



The Hon. Melinda Pavey MP
Minister for Roads, Maritime and Freight

Mr David Blunt
Clerk of the Parliaments and Clerk of the Legislative Council
Parliament House
Macquarie St
Sydney NSW 2000

Dear Mr Blunt

I write regarding the Portfolio Committee No. 2 – Health and Community Services' inquiry into tolling regimes for roads in New South Wales.

The Committee tabled its report on 20 October 2018.

I thank the Committee, on behalf of the Government, for its detailed examination of Road Tolling, and the endorsement of Government's principles, policy and strategy.

The report and specific recommendations of the Committee are addressed in detail in the enclosed NSW Government Response.

Yours sincerely,

The Hon. Melinda Pavey MP
Minister for Roads, Maritime and Freight

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Transport
for NSW

NSW Government Response

Inquiry into Road Tolling in NSW

Contents

Introduction.....	3
Recommendation 1	4
Recommendation 2	5
Recommendation 3	6
Recommendation 4	7
Recommendation 5	8
Recommendation 6	8
Recommendation 7	10
Recommendation 8	11
Recommendation 9	12
Recommendation 10	13

Introduction

The NSW Government is delivering the largest infrastructure package in NSW history. This once in multi-generation investment is driving growth across the state and will deliver a better connected transport and roads system, making it easier to move people and goods and services around our cities and regions. We are well advanced in delivering the plan – providing new public transport modes, services and interchanges, building better and smarter roads, and finally completing the missing links in our comprehensive motorway network. Tolls help pay for the road infrastructure delivered. Without them, the roads Sydney needs would not be built. Road users report that where there is an explicit user benefit like faster travel times or reduced congestion, they are prepared to pay a toll.

The 'user-pays' principle ensures those who benefit from the motorway contribute a significant portion of the cost of building and maintaining the motorway network. The NSW Government welcomes the Committee's endorsement of the principle of 'user pays'. This endorsement includes instances where the user of one toll road is subsidising the cost of another toll road, provided the latter is improving the driving experience on the former (Inquiry Report 2.85), which is consistent with Government's Tolling Principles.

The NSW Government also welcomes the Committee's endorsement of "the use of private sector arrangements for the construction and operation of major arterial roads, where appropriate, and the tolling arrangements that are required to finance them" (Inquiry Report 1.141). This is consistent with Government's current policy for motorway network development.

In its concluding comments (Inquiry Report 5.31), the Committee also notes the importance of building Motorway networks while maintaining the State's fiscal integrity, also consistent with current Government policy.

Charging tolls enables the motorway network to be built faster. In addition to the travel time savings for motorists, communities benefit from reduced congestion, while lower up-front Government contributions enable the Government to invest earlier on wider infrastructure needs. Industry also benefits from reduced travel times and lower operating costs which boost productivity, leading to higher rates of economic growth.

NSW Government thanks the committee for its detailed examination of Road Tolling, and the endorsement of Government's principles, policy and strategy. The specific recommendations of the Committee are addressed in detail in the following section.

Recommendation 1

That the NSW Government publish a contract summary of the WestConnex – M4 Widening Project Deeds on the WestConnex website.

NSW Government response

Supported

The NSW Government has complied with all relevant disclosure requirements for the WestConnex project.

M4 Widening and the new M4 tunnel are both parts of the New