those—

Mr LYON: And the operator.

The Hon. TREVOR KHAN: —that therefore we can treat them as one, because of those underlying separate interests. Each one actually has to be treated separately.

The Hon. DANIEL MOOKHEY: That is the basis of the unsolicited proposal.

The Hon. TREVOR KHAN: I am not trying to be smart. I am just trying to work out whether you can do it or whether there is a multiplicity of interests in these that makes what is being proposed a lot more difficult.

Mr LYON: There is not a multiplicity, but there are a range of financial investors that sit within each of those. It is not as simple as doing a deal with Transurban. As you rightly say, that was why the unsolicited bid process had multiple parties involved in it, because they owned the M7 alongside Transurban's equity stake in it. So yes is the answer.

The Hon. TAYLOR MARTIN: I appreciate you will make available a paper outlining what underpins the time, distance, location model. Does that model look at different rates of personal and commercial use?

Mr LYON: It does not differentiate between journey purpose. It does on journey types—time of day, distance travelled and location of use. By location of use I mean how many other vehicles are on that section of the network and how much cost are you imposing on the rest of the economy by your use and then the mass of your vehicle in terms of how much damage do you do if you are driving a B-double.

The Hon. TAYLOR MARTIN: Is that something that might be looked at?

Mr LYON: It would be difficult to do because people would have to specify their own use. To some degree it does not really matter. I know in the way that we assess the benefits and the costs of toll roads we ascribe a certain value to commercial journeys and a certain value to personal journeys but in fact, if you are looking at the overall impact, it does not really matter what someone is travelling for. What you are trying to do is signal to them around how valuable their journey is compared to somebody else's. They might really like their mum so they are going to visit their mum and they value that very highly. It does not really matter to the economy whether we want to value their close affiliation and regard for their mother. What we want to price in is the space that they are taking up versus someone else and what they are willing to pay for it. To a degree it is around making the existing very unfair system of pricing more explicit and more fair but it is also giving people choices. By choices, that is really reflecting their cost of use back to them so they can make decisions based around what they do and do not want to pay.

The Hon. Dr PETER PHELPS: Why do you say the existing system of pricing is unfair? You would certainly recognise there is a difference between building three lanes each way on a greenfields site on an existing corridor and doing a two lane each way—

Mr LYON: I was not talking about tolling then. I was talking about the rego plus fuel excise pricing model. I do not think the tolling system is unfair. It is based on competition around that cost and operation of particular assets. The problem is that as we have put those individual assets together it has led to some unfair outcomes, depending on which quadrant of Sydney you live in.

The Hon. Dr PETER PHELPS: On the issue of fairness and unfairness, in competitive tenders with the New South Wales Government on a range of infrastructure projects have you or your member organisations complained about unfairness or bias in the awarding of contracts?

Mr LYON: No. When I was talking about unfairness I was talking explicitly—if you live in the north-west of Sydney you have to pay more than if you live in the south-west of Sydney to come in. It is a factor of circumstance. I have never heard anyone say that there has been an unfairness in the way that contracts are awarded but we do not really live in the contracted space. We live in the policy and regulation type of space so we do not have exposure or focus on individual projects.

The Hon. Dr PETER PHELPS: But presumably, if organisations felt that they were not getting a fair deal in competitive tender processes, they would say something in the industry.

Mr LYON: I would have thought so. The commercial sector has largely overcome its natural shyness. You would have to say that New South Wales and Victoria are globally respected for their ability to buy good infrastructure projects and buy them well. That has been the case since the mid 1980s across successive governments. The treasuries in both States are incredibly sophisticated and advanced. The level of transparency, accountability and media focus that happens on major and particularly privately financed or privatised projects means that they are very well scrutinised. Whether or not people end up agreeing with what was done, you would have to say that there is a high degree of focus from across the political spectrum on major public infrastructure projects.

The CHAIR: Gentlemen, thank you very much. It has been a valuable session. Thank you for your detailed submission and the opportunity to ask a range of questions. There may be supplementary questions that arise from today's hearing after the Committee members read *Hansard*. We have resolved for a 21 day turn around time to deal with those and the secretariat will liaise with you in that regard. Thank you both for coming along this afternoon.

(The witnesses withdrew)

DENNIS CLICHE, Chief Executive Officer, Sydney Motorways Corporation, sworn and examined

KEN KANOFSKI, Chief Executive, Roads and Maritime Services, on former oath

The CHAIR: Before we begin I will make a brief comment about the purpose of this session and how I intend to chair the proceedings. The Sydney Motorway Corporation is the body charged with the delivery of one of the largest road projects in Australia, WestConnex. Tolling is a significant feature of this project. It is on that basis that the Committee has invited Mr Cliche to appear before this Committee and we thank him for his time this afternoon.

I acknowledge that Mr Kanofski is also present at the table. However, the primary purpose of this session is to gain insight from Mr Cliche. Questions will therefore be directed to Mr Cliche to ensure that this session provides the Committee with the information it needs to perform its responsibilities effectively. Please be assured, Mr Kanofski, that you will have ample opportunity to present the position of Roads and Maritime Services and indeed Transport for NSW, which you are representing in the session later this afternoon. Mr Cliche, would you like to begin by making a short opening statement? It would be great if you could keep it to a couple of minutes to provide the Committee with an opportunity to ask you questions.

Mr CLICHE: Thank you. I have three points that I would like to make. The first one relates to my non-attendance at the last hearing and to put facts on record as to why I chose not to attend. To do so I would like to quote from the letter that we sent to the secretariat:

As you are aware Sydney Motorway Corporation is a private company established by the State of New South Wales to invest in toll road projects, like WestConnex. SMC is not responsible for setting any tolling policy or for determining how tolls are set for motorways in New South Wales. Tolls that SMC will be entitled to charge for WestConnex, including any escalation mechanisms, are set by the Government. These are contained in the concession agreements that the Government enters into with the relevant toll operator for that motorway. These agreements are commercial in nature and apply for the duration of the concession. As an arm's length commercial counter party to the concession agreement I feel it would be inappropriate and inconsistent with that role for me to comment on Government policy matters around tolling and toll prices. Consistent with our view SMC did not make any written submission to the inquiry.

For these reasons I consider it more appropriate that I decline the invitation to appear at the inquiry. I understand senior representatives from both Transport for NSW and RMS will attend and be best placed to provide the Committee with the necessary information on the matters that are outlined in the terms of reference for the inquiry. Given the terms of reference I consider the quality of evidence to be provided to the Committee will not be diminished by my non-attendance.

That was the letter that we sent. My own comments now: I was disturbed by the suggestion that I was treating the Parliament or the taxpayers of New South Wales with disrespect and apologise if this was the interpretation that some had. I am more than happy to appear today and answer any questions relevant to my role that the Committee has.

The second point I would like to address today relates to my salary. I think I will take somebody's time from the first question. As I am sure the Committee is aware, Sydney Motorway Corporation [SMC] is a non-government entity tasked with procuring, financing, building and selling the largest transport infrastructure project in Australia. It is a common misconception that I am employed like all other public sector executives, which I am not. In a Corporations Act company like SMC chief executive officers are appointed by an independent board. My appointment and remuneration is determined by the SMC board. My appointment is not a public sector appointment. My remuneration is in line with other senior executives in private corporations overseeing major infrastructure projects.

As of 1 July last year, my remuneration consists of a base salary of \$717,500, a short-term incentive target of 35 per cent of base salary, paid annually upon the achievement of key performance indicators as determined by the SMC board of directors. In the 2016-17 financial year, I received a before-tax amount of \$937,650. I am also entitled to a completion incentive of 20 per cent of base salary, credited annually and held by SMC, with 50 per cent vesting at the completion of stage one and the remainder vesting at the completion of stage two, payable subject to remaining employed in that role at that time. This is common for fixed-duration projects.

With regards to reporting, the Sydney Motorway Corporation is a non-government private corporation and we report as we are required to do under corporation laws. In accordance with the Corporations Act requirements, we submitted our 2015-16 financial statements to the Australian Securities and Investments Commission in late 2016. Under further Corporations Act reporting requirements, we disclosed material relating to key performance management personnel compensation comprising senior executives and non-executive directors. I decided to release my individual remuneration when it became clear to me that this topic was clouding the conversation around WestConnex. I believe that thousands of people stuck in traffic gridlock on the

M4 and M5 every day would prefer to be hearing about the great progress being made on WestConnex rather than how much I am paid.

The third and final point I would like to address in my opening remarks today deals with the costs of WestConnex. The assertion of a cost blowout on the project is simply not correct. When the initial business case was completed in 2012, the estimated cost to deliver the project was \$11 billion to \$11.5 billion in 2012 dollars. This was based on what it would cost if the whole project could be built in one year and is the way major projects are valued at an early concept stage. When adjusted for the 10-year delivery period and allowing for inflation and annual price increases, the equivalent budget figure was \$14.9 billion, which was outlined in the 2013-14 State budget. Looking at it another way, if you took \$100,000 mortgage and added up all of the repayments over a 10-year period, including repayment of the mortgage, you would arrive at a number greater than the original \$100,000 mortgage. This is how we went from \$11 billion to \$11.5 billion in 2012 to the current restated number of \$14.9 billion. It is not a cost blowout; it is simply a different way of representing the same investment in real commercial terms.

In addition, as the project design was developed and refined, the Government took the opportunity to improve the motorway and increase the long-term benefits. Projects enhancements totalling circa \$2 billion include realigning the M4 and M5 link to provide better connectivity with the proposed Western Harbour Tunnel and improve connections to Sydney airport and Botany precincts. With these significant enhancements, project delivery costs are now estimated at \$16.8 billion, and statements of a \$7 billion blowout are totally incorrect. The correct statement would be that the WestConnex design improvements enhance long-term outcomes valued at circa \$2 billion have been added to the project, bringing the total investment to \$16.8 billion.

I would also like to clarify that the cost to taxpayers is far less than reported in some media reports. WestConnex will be mostly funded through a user-pays toll system. The contribution by the New South Wales Government includes \$1.8 billion from Restart NSW, with the Australian Federal Government providing \$1.5 billion in addition to a concessional loan of up to \$2 billion. Under this financing model, private sector funding and tolling revenue will pay for around 70 per cent of the capital costs of the motorway, along with 100 per cent of the operating costs. The equity of the New South Wales Government in the project will be sold down, effectively recycling its contribution for reinvestment into State-significant priorities, such as more transport projects, hospitals and schools. It should also be remembered that the motorway returns to 100 per cent Government ownership in 2060.

Finally, I am happy to report that the project remains on track in time and budget. We have completed the King Georges Road interchange upgrade ahead of time and under budget. We have completed the remediation of the heavily contaminated tip site at Saint Peters Interchange ahead of time and on budget. We are in the process of progressively opening the widened and upgraded M4 close to time and under budget with a G-loop and the new 2.5 kilometre viaduct already open to traffic. I say close to time as the weather has not been kind to us with the wettest autumn in 42 years. This has had an impact. We are still working towards a late June opening, but are subject to weather as evidenced by the heavy rain we experienced on Friday night. It is a fine balance between opening on a date and subjecting the public to extended delays and closures. We work very closely with the Traffic Management Centre and the transport coordination office to ensure that closures needed to complete asphaltting and other on-road activities are done at times which minimise delays for the community.

Progress on both the M4 East and the new M5 is on program with tunnelling well advanced. We have 22 road headers in the ground and working on the M4 East and eight more on the new M5. On the all important M4-M5 Link, we recently released the concept design to the public and are commencing a series of community information sessions prior to the lodgement of the environmental impact statement [EIS] in Q3 of this year, where the community will again be given the opportunity to comment on our designs. Whilst the media is full of statements regarding cost blowouts I can report that we are on time and on budget and are getting on with the job of delivering the largest transport infrastructure project in the country right now. Thank you for your time and I will be happy to take questions from the committee.

The Hon. JOHN GRAHAM: Firstly, thanks for your appearance today and thanks in particular for clarifying your salary upfront. I note that you have already put that on the public record—it is on the WestConnex website. I think it ended up in the frequently asked questions section. I can understand why you chose in the end to publish it there. Why is not your individual remuneration though in the Sydney Motorway Corporation annual report?

Mr CLICHE: As I said in my opening comments, we report as required by ASIC and we had the salaries and comp of the top five executives, as required.

The Hon. JOHN GRAHAM: But Mr Kanofski sitting beside you in the public department has his remuneration in the annual report and the private operator Transurban does the same. Why does Sydney Motorway Corporation not publish your individual remuneration in the annual report?

Mr CLICHE: In retrospect, we should have and we will going forward. It was not required. We conformed to all requirements—

The Hon. JOHN GRAHAM: But you will do that going forward is the commitment you are making?

Mr CLICHE: Yes.

The Hon. JOHN GRAHAM: At last year's budget estimates Ken Kanofski said the M4 widening would be completed in the first quarter of this year. You have talked about the delay to late June. Is that a guarantee about late June?

Mr CLICHE: As I indicated in my opening comments, if you can tell me when it stops raining I can give you a guarantee and if you can close the M4 for me I can complete by June.

The Hon. JOHN GRAHAM: You have talked about the weather. The cost for the M4 widening was \$497 million. Has there been a cost increase caused by that delay?

Mr CLICHE: No. Again, as I said in my opening comments, we are under budget on that project.

The Hon. JOHN GRAHAM: Put aside the M4 widening for a minute. For WestConnex as a whole, are there any penalty claims currently pending against the Sydney Motorway Corporation?

Mr CLICHE: Could you define what you mean by "penalty claims"?

The Hon. JOHN GRAHAM: Any contractual disputes leading to penalty claims.

The Hon. DANIEL MOOKHEY: Has the contractor submitted any variations that would require the Sydney Motorway Corporation to either assess the variation under its assurance framework or otherwise pay them money?

Mr CLICHE: I think as everybody knows in large projects like this it is a standard form of doing business that the contractor will put claims in, we assess those claims and decide whether or not they have merit—

The Hon. JOHN GRAHAM: Have claims been lodged?

Mr CLICHE: There have been claims lodged, yes.

The Hon. JOHN GRAHAM: And in relation to which part or parts of the project?

Mr CLICHE: All parts.

The Hon. DANIEL MOOKHEY: How many claims?

Mr CLICHE: I do not have the number on the top of my head. It is half a dozen.

The Hon. DANIEL MOOKHEY: Have they all been processed and decided?

Mr CLICHE: We are in negotiation, as always, with claims when they come in, we assess their merits, we decide whether or not they have any substance and, based on that, we negotiate the contract.

The Hon. JOHN GRAHAM: But what is the value of those claims against the project at the moment?

Mr CLICHE: I would not like to comment on that given the commercial nature of these conversations. I can assure you that they would all be well within budget, as I said in my opening comments. We do not have any concerns about—

The Hon. JOHN GRAHAM: So what you are saying is even if all the claims as they are lodged at the moment—I know they may be disputed but even if they were all paid out you would still be within the \$16.8 billion project?

Mr CLICHE: Yes.

The Hon. JOHN GRAHAM: And where do the claims relate to? I want to be specific about this: is this on the M4 parts of the project or the new M5 parts of it?

Mr CLICHE: As I mentioned, there are claims on all parts of the project. It is very standard.

The Hon. JOHN GRAHAM: Some of those you have publicly reported on but what you are saying is since your last report there are additional claims on the project?

Mr CLICHE: That is correct.

The Hon. JOHN GRAHAM: How many vehicles are using the M4 at the moment?

Mr CLICHE: I would have to take the exact number on notice but it would be circa 160,000.

The Hon. JOHN GRAHAM: WestConnex is due to open in a short time, how many vehicles a day do you expect to be using the widened M4 once the toll is being charged?

Mr CLICHE: I have all those numbers in our business case. I am happy to take them all on notice, all the details of numbers.

The Hon. JOHN GRAHAM: Obviously, this is due very shortly so can you give us some idea? There are 160,000 vehicles now, how many vehicles would you expect once the toll comes on? This is a pretty crucial number for the project.

Mr CLICHE: In 2031 it will be \$163,800.

The Hon. JOHN GRAHAM: So in the 2031 figure when the toll comes on in the first year how many vehicles are you expecting?

Mr CLICHE: I would have to take that on notice to give you an exact answer.

The Hon. JOHN GRAHAM: The toll is set between \$1.77 and \$4.56. What are you forecasting for the average daily toll revenue?

Mr CLICHE: Again, I will take that on notice.

The Hon. JOHN GRAHAM: What I am getting to is what are you forecasting to collect on the widened M4 in the first year?

Mr CLICHE: I will come back to you on that.

The Hon. JOHN GRAHAM: These are pretty straightforward questions, are they not? Running the Sydney Motorway Corporation, these would be front of your mind. Why the secrecy? Why cannot the public know—

Mr CLICHE: It is not secrecy, as I said to you. Some of it is because I do not have the exact numbers on the top of my head; others are because we are about to embark on a sales process for 51 per cent of the company. These are commercial conversations that we will be having.

The Hon. JOHN GRAHAM: This will have to be disclosed. This is the sort of information that will be available to the bidder, it is available to you, it is available to Mr Kanofski; the only people it is not available to are the New South Wales public—the people driving their cars and paying these tolls. When do they get to find out?

The Hon. TREVOR KHAN: He said he has taken it on notice and there is a time specified for that.

The CHAIR: If you are going to make a point of order you need to do it in the right way. I have already raised this once.

The Hon. PAUL GREEN: Point of order: The witness has stated that he has taken all these things on notice. It is a fair point; the witness has a right to say he will get the figures.

The Hon. JOHN GRAHAM: I am happy to move on. I want to turn to the M4 widening in particular. Mr Kanofski in his answers to questions on notice confirmed the details I had previously asked about for a very similar project and that was the M5 widening in 2012. It was \$400 million, it was one lane each way, it added 3.3 years to the length of time that people might be asked to pay tolls on the concession. This M4 widening project is \$500 million—\$100 million more—one lane each way, but this adds 43 years to the tolling. How is that fair?

Mr CLICHE: I have read the transcript from the last meeting when Mr Kanofski answered that. Again, just to be clear, as part of our concession we are given a toll structure. Sydney Motorway Corporation does not recommend a toll structure or do anything other than take that toll structure and apply it. I think Mr Kanofski gave evidence last time that it is part of a total package that looks at the M4 widening section, the M4 East, the new M5 and the M4/M5 link—it is all part of a package.

The Hon. JOHN GRAHAM: This section of it really pays for itself in a couple of years, but motorists will be paying for it for 43 years. How is that fair?

Mr CLICHE: Again, I think Mr Kanofski answered that quite well last time. I am not here to comment on whether it is fair or not fair. I have received a concession deed with tolls in it. My job is to build the road and to open it and now to sell it. That is my job.

The Hon. JOHN GRAHAM: That is exactly right. You are building it, this is a new toll with no new road and Western Sydney motorists will be paying for it for four decades.

Mr CLICHE: I do take issue with your comment on no new road. We are adding 33 per cent capacity to the existing road.

The Hon. JOHN GRAHAM: It is a lane each way.

Mr CLICHE: We have graded off every bit of asphalt on that road, we are repairing the subsurface—this is an older road—we are cutting out slabs of concrete, replacing them, we are putting several layers of new asphalt, improved asphalt—

The Hon. JOHN GRAHAM: I agree with all of that, Mr Cliche.

Mr CLICHE: This is a significant investment into the future.

The Hon. JOHN GRAHAM: The last time this happened it was a three-year extension to the toll; this time it is 43 years. How is that fair? Are not Western Sydney motorists paying for the rest of the network?

The Hon. Dr PETER PHELPS: Point of order: The honourable member is asking for an opinion or, alternatively, he is asking for a judgement of policy which he has received in which Mr Cliche has played no part in determining. On either account it is unfair to ask a witness something of that nature.

The Hon. JOHN GRAHAM: To the point of order: I know the Government does not want me asking these questions but motorists deserve an answer.

The Hon. Dr PETER PHELPS: I am not the Government. I am being fair to witnesses.

The CHAIR: I think have heard the position put more than once to Mr Cliche. Can I just suggest, put it one more time to him and see if he is prepared to answer. If not, you will need to move on.

The Hon. TREVOR KHAN: Point of order: With respect, he has answered the question. It is not a point, as you put it; he has actually answered the question. He has referred to the evidence that has previously been given which answered this very same point, and I well remember that. I think, with respect, your editorial comment is unreasonable in terms of what this witness is doing. He has answered the question at least twice.

The Hon. JOHN GRAHAM: I know the Government is trying to take up my time, so I will move on and I will put some other questions. Motorists want answers to these questions, I am happy to move on.

The Hon. Dr PETER PHELPS: He should direct the question to Treasury or Roads.

The CHAIR: They are coming this afternoon.

The Hon. JOHN GRAHAM: My question to you both—Mr Cliche, I will remind you, you are under oath—have you heard the expression used in relation to this project—

The Hon. TREVOR KHAN: Point of order: That is entirely unreasonable. The inference to be drawn from that is quite obnoxious.

The CHAIR: Perhaps if the member just restates the question.

The Hon. JOHN GRAHAM: I will restate the question. A question to you both: Have you heard the expression used in relation to this project, "the rivers of gold"?

Mr CLICHE: Actually, no, I have not.

The Hon. JOHN GRAHAM: Mr Kanofski?

Mr KANOFSKI: No.

The Hon. JOHN GRAHAM: I put it to you both that that is the term used by staff in both your organisations to describe the tolling revenue from the M4: the rivers of gold.

Mr CLICHE: When Sydney Motorway Corporation is sold at 51 per cent, the Government gets the benefit of that 51 per cent. So if that were the case, there would be a return to the taxpayers of New South Wales.

The Hon. JOHN GRAHAM: Except it is coming out of the pockets of motorists from Western Sydney. It is not a bad description of a project which costs \$500 million and pays for itself and is tolled for 43 years.

Mr CLICHE: I am not aware of it.

Mr KANOFSKI: I have never heard the expression used.

The Hon. DANIEL MOOKHEY: Mr Cliche, the 2015 update of strategic business case states that the toll is to increase by 4 per cent or the consumer price index [CPI], whichever is higher. So it is a minimum of 4 per cent or the CPI, if we happen to have a mass outbreak of inflation?

Mr CLICHE: Yes.

The Hon. DANIEL MOOKHEY: At the same time, that business case said that the affordability criteria was assessed assuming that real wages would go up by approximately 4.25 per cent; that is right, is it not?

Mr CLICHE: Yes.

The Hon. DANIEL MOOKHEY: Did you see the real wage figures that came out the other week that said that real wage growth in Australia is 1.9 per cent?

Mr CLICHE: Yes, I did.

The Hon. DANIEL MOOKHEY: Did you see the warnings from the Reserve Bank of Australia, the Organization for Economic Co-operation and Development, the Treasury and the Federal budget that said the prospects of returning real wage growth above 3 per cent in the next ten years is nigh impossible? My question is, if you have 4 per cent each year going up and people's pay is being cut, why shouldn't the punter presume that this is simply highway robbery?

Mr CLICHE: Yes, I think that is a tolling policy question again. As I said in my comments, we were given a concession that had those numbers in it. It is not my job to question them; it is not my job to ask that they be reviewed. My job is to get on with building this important project.

The Hon. DANIEL MOOKHEY: What is the total amount of revenue that is expected to be collected from the WestConnex over its project life?

Mr CLICHE: I think that is carry on from the earlier question.

The Hon. DANIEL MOOKHEY: It is an additional question. To be fair, the question Mr Graham asked was per day. I am asking you: Over the 43-year concession period what is the level of revenue that the WestConnex is meant to collect?

Mr CLICHE: Again, I will have to take that on notice and come back to you.

The Hon. DANIEL MOOKHEY: Do you know?

Mr CLICHE: Not off the top of my head, no.

The Hon. DANIEL MOOKHEY: You do not know how much revenue that you are charged with collecting over the period of the 43 years, around which the entire New South Wales Government has to produce its figures about how much we should be selling the Sydney Motorway Corporation for?

The Hon. Dr PETER PHELPS: Point of order: This is simply a restatement of the previous question, which has already been answered, but with a slight tinge of sarcasm added.

The CHAIR: I think Mr Cliche can handle himself and I did think he was actually starting to answer the question as he saw fit. So if you can continue with your answer.

Mr CLICHE: I was just going to say that it is speculating on future toll volumes.

The Hon. DANIEL MOOKHEY: But your business case provided a business model in which all of this was prepared. In fact, you called it a discount cash flow model, and we have gone through this before in budget estimates. The Sydney Motorway Corporation has submitted this model for assessment to, presumably, Roads and Maritime Services and the wider assurance frameworks. You have published it in your business case

but you have redacted it. So my question is pretty straight forward: How much money will you expect to be collecting and why shouldn't the people of New South Wales know that?

Mr CLICHE: As I mentioned, I will take that question on notice. I presume it was redacted for a reason.

The Hon. DANIEL MOOKHEY: Moving on to the Sydney Motorway Corporation sale, has a decision been made as to when the 51 per cent is to be sold?

Mr KANOFSKI: That is a question for the Government .

The Hon. DANIEL MOOKHEY: You are from the Government, are you not, Mr Kanofski?

Mr CLICHE: I am aware it is going to be sold and I am aware that there is a process that is shaping up for it to be sold.

The Hon. DANIEL MOOKHEY: Does the Sydney Motorway Corporation have a profitability target that you are meant to obtain for Government , like other state-owned corporations do?

Mr CLICHE: Again, we are not a state-owned corporation, as I said in my opening comments.

The Hon. DANIEL MOOKHEY: No, we are well and truly aware.

Mr CLICHE: As you pointed out, there is a business case, there are forecasts in that, redacted as you have clarified.

The Hon. DANIEL MOOKHEY: Do you have a target that says that you are meant to earn a certain return on the taxpayers' capital?

Mr CLICHE: I think implicit in your commentary around the business case, with numbers in it that were redacted, with the \$16.8 billion investment, yes, you could assume that there is.

The Hon. DANIEL MOOKHEY: What is it?

Mr CLICHE: As I said, I will take that question on notice. It comes back to the same question you have been asking.

The Hon. DANIEL MOOKHEY: What is the internal rate of return that you are meant to deliver to the people of New South Wales, because that is relevant for us to be able to assess whether or not the tolling model is (a) likely to deliver it, and (b) whether it is fair?

Mr CLICHE: Again, you are asking the same question in different ways. I have told you that I will take it on notice. We know that the investment costs \$16.8 billion. Both of those questions are trying to answer the same thing.

The Hon. DANIEL MOOKHEY: But you confirm that you have actually got a target for the return you are meant to deliver?

Mr CLICHE: I would not say target, no. I think target is the wrong way of putting it.

The Hon. DANIEL MOOKHEY: What is the right way of putting it?

Mr CLICHE: An estimate of what the revenue would be, which is a forecast based on traffic.

The Hon. DANIEL MOOKHEY: Has the Sydney Motorway Corporation retained advisers about the sale of the 51 per cent equity?

Mr CLICHE: Yes.

The Hon. DANIEL MOOKHEY: Is that adviser Goldman Sachs?

Mr CLICHE: No.

The Hon. DANIEL MOOKHEY: Who is the adviser?

Mr CLICHE: Baker McKenzie.

The Hon. DANIEL MOOKHEY: What is their remuneration?

Mr CLICHE: It is on a fee for service. I cannot remember the specifics. There has been advice provided to the board of the Sydney Motorway Corporation.

The Hon. DANIEL MOOKHEY: Is there a budget?

Mr CLICHE: No, not at this point.

The Hon. DANIEL MOOKHEY: Again, the thing that is unique about your structure compared to every other form of State instrumentality is that every other form of State instrumentality has to publish their contracts but you do not.

Mr CLICHE: Yes, that is right.

The Hon. DANIEL MOOKHEY: You have appointed Baker McKenzie. Are they the only people you have appointed to assist in the sale?

Mr CLICHE: In the sale, yes.

The Hon. DANIEL MOOKHEY: They have got a remuneration ticket, it has been signed off by the board, but you cannot tell us what it is?

Mr CLICHE: Sorry?

The Hon. DANIEL MOOKHEY: They have got a remuneration package that has been negotiated and agreed to by your board, but you cannot reveal to us what exactly is that remuneration.

Mr CLICHE: It is a fee for service, so an hourly rate effectively.

The Hon. DANIEL MOOKHEY: In terms of the actual 51 per cent sale, who is going to be entitled to bid? Who decides that, by the way? Do you decide that as a board? You have been making the point repeatedly that you are an independent company.

Mr CLICHE: Yes.

The Hon. DANIEL MOOKHEY: Is that your decision or is it the Government's decision?

Mr CLICHE: It is our shareholders.

The Hon. DANIEL MOOKHEY: Your shareholders, who are they?

Mr CLICHE: There is the Minister for WestConnex, there is the Treasurer and the Finance Minister at this point in time.

The Hon. DANIEL MOOKHEY: Have they made that decision about the appropriate sale method for the equity?

Mr CLICHE: I cannot comment on that. That is a conversation with Government .

The Hon. DANIEL MOOKHEY: We had the Premier announce that there is going to be a sale.

Mr CLICHE: Yes.

The Hon. DANIEL MOOKHEY: We have not had the Premier announce the timetable. We have not had the Premier announce what return the people of New South Wales are expected to get. I am asking you as the chief executive officer of the organisation, do you have any of this information or this just does not exist?

Mr KANOFSKI: They are matters for the Government. The sale of any government instrumentality, be it a state-owned corporation or otherwise, the matters you are asking are matters for the shareholders and for the Government .

The Hon. DANIEL MOOKHEY: But for the exception of the fact that up until this point the Government has been maintaining fiction that the Sydney Motorway Corporation is a private company that is free from the constraints of government . We have the chief executive officer of the company here about the sale of their equity, but you are telling us that the chief executive officer who is responsible for this company has absolutely no input into what exactly the value of this company is or what value we should be obtaining from it.

Mr KANOFSKI: Should I take that as a comment?

The Hon. DANIEL MOOKHEY: You can take it whatever way you like.

Mr KANOFSKI: I think we have answered the question. It is a matter for the Government and you should direct your question to the Government .

The Hon. JOHN GRAHAM: Mr Cliche, you have disclosed your salary.

Mr CLICHE: Yes.

The Hon. JOHN GRAHAM: Would you be prepared to disclose how much money the Sydney Motorway Corporation has put into its sponsorship of Greater Western Sydney?

Mr CLICHE: That would be a commercial subject.

The Hon. JOHN GRAHAM: Surely that is not commercial-in-confidence? This is a community benefit, is it not? Why the secrecy around this? It is a sponsorship. That is not commercial-in-confidence? You have come clean on your salary?

Mr CLICHE: Yes.

The Hon. JOHN GRAHAM: Can you not come clean on this?

The Hon. Dr PETER PHELPS: Point of order: I am struggling to find within the terms of reference in an inquiry into road tolling any possible hook on which the honourable member could possibly talk about—

The Hon. JOHN GRAHAM: I will relate it directly to road tolling. How many days of road tolling revenue is this sponsorship costing the motorists of Western Sydney? How big is this sponsorship that is coming out of their pockets through the Sydney Motorway Corporation into this sponsorship?

Mr CLICHE: I have commented. I have answered that question.

The Hon. JOHN GRAHAM: What was your answer?

Mr CLICHE: That it is commercial-in-confidence.

The Hon. JOHN GRAHAM: This community benefit?

Mr CLICHE: Yes.

The Hon. PAUL GREEN: You talked about the scope of work and that the project is costing \$16.8 billion. You said also that it is on time and within cost. Are there any associated costs not accounted for in the \$16.8 billion that you have not reported to the Committee?

Mr CLICHE: You are asking the question as Sydney Motorway Corporation?

The Hon. PAUL GREEN: Yes.

Mr CLICHE: No, I am not aware of any other costs beyond that.

The Hon. PAUL GREEN: We have been talking about the affordability and the outcomes of this situation—for instance, the Hon. Daniel Mookhey referred to the period of 43 years, green slips and trying to reduce super profits. Do you think that a 43-year payment for this road tolling situation is unreasonable for the taxpayers or road users in New South Wales?

The Hon. Dr PETER PHELPS: Point of order: Again, the witness has indicated that he has received this particular tolling arrangement from the Government. He is either being asked to comment on policy or asked for his personal opinion, neither of which is appropriate to ask a witness in this circumstance.

The Hon. DANIEL MOOKHEY: To the point of order: The purpose of being able to ask witnesses questions at hearings is for Committee members to elucidate information on a variety matters that may or may not be useful to our deliberations. First, in respect of the view that we cannot ask opinion, that is contrary to any other inquiry we have had. We always ask people to provide opinions—in fact, we did it this morning on a number of different matters. Secondly, in respect of the member's argument around appropriateness, that is not for the member to judge.

The CHAIR: Please stop the clock. If we are going to go down this path we will extend the time.

The Hon. TREVOR KHAN: To the point of order: The question has been asked and answered. That is the only point I make.

The Hon. DANIEL MOOKHEY: That question was not asked.

The Hon. Dr PETER PHELPS: Further to the point of order: To ask the witness whether he thinks a 43-year contract is appropriate or not is either asking for an opinion or seeking comment on government policy. It is not appropriate in this circumstance to ask that, considering the fact that he had no role in the negotiation of it and he merely received it from the Government.

The CHAIR: Given what can best be described as the very unique nature of the Sydney Motorway Corporation as an entity and how it sits inside the WestConnex project, and more broadly in the issue of road

tolling, I am being a little bit flexible in the way in which the questions are being asked and the answers are being received. Mr Cliché will answer the question as he sees fit.

The Hon. PAUL GREEN: I take on board the considerations of my colleague. We have talked about rivers of gold and 43 years of returns on an investment, which sounds overly generous for the building of this roadway. I am asking the witness for his view as to whether, in the same way as we dealt with green slips, super profits for this are inappropriate and whether 43 years is incredibly generous for the scope of projects that he is managing?

Mr KANOFSKI: It is a matter for the Government. We granted the concession. I would be very happy to answer the question if that assists the Committee.

The Hon. PAUL GREEN: I am happy for you to answer the question.

Mr KANOFSKI: It goes back to the evidence that I gave previously. It is a matter of record that the tolls on the entire WestConnex project pay for the entire WestConnex project. That is a matter of public record—it is in the business case. We have a new M4, we have a new M5, we have a M4-M5 link that links up those two. It is absolutely—

The Hon. PAUL GREEN: So it is full cost recovery?

Mr KANOFSKI: It is absolutely a matter of public record that the tolls on all of that make a contribution to funding all of that. As Mr Cliché said earlier, there is a public contribution as well forecast to be \$3.3 billion, there is \$1.8 billion from the New South Wales Government and \$1.5 billion from the Commonwealth Government. The matter of what funds what and what is reasonable I think has been answered very clearly in the sense that all of the tolls for the scheme make a contribution towards funding the scheme. A motorway project can only be funded ultimately from two sources—it can be funded through user charges or it can be funded through taxation. The ultimate funding source—there might be financing in the middle, there might be a whole range of things—is either user charges or taxation. The New South Wales Government has decided in this instance to have a tolling regime on this 33 kilometres of motorway, which makes a contribution towards funding 33 kilometres of motorway.

The Hon. PAUL GREEN: It is obvious that I was not present at the first hearing of this inquiry, and for that I apologise. This Committee is not here to waste time. We are here because of a genuine concern in the community that super profits are being made on the back of vulnerable motorists across New South Wales. We will never apologise for doing that. However, I do thank you for your answer.

Dr MEHREEN FARUQI: Please bear with me as I try to understand a little bit about how Sydney Motorway Corporation [SMC] operates because it is such a unique arrangement. What is the budget of the SMC?

Mr CLICHE: Do you mean the annual budget?

Dr MEHREEN FARUQI: Yes, the annual budget.

Mr CLICHE: Given that we are about to embark on a sales process I will defer that question and take it on notice.

Dr MEHREEN FARUQI: Who provides that budget?

Mr CLICHE: We have been given equity funding for stages one and two for the State, which incorporates an element of operating costs.

Dr MEHREEN FARUQI: So the budget is coming from the taxpayers?

Mr CLICHE: Yes.

Dr MEHREEN FARUQI: In a previous hearing Mr Kanofski confirmed to this Committee that there were concession agreements already in place for the M4—and we talked about it a little earlier as well—and that arrangement was with the subsidiary of SMC?

Mr CLICHE: Yes.

Dr MEHREEN FARUQI: Can you tell us a little bit about what the subsidiary is and why there was a need for a subsidiary?

Mr CLICHE: Each of our stages—stages one and two—have been set-up in a structure where there are subsidiaries. That was done because in the original business case there was consideration given to selling stage by stage. If you remember, Sydney Motorway Corporation was always going to be sold; it was only a

question of when and how. So when we originally set-up the businesses we set-up each of the stages—one and two, three is not done yet—whereby we could sell equity in each stage independent of SMC.

Dr MEHREEN FARUQI: Is there already a concession agreement with a subsidiary and the M5?

Mr CLICHE: Yes.

Dr MEHREEN FARUQI: There is already one. So both have been done.

Mr CLICHE: Stage one and two for the M4 and the new M5, yes.

Dr MEHREEN FARUQI: Did SMC or its subsidiary pay for these concession agreements?

Mr CLICHE: No. It was a negotiation with the State on the basis, as I said, that the stage or Sydney Motorways Corporation would eventually be sold.

Dr MEHREEN FARUQI: I was reading in an ABC media story that you told *Background Briefing* that there are no guarantees that the cost of stage three would not rise above the forecast?

Mr CLICHE: That is correct.

Dr MEHREEN FARUQI: Which I understand is \$7 billion?

Mr CLICHE: That is correct.

Dr MEHREEN FARUQI: Could you tell us the reason you said that? Why would the price rise?

Mr CLICHE: All I said in that interview is that I think you would be foolish to guarantee something that is going to happen into the future. I wish I could guarantee things that happen in the future. The question was asked, "Can you guarantee that it will not rise above?" And I said, "No, I can't". Do I have any reason to suspect or expect it not to come in on budget? None whatsoever.

The Hon. JOHN GRAHAM: You were just softening us up for cost increases and more delays, weren't you?

Mr CLICHE: More delays? I think I was pretty clear in my opening statement that we are happy with where we are at in terms of project and budget. I cannot remember if it was picked up in the interview that was released but I did add that all you have to do is look at many of the major projects around the world—internationally—struggle to hit budget. We have no reason at this point in time to expect that we will not be within budget. We have done a lot of work and a lot of estimating from many different sources to make sure that our budgets are good, strong and attainable. At this point in time I have no reason to suspect that we will not complete this project on budget.

Dr MEHREEN FARUQI: If the budget goes up, what implications do you think it will have on tolls?

Mr CLICHE: The tolling concession is locked. Part of the tolling—

Dr MEHREEN FARUQI: Stage three as well?

Mr CLICHE: No, not stage three yet. What point in time is your question relating to?

Dr MEHREEN FARUQI: Your comments were made in regard to stage three as far as I understand.

Mr CLICHE: Yes.

Dr MEHREEN FARUQI: So I am talking about stage three.

Mr CLICHE: Which will be finished in 2023. I believe the Premier announced that we would be sold at some point in the future. I would expect that to be well before 2023. I would assume, given that we have concession agreements with the State for stages one and two—yet to have one for stage three—that it would be the equity owner that would take the risk on whether or not costs blew out and traffic did not materialise. Any of these risks are quite common in a PPP. It would be the owner of that business that would take the risk for that.

Mr KANOFSKI: I will comment quickly on the tolls for stage three, if it is of help. Mr Cliche is correct—there is no concession agreement yet. What I can say, given that it will be RMS that would be granting the concession agreement, is that the Government's policy position on what that toll will be is very clear. The Government has announced a tolling regime for the entire project. That is the Government's position. RMS would be embedding that tolling regime within the concession for stage three. That has been a matter of public record for some time. We have not yet signed a contract with it in, but the Government's position is clear.

Dr MEHREEN FARUQI: Mr Cliche, the Sydney Motorway Corporation [SMC] website states that Roads and Maritime Services commissioned Sydney Motorway Corporation to deliver and finance WestConnex.

Mr CLICHE: That is correct.

Dr MEHREEN FARUQI: As you understand it as the chief executive officer of SMC, does that also include the western harbour crossing, the northern beaches link and the F6?

Mr CLICHE: No, it does not.

Dr MEHREEN FARUQI: But does the SMC, as it is set up currently, have the flexibility to deliver those parts of WestConnex as well?

Mr CLICHE: You are asking a hypothetical. We have the capability internally to do so. We have not been asked to do so and have no visibility over the Government's plans, whether or not they are going to go forward.

Mr KANOFSKI: Just to be clear, the Sydney Motorway Corporation is able to undertake projects as directed by the Government.

Dr MEHREEN FARUQI: So it is not necessarily locked in—just WestConnex, as it is now. It can do other things as well.

Mr KANOFSKI: It is enabled to do things as directed by the Government—that is the important thing though. It is not as directed by Mr Cliche; it is as directed by the Government.

Mr CLICHE: Exactly. We need to have a project designated by our shareholders before we are allowed under the constitution to do anything. At this point in time it is stages one, two and three of WestConnex. That is why I asked you if were asking a hypothetical question or not.

Dr MEHREEN FARUQI: Coming back to the announcement of the 51 per cent sale of SMC, what is that? Is that 1A or 1B? What does that include?

Mr CLICHE: My understanding is that that would be the entire business of Sydney motorways, which includes all three—the two existing concessions and what is envisaged to be stage three. It would be the entire company including SMC, the holding company.

Dr MEHREEN FARUQI: Its shares, in effect.

Mr CLICHE: Effectively, yes.

Dr MEHREEN FARUQI: Fifty-one per cent of the shares.

Mr CLICHE: Exactly.

Dr MEHREEN FARUQI: Who owns the 49 per cent—is it just the three Ministers?

Mr CLICHE: Yes. It would be maintained by government.

Dr MEHREEN FARUQI: Will the SMC be operating any part of the tolling on the M4 or the M5, or will it be sold off before retolling is done?

Mr CLICHE: If I understand your question, we will be opening the widened section of the M4 shortly. That will be tolled. We have a contract with the service provider, RMS, who provides all of our tolling services.

Dr MEHREEN FARUQI: So you will be operating those tolls.

Mr CLICHE: Yes.

Dr MEHREEN FARUQI: And given that there has been an announcement—and please correct me if I am wrong—for a one month toll free period, would the taxpayer then be compensating SMC for that period? Because I presume your tolling agreement did not have a toll free period.

Mr CLICHE: Yes.

Dr MEHREEN FARUQI: So that period would be compensated to SMC.

Mr CLICHE: Yes.

Dr MEHREEN FARUQI: Mr Kanofski, the tolling regime is still not clear to me in some ways. If someone gets on the WestConnex from, let's say, Parramatta and travels on stage 1A, stage 1B, stage three and part of stage two to come out to the airport, what is the maximum toll they will pay?

Mr KANOFSKI: In 2017 dollars it is \$8.60.

Dr MEHREEN FARUQI: Would someone who gets in at Parramatta and travels the whole 33 kilometres and gets off at, let's say, Hurstville, pay \$8.60 as well?

Mr KANOFSKI: Yes. Correct. We would not think that many people would make that journey.

Dr MEHREEN FARUQI: Then I guess my question would be: Why are you building it?

Mr KANOFSKI: It is actually a really good question.

Dr MEHREEN FARUQI: It was a hypothetical so I do not want you to go into the details of that.

Mr KANOFSKI: It is a good question though.

Dr MEHREEN FARUQI: I know what the answer is going to be and I do not agree with that answer. I have heard it many times before so I do not want to waste anyone's time. In terms of compulsory acquisitions that have happened throughout the WestConnex project, does SMC own those properties now?

Mr CLICHE: No, RMS does.

Dr MEHREEN FARUQI: So RMS owns those properties. And you allow the use of those properties for—

Mr KANOFSKI: Just to explain, not just with WestConnex but with all toll roads, RMS is required to provide the property under the concession agreement and to provide access. The underlying land on all toll roads is owned by roads and maritime. We acquire the property. The design of the motorway requires a certain route that is defined in the concession. RMS has a contractual obligation to deliver up to Sydney Motorway Corporation access to certain lands, but those lands are owned by us.

The Hon. Dr PETER PHELPS: Mr Cliche, how good is WestConnex?

Mr CLICHE: Fantastic.

The Hon. Dr PETER PHELPS: Thank you. More seriously though, one of the arguments which is made by opponents of WestConnex and other projects is that we do not really need it and there is already enough existing capacity within the structure. If we do not build WestConnex, what does Sydney look like in 10, 15 or 20 years time?

Mr CLICHE: I think you can get a good idea just looking at the M4, Parramatta Road or the M5 tunnels today. You see that today. Forecast out in 10 years when there is another million people or 20 years when there is another 1.6 million people. Even with a joint network approach, which public transport figures very highly in, it will be gridlock everywhere. We—the royal we, which includes Mr Kanofski—have looked at how it all works together with freight, getting freight to the port or the airport, containerisation, Moorebank, Badgerys Creek airport. All of this is figured into our analysis as we have done traffic projections. The solutions we have come up with for WestConnex are significant and fundamentally required for the city to continue working. I will hand over to Mr Kanofski for the rest of it.

Mr KANOFSKI: I might add firstly that there are going to be 1.6 million additional people living in Sydney. That is a matter of public record. People who are commuting in Sydney today recognise that that has its challenges. It is incumbent on the Government to provide an integrated transport solution to that, and that is what we have. For the first time in 2012 there was a long-term transport master plan. It includes substantial investments in new capacity for motorways and substantial investments in new capacity for both heavy rail and light rail. Without those we simply cannot hope to give people the level of lifestyle and transport solution that they would wish to have. Those capacity improvements are absolutely necessary. But I think what is most necessary is that this is not just about roads or it is not just about rail. You actually need road and rail. Things like the northern beaches bus, things like the Sydney light rail—all of those things are important and they all need to work together

The Hon. Dr PETER PHELPS: That was going to be my next question relating to public transport. There has been a bit of a scare campaign about motorways and non-competition clauses. Are there any specific non-competition clauses which would disallow public transport operators to compete with the route serviced by WestConnex?

Mr CLICHE: No. The short answer is no.

Mr KANOFSKI: No. That is the short answer

Dr MEHREEN FARUQI: But they could be negotiated when it is sold, could they not?

Mr KANOFSKI: The short answer is no.

Dr MEHREEN FARUQI: They could not be negotiated?

Mr KANOFSKI: The question was do the concessions have any non-compete clauses. The short answer is no.

The Hon. DANIEL MOOKHEY: The short answer or the long answer?

Mr KANOFSKI: Would you like the longer answer?

The Hon. Dr PETER PHELPS: Okay, I will ask it. Is it envisaged that non-compete clauses will be entered into when the stages or the totality of WestConnex is sold?

Mr KANOFSKI: No.

The Hon. TREVOR KHAN: That is self-evident from the fact that you are selling essentially 51 per cent of the company as opposed to renegotiating what is essentially the operating model owned by the company.

Mr KANOFSKI: Correct. The other thing I would say with the WestConnex project that is important is that a big part of it is about freeing up space on things like Parramatta Road to actually improve public transport.

The Hon. Dr PETER PHELPS: We could put a tram down the middle of it.

Mr KANOFSKI: Leaving aside non-compete clauses for a second, one of the objectives of the WestConnex project is to free up space on some of those arterial roads to provide a better standard of living and opportunities for urban redevelopment and also to make better public transport corridors.

Dr MEHREEN FARUQI: Doesn't your own environmental impact statement [EIS] say that there will be more cars on Parramatta Road even after WestConnex is built?

Mr CLICHE: It depends on the section.

Mr KANOFSKI: The EIS is a matter of public record. There are parts of Parramatta Road which will have similar amounts of traffic to what they currently have. There will be parts of Parramatta Road that will have less traffic.

Dr MEHREEN FARUQI: And some that will have more traffic.

Mr KANOFSKI: I would have to take that on notice. I am not sure there are any that would have more.

The Hon. Dr PETER PHELPS: It would be fair to say it would be hard to fit more traffic on the section of Parramatta Road between the current interchange and Haberfield without cars piggybacking on another.

Mr KANOFSKI: It would be very challenging.

Dr MEHREEN FARUQI: That is why that part was used as the model to say there would be no change in traffic.

The Hon. PAUL GREEN: In light of the project being on budget, you said that you had some more heavy weather events than usual. Normally that costs a project. Do you anticipate any further rain events will have a massive impact?

Mr CLICHE: I guess I would have to ask you then to define what you mean by further rain events.

The Hon. PAUL GREEN: I think you said August was a bit heavier than normal.

Mr CLICHE: It is a question of degrees, obviously. If it rains for 40 days and 40 nights we will be building arks; we will not be building roads. Seriously, projects have contingencies. We have project contingencies within our budgets. The contractors have project contingencies in their timelines and their budgets. As I said on the widening, we are targeting to complete that under budget, which means that, notwithstanding any conversations that we have or have had with our contractors, in spite of the wettest autumn in 42 years we are still confident we will bring that in very close to budget, under budget.

Dr MEHREEN FARUQI: What is the percentage contingency within the project?

Mr CLICHE: It depends on the complexity of the project. Some have more and some have less.

Dr MEHREEN FARUQI: Stage 1B?

Mr CLICHE: Again, that is very specific information that I would have to take on notice.

Dr MEHREEN FARUQI: Could you take it on notice for 1A and 2 as well?

Mr CLICHE: Yes.

The Hon. Dr PETER PHELPS: Are you aware of the Australian Taxation Office [ATO] rates for capital depreciation on infrastructure?

Mr CLICHE: That is harder than the last question. No, I will ask my chief finance officer.

The Hon. Dr PETER PHELPS: Would you be surprised to find that it is a flat 2.5 per cent per annum and that one of the reasons given by Transurban for the extensive program of a 40 year contract is because on the ATO's own rules you require 40 years to fully depreciate the initial cost of the project?

Mr CLICHE: Definitely. All public-private partnerships in big infrastructure like toll roads have very, very long concession periods for that very reason.

The Hon. Dr PETER PHELPS: It is largely because the ATO only allows 2.5 per cent and a flat 2.5 per cent.

Mr CLICHE: It is that plus the large infrastructure projects are expensive, have a lot of debt and the debt has to be repaid. So these are long, long projects. To be able to take out the depreciation as you point out and to deal with the debt that is raised on these types of projects they all have by definition everywhere in the world that I have seen very, very long periods of time to get the economics right.

The Hon. JOHN GRAHAM: At the moment this road does not go to the port or the airport. When will the design for the Sydney Gateway be released?

Mr CLICHE: As you know in the business case there is a design and that has been factored into our revised business case. That design is being further refined by my colleague at RMS and perhaps at this point I will pass it on to him.

Mr KANOFSKI: There was a design that was released. We are working with in particular Sydney Airport and other key stakeholders in that area to refine that design. When we have completed that that design will be released publicly.

The Hon. JOHN GRAHAM: When is that likely to be?

Mr KANOFSKI: When it is finished.

The Hon. JOHN GRAHAM: When is it likely to be finished?

Mr KANOFSKI: It will be finished in time for the project to be built by 2023 to coincide with the M4-M5 link.

The Hon. JOHN GRAHAM: Are there any additional costs likely because of changes to freight rail arrangements?

Mr KANOFSKI: The road project does not include any costs of relocating or duplicating freight rail.

The Hon. JOHN GRAHAM: But there may be some cost?

Mr KANOFSKI: If there is a concurrent rail project then that would be funded separately.

The Hon. JOHN GRAHAM: Caused by WestConnex and paid by someone else?

Mr KANOFSKI: No. There is no relocation of the rail required for the original design that was put out by WestConnex.

The Hon. JOHN GRAHAM: What about the design that is now proposed or that you are consulting on?

Mr KANOFSKI: When that design is complete it will be put out for public exhibition.

The Hon. DANIEL MOOKHEY: Is the cost of the gateway incorporated in the \$16.8 billion cost?

Mr KANOFSKI: Yes.

The Hon. DANIEL MOOKHEY: What proportion of the \$16.8 billion has been set aside for construction of the gateway?

Mr KANOFSKI: It is \$800 million.

The Hon. DANIEL MOOKHEY: Is that to be financed through the revenue model that applies to the broader project?

Mr KANOFSKI: It is part of the overall project of \$16.8 billion.

The Hon. DANIEL MOOKHEY: Will you have to submit a new EIS when it proceeds?

Mr KANOFSKI: Yes.

The Hon. DANIEL MOOKHEY: You will have to go through the whole period of consultation?

Mr KANOFSKI: Yes. As we have. All of the stages of WestConnex have been subject to separate EISs. We have had an EIS for each particular stage as it has occurred and that is entirely normal and appropriate.

Mr CLICHE: As I mentioned, the EIS for stage three is anticipated in Q3 this year.

The Hon. DANIEL MOOKHEY: I have this wonderful memory of the Infrastructure NSW report that gave rise to the whole case for the WestConnex project. The major reason they specified that this project should go ahead was essentially the airport gateway. If that was so crucial to the original project, why has it been so backloaded in terms of its delivery? Given the core rationale of Infrastructure NSW was to build the airport gateway, why has it been shunted to the back of the project?

Mr KANOFSKI: The logical time to build it is to build it so it coincides with the M4/M5 Link.

The Hon. TREVOR KHAN: So it connects to something.

Mr KANOFSKI: From a traffic perspective, it is the logical time to build it.

The Hon. DANIEL MOOKHEY: The logical thing, therefore, would be to build that link first. That was their point, that that was a link that should have had priority.

Mr KANOFSKI: I would have to take on notice the specifics, but I do not recall them saying what order it should be built in.

The Hon. DANIEL MOOKHEY: Do take it on notice. We have gone through this before in other parliamentary hearings. For all of the other benefits to be realised across the network, this had to be built first. Do you disagree with that?

Mr KANOFSKI: Can I be clear. I am happy to take it on notice, but I do not have any recollection that Infrastructure NSW opined on the order in which you should build WestConnex. What they said, in summary, is that you should build all of the pieces of it, which we absolutely agree with, and we will do. I do not think, although I am happy to be corrected if we are wrong—

The Hon. TREVOR KHAN: And he will say sorry if he is wrong.

Mr KANOFSKI: I do not think that they opined in any way the order in which it should be built.

The Hon. DANIEL MOOKHEY: Mr Cliche, do you have views on that; you were nodding?

Mr CLICHE: I agree with Ken.

The Hon. TREVOR KHAN: Very wise.

Mr CLICHE: My recollection is that 2023 is when it will be finished and it was the same logic when we build stage three; it has to connect up.

Mr KANOFSKI: The logic is, clearly, we are building St Peters Interchange. In fact, Sydney Motorway Corporation is building St Peters Interchange. There is a new M5 coming to St Peters Interchange, but, clearly, when you build the M4-M5 Link, that will bring substantial additional traffic to that point, at which point it makes sense to have Sydney Gateway in place in order to disperse that traffic to the port and to the airport, and that is what we intend to do.

The Hon. DANIEL MOOKHEY: Does the stage three contractor have to be the one who builds the airport gateway or is there a separate tender process?

Mr KANOFSKI: There is no necessity for it to be the same contractor. One of the things we have done with this project, we have been clear about how we do the designs for the different stages so that in fact we can have a full competitive process for D and C for each of those things. So, for example, in the design of the St Peters Interchange, the allowance for stubs and the like were made at that point so that things could be connected easily in the future.

The Hon. JOHN GRAHAM: Mr Cliche, former governments have released the base case financial models for some of these roads. Do you have any objection for that being done for WestConnex, as it has been done in the past?

Mr CLICHE: I think that is a question for Government.

The Hon. JOHN GRAHAM: Do you have an objection?

Mr CLICHE: It is not within my mandate to comment on it.

The Hon. JOHN GRAHAM: We will ask the Government, but do you have any objection?

Mr CLICHE: I do not think it would be appropriate for me to say yes or no.

Dr MEHREEN FARUQI: What is plan B if there is no buyer for SMC at a price that the shareholders demand? Either of you could answer that.

Mr KANOFSKI: The Government has announced the sale. Prior to announcing the sale, the Government engaged in advisers to test the market, as you would expect. That is what normally happens in this case. What those advisers have said is that there is a very strong appetite for investment in this particular asset.

The Hon. DANIEL MOOKHEY: Who was the adviser?

Mr KANOFSKI: I think it was Goldman Sachs. There is a very strong expectation that there will be a strong market demand for this asset.

Dr MEHREEN FARUQI: Also, did they say there would be a bit of competition in the market? Do we know that?

Mr CLICHE: Yes.

Mr KANOFSKI: Yes, absolutely.

The Hon. DANIEL MOOKHEY: Did they advise what we would be getting for it?

Mr CLICHE: It is a matter for Treasury.

Mr KANOFSKI: Yes, it is a matter for Treasury. I do not know, is the honest answer, because that piece of advice is a matter of Treasury.

Mr CLICHE: I would assume that plan B is if you do not get the price you want, it is not a fire sale. From what I understand, it is a very good time. There is a lot of interest from super funds in buying infrastructure of this nature. So it would seem a strong appetite, as you would know, with very good prices being paid. On that basis, I think it is very astute to go to market. If you do not get the price that you think it is worth, you do not have to sell it. That is plan B.

Dr MEHREEN FARUQI: How is stage three going to be built?

Mr KANOFSKI: I think we are speculating on things that are clearly a matter for Government. Those items are a matter for Government.

The CHAIR: Mr Cliche, listening to the testimony you have given us, and thank you very much for being forthright, on various occasions when you responded, you made the comment "we" and looked to Mr Kanofski. Part of the issue is struggling to find out when it is "we" and when it is "I". In other words, it is a unique entity and as a matter of convenience in answering questions, you have said "we" and turned. On other occasions, you have taken it as "I" and you have answered.

Mr CLICHE: Yes.

The CHAIR: Being able to differentiate between "we" and "I" in respect of the entity the Sydney Motorway Corporation is particularly difficult, even for people who consider themselves to be reasonably informed and are sitting around the table participating in an inquiry. What do you say to that in terms of this whole idea of having transparency, having a capacity to critique, to rigorously test and really put under the microscope a lot of the assumptions and underpinning ideas and basic thinking behind the whole idea of

WestConnex and what it does? It is incredibly difficult if you are not—pardon the phrase—an insider to be able to answer virtually any of these questions.

Mr CLICHE: Quite frankly, that is why I declined to come the first time. To a large extent, it is a Government process, a Government decision. Sydney Motorway Corporation has been charged to build this project, to finance it, to sell it. We have not sat around a table and said, "It should be this, it should be that." That is Government. When I say "we", that is why I am pointing to Mr Kanofski.

Mr KANOFSKI: SMC, like other toll road concession holders, acts under a toll road concession, which RMS grants, so I think SMC's role is pretty clear. It has obligations and rights under those concessions. Those concession agreements are published, as they are required to be published. Part of the core obligations of the Sydney Motorway Corporation are that they are to finance, build and operate the motorway.

Mr CLICHE: Sell.

Mr KANOFSKI: A part of those rights they get is a right to toll that motorway, because that is something that Roads and Maritime Services can grant. Roads and Maritime Services has a right to toll. We pass on that right to toll through that contract mechanism to Sydney Motorway Corporation as we do to private operators. I do not think there is any real confusion as to what Sydney Motorway Corporation is there to do. It is there to do what it is contracted to do by Roads and Maritime Services.

The Hon. JOHN GRAHAM: Can I ask about one of those things it is contracted to do, and that is the travel times that we spoke about earlier. Mr Cliche, do you stand by the claims that there will be a 40 minute time travel saving between Parramatta and the airport as a result of WestConnex?

Mr CLICHE: When the project is completed, yes.

The Hon. JOHN GRAHAM: That is despite the business case in that technical paper number two that the savings look much smaller. We heard evidence this morning that, looking at those examples in the technical paper, they might actually be 10 minutes,

Mr CLICHE: That is why I was asking for clarity on your question. They vary throughout the day and the time. We take averages, but at a high level, yes.

The Hon. JOHN GRAHAM: It could be as low as 10 minutes as it is in that technical paper?

Mr CLICHE: I would have to look at which technical paper you are referring to.

The Hon. JOHN GRAHAM: Sure. You may want to take that on notice.

Mr KANOFSKI: An average means there is variability around that average.

The Hon. JOHN GRAHAM: But when I Googled it on Google Maps the trip only took 40 minutes. I just found it unusual for the Government to be suggesting I might save 40 minutes on that trip. What is going on here?

The Hon. Dr PETER PHELPS: Either that or Google Maps is overly optimistic about current travel times.

The Hon. JOHN GRAHAM: That could be right, but probably not by that much is the truth.

The Hon. Dr PETER PHELPS: Parramatta to the airport in 40 minutes at current times? Maybe if you are flying there from Parramatta.

Mr CLICHE: What year reference was my question to you—what time of day, what year reference? I find it very difficult to answer these questions because many people have different times in their mind—is it 2031, is it 2021, is it in the a.m. peak, is in the afternoon peak? People are very selective in what they choose and what they throw on the table. I am not saying that you are doing this now but this was quite a complicated set of numbers to throw out.

The Hon. JOHN GRAHAM: Perhaps if you could take some of those details about the technical paper on notice? I would appreciate that.

The CHAIR: Thank you both very much for coming along this afternoon and providing us with an opportunity to ask some questions. The committee has resolved that answers to any questions on notice, and there are some, be returned within 21 days, which is the normal time period. The secretariat will liaise with you directly about those.

(The witnesses withdrew)

SIMON DRAPER, Deputy Secretary, Economic Policy, Department of Premier and Cabinet, affirmed and examined

LEILANI FREW, Executive Director, Commissioning and Contestability Unit, Commercial Group, NSW Treasury, sworn and examined

The CHAIR: I welcome you both to the expected last day of hearing of this inquiry into road tolling in New South Wales. Would either or both of you like to make an opening statement or would you like us to go straight into questions?

Mr DRAPER: I am happy to go straight to questions, Chair.

Ms FREW: I would like to make an opening statement. Thank you very much for having me here and, in particular, for inviting me to share Treasury's role in respect of infrastructure. At a broader level, Treasury's responsibility is to support and advise the government on the management of the State's fiscal position in accordance with the Fiscal Responsibility Act, the policies of government and facilitating the implementation of the decisions of government. We do this in three core areas: the fiscal and economic group, which is responsible for providing advice on a macro-economic and forecasting basis, plus advice on micro-economic reform, credit rating, taxation and intergovernmental relations; the agency budget and policy group, which is the interfaced agency on financial and policy matters and is the group that oversees their agency's expenditure in terms of recurrent and capital spend; and the last group of Treasury is the commercial group, which is the group that facilitates the implementation of government decisions through advice on commercial policy, oversight of commercial performance and arrangements.

In respect of infrastructure, Treasury's role is to ensure that the projects are developed, procured, contracted and managed in accordance with relevant whole-of-government policies, decisions and the State's fiscal and risk position. It does this through the provision of frameworks in respect of business case policies, investor assurance policies and the New South Wales PPP guidelines, for example. It provides the support by providing advice specifically to the Treasurer to support the Treasurer in the resource allocation decisions that the Treasurer participates in and any other decisions around major infrastructure projects that the Treasurer participates in.

Treasury also supports agencies in respect of providing representation on steering codes and project teams, in particular ensuring that it provides the policy and infrastructure policy guidance to those projects to enable and facilitate some very efficient and effective development processes for those projects. As you can appreciate, Treasury is a central agency, similar to the DPC, across all of many aspects of infrastructure projects in New South Wales, whether it is from initiation of the projects through to the operation of the projects. Hopefully my opening statement has given you a little bit of a clearer perspective of the role of Treasury in respect of infrastructure projects in New South Wales. Thank you.

The Hon. DANIEL MOOKHEY: Has the Treasury undertaken an evaluation of what the value of the Sydney Motorway Corporation is?

Ms FREW: We have.

The Hon. DANIEL MOOKHEY: What is the valuation of the Sydney Motorway Corporation?

Ms FREW: Due to the confidential nature of the pending sale process, I do not believe it is appropriate to disclose at this point in time the State's view of the valuation of Sydney Motorway Corporation.

The Hon. DANIEL MOOKHEY: When was the valuation undertaken?

Ms FREW: The scoping study was undertaken by the Government or undertaken by Treasury on behalf of the Government. We commenced it in October last year and completed it earlier this year.

The Hon. DANIEL MOOKHEY: And that has been submitted to the respective Cabinet, I presume?

Ms FREW: It was the one that supported the decision that the Government recently came out with in terms of commencing the sale process for Sydney Motorway Corporation.

The Hon. DANIEL MOOKHEY: Understanding, of course, the commercial things you just said, was the valuation struck on a price to equity ration, was it done on a price to revenue ration, was it done as a regulated asset base ratio? What criteria were used to assess the value of the SMC?

Ms FREW: I can give you the response in a more general term about our approach to valuation. We use many of the different approaches to valuation for all of our infrastructure assets. In respect to infrastructure

in particular, the key one that most practitioners, including NSW Treasury, would rely upon would be discounted cash flow models.

The Hon. DANIEL MOOKHEY: Of SMC's revenue?

Ms FREW: Correct.

The Hon. DANIEL MOOKHEY: In terms of the ratio of that revenue—incidentally, you are prompting my very bad level of finance knowledge from my time at university—presumably you would use a multiple of some form?

Ms FREW: Not necessarily. Generally, we use multiples as comparables against the discounted cash flow model.

The Hon. DANIEL MOOKHEY: Is it Treasury's responsibility to undertake the sale of the equity?

Ms FREW: Yes.

The Hon. DANIEL MOOKHEY: Have you appointed advisers to assist you in that regard?

Ms FREW: Not at this stage.

The Hon. DANIEL MOOKHEY: Did you at all appoint Goldman Sachs to provide you with advice in relation to this transaction?

Ms FREW: In respect of the scoping study.

The Hon. DANIEL MOOKHEY: What were they asked to do?

Ms FREW: Consistent with the way that the Government and Treasury in the past has run major transactions, we generally undertake a scoping study which looks at the various options in terms of major transactions. In undertaking those scoping studies we bring on board advisers to assist with that. Goldman Sachs' role was to provide advice at looking at the different options in respect of potentially selling and interest in Sydney Motorway Corporation.

The Hon. DANIEL MOOKHEY: What did Treasury pay Goldman Sachs for that advice?

Ms FREW: I will have to take that one on notice because I do not have the exact amount on me, but the contract is published in accordance with all of our normal consulting contracts on the Treasury website.

The Hon. DANIEL MOOKHEY: Did Goldman Sachs provide any advice about what is the preferred sale method for the equity stake in Sydney Motorway Corporation?

Ms FREW: Consistent with the way we look at all of our major transactions, we will look at different sale approaches, whether they be initial public offerings and/or competitive trade sales.

The Hon. DANIEL MOOKHEY: Have you made a choice between the two?

Ms FREW: The Government has made the decision to sell its interest in the Sydney Motorway Corporation by way of a competitive trade sale.

The Hon. DANIEL MOOKHEY: Is there a timetable for that sale that has been established?

Ms FREW: There is a timetable that has been established. The Government announced that they would like to commence the process before end of this year and finalise it before the middle of next year.

The CHAIR: We are talking about 51 per cent here?

Ms FREW: Correct, at least 51 per cent.

The CHAIR: At least 51 per cent?

Ms FREW: Yes.

The Hon. DANIEL MOOKHEY: Has Treasury obtained advice as to other Federal tax liabilities associated with the sale of the 51 per cent stake?

Ms FREW: Not at this stage.

The Hon. DANIEL MOOKHEY: Do you foresee them as having tax liabilities that are payable to the Commonwealth?

Ms FREW: We need to get that tax advice before we commence any sale of business.

The Hon. DANIEL MOOKHEY: The Sydney Motorway Corporation is not subject to the Treasury commercial framework policy; that is correct, is it not?

Ms FREW: No, that is not correct.

The Hon. DANIEL MOOKHEY: Is it subject to the same commercial reporting framework that the other state-owned corporations are?

Ms FREW: Yes, it is.

The Hon. DANIEL MOOKHEY: Does that mean the Sydney Motorway Corporation is meant to publish a statement of corporate intent and publish a whole variety of documents to Parliament?

Ms FREW: Yes.

The Hon. DANIEL MOOKHEY: Why has the Sydney Motorway Corporation not done one?

Ms FREW: It was given relief last year from having to provide that by decision of Treasury because of its embryonic nature in terms of establishment.

The Hon. DANIEL MOOKHEY: Last year?

Ms FREW: Yes, but this year, along with the other government-owned corporations, it has delivered its statement of corporate intent.

The Hon. JOHN GRAHAM: Who signs off on that relief? At what level is it signed off?

Ms FREW: The Treasurer.

The Hon. DANIEL MOOKHEY: The Treasurer exempted the Sydney Motorway Corporation from providing statements to Parliament that every other agency was meant to. Did the Treasurer announce that decision?

Ms FREW: I do not recall, sorry.

The CHAIR: Just to be clear, when you say last year, are we talking about 2015-16?

Ms FREW: Correct. It had only been established for a short period of time at that point.

The Hon. DANIEL MOOKHEY: Under that policy, the Government is meant to have provided as a shareholder letter a level of instructions to the board as to what precisely the Sydney Motorway Corporation is meant to do. Has that letter been provided to the Sydney Motorway Corporation board?

Ms FREW: The Sydney Motorway Corporation are set up as a Corporations Act company, so it operates in accordance with a constitution and a shareholder agreement. It is not subject to direction by the shareholders, which is the difference.

The Hon. DANIEL MOOKHEY: But that is not true under your commercial framework policy, which you just said that the Sydney Motorway Corporation is subject to. In fact, the policy that you just referred to says quite clearly that every year the Government is to provide the board with a letter that says this is what you are meant to produce, this is what you are meant to return. You are meant to tell us if there is anything that goes wrong with it. You can have a continuous disclosure requirement. That is the correct characterisation of the policy, is it not?

Ms FREW: Correct, or a summary of the elements of it.

The Hon. DANIEL MOOKHEY: Has the Sydney Motorway Corporation provided and fulfilled all of that?

Ms FREW: In respect of it being a Corporations Act company, it has legal obligations under the Corporations Act. To the extent that the commercial policy framework or Treasury's commercial framework is inconsistent with the Corporations Act, the Corporations Act prevails. Anything over and above the Corporations Act that the commercial policy framework requires the Sydney Motorway Corporation to do and it can therefore do in compliance with Corporations Act law it delivers to Treasury.

The Hon. DANIEL MOOKHEY: Are we meant to conclude from that that the requirement for the Government to issue the board with a letter that says this is what you are meant to achieve, to report on that annually and to make statements with Parliament is inconsistent with the Corporations Act?

Ms FREW: No.

The Hon. DANIEL MOOKHEY: Therefore, has it been fulfilled?

Ms FREW: Apart from the fact that there is no need to deliver it with a letter because the way that it is delivered is through the constitution and the shareholder agreement and the relevant commercial policy framework aspects that are not contradictory to Corporations Act law.

The Hon. DANIEL MOOKHEY: There is a shareholder agreement?

Ms FREW: Yes, there is.

The Hon. DANIEL MOOKHEY: Is that public?

Ms FREW: I do not think so. I am not sure, sorry. I can come back to you on that.

The CHAIR: There are three shareholders, is that correct, three Minister shareholders?

Ms FREW: Currently there are three shareholders.

The CHAIR: Who are they?

Ms FREW: The Minister for WestConnex, Stuart Ayres, the Treasurer, and the Minister for Finance, Minister Dominello.

The Hon. JOHN GRAHAM: When the Sydney Motorway Corporation was provided with relief for one year from some of these reporting requirements, can you give the Committee some examples of what they will report on next year that they may not have reported on last year?

Ms FREW: Not at this time, but I can take that on notice.

The Hon. JOHN GRAHAM: If you could provide us with a list of the details about what will be reported on that would be helpful. When was that relief signed off?

Ms FREW: Just prior to the need to submit the 2015-16 statement of corporate intent. I can get you the specific date. I will take that on notice.

The Hon. JOHN GRAHAM: You mentioned that after the scoping study the sale will take place, the Government has announced that, and that it will be at least 51 per cent. What are the circumstances under which more than 51 per cent might be sold?

Ms FREW: If through the process and the receipt of bids that it demonstrates that it is greater value for money for the State and the taxpayer to dispose of more than 51 per cent.

The Hon. JOHN GRAHAM: Are there set criteria that are established for that already?

Ms FREW: In respect of value for money?

The Hon. JOHN GRAHAM: Yes. Are there criteria for that or will the Government just take bids starting at 51 per cent but people are free to bid higher?

Ms FREW: There are three parts to that question. In terms of are there criteria, there are definitely sale objectives consistent with all of our transactions, which we are finalising as we speak now because we have not actually commenced any sale process yet. Sale objectives will be consistent with all of our major transactions. They will have an element of balancing level of proceeds with retained risk and liability by the State, as well as the outcomes of what we want from the transactional partner that we look to have in terms of the project. In respect of have we made decisions about what the request to bidders would be in terms of bidding of at least 51 per cent or other options that they might like to put forward, there has been no firm decisions in respect of that at the moment.

The Hon. JOHN GRAHAM: Could it be 100 per cent? Is that a possibility at this stage before that decision is made?

Ms FREW: At the moment all options are open until we finalise what we would like to go to market with. Then there is another decision point, which would be when we receive bids.

The Hon. JOHN GRAHAM: Understood, that is useful guidance. It could be 100 per cent, and what you are telling us is the decision is yet to be made with regard to a proposed cap or where the companies could bid up to?

Ms FREW: That decision is yet to be made.

The Hon. JOHN GRAHAM: Can I ask about the change in the nature of the sale? Because what was articulated for this sale is now quite different to what the Government has now announced they want to proceed with. The original business case really looked to take the uncertainty with the traffic forecasting out of the

equation, to maximise the benefit of the sale and to do that sequentially. What was the reason for the change to now put all these concessions together and actually sell rather than the concessions, at least half of the Sydney Motorway Corporation?

Ms FREW: I think it has always been the case where there was flexibility in the options to sell, either individual companies owning each of the concessions and/or a stake in the Sydney Motorway Corporation that owns the three subsidiaries that own the concessions. In respect of the original funding and financing strategy for WestConnex, it was developed at a time where there was limited market appetite for greenfield construction plus greenfield traffic margin at risk. Five years on, that market has changed and there is market appetite now for that. It is demonstrated by the fact that Queensland Investment Corporation was able to dispose of its stake in QML recently, or a couple of years ago, to Transurban through a competitive process. That had an element of construction-development risk. It is incumbent I suppose on us to attract the market and provide the advice to government if circumstances change.

The Hon. JOHN GRAHAM: So the market has changed but previously the public view, as part of the business case, had been "maintaining full ownership during construction is expected to maximise the return to the State on eventual sale."

Ms FREW: Yes.

The Hon. JOHN GRAHAM: What has changed from that business case? Is that not still the case?

Ms FREW: It is still the case where possible, absolutely, to maximise the State's equity interest in the project. In 2012 there was no ability to monetise the State's interest, so now the market has changed—

The Hon. JOHN GRAHAM: I accept that point. I am interested in the fact that the business case previously described the approach that the Government is now taking—that is, selling early—as sub-optimal. The business case mounted a clear argument that taking the traffic risk out of the sale would actually result in the best return to taxpayers.

Ms FREW: In best proceeds we are looking at value as well, which means we need to take into account risk. So we are in a position now where nearly all projects are under construction and it is prudent for us to look at whether or not it is prudent for the State to continue to carry three projects in construction and the risk that goes with that.

The Hon. JOHN GRAHAM: I have to say that I had found the Government reasoning persuasive about this issue up until very recently. The Hon. Duncan Gay had said, "We indicated the business case was to build stage one and lease it, then use that money to build stage two and lease that, and then use that money to build stage three." But all of that has now been thrown out the window, has it not?

Ms FREW: Not all of it. The whole purpose of looking at the sale now is to actually release money in stages one and two to fund stage three.

The Hon. DANIEL MOOKHEY: That was presumably on the assumption that it would be the subsidiaries of SMC that were sold. Now we are selling equity in the SMC entity itself. The problem that we have is that this is precisely what the business case advised against—offloading all that risk to the private sector is not long-term sustainable, and that has been demonstrated in other projects; and even if it was to happen, it should be happening at the subsidiary level, not at the equity level of SMC. Now that is a fine distinction, but it is an important one because a person who buys 51 per cent of SMC tomorrow will carry the construction risk of stage three as well.

Ms FREW: Correct.

The Hon. DANIEL MOOKHEY: Is it the case that this shift has been made solely because in your view it is essentially transferring the risk to the private sector?

Ms FREW: There is an element of transferring the risk to the private sector that is important in the consideration of the approach that has been taken, absolutely. I think that when we get to the point of evaluating whether it is value for money to proceed with the sale, we are going to have to look at all of those aspects.

The Hon. DANIEL MOOKHEY: Then Premier Mike Baird said that the big difference between this public-private partnership [PPP] and every other form of PPP is that it will not be happening with any patronage risk or forecast risk and therefore the cost of capital has got to be lower. Are we to assume from that, that all those benefits that then Premier Mike Baird referred to no longer apply to the balance of this project?

Ms FREW: I cannot talk specifically to all of the benefits that former Premier Baird espoused in respect of the project. I am not quite sure it is correct that the project would not be sold with patronage risk; it

will be sold with patronage risk. To the extent that it has construction risk, then it will be sold on a considered basis of what that construction risk is.

Dr MEHREEN FARUQI: When you look at the SMC model and the sale of the shares, you mentioned how QML sold for \$7 billion not long ago in Queensland. Do you know much about QML and its structure? Is it similar to SMC?

Ms FREW: I do not know a lot about the QML structure; I know a lot about the SMC structure. The SMC was set-up specifically as part of the original funding and financing strategy for WestConnex.

Dr MEHREEN FARUQI: When you say "original", when was that?

Ms FREW: The 2012—

Dr MEHREEN FARUQI: We all found out about SMC only in 2015. No-one knew that this was going to happen. Am I right about that?

Ms FREW: I do not know when you found out, sorry.

Dr MEHREEN FARUQI: We only found out in 2015. Was there a reason for not letting the public know that this was the original model that had been set-up?

Ms FREW: I do not know of any reason for them not telling but I am also very aware that there were industry briefings about this particular project before 2015 and the establishment of a company to own the concessions for WestConnex. The funding and financing strategy for WestConnex involved the recycling of the State's interest in that company to fund subsequent stages. That, as your colleague mentioned, has always been the funding and financing strategy for WestConnex and because it was set-up to be sold, it was set-up as a Corporations Act company to enable that.

Dr MEHREEN FARUQI: Do you know how many companies bid for QML?

Ms FREW: I do not, I am sorry.

Dr MEHREEN FARUQI: Do you know if it was more than Transurban?

Ms FREW: I understand that there were at least two bidders towards the end but I do not know how many bid. I cannot give you that total.

Dr MEHREEN FARUQI: I turn now to unsolicited proposals. I am trying to understand a little bit more as to who is involved in that process from the Government? Does the Premier have any role in the unsolicited proposal process?

Mr DRAPER: Only in the sense that the recommendations of the steering committees go to Cabinet for consideration, other than that the Premier does not play any particular role. The proposals are first required to be lodged with the Department of Premier and Cabinet. They are then assessed. They go through an early stage assessment to determine whether they have any substance worth proceeding with. If they are deemed to have some substance, they are then taken to Cabinet. So they go through an assessment process.

Dr MEHREEN FARUQI: Who are on the steering committees?

Mr DRAPER: There is a standing steering committee, which comprises the Department of Premier and Cabinet, Treasury and Infrastructure NSW. Where there is a proposal that is quite substantive and requires deeper consideration, that steering committee may be expanded to include other agencies with more subject matter expertise. Regardless, the standing steering committee is usually supported by an assessment panel. The assessment panel would normally include members of the Department of Premier and Cabinet, Treasury and Infrastructure NSW, but also the agencies that have responsibility for that portfolio area.

Dr MEHREEN FARUQI: So I assume that NorthConnex would be a substantial project?

Mr DRAPER: Indeed.

Dr MEHREEN FARUQI: I want to ask a few questions about the conditions of the unsolicited bid proposal with Transurban. As we know, freight trucks are to be forced into NorthConnex or they will have to pay a fine. Was that a condition for Transurban to proceed with the unsolicited proposal?

Mr DRAPER: I will try and answer as best I can. It certainly became an element of the final agreement with Transurban and the project sponsors. Whether the sponsors would have proceeded without that condition I do not know. A lot the public benefits of the project rested on the idea that the trucks would use NorthConnex rather than Pennant Hills Road. So from the State's perspective it is very important to have those regulations in place.

Dr MEHREEN FARUQI: You probably know that we recently learnt that NorthConnex will receive financial compensation from the Government if a certain percentage of heavy vehicles—we do not know what that percentage is—continue to use Pennant Hills Road or other roads rather than the NorthConnex. Could you tell us what that percentage is?

Mr DRAPER: No, I cannot tell you that percentage.

Dr MEHREEN FARUQI: Could you take that on notice?

Mr DRAPER: Yes, I can take that on notice.

Dr MEHREEN FARUQI: You were going to say something else?

Mr DRAPER: Those arrangements reflect that there is a trade-off that takes place between the amount of risk the proponent is prepared to take and the measures the Government is prepared to put in place. Without those measures it may have been more expensive to the public to proceed with the project.

Dr MEHREEN FARUQI: Can you take on notice how much compensation might be paid per truck?

Mr DRAPER: Happy to take that on notice.

Dr MEHREEN FARUQI: There is a concern that has been raised during the inquiry that cases such as this are not transparent. These conditions emerge from inquiries. There has been a case made by witnesses to have the project conditions be more transparent and a suggestion that there might be an independent regulator—I am not necessarily saying unsolicited proposals—who could look at public private partnerships and those contracts. What is your view?

Mr DRAPER: The government submission sets out the reasons why there is regulation of entities, if you are referring to the Independent Pricing and Regulatory Tribunal [IPART] regulation. That is usually where there is a monopoly and IPART has a role in determining the cost.

Dr MEHREEN FARUQI: It is not necessarily IPART. The IPART is one suggestion but the other suggestion is an independent regulator that may not be IPART but somebody who oversees the contracts and can look at transparency aspects and report to the public?

Mr DRAPER: We have not consider that. I am happy to take that on notice. It may be helpful to understand more specifically what type of regulator might be envisaged.

Ms FREW: I will add to that. Under the New South Wales public private partnership [PPP] guidelines, similarly with the unsolicited proposal guidelines and the general New South Wales procurement guidelines, there is requirement for disclosure in respect of the contracts. You will see for all of these types of PPPs or concessions each of the agencies disclose the actual contract on their websites. NSW Treasury discloses contract summaries on its website for all of these transactions.

Dr MEHREEN FARUQI: There were few conditions disclosed. Non-compete clauses are not disclosed, which is what the public is interested in.

Ms FREW: Except where there is commercial in confidence, which is consistent with Government Information (Public Access) guidelines. In respect of independent performance of the contracts, the Auditor-General has a big role in terms of contract performance of all of the agencies in respect of their general performance but in particular the major projects. We have Infrastructure NSW [INSW] who provides assurance.

The CHAIR: That is once the contract is entered into?

Ms FREW: Correct. The period before we have INSW, which, under the investor assurance framework, have the responsibility of tracking the project through the development from initiation. It is around the development of an idea, needs analysis, pre-tendering, tendering, contract award and post contract to ensure that agencies are developing things in accordance with the business case guidelines and the other investor assurance guidelines.

Dr MEHREEN FARUQI: My issue is that business cases are not released. I am looking at it from the public perspective and value for money. We have received many submissions that public private partnerships are not providing value for money to the community.

The Hon. TREVOR KHAN: I think the witness wishes to respond to that bold assertion.

The CHAIR: There was a statement made. Do you wish to respond?

Ms FREW: I appreciate your position in respect of the publishing of business cases and there is no current policy around that. But the decision by the Government to publish the WestConnex business case,

certainly from our perspective, demonstrated a preparedness to move into greater transparency. I concede that there is currently no overarching policy.

Dr MEHREEN FARUQI: With all due respect, the WestConnex business case was published after years of the public pushing the Government to do that. It did not come voluntarily.

Mr DRAPER: I have a general comment on the transparency question. The experience we have in the public private partnership space and unsolicited proposals is while there is a default position of providing as much information as reasonably possible there is a trade-off with commercial confidentiality. The more the Government discloses that is commercially confidential the less parties are willing to come forward with proposals that are of value to the public.

Dr MEHREEN FARUQI: Are you at all concerned about the non-competitive nature of some of the contracts? Procurement for instance, it is a \$7 billion sale but only two companies tendered. Transurban owns most of the toll roads in Sydney. Are you confident that the sale of the Sydney Motorway Corporation will be a competitive sale given that even with QML we did not see many tenderers? How can we improve the competitive nature?

Ms FREW: We are confident. We would not have provided advice to the Government to consider the sale of the Sydney Motorway Corporation if we did not believe there would be a genuine competition for the State's interest in the business. At the end of the day, the way we look at value for money and competitiveness is that absolute competition or a competitive process is one aspect. We look at the cost of retaining and the value of retaining. We look at a number of the valuation benchmarks that help guide whether or not it is appropriate to trade at whatever bids that come in through the door.

We reserve the right to not sell if it does not demonstrate value for money. Any form of market testing requires an element of informal market soundings, which we did do during the scoping study. During the lead-up to the formal preparation for the sale process we will continually test that there will be competition and parties turning up to the market. It is a fine balance. I appreciate that you want competition to drive the best price. We need to balance that not at any price should we sell per se because we need to look at risk as well. We would not advocate selling for best price if risk is significantly retained by the State. We appreciate that we need to maximise the proceeds within an appropriate risk appetite.

Mr DRAPER: It is worth bearing in mind that there is competition at different levels. When you look at the projects there is competition at the design and construct level that is competitive. Because of the scale of these projects there are only a limited number of players that play on their own, they often form consortia. At the design and construct level we have had many new participants into the market and we are getting competition there and the Government has been successful in those contracts. You have competition at the design and concept level that some proponents bring and you have competition for provision of capital, and that is a competitive area. When you think about the breakdown, while you might see only a limited number of road operators in the design and construct and the provision of capital, there is quite a lot of competition.

Dr MEHREEN FARUQI: You said you may not sell if there is not a competitive price for WestConnex. If that happens to be the case what is the plan B? How will stage three be built? What is the risk management strategy?

Ms FREW: The Government would then be required to make a decision around how it will complete the funding for stage three. It does not necessarily have to be done through a sale process. That is our current advice to government that that is the best source of funding at this stage for the amount of funding that is required for stage three. There are other sources of funding that government could consider

Dr MEHREEN FARUQI: Could you elaborate on that? What advice have you given government on the other sources of funding?

Ms FREW: I can give you a general comment but I cannot confirm that is actually the advice we have given government.

Dr MEHREEN FARUQI: I understand that.

Ms FREW: General comments would be there are other sources of funding that government has in terms of cash and borrowings that it might want to make at the time that a decision like that would need to be made. It is just making sure that if they are in that position they would have the most current information about what sources of funding are available.

Dr MEHREEN FARUQI: It is a little bit risky that there is not a specific risk management strategy if the sale does not go ahead on a big part of a toll road, which obviously from the Government's perspective has to be built to make sense.

Ms FREW: The reason I have answered quite generally is because, as you can imagine, WestConnex and stage three is a significant size but compared to the overall State's fiscal position, the funding and borrowing program and the cash program, it is not that significant. I know that sounds a bit flippant.

The Hon. DANIEL MOOKHEY: Do the Sydney Motorway Corporation [SMC] debts have any implications for the State's triple-A credit rating? Is the SMC debt assessed for the State's triple-A?

Ms FREW: Currently under one of the Moody's ratios the current debt that SMC has is captured in that ratio.

The Hon. DANIEL MOOKHEY: The business case says that it has no implications for the State's triple-A, and in fact there is no guarantee being given by the Government—

Ms FREW: That correct. There is no guarantee.

The Hon. DANIEL MOOKHEY: But you are saying under one rating agency's assessment methodology it is factored—

Ms FREW: They take it into account in many of the ratios that they look at for the State's credit rating. It would be incorrect for me to tell you that they do not take it into account; they do take it into account for that one specific ratio. But then for all of the other ratios that debt is not taken into account where debt is a factor.

The Hon. Dr PETER PHELPS: How many unsolicited proposals would your committee deal with every year?

Mr DRAPER: I do not know every year. Over the life of the unsolicited proposal guidelines we have had about 150 proposals.

The Hon. Dr PETER PHELPS: In what time period?

Mr DRAPER: That is since 2012. Only I think about nine of those have progressed to stage two. That is to say, only nine have passed through the first hurdle. The others have been deemed to not meet the criteria to progress.

The Hon. Dr PETER PHELPS: Essentially in 4½ years you have had to deal with nine substantial proposals?

Mr DRAPER: That is about right, yes.

The Hon. Dr PETER PHELPS: It is not as if you have not given them a great deal of scrutiny and a good going through to make sure that they are valid and represent value for money for the taxpayers of New South Wales?

Mr DRAPER: That is correct. We always tell people who are considering putting in an unsolicited proposal that the hurdles are very high. In fact, beyond those 150 there are parties that approach us to have an initial discussion and we encourage that. Most of those end up not putting in a proposal because they understand how high a hurdle it is.

The Hon. Dr PETER PHELPS: The sort of thematic element that some people put around that unsolicited proposals are nefarious things, very little scrutiny is given by government to them and we just hand them out willy-nilly would be completely false, would it not?

Mr DRAPER: I would regard that as false. I think it is actually quite a deliberately considered process. The think the default position for government always is that a competitive process is best but from time to time there are proposals that come forward that deliver benefits to the public that we would not get through a competitive process. There is a high degree of separation of roles in the process. You have an assessment panel, a steering committee and Cabinet. No individual can influence the outcome. We regard it as a very sound process.

The Hon. Dr PETER PHELPS: Indeed, with respect, obviously the calibre of the New South Wales public service is very high but you cannot be expected to have perfect knowledge about everything. It may well be the case that the private sector occasionally sees opportunities for the benefit of the State which public servants do not see.

Mr DRAPER: Yes, we agree with that. We even agree with that in competitive processes. When we run a competitive process as much as possible we try to allow for innovation in design and delivery of projects because those that are in the market have a much better idea than us of the ways that money can be saved for the public or how services can be improved.

The Hon. Dr PETER PHELPS: As to the role of Treasury in the nuts and bolts of the tolling arrangements, what is the extent of Treasury's responsibility in determining the actual tolling arrangements, uplift factors and initial contributions?

Ms FREW: Quite limited, actually. The tolling policy and principles are set by Roads and Maritime Services under, at the moment, the transport cluster. To the extent that they may have some whole-of-State fiscal implications in respect of funding requirements or risk, then Treasury provides advice to the Treasurer to support decision-making around entering into those arrangements.

The Hon. Dr PETER PHELPS: Have you had to do that with any of the significant road toll projects in this State?

Ms FREW: Yes, in terms of any costs that need to be ultimately funded by government. They include property acquisition costs, for example, and any contributions that are made to the projects and whether or not they are able to be funded within the State's fiscal parameters that it sets for itself under the Fiscal Responsibility Act.

The Hon. Dr PETER PHELPS: Is it simply Treasury's responsibility to flag these items or to offer proposals in dealing with them?

Ms FREW: Sometimes both. Particularly the commercial group which will advise agencies around commercial arrangements or financing. By financing I mean the private finance that may or may not be available. For projects over \$100 million all projects must consider in their business case development opportunities for private finance, whether that be in financing the infrastructure or any other opportunities for commercial arrangements that can be put in place that can support the funding need for the project. The commercial group will work with agencies and provide advice in respect of those, prosecute any independent advice that agencies might have in respect of that and then collectively provide advice as to the veracity of the assumptions being made by the agencies.

The Hon. Dr PETER PHELPS: Are you aware of any instance where Treasury has had to express concern to Roads and Maritime Services about the minutiae of the tolling arrangements that have been agreed upon?

Ms FREW: No, I am not.

The Hon. TREVOR KHAN: On the first day, I think it was from Transurban and reinforced by some evidence given by Transport for NSW, we were presented essentially with a model as to how you end up with a toll. There were various variables that could be applied including the amount of government contribution, the rate of annual increase in the toll and the length of the contract. All of those factors were variables that would affect the starting toll and, I suppose, the end toll. If all those variables are correct, at which stage does Treasury or the Department of Premier and Cabinet [DPC] become involved to say, "We'll chuck this amount of money into the project?" Is that at the start or is there some form of analysis done by Transport for NSW and they then come to Treasury and say, "We are going to need to chuck this amount of money into the bucket"? Does that make sense to you?

Ms FREW: It does. The gate between a strategic business case and final business case is where funding and financing analysis is undertaken to support the decision-making of the final business case. Typically, the agencies will do a lot of that work themselves, supported by advisers and consultants in specialised fields that they bring on board to assist them. In those particular stages it is not unusual for Treasury and/or DPC to be members of steering committees that provide an oversight role around how the work and the analysis is being developed, always having an eye to potentially that eventual question that will come around funding contributions or things that need to be made. Then when that whole package is put together, that is when the very specific question is asked about funding. It is through those governance committees that we test the analysis that supports whether or not a toll should be set at a certain level, whether or not financing be attractive, whether or not there is opportunity to minimise or maximise State funding contributions, which at the end of the day will go in as a grant because we have to think about those things. So that is the typical process that happens with these projects.

The Hon. TREVOR KHAN: I am not being critical, but these projects have been going on for 20-odd years and not all of them have been successful. In fact, we can think of at least two that have been monumental

failures. I recognise that experience is a big factor, but why do we have a confidence factor that we do it right now compared with, for instance, what was done with Lane Cove or the Cross City Tunnel? Why were those processes, I assume, within Government so flawed and why are they not now?

Ms FREW: I was not around when that was done.

The Hon. TREVOR KHAN: I know.

Mr DRAPER: Nor was I, for the record.

Ms FREW: So I would not be able to give you a view about what happened then and what was flawed in those processes. I would hope that the public sector is able to learn and evolve from mistakes and not try to repeat mistakes of the past.

The Hon. TREVOR KHAN: Ms Frew, I am not being critical of you, but you were not around at the time, and you do not know about it. So what is the corporate knowledge factor that you or your departments have that gives assurance that lessons were learnt and have been implemented?

Ms FREW: I can only speak for myself and that is having seen them from the outside coming into the inside and understanding how government thinks about these things, I believe it has brought some level of perspective to the appetite of private sector parties to be able to take the risks that government at that time may have wanted them to take. Part of our processes include quite substantial market sounding, as I mentioned before, where we do actually try to test the appetite of private sector parties to take the risk that we want.

The Hon. TREVOR KHAN: Clearly in those cases the market took huge risks. Admittedly, the Government did not bear the costs that were associated, but it still was not indicative of the successful project.

Ms FREW: Part of our role is also to test the market's response to the risks that they want to take and to since check that. Certainly in the processes and projects that I have been involved in, not just roads but other infrastructure, the processes we have undertaken alongside our advisers and independent members that we have on our steering committees is to answer those questions.

The Hon. TREVOR KHAN: Mr Draper?

Mr DRAPER: It is worth noting that while those were financial failures for the owners that built them, they were quite successful in delivering services to the people of New South Wales.

The Hon. TREVOR KHAN: I quite enjoy using them.

Mr DRAPER: That is right. It is worth bearing that in mind. To add to what Ms Frew has said, not only has government learned more about these projects but those who have invested in them have learned more as well about ways to finance them and, in a lot of cases, that the biggest risk they are taking is traffic risk and how to understand and offset those risks. We have a much more mature market these days than those projects.

The Hon. TREVOR KHAN: One final question, if I may. There seems to be a current theme from a variety of witnesses, particularly the academics, that we essentially should be adopting a model of these projects being government-funded by debt as opposed to a PPP model. Have you got a view as to why we should not adopt a government debt model as the means of building all these projects?

Mr DRAPER: I would give two reasons. One, all infrastructure has the potential to be funded by means other than just taxpayer funding. Toll roads are one of those that are more predisposed to being operated in that manner and that makes them more amenable to peak private-public partnerships. The second reason I would say is not only because of the financing but because of what you mentioned earlier, the potential for innovation and that the more we bring private players into that process the more they find ways to build the infrastructure more cost effectively and to deliver better services than we would have envisaged.

The Hon. TREVOR KHAN: I am happy with that answer.

The Hon. TAYLOR MARTIN: Mr Draper, in relation to the first question of Dr Phelps on unsolicited bids, how extensive is the bidding process for that first stage that you consider? Nine have passed through.

Mr DRAPER: It is quite stringent. I would say that the criterion that is most difficult for proponents to meet is the uniqueness criterion, so we require the proponent's proposal to be unique and unable to be matched by anybody else. Often people have different reasons why they believe their proposal is unique. Not many really meet that hurdle. Of course, they have to deliver value for money, they have to reflect the Government's priorities. Those are often a little bit easier to meet, but uniqueness is very difficult to pass.

The Hon. Dr PETER PHELPS: On that point, would you be able to take on notice what those nine proposals were that have been approved?

Mr DRAPER: Sure.

The Hon. Dr PETER PHELPS: Just to give us a flavour of what has come through, Ms Frew, as a general principle, is it fair to say that government is unwilling to accept risk if private capital is willing to provide the same infrastructure and bear the risk?

Ms FREW: I do not think that is a fair statement.

The Hon. Dr PETER PHELPS: Really?

Ms FREW: No. I think that the ability of private sector to accept or share risk is something that we take into account in bringing private sector parties into our arrangements. I do not think that we have a principle that says we do not want the risk if someone else can take it. I know that is a bit of a nuance to your statement.

The Hon. Dr PETER PHELPS: I will turn it around. Why should taxpayers bear risk that private investors are willing to take on? Should they not, unless there is clear public policy reasons for doing so?

Ms FREW: If there is a clear benefit or value for government to do that, then we should continue to keep the risk. It is about what is the value. Sometimes with PPPs, that value is that they are better placed to manage the risk, for all the different reasons including some of the things that Simon touched on. If they are better placed, we should absolutely consider it. If we can get the requisite value back in terms of more innovative solutions or better operating outcomes, better services for the community, we should absolutely consider transferring.

The Hon. Dr PETER PHELPS: So it is not an ideological position on automatically outsourcing risk, it is a considered decision on who is best placed to manage that risk?

Ms FREW: That is certainly the approach that we take.

The Hon. DANIEL MOOKHEY: When is the Sydney Motorway Corporation [SMC] meant to be paying dividends to Treasury?

Ms FREW: It has no specific direction to pay, or it does not have any directions full stop. But it has no specific expectations to pay dividends in the short term. It is a company that is constructing projects that will require capital expenditure to be spent up until 2023. Consistent with any corporations board, it will be up to the board, taking into account its capital needs going forward and its shareholder value responsibilities, about how we would propose dividends back to its shareholders.

The Hon. DANIEL MOOKHEY: The Treasury has not imposed any requirements. The Government has not made any policy instructions, has not utilised its powers under the commercial framework to be able to direct any of this?

Ms FREW: No, it has not.

The Hon. TREVOR KHAN: Do I take it from what you are saying, up to 2023 it would be paying a dividend out of debt?

Mr DRAPER: It certainly has no revenue out of which to pay dividends.

The Hon. DANIEL MOOKHEY: It will between now and 2023.

Mr DRAPER: It will, but it does not have it at the moment.

The Hon. DANIEL MOOKHEY: That is why I was asking whether there is a requirement and whether it arises.

The CHAIR: Ms Frew and Mr Draper, thank you very much for coming this afternoon. We appreciate the opportunity to have a forthright exchange with you. The Committee has resolved there will be 21 days turnaround time for questions on notice. The secretariat will liaise with you about those questions.

(The witnesses withdrew)

KEN KANOFSKI, Chief Executive, Roads and Maritime Services, on former oath

The CHAIR: Welcome back and thank you very much for your cooperation in appearing once again on what is a third occasion before the committee. Would you like to make an opening statement just to get the ball rolling?

Mr KANOFSKI: I would like to make a brief opening statement. Again I would like to thank the committee, and also, on the record, I would like to apologise for my colleague Tony Braxton-Smith, who is unavailable to attend and give further evidence today. We have been very happy to assist the committee. I think we have answered something in the order of 125 supplementary questions on notice and I hope that those answers have been of help. I would like to talk about a couple of the key themes that have emerged through this inquiry. The first point I want to make is that the Sydney motorway network and, indeed, the Sydney road network, is part of an overall integrated transport system. Roads and Maritime Services is one agency within the transport cluster; roads, tolled or otherwise, work in conjunction with other forms of transport.

In 2012 the Government released the long-term transport master plan and flowing from that long-term integrated transport plan we are currently seeing a massive investment in public transport—metro, light rail—and we are also seeing expansion of our motorway networks. As I said before, it is well-known that there will be 1.6 million extra people in Sydney by 2031 and we need a holistic transport solution. The other theme that keeps appearing is how much tolls should people pay. Essentially, transport infrastructure, like all other infrastructure, can only be funded really ultimately from two sources: from user charges or from taxation revenue, and getting the balance right between those two things goes to the heart of the Government's strategy in terms of how it seeks to fulfil its purpose.

I think the other part of that though is any reduction in toll or capping of toll or any of those things, the money would need to come from another source, which leaves less money available for schools, hospitals, police, those types of activities. Roads lend themselves to user charges perhaps more so than some other forms of infrastructure, and that is well known and well used across the world. Indeed, we have a much better road system in Sydney than we would otherwise be able to have if we did not have road tolls—I think that is very clear. The other point I would make is that all major developed countries or most major developed countries in the world use some form of tolling—it comes in many forms, but some form of tolling. It has been around in New South Wales for about 160 years, since the Pyrmont Bridge was built as a toll bridge.

The Hon. TREVOR KHAN: No, earlier than that—Old South Head Road.

Mr KANOFSKI: And Parramatta Road also was originally a toll road. Successive governments have used road tolling as a form to speed up the delivery of road infrastructure, which is a very important part of the transport task. The other important thing about road tolls, and my final point, is that people choose to use toll roads because it saves them time. There is always a free alternative. People choose to use them, businesses choose to use them because they put a value on their time—that is quite fundamental. If people did not value them they would not use them and therefore there would be no demand for them. With that, I am very happy to take any questions that the committee has.

The Hon. JOHN GRAHAM: Firstly, thanks for your answers to questions on notice; they were, certainly, in some instances, quite helpful—that is a compliment of the highest order—particularly in relation to the comparable project that I have been asking you about, the M5 widening. Thank you for the fact that you have been upfront last time in those questions and this morning about the fact that there is a subsidy across the network; this is being treated as a network altogether when it comes to how people are being charged. I have asked some similar questions this morning but I did want to get your views specifically on these things rather than Mr Cliche because it is very clear that RMS is in the room when these decisions have been made, when these judgements have been weighed up. I did want to turn to that comparison between the two projects, the M4 widening and the M5 widening—one is a \$500 million project, one is a \$400 million project, each is adding a lane each way, but one is being tolled for three years and one is being tolled for 43 years. They are comparable, are they not?

Mr KANOFSKI: I do not think they are comparable in the sense that one was a single, one-off deal to widen what is the M5 west. Specifically and quite transparently the Government said, "We are raising the money for the M5 west." As I have said before, the WestConnex is a scheme. It has always been a scheme and the toll—

The Hon. JOHN GRAHAM: But take your policy hat off for a minute and put your hard hat on. From a road building point of view, these are very similar, are they not? Put the policy aside just for the minute. We will come to the policy.

Mr KANOFSKI: But the question of are they similar in a road building sense, in a road building sense any \$500 million or \$400 million project might be similar, but the question specifically relates to how it is funded.

The Hon. JOHN GRAHAM: That is what is different here, is it not? It is the policy the Government has adopted with funding.

Mr KANOFSKI: I think we need to really take a step back from that and say this is not unique. The funding of a toll road or any road as a total scheme is not unique. I draw your attention to the M7. The M7 has a distance based toll, a very similar tolling scheme to WestConnex. The number of vehicles that travel from one end of the M7 to the other end of the M7 is approximately 5 per cent.

The Hon. JOHN GRAHAM: I am not asking about how you pay for the distance.

Mr KANOFSKI: Would you allow me to answer the question?

The Hon. JOHN GRAHAM: Sure. I am happy for you to continue.

Mr KANOFSKI: If we looked at the M7, for example, the M7 has a tolling regime that covers its entirety and yet the most heavily trafficked piece of the M7 is the piece between the M4 and the M5.

The Hon. JOHN GRAHAM: I do want to draw this distinction there, because this is not about the distance travelled; it is about how long the toll applies—in one case three years and in one case 43 years. This is really about the level of subsidy. I accept your point that it is not unprecedented for there to be some sort of cross-subsidy. It is: How big is that subsidy and is it fair? That is my question.

Mr KANOFSKI: The question is not really about its fairness. The question really is about what the publicly stated government policy position is that the toll is setting out to achieve. The toll extension on the M5 was specifically set out to achieve a particular public purpose, which was the widening of the M5.

The Hon. JOHN GRAHAM: Let me put the specifics to you.

The CHAIR: In fairness, the honourable member has asked the question. With great respect, you have reconfigured the answer somewhat to the actual question posed. The question was in terms of fairness and you have turned it around to the Government position or policy. You actually have not answered his question but I will let the free play continue.

The Hon. JOHN GRAHAM: I am happy to go to the specifics, which are really this: How much are users of the widened M4 subsidising other parts of the road network? What are you forecast to collect in the first year on the widened M4?

Mr KANOFSKI: I will take that in two parts. The first is that I do not collect the tolls on the M4. The Sydney Motorway Corporation collects the tolls on the M4.

The Hon. JOHN GRAHAM: But RMS is in the room.

Mr KANOFSKI: The question of how much it is subsidised is not, in my view, the relevant question. You could—

The Hon. JOHN GRAHAM: My view is it is the relevant question and that will be the view in Penrith and Parramatta.

Mr KANOFSKI: But the answer—and this is a question of government policy—is the Government's policy is that the total tolls raised on the WestConnex scheme will fund the entire WestConnex scheme. The Government has not said, "Here is a separate business case for each part of this integrated motorway." The Government's proposition that it put in its business case, which is in the public domain, is that the tolls raised on the scheme pay for, not in total but in part, the scheme.

The Hon. JOHN GRAHAM: I understand the general policy. It is a point you have made well. How much will you raise for the widened M4 in the first year of operation?

Mr KANOFSKI: As I said, I will not raise anything because the Sydney Motorway Corporation will.

The Hon. JOHN GRAHAM: How much will the Sydney Motorway Corporation raise?

Mr KANOFSKI: I think what I would prefer to do in a case where we are about to go into the market in order to sell shares in the Sydney Motorway Corporation is not speculate.

The Hon. JOHN GRAHAM: But the bidders will have this information, will they not? This will be shared as part of the bid process? Will not everyone know but the motorists?

Mr KANOFSKI: In the end, the bidders make their own risk decision on how many cars and trucks they think will be—

The Hon. JOHN GRAHAM: They will do their own due diligence.

Mr KANOFSKI: In the end it is their risk. They will make their own assessment of that.

The Hon. JOHN GRAHAM: But when does the New South Wales public get to find out?

Mr KANOFSKI: In a period where we are about to enter into a sales process, from a commercial perspective I do not think it is appropriate for me to speculate on what I think the projected tolls will be.

The Hon. JOHN GRAHAM: One view that has been put to me is it might be something like \$200 million a year in the first year. I do not know if that is too high.

Mr KANOFSKI: I think I have already I am not going to speculate.

The Hon. JOHN GRAHAM: If that is the case though, we are talking about \$8 billion or \$9 billion in 2017 dollars over the course of that 43 years. Either way, even if it is lower, we are talking billions of dollars coming out of the pockets of motorists in Penrith and Parramatta, are we not? That is undisputable. That is not commercial-in-confidence; that is just the fact.

Mr KANOFSKI: I think it is evident from the business cases put on the public record that there will be tolls raised at the rates suggested across the entire motorway. Users of that motorway, from wherever they come, that choose to use the motorway will pay the toll.

The Hon. JOHN GRAHAM: But you do not disagree with this, do you? The M4 widening, a \$500 million project, billions of dollars coming back into the WestConnex project altogether—you do not disagree with that, do you?

Mr KANOFSKI: What I have said is that all of the tolls on the entire network go to funding that project. That is what happens.

The Hon. JOHN GRAHAM: Do you disagree with that characterisation of a \$500 million project with billions of dollars coming back to WestConnex? That is undeniable.

Mr KANOFSKI: It is not a question of billions of dollars coming back to WestConnex. The question is that the entire project, a \$16.8 billion project, is funded to a significant degree—around about 70 per cent—by toll revenue across the whole of that project. It is not a question of one part subsidising the other. As I said, on the M7 you could have the same debate.

The Hon. JOHN GRAHAM: Transport for NSW has argued in its submission that user pays is fair; it has put that case clearly. But I think that depends on how much the user is being asked to pay. In this case, paying for 43 years is not user pays; it is user paying, paying, paying and paying. Is that not what is going on here?

Mr KANOFSKI: What the research says about what customers actually think is that they make an individual judgement about whether the toll is worth it to them. What the research shows—and I am not speculating on what individual people might think—is that individual customers make a decision as to whether to use the toll road or not on whether they think it represents value to them in terms of their timesaving. If they think it provides value to them then they will use it, if they do not think it provides value to them then they will not. In that sense I think it is entirely fair.

The Hon. DANIEL MOOKHEY: Your business case makes it clear that your expectation is that the widened M4 Motorway east of James Ruse Drive will be the most trafficked part of the entire WestConnex project. Is that not correct?

Mr KANOFSKI: I would have to take it specifically on notice but I think—

The Hon. DANIEL MOOKHEY: You said there is going to be 163,800 average weekday volume in 2031. If you compare that to the new M5, which is 37,200, it is fair to say that your expectation is that part of the M4 is going to be heavily utilised compared to other parts of the project?

Mr KANOFSKI: You have clearly got the numbers from the environmental impact statement [EIS] and the EIS—

The Hon. DANIEL MOOKHEY: No, I have asked you that from your business case.

Mr KANOFSKI: We are aware that they are essentially the same numbers.

The Hon. DANIEL MOOKHEY: So logically the level of revenue being raised from the widened M4 by definition is going to be more than the other parts of the roadway?

Mr KANOFSKI: As I have said, it is not a revelation that the revenue raised from the entire scheme is being used to pay for the entire scheme.

The Hon. DANIEL MOOKHEY: Nor is it a revelation that because of the value of the widened M4 to the private sector, with the tolling concession agreement that the Roads and Maritime Services entered into with SMC, that absent that revenue the ability to pay for stage three would be in jeopardy? In fact, your financing model is very clear that the idea is that the first part of the road is there to pay for the remaining stages of it. That is consistent with what you have just been telling us about a whole network model.

Mr KANOFSKI: The tolls from the whole of the road are there to pay for or partially pay for the whole of the road.

The Hon. DANIEL MOOKHEY: Part of the reason why there is this debate about the level of cross subsidy is because you have published a business case that says 163,000 movements on one part of the road and 37,000 movements on the other. That has caused some people to ask: "If I am only going to use that part of it, I am never going to use that part of the M5, why then does my toll have to be higher because it is not reflecting my use of those 20 kilometres?"

Mr KANOFSKI: As I have said, I think there are a couple of points to make. If we actually talk about individuals and how they are impacted, the first thing is to say that the overwhelming majority of people do not drive the entire length of the road—whether they start at the M4 end or whether they start at the M5 end. That is just the reality of what actually happens.

The Hon. DANIEL MOOKHEY: That is their point too.

Mr KANOFSKI: Quite a lot of people who use the M4 West will never make it to the WestConnex section of the M4 because they exit and use the M4 west of Parramatta.

The Hon. Dr PETER PHELPS: Where they pay no tolls.

Mr KANOFSKI: The first point is that they will choose to use it if it delivers them value. The second point is that it is capped. There has been consideration in the business case, quite deliberate consideration, of the issue of affordability. The issue of affordability is dealt with by the fact that what we do not have is a distance-based hole that goes on and on forever. What we have is a distance-based hole with a flag fall and a distance-based toll and then a cap, which goes to the issue of affordability.

The Hon. DANIEL MOOKHEY: If it is the case that a person has to pay the \$2,200 it will cost to use the widened M4 section of the road per work day for 260 days out of 365 days, using your figures, does it remain the view of Roads and Maritime Services that that is affordable for a person in Western Sydney who will be predominantly trafficking that route?

Mr KANOFSKI: Sorry? I am not quite sure of the question.

The Hon. DANIEL MOOKHEY: If a person is paying \$2,000-plus dollars each year in tolls, does it remain the view of the Roads and Maritime Services that that is affordable?

Mr KANOFSKI: It is the view of the Roads and Maritime Services that people will use the road if it delivers them value. There is a free alternative. People are making a value judgement about whether—just as we make value judgements all the time about whether we will spend money as consumers on a whole range of things, including our transport, sometimes you choose to take one form of transport that is more expensive than another form of transport. Those are decisions that consumers make quite intuitively. What our research says is—I will just get the numbers right.

The Hon. DANIEL MOOKHEY: Can you table the research, please?

Mr KANOFSKI: I think Tony Bracken took that question on notice but I cannot remember what the answer was.

The Hon. JOHN GRAHAM: He agreed to table it, although it did not turn-up in the response. We would be very keen to see it.

Mr KANOFSKI: I am happy to take it on notice. It is not my research.

The Hon. JOHN GRAHAM: Understood.

Mr KANOFSKI: Just a couple of things that are important here—72 per cent of people agreed that Sydney needs more motorways to improve traffic flow and congestion; 59 per cent are in favour of new toll roads to make getting around Sydney easier; and 84 per cent of customers use a toll road to save time. So the position of the Roads and Maritime Services is that people will use this if it provides them with value. What we see from the existing toll roads is clearly a high number of people do see that there is value in using those toll roads and do use them. I would expect that WestConnex will be similar, in that many people will use it because it delivers them value.

Dr MEHREEN FARUQI: You were talking about the research that you have. There is also research that Professor Hensher from the University of Sydney has done. That research suggests that commuters are very close to their toll budget threshold. How do you think that is going to impact on your financial modelling? Did you take that into account when the financial modelling was done?

Mr KANOFSKI: Yes. A couple of things with that piece of research. Our piece of research took people across the whole of the tolled market, if you like—so people who have got a Roads and Maritime Services tag. It looked at all of those people. Professor Hensher's piece of research only dealt with the highest 20 per cent of users. What his research did—I am not criticising the research but you need to understand that it is measuring a different thing—it took people who had at least eight trips a week on the tolled network and then asked them a series of questions about that. What we know from our research is that those people who take more than eight trips a week represent less than 20 per cent of the total usage of the network.

Going to your question about how things are taken into consideration, what is modelled is a sort of choice model in terms of people's willingness to pay. That forms a base part of the economic modelling that underpins this. What we do with that is that we look at two things. We look at peoples' stated preference. Would you be prepared to pay, yes or no? Then we actually look at observed preference. We actually look at what happened when tolls came on, came off, all of those sorts of things. So then we can correlate peoples' stated preference with what we actually observe in reality and that is how the modelling comes up with a prediction of demand. That is the fundamentals of those forecasts.

Dr MEHREEN FARUQI: Is that different to how forecasting was done previously with the failed forecast models?

Mr KANOFSKI: I think when we get to things like—I know we will talk about the Cross City Tunnel and the Lane Cove Tunnel.

Dr MEHREEN FARUQI: There are more across Australia.

Mr KANOFSKI: I think those roads in particular are a bit of a product of their time in the sense that I think there was enormous appetite in the private sector to take more and more risk at that particular time. I think it is fair to say that some of those private companies probably—history shows that they got the numbers wrong. They were too aggressive in terms of what they thought the traffic numbers would be. I am confident from a government perspective that the modelling on which we base the business case for WestConnex—it is modelling.

Dr MEHREEN FARUQI: It is different from the previous modelling?

Mr KANOFSKI: I do not know what modelling those particular investors used. What I can say is I think the modelling that we use is robust.

Dr MEHREEN FARUQI: The same people who did the modelling for you did it for those failed companies.

Mr KANOFSKI: I will have to take that on notice. I am not aware of who did the modelling for the failed companies.

Dr MEHREEN FARUQI: It is a concern if you do not know if it was different.

The Hon. TREVOR KHAN: Will you let him answer?

Mr KANOFSKI: What I would say is that I am comfortable and confident that we have had a robust process with the traffic forecasting. It has been peer reviewed by a number of different entities. It has been through Infrastructure NSW assurance processes and they, rightly, have asked a range of questions about the modelling. In addition, the Sydney Motorway Corporation—I am not privy to their discussions, nor any toll road concessionaire—have to go and raise money. They have raised money from private banks and those private banks will take a relatively conservative view of whether they are going to get their money back or not. Although I am not privy to that process, clearly that process provides a level of comfort that somebody else has looked at it and thinks that the numbers are robust.

Dr MEHREEN FARUQI: We were in Penrith taking evidence from some of the Western Sydney councils and there was a proposal that a different charge for road users should be applied as a toll, especially those who had restricted access to public transport. What is your view?

Mr KANOFSKI: That is a policy question for the Government. What the Government has is tolling principles and what it has said in the tolling principles is that it wants to apply distance-based tolling as its core underlying pricing principle for new motorways. That is what has happened with the M7 and WestConnex. NorthConnex, while it is a point-to-point toll, is calculated at similar rates to that. What the Government has said—this is a government policy issue—in one of its 10 tolling principles is that distance-based tolling forms the underlying key principle. There are many different ways you can toll.

Dr MEHREEN FARUQI: That is a principle that creates further unfairness for those who live further away from work and do not have access to public transport.

Mr KANOFSKI: As I said, it is a policy consideration and I am giving you the Government's policy position. It is not my job to decide policy.

The Hon. TREVOR KHAN: I want to go to NorthConnex. We discussed it last time in terms of heavy transport being moved off Pennant Hills Road. How are you going to monitor the heavy vehicle movements that remain on Pennant Hills Road?

Mr KANOFSKI: We will be putting in place physical monitoring.

The Hon. TREVOR KHAN: Does that mean a copper standing on a corner?

Mr KANOFSKI: No, gantries with cameras measuring trucks going through one point and trucks going through another point and measuring the time they took to go through that process. That is indicative of whether they have been driving straight through or stopped and that is the differentiator whether they had a bone fide local delivery or have they gone the entire length. One of the absolute key objectives of the NorthConnex project is to take 5,000 heavy vehicles off Pennant Hills Road. Anyone on Pennant Hills Road would understand why that is the correct objective.

The Hon. TREVOR KHAN: Or drives upon it from time to time.

Mr KANOFSKI: Correct.

The Hon. TREVOR KHAN: Are you able to expand on having identified that this vehicle that has taken 20 minutes to traverse Pennant Hills Road, as opposed to 40 or 60, what then happens with the data you have gathered?

Mr KANOFSKI: We are required to measure that because we have a contractual clause.

The Hon. TREVOR KHAN: I was going to get that.

Mr KANOFSKI: We are required to measure it because we have a contractual clause and Roads and Maritime Services has a requirement to use reasonable endeavours to see the Government takes regulatory action, if required, in order to see trucks move from Pennant Hills Road. I would say a couple of things. I believe, based on the fact that it costs you \$240 an hour to run a truck, that most trucks will make that transition happily and all of the consultation we have done suggests that will happen. What the Government has said is it has left open the option of regulatory intervention, if necessary, in order to effect that move.

The Hon. TREVOR KHAN: Some form of regulatory intervention is you ping them with a fine if they use Pennant Hills Road.

Mr KANOFSKI: Potentially, yes.

The Hon. TREVOR KHAN: It was asked earlier how much wiggle room is there? Is the taxpayer of New South Wales going to be slugged due to the contractual arrangements entered into with Transurban? How assured are you that the regime will work?

Mr KANOFSKI: I think the regime will definitely work. There are two parts to that. With or without regulation most trucks will move in any event. Therefore, any compensation payable will be relatively modest. The second thing is that if regulatory action is required then the cost of any compensation to Transurban would be recovered through that regulatory action.

The Hon. DANIEL MOOKHEY: What is the fine that has been contemplated for heavy vehicles that do not use NorthConnex?

Mr KANOFSKI: I would have to take that on notice. I do not know we have got to that point. The road does not open until 2019.

The Hon. TREVOR KHAN: There is a penalty that applies for not going through the weigh station at Mt White, is there not?

Mr KANOFSKI: Yes, there are certainly penalties for not going through a weigh station if directed to do so, yes.

The Hon. TREVOR KHAN: The penalty applied is by regulation created under the Road Transport (General) Act. It is essentially a regulation?

Mr KANOFSKI: Correct. To your point, Mr Mookhey, we have not gotten to the point of contemplating the fine.

The Hon. DANIEL MOOKHEY: The legislative authority by which you would levy it is the Road Transport (General) Act?

Mr KANOFSKI: We have not got to the detail of how to go about that because the road does not open for two years at least.

The Hon. DANIEL MOOKHEY: The concession agreement in relation to NorthConnex and others, does it contain minimum volume numbers for heavy vehicle movements?

Mr KANOFSKI: No.

The Hon. DANIEL MOOKHEY: Does it contain any form of minimum volume numbers that Roads and Maritime Services has guaranteed?

Mr KANOFSKI: No.

The Hon. DANIEL MOOKHEY: Does that apply to the other concession agreements in relation to WestConnex?

Mr KANOFSKI: There are no minimum traffic movements on any of the WestConnex projects. If I understand your question correctly, the question is: Is the State underwriting the traffic on any of those projects? The answer is, no.

The Hon. DANIEL MOOKHEY: What other penalties or requirements akin to the heavy vehicle requirement exist in the concession agreements?

Mr KANOFSKI: This is the first time we have used something specifically of that nature. The important thing to understand is that each project stands and falls on its own objectives. While heavy vehicle movements are a factor in all decisions to build new motorways, they are very clearly a major consideration with respect to NorthConnex. Getting 5,000 heavy vehicles a day off Pennant Hills Road is both an objective and an underpinning of the business case.

The Hon. DANIEL MOOKHEY: That is the only type of arrangement that exists in the concession agreement?

Mr KANOFSKI: It is the only one I am aware of. I am happy to take it on notice and see if there are any others.

The Hon. DANIEL MOOKHEY: Are the concession agreements public?

Mr KANOFSKI: Yes, they are published on the Roads and Maritime Services website. There is a requirement to do two things with PPPs. The first has existed for some time and that is to publish a contract summary.

The Hon. DANIEL MOOKHEY: I am aware of that.

Mr KANOFSKI: But then there is also a more recent requirement of only the last probably half a dozen years to actually publish the contract under GIPA. I suspect what you might find is some of the old ones just have a contract summary available and the newer ones have both.

The Hon. TREVOR KHAN: When you say there is an obligation under the Government Information (Public Access) Act, or GIPA, does that mean that one makes an application and pays a fee?

Mr KANOFSKI: No, they are published on the website.

The Hon. DANIEL MOOKHEY: What is the procedure by which a concession agreement can be varied?

Mr KANOFSKI: A concession agreement can be varied by negotiation with Roads and Maritime Services but these are pretty significant contractual arrangements. Other than for relatively minor amendments you would expect that it would be subject to government consideration. If there were any substantial change it would be subject. Ultimately, the Minister for roads has powers. The other piece is that PPSs are also generally approved under the Public Authorities (Financial Arrangements) Act. Any substantial change would require the approval of the Treasurer as well. The other point to make on the other side of the transaction is they will almost invariably require financiers to consent as well. Changing a toll road concession once it is in place is quite a substantial undertaking because there are a huge number of people on both sides of the transaction that get a say.

The Hon. DANIEL MOOKHEY: What if a performance standard is breached? Do the concession agreements contain performance standards that are contractually enforceable?

Mr KANOFSKI: Yes, they have various things. There is a range of performance there. If it is breached—

The Hon. DANIEL MOOKHEY: Presumably termination is an option?

Mr KANOFSKI: You need to understand the way PPP contracts work. Termination is an absolute last resort in a PPP contract because simply they are not financeable. If you have what are termed hair-trigger termination clauses they are simply not financeable. All of these contracts have—

The Hon. TREVOR KHAN: Financial penalties.

Mr KANOFSKI: Yes. The consequences of breach of any particular part of the contract would generally be set out in the contract. Only the most serious breaches would potentially—

The Hon. DANIEL MOOKHEY: That is all available in the concession agreement that is published?

Mr KANOFSKI: Yes, it is in the concession agreement.

The Hon. JOHN GRAHAM: I take your point about the contract summary and the contracts being public. For the Lane Cove Tunnel and the Westlink M7 the base case financial models were tabled in the Legislative Assembly on 9 November 2005. Why can we not do the same for NorthConnex and WestConnex?

Mr KANOFSKI: Because of the way some of the clauses in the contract work, the view is that it could be prejudicial to the State's interest commercially to publish the base case financial model. That is the view that has been taken.

The Hon. JOHN GRAHAM: How is that the case with NorthConnex? Let us deal with that first. This deal is done. It is locked in. How could it prejudice the State's interest?

Mr KANOFSKI: I would have to go to the detail of that decision to understand the precise nature of the decision. I am giving you a general answer, which is a decision has been taken not to publish the base case financial models because it is considered commercial-in-confidence.

The Hon. DANIEL MOOKHEY: Did RMS provide the advice not to publish it?

Mr KANOFSKI: I would have to take that on notice.

The Hon. TREVOR KHAN: Let us be fair. Are you taking on notice that you will have a closer look and come back to the Committee in terms of what the commercial-in-confidence issue is?

Mr KANOFSKI: I am happy to look at on notice the reason that decision was made that that was commercial-in-confidence.

The Hon. TREVOR KHAN: I am not ganging up on you. I thought that was the position you were getting to.

The Hon. DANIEL MOOKHEY: Could you take on notice also the question I asked about whether that was advice RMS provided?

Mr KANOFSKI: Within the bounds of the normal government restrictions. We do not normally speculate on what advice we give to government.

The Hon. DANIEL MOOKHEY: I am not asking you to speculate, to be fair. I am asking if you gave the advice.

Mr KANOFSKI: The answer is I am not sure and the answer to your question is that, generally speaking, we would not opine on what advice we gave the government. These are matters for government and there is a whole range of protocols I am sure that we are all very well aware of that govern these processes. I do not actually think it is worth me taking it on notice because the answer will be that we do not speculate on what advice we gave the government.

The Hon. JOHN GRAHAM: I appreciate you have taken the other aspect on notice. I might just indicate my strong view that if we have done it in the past for deals that have been done I certainly cannot see any reason why it can be commercial-in-confidence for NorthConnex and why WestConnex cannot be dealt with in a similar way. I will read your answer with interest. My final question is one I asked you on notice about how high these tolls might get within these concessions. This is one you declined to answer on notice, so I might put a number to you and you tell me if I am starting to get warm. It is likely that the minimum toll in 2060 to travel once into the city and back on the M4 from either Parramatta or Penrith will be \$67.46. Is that starting to get warm?

Mr KANOFSKI: I think the answer I gave you last time, which is the same answer I will give you this time, is I am not going to speculate on what the toll is going to be in 2060. The mechanisms are pretty clear. You can choose to speculate if you wish—

The Hon. DANIEL MOOKHEY: I think the term is "calculate".

Mr KANOFSKI: —but the toll is in the agreement. It gets 4 per cent or CPI until 2040, then it gets CPI after that and so the toll will be whatever the toll is.

The Hon. JOHN GRAHAM: Bear in mind I am asking you about the minimum. It could be higher. Taking into account the 4 per cent for a period and then the inflation rate that the WestConnex business case assumes of 2.5 per cent, the toll will be \$67.46 to drive in from Parramatta or Penrith to the city and then drive back out in 2060. Do you accept with those figures that would be the result? That is where this is heading. That is the minimum.

Mr KANOFSKI: I would have to take it on notice to do the calculation.

The Hon. JOHN GRAHAM: I would appreciate that.

The CHAIR: Thank you very much for coming along twice today and on one other occasion to provide answers to the questions we have presented to you. With respect to the questions taken on notice, the normal arrangement is for answers to be returned within 21 days if that is okay. Thank you.

(The witness withdrew)

IAN GOODWIN, Acting Auditor-General, Audit Office of New South Wales, sworn and examined

CLAUDIA MIGOTTO, Acting Assistant Auditor-General, Audit Office of New South Wales, affirmed and examined

The CHAIR: We normally commence by inviting one or both of you, if you wish, to make an opening statement. Once that is done, we will move to questions from members of the Committee. We will perhaps start with you, Mr Goodwin.

Mr GOODWIN: I will make a brief opening statement on behalf of us. Thank you for inviting me to appear before the Committee today. I note from the transcript of the Committee's April meetings there was mention of the role of an Auditor-General and recent reports of the New South Wales Auditor-General. I understand from the secretariat that the Committee would like to gain a full appreciation on the role of the Auditor-General and how this translates in practice to the issues being considered by the Committee. First and foremost, it may sound obvious, but our role is to undertake audits. We audit financial statements of State agencies in the local government sector.

We also undertake performance audits that may examine efficiency, effectiveness and compliance. This leads me to talk about one key principle of an audit that I think may be relevant. We audit the work and decisions of others. It is best for auditors to avoid being involved in decision-making processes. In simple terms, to be involved in a decision-making process could lead to a situation where the auditor would lose their independence, because you start auditing your own advice. The other important thing for clarification is we do not question the merits of Government policy. This is a well-established path through the Public Finance and Audit Act.

I now turn specifically to performance auditing, which is most relevant to the topic of the Committee's work. The Auditor-General may choose to undertake a performance audit on an activity of the New South Wales Government or local council. Our funding currently allows us to undertake around 17 performance audits a year, but it recently expanded to 20 since we expanded the mandate to include the local government sector. As the Committee can imagine, we cannot examine every aspect of every major project, but we select our performance audit topics, taking a risk-based approach and taking on board advice from Parliament and further abroad.

Several of our performance auditor reports have recently highlighted the benefits of obtaining independent expert advice at key points of major projects when we have done a performance audit of a major project. This includes our 2000 report on WestConnex and 2015 report on large construction projects and the "Tibby" Cotter walkway, as recent examples. The enhanced New South Wales Government Infrastructure Investor Assurance Framework and gateway reviews have been influenced by these performance audits. More specifically, some of our reports in the past have commented on tolling. When we comment on road tolling, we do not comment on whether road tolling is warranted per se, but we may comment on the process that supports road tolling. For example, we may comment on whether the process of collecting tolls is efficient or whether the business case to support a toll was robust through a business case.

Before I conclude, I refer to two other matters raised in the Committee's April hearings, if it is of relevance to today, in respect of the role of the Auditor-General. First, the issue of involving an arm's length agency in tolling negotiations or as a regulator was raised in the Committee's April hearings. Without offering a view on the pros and cons of such arrangements, I would say that it is an unlikely role for an Auditor-General. As I discussed earlier, we are best positioned to avoid being involved in negotiations, project development or toll setting to preserve the independence of the office to conduct audits should they be required of a major project, or the efficiency, effectiveness and delivery of Government programs.

Finally, the issue of follow-the-money powers was also raised in your April hearings. This power, unlike other jurisdictions in Australia, is a power the New South Wales Auditor-General does not have. Whether those powers are, in the future, provided to the New South Wales Auditor-General is a question for the New South Wales Parliament. Our current powers mean that we examine processes within State agencies or local government, but we do not examine activities of a private sector or non-government organisation that provides services on behalf of the Government or in partnership with the Government. The jurisdictions that have follow-the-money powers do not use them often, but they are there if they are needed. I am happy to take questions from the Committee. I will do my best to answer them and, if need be, I will take questions on notice.

The CHAIR: We have members on the Committee from the crossbench, Opposition and Government. We have been sharing questions. Are you comfortable with that?

Mr GOODWIN: Very comfortable.

The Hon. DANIEL MOOKHEY: Thank you for your appearances. The Audit Office of New South Wales is currently undertaking a performance audit of NorthConnex, is that correct, or have you completed it?

Mr GOODWIN: That is correct. There is a performance audit on NorthConnex that is currently in progress at the moment.

The Hon. DANIEL MOOKHEY: How progressed are you with that?

Mr GOODWIN: It is in progress, with a view to tabling next month, so before the end of this financial year.

The Hon. DANIEL MOOKHEY: It is good to know we will not have to wait that much longer for it, but this follows on from an earlier performance audit you did of the unsolicited proposal processes of the New South Wales Government, which I think you did in 2015-16, is that correct?

Ms MIGOTTO: This is correct.

The Hon. DANIEL MOOKHEY: You made certain findings about the way that unsolicited proposals were working and could be improved in that performance audit, is that correct?

Ms MIGOTTO: That is correct.

The Hon. DANIEL MOOKHEY: What were the recommendations you made in respect of that proposal?

Ms MIGOTTO: I did not come prepared today to talk in detail to that particular performance audit, so I would be happy to take that question on notice.

The Hon. DANIEL MOOKHEY: Mr Goodwin, do you have anything to add?

Mr GOODWIN: No, I do not have anything to add other than what is on the public record in that audit. One would obviously expect that, whenever there is an unsolicited proposal and there is a Government policy around that, that the processes should remain rigorous and be supported by empirical analysis and data.

The Hon. DANIEL MOOKHEY: Given that at the time you did that performance audit NorthConnex was the biggest proposal to obtain its sanction through that process and now that you have had an opportunity to do an audit, are you confident that the recommendations that you made in that first audit were implemented sufficiently enough for us to have confidence in the NorthConnex RMS negotiations?

Mr GOODWIN: In respect of commenting on what we may report in the performance audit of NorthConnex, I think you would appreciate that I am bound not to comment on the audit while it is in progress until that audit is tabled in the Parliament.

The Hon. DANIEL MOOKHEY: Of course. Are you satisfied that your recommendations in respect to the unsolicited proposals performance audit, which is public and published, have been implemented? Have you checked?

Mr GOODWIN: In a more general sense?

The Hon. DANIEL MOOKHEY: In a general sense.

Mr GOODWIN: I think that would be a difficult question to answer, because to answer that would require us to conduct a review or an audit.

The Hon. DANIEL MOOKHEY: You would have to audit your audit?

Mr GOODWIN: I do not think it would be helpful for me to offer a general comment. It is more helpful to offer a comment in the conduct of an audit. I do appreciate your desire to progress what we found in the NorthConnex audit, but I am not in a position to persist at this point until that audit is tabled in June.

The Hon. DANIEL MOOKHEY: Previously in audits you have made general views about procurement that says that competitive procurements tend to deliver better value for the public than non-competitive procurement processes.

Mr GOODWIN: Without checking the exact source, it sounds like something that we would say, as a general comment.

The Hon. DANIEL MOOKHEY: As a general comment, you, in fact, say that quite a lot of public money and the effectiveness of public expenditure turns on the distinction of how the Government procures its money, is that correct?

Mr GOODWIN: Yes.

The Hon. DANIEL MOOKHEY: You have also made the point that when things are allowed for public tenders it often results in improved design, improved efficiencies in construction that public services, for whatever reason, have not been able to spot and the whole process of interacting with the market allows the public to realise those benefits? Are you confident that applies in respect of WestConnex and NorthConnex?

Mr GOODWIN: We are sort of reaching from a general to a specific. It is a government policy to provide for unsolicited proposals, so I would not venture to say that in all circumstances you would not reach the same outcome from an unsolicited proposal as you would reach from a competitive process.

The Hon. DANIEL MOOKHEY: There was a non-competitive tender process between the New South Wales Government and a private toll operator for the widening of the M5. Are you aware of that?

Mr GOODWIN: No, I am not aware.

The Hon. DANIEL MOOKHEY: Has the Auditor-General looked into any of this or have you had a view that this is something which would attract a performance audit?

Mr GOODWIN: I think I would need to take that one on notice.

The Hon. JOHN GRAHAM: Given the answers to date, I am not sure you will be able to answer this but I will ask it in a general nature. We have been discussing today and there has been some publicity about an aspect of NorthConnex—I will not ask about that project, I will ask in general—where there would be penalties for trucks that do divert and trucks that do not divert, so the toll operator is winning either way. It sounds like a pretty good arrangement if that can be the deal you strike.

The Hon. TREVOR KHAN: It is good for the road users of Pennant Hills Road if they are off Pennant Hills Road.

The Hon. JOHN GRAHAM: Potentially—I accept that point. Are you aware of other government deals which might have similar provisions where really the private operator is winning either way?

Mr GOODWIN: Nothing would strike me to say that I am aware of other such transactions and I am not in any way in a position to say that the example that you highlighted, which was the example specific to the audit I cannot comment on, is indeed a fact or not.

The Hon. JOHN GRAHAM: I totally accept that, given where you are up in the process. Would you expect, given that issue has been raised, that it would be something that is examined as you are looking at the project overall?

Mr GOODWIN: In terms of assessing whether an unsolicited proposal went through appropriate value for money parameters, that is a matter that we would probably consider in the course of an audit.

The Hon. JOHN GRAHAM: It seems like an unusual arrangement. It may well stack up for the reasons that the honourable member is saying but it seems like the sort of thing that should be looked at and I would encourage you to do so.

Mr GOODWIN: As I said, I will take that as a comment.

The Hon. JOHN GRAHAM: On the follow-the-money powers, I do not have a strong background on this issue, but what you are really saying to us is this would not apply, for example, to the Sydney Motorway Corporation, at the moment—you would not have the powers at the moment in relation to that entity given what you have described.

Mr GOODWIN: They Sydney Motorway Corporation at the moment is an entity that we conduct the financial statement audits of.

The Hon. JOHN GRAHAM: That is what I was going to ask.

The Hon. DANIEL MOOKHEY: But that is under the Corporations Act. You are appointed under the Corporations Act by the Sydney Motorway Corporation at an AGM. That is correct, is it not?

Mr GOODWIN: Our mandate covers any entity that is effectively an entity controlled by the New South Wales Government that is defined as a reporting entity. So it can cover corporates as well as departments, but it only covers to the extent that the Government has that controlling influence.

The Hon. DANIEL MOOKHEY: Beyond the sale of SMC—if SMC was to go to a 51 per cent private equity structure and a 49 per cent public equity structure, do you still have the remit to audit them under your Act?

Mr GOODWIN: It is not an easy question to answer because it is somewhat technical, and without boring the committee with the intricacies of accounting, which I am happy to do, the question of control can come down to a simple question around shareholding interest, but it really comes down to a question of influence. So you can have in a hypothetical a structure where a majority control may sit in one party but the majority of the board may sit in another party.

The Hon. DANIEL MOOKHEY: Shadow directors. This brings around the question who controls an entity? Your point is that it would be subject to that.

Mr GOODWIN: No, my point is that we would need to look at it from a substance perspective, not a form perspective.

The Hon. JOHN GRAHAM: But at the moment you do have that oversight. It is possible as the entity is sold that may change. Is that a fair comment?

Mr GOODWIN: At the moment we do have the oversight and depending on the nature of any sale, if a sale takes place, we would have to look at what is the substance of the arrangement post that transaction.

The Hon. JOHN GRAHAM: But it certainly could be the case, particularly if we are talking about the scale of sale that was talked about earlier above 51 per cent—it could be 100 per cent—they are the sort of circumstances where the controls you have at the moment might no longer exist with the new ownership structures of Sydney Motorway Corporation.

Mr GOODWIN: If there was no longer then a reported entity controlled by the Government then it would not sit within our mandate.

The Hon. JOHN GRAHAM: I know that this is almost impossible to answer but if you can give any guidance I would appreciate it: how low would the government share have to drop for that question of control to start to become relevant? Is it 30 per cent, 25 per cent?

Mr GOODWIN: I do want to be helpful. Certainly if you had 25 per cent it would be hard necessarily to exert influence, which is what you are looking for, but it does come down to the substance of the arrangement and the controlling interests on the government's board versus necessarily the holding interest.

The Hon. DANIEL MOOKHEY: Have you resolved this question in respect to the electricity transactions given that almost an identical corporate structure would be adopted for SMC as for Transgrid; that is, 51 per cent private, 49 per cent? Or is it the other way around?

Mr GOODWIN: If you wanted to explore the intricacies of that transaction I would need to come back to you on notice on that.

The Hon. JOHN GRAHAM: Are there any powers that you do not have over Sydney Motorway Corporation at the moment, given the decision that has been made by this corporation's head company, that you would have in relation to another department, a department of a state-owned corporation?

Mr GOODWIN: To the extent that it still sits within our mandate then it would allow us to do a financial performance or compliance audit, with one caveat I may make: obviously, the selection of any performance audit topic is one that is usually reserved for the Auditor-General to do that to preserve the independence of the office.

Dr MEHREEN FARUQI: Thank you very much for coming in today. I understand that the Audit Office has previously reviewed public transport fare increases. Am I right in saying that?

Ms MIGOTTO: I am not aware of that occurring in recent times. I could take that on notice.

Dr MEHREEN FARUQI: But would it be within the remit of the Audit Office to review the pricing and performance of toll roads, for instance?

Mr GOODWIN: I think that is the matter I tried to touch on in the opening statement. If it is a government policy to have tolls, that is a government policy and we would not comment on the government policy. Our interest, which sits in the mandate of our Act, is whether there is a question around the efficiency or the effectiveness of those toll arrangements, but it would not be necessarily as a regulator of the pricing arrangements. There is a subtle difference between approving fare increases, which I think is a very unlikely role for an Auditor-General because they are executive decisions, whereas we might look at the concept of

whether there were appropriate business cases that were robust, empirically based, to support decisions around tolling, but not comment on the policy of the toll.

Dr MEHREEN FARUQI: I understand that, but you could look at the effectiveness of tolling regimes, for instance?

Mr GOODWIN: Hypothetically, yes.

Dr MEHREEN FARUQI: Do you review—and this could be a naïve question—the performance of RMS, for instance, or Transport for NSW? Is that part of your remit at all?

Mr GOODWIN: Transport for NSW and RMS are part of our mandate.

Dr MEHREEN FARUQI: Is that a regular review of their performance or is it project-based mainly?

Mr GOODWIN: It is project based. I would not want to assume the role of the Parliament who would be there to oversee the performance. What we would do is to assist the Parliament when we look at a major project, provide comment if there was adverse comment or positive comment to make around the governance arrangements for a particular project.

Dr MEHREEN FARUQI: I am also interested in the idea of follow the money. You said that the Audit Office of New South Wales does not have those powers. Which State's audit offices have those powers at the moment?

Mr GOODWIN: I am certainly aware at the Commonwealth level, the Auditor-General of Australia does have those powers and they are powers that were recently provided. I should probably provide a contextual comment, which I feel I should have done at the beginning, which is that I have taken on my role at the Audit Office of New South Wales in January this year, having moved from the Commonwealth, where I was since 2004. Certainly at the Commonwealth level they have those "follow the money" powers. I believe also that in Western Australia and Queensland those powers exist and possibly, I believe, in Tasmania, but I would need to confirm that. That is a matter upon the public record that can be confirmed.

Dr MEHREEN FARUQI: If you could confirm that on notice that would be appreciated.

Mr GOODWIN: The thing I would say about all of those jurisdictions is the "follow the money" powers are quite different from jurisdiction to jurisdiction. They tend not to be carte blanche, so they do come with appropriate checks and balances. Most auditor-generals would not necessarily use those exhaustively. Usually they come with some form of parliamentary oversight on the use of those powers.

The Hon. DANIEL MOOKHEY: What are these actual powers?

Mr GOODWIN: The mandate that we have is to audit government agencies for the government sector. More and more government is making choices in the delivery of government services to partner through the private sector or to partner with non-government organisations. Once you go beyond or outside that boundary, which is the government sector into those partnership arrangements, our mandate does not necessarily allow us to follow the dollars into how a non-government service provider has provided those services.

The Hon. DANIEL MOOKHEY: We are talking about production of documents to production of witnesses, compulsory examinations, these general sweep and regulatory powers that you have in respect of public sector agencies. Is that generally the category?

Mr GOODWIN: That is generally right. In terms of the powers that we would have for a government agency and certainly employees of those government agencies, once they step outside the boundary of the government sector—and that is more prevalent now because governments are using more and more partnership arrangements—our powers do not extend beyond the government sector.

Dr MEHREEN FARUQI: If you were to do, let us say, an audit of public-private partnerships, you would not be able to do it in fact because your powers would not extend to the private side of things?

Mr GOODWIN: That is right. It is usually best situated where you are dealing with appropriations of parliamentary moneys. If there was an appropriation that has gone to a particular department and then that has gone to a non-government organisation to deliver that government service, we would not be able to see in the hands of that partner whether they have used the funds for the intended purpose for which they were intended by the Parliament.

The CHAIR: It is still crossbench question time, and then I will pass over to the Government.

Dr MEHREEN FARUQI: It has been suggested by some witnesses to the inquiry that when toll setting is negotiated or when public-private partnerships are negotiated that transparency would be improved if

there was an independent regulator overseeing the negotiations. Do you have a view on that or are you able to comment on that, given your vast experience of the Audit Office and looking at performances of different projects?

Mr GOODWIN: I think you have made a comment about transparency, and transparency is always improved when there are independent oversight arrangements.

The Hon. Dr PETER PHELPS: Do you see any specific failings in Roads and Maritime Services which would require an independent assessor of projects which are currently undertaken by Roads and Maritime Services, including the setting of tolling arrangements?

Mr GOODWIN: In terms of the setting of tolling arrangements, given that we are in the process of auditing NorthConnex, I probably will leave that one alone, as you would appreciate. The only thing I would say is the Roads and Maritime Services and Transport for NSW have been subjected to a number of performance audits by our office over the years, not because of decisions around governance within Roads and Maritime Services but because of the scale and complexity of the projects that they do.

The first point I would make is that we do a lot of work in that space and that is driven through the scale and complexity rather than any particular view about Roads and Maritime Services itself. Indeed, we would make recommendations often in those audit reports. The point I would make is generally audits are, by their nature, points of friction but my observation is that we generally get to a point where we can agree on the recommendations and agree on the way forward. From a parliamentary oversight process, there is a role for the Public Accounts Committee to then do follow-ups on whether those performance audit's recommendations have had traction with Roads and Maritime Services or Transport for NSW.

That is probably a long answer to your question, to say that certainly we do a bit of work there and certainly we would make recommendations there because of the complexity of what we are looking at. From a parliamentary process, there is an appropriate governance arrangement that can come back and select performance audits to follow up whether the Roads and Maritime Services or Transport for NSW has indeed progressed with implementing the recommendations or otherwise.

The Hon. Dr PETER PHELPS: Mr Goodwin, however, the implication from calls for further independent assessment of the tolling arrangements which were entered into by Roads and Maritime Services is that there was some sort of structural flaw or bias or favouritism undertaken by Roads and Maritime Services in the awarding of contracts and for the tolling arrangements there. My question to you is that even if the Independent Pricing and Regulatory Tribunal were to sit on the committee which assessed the tolling contracts, even if the Auditor-General were compelled to sit on the committee which assessed the tolling projects, are we simply not adding more bureaucrats to a decision which is essentially going to be made by bureaucrats anyway? If you believe that more eyes produce outcomes, then why not invite every deputy secretary to sit on this committee?

The CHAIR: I think there are eyes and there are eyes. That is the answer to the question, perhaps.

The Hon. Dr PETER PHELPS: But presumably you would not want to be proactive in the assessment of the tolling arrangement presented to it?

The CHAIR: Just to be clear, the Hon. Dr Peter Phelps had to absent himself for a short period of time and some of this was covered while he was away. That is fine, if you could please go back and cover it again.

Mr GOODWIN: Firstly, as previously stated, I do not think it is appropriate for an Auditor-General to be involved in what is expected to be executive decisions.

The Hon. Dr PETER PHELPS: I agree absolutely.

Mr GOODWIN: For the simple reason, we cannot do our job as the independent auditor for Parliament.

The Hon. Dr PETER PHELPS: That is right, you are the tail end of the process.

Mr GOODWIN: That would not be our role. Separately, I will probably take as a comment your views about Roads and Maritime Services and just leave it as a comment. Because I will allow our performance reports to speak for themselves on the matters that we have looked at and the recommendations that we have made and certainly the evidence that is followed up through the Public Accounts Committee. Insofar as if we do an audit, the other point that I would make is that the Auditor-General is an independent officer, so the eyes of the Auditor-General are somewhat different to the eyes of a bureaucrat as an independent officer. It is a fine balance, I agree, around red tape and achieving good governance arrangements and oversight. I think that fine

balance is one for the department and one for the Parliament to be comfortable with, rather than necessarily one for us to be offering a view on.

The Hon. Dr PETER PHELPS: There have been previous New South Wales Auditor-General investigations into public-private partnerships [PPPs]. I am thinking particularly in the mid-1990s when there were two particular inquiries that were the subject of strong criticism of the predecessor to Roads and Maritime Services. Considering that you have an audit currently under way, I will not press that question any further.

The Hon. TREVOR KHAN: Questions have been asked, for instance, about having the Independent Pricing and Regulatory Tribunal [IPART] involved in the process at some stage and the terminology was used that this will improve transparency. There is actually a difference between adding an additional oversight body and providing transparency, is there not?

Mr GOODWIN: Correct.

The Hon. TREVOR KHAN: Because it actually depends upon what the oversight body reports.

Mr GOODWIN: Correct, and it depends on who the oversight body reports to.

The Hon. TREVOR KHAN: It also depends upon what the terms of reference are to that oversight body, does it not?

Mr GOODWIN: Correct.

The Hon. TREVOR KHAN: For instance, if we look at IPART's role with water. They have a role in the setting of prices with water but they work within a policy framework, do they not?

Mr GOODWIN: Without being briefed exactly on the role of IPART, I am pretty confident that would be the case.

The Hon. TREVOR KHAN: So the answer you can get from some of these organisations, whilst they are forming an independent view, is in part dependent on the terms of reference under which they operate? It is rather like a computer—depending upon what your program is, you will get a particular range of outcomes that may in a sense be limited by the criteria that is set for it?

Mr GOODWIN: Perhaps if I may make a clarifying comment and appreciate the angles that everyone is trying to explore. The difficulty in giving a general answer to a general question about transparency is that you will get a general answer. Good processes result in good governance, generally speaking. Good processes are generally supported by transparency. Transparency can be achieved in multiple ways. It can be achieved just through the publication of data and relying on the fact that you have an engaged community that you publish the data to. Transparency can be achieved through an independent oversight body.

The fine balance between overlays of additional oversight that may be seen as bureaucracies or otherwise is one that is hypothetical, and I am not really in a position to answer other than to acknowledge that if you want good outcomes you need good processes. Transparency is one of those elements of good processes, but you can achieve that through multiple means. Independent oversight is just a tool. But, as you point out, it is somewhat dependent on the reporting mechanism of that oversight body and the terms of reference of that oversight body.

The Hon. Dr PETER PHELPS: Has the Auditor-General's office looked at the procedure used by the Department of Premier and Cabinet for unsolicited proposals?

Mr GOODWIN: In the context of the audit, given that NorthConnex is—

The Hon. Dr PETER PHELPS: I am not talking about NorthConnex; I am talking about other proposals?

Mr GOODWIN: We would look at the policy in the context of an audit that we would do. We would not read the policy out of pure interest—many of us would—but to be helpful to the Committee, the answer to the question is that we would look at that policy in the context of a specific audit and the application of that in the context of the specific audit.

The Hon. Dr PETER PHELPS: But you had not previously looked at the unsolicited proposal structure prior to your investigation for NorthConnex?

Ms MIGOTTO: Our 2015-16 performance audit on the assessment and governance framework for unsolicited proposals—

The Hon. Dr PETER PHELPS: So you have looked at it?

Ms MIGOTTO: That was a precursor audit to the audit that is currently underway on NorthConnex.

The Hon. Dr PETER PHELPS: There was some academic criticism of the Sydney transport model. Has the audit office looked at the efficacy of the model, which is used as the primary planning engine for Roads and Maritime Services? You can take the question on notice.

Ms MIGOTTO: It may have been included in contextual matters in one of our previous performance audits. We will take that question on notice.

The Hon. Dr PETER PHELPS: We heard very strong criticism from an academic today about the efficacy of that particular model. I was just wondering whether you would have come across it.

The Hon. DANIEL MOOKHEY: You did an earlier performance audit, which I think you undertook in 2014, in respect to the preparation of the original business case for the WestConnex. Do you recall that performance audit?

Mr GOODWIN: Yes.

The Hon. DANIEL MOOKHEY: I will leave it to you either in person or on notice to provide the Committee with a full list of all the recommendations or alternatively the document about that. You said at the time of that performance audit that there were aspects of the business case planning to do with the WestConnex that were deficient and that resulted essentially in the benefits being overstated and the costs being understated. For instance, you picked up traffic modelling as being one aspect that was not properly treated but there were other aspects in terms of certain things being understated. Is that a correct characterisation of your findings or not?

Ms MIGOTTO: I believe that is, yes.

The Hon. DANIEL MOOKHEY: In respect of the updated strategic business case that was released at the end of 2015, one year after your original audit, are you confident that the criticisms you made of the original one and the recommendations for improvement were followed in the preparation of the second business case, which is still the current business case that the project is proceeding on? Or is it your view that the responsibility of the Public Accounts Committee [PAC]?

Ms MIGOTTO: That is their responsibility. So unless we have actually conducted a formal follow-up audit in the area, we consider that information unaudited. So we are not in a position to provide definitive comment on that.

The Hon. DANIEL MOOKHEY: In respect of the other criticisms that you made about the extent to which the investor assurance frameworks were not complied with by Roads and Maritime Services—that was a finding that you made and to be fair to Roads and Maritime Services and Transport for NSW they accepted it and said they were undertaking assurance under their own frameworks and not necessarily Infrastructure NSW's framework, so I am not suggesting that there no assurance being undertaken here—are you confident in respect of the other phases of WestConnex that the investor assurance framework is still the best assurance framework under which these things should be assessed? Simply put, should we be relying on the Infrastructure NSW investor assurance framework as the go-to insurance framework or the Transport for NSW assurance framework when it comes to assessing these projects?

Mr GOODWIN: I think it may be more helpful to ask those questions of the respective agency. What I would acknowledge is that we do not do necessarily do a follow-up audit of the recommendations that we make, but there is a process through the PAC that seeks a follow-up response to the recommendations that have been made.

The Hon. DANIEL MOOKHEY: I have read a number of your performance audits and often in your appendixes you include those wonderful flowcharts that actually explain what assurance frameworks are—they are excellent, thank you for doing that—but do you have a view that that is a robust framework? Is Infrastructure NSW, not just specific to the NorthConnex audit or the WestConnex audit but in general, reflective of high standards, low standards? How should we be interpreting the power of that as an assurance framework to ensure value for money?

Mr GOODWIN: It is difficult to answer the specifics of the question without having conducted an audit.

Ms MIGOTTO: Though generally speaking we would consider how effectively the framework was applied, as opposed to considering the effectiveness of the framework.

The CHAIR: Thank you both for the frankness and considered responses in your testimony today. Some questions on notice were taken and there could be others to follow. You have 21 days in which to provide those answers but the secretariat will liaise with you about that.

(The witnesses withdrew)

The Committee adjourned at 17:00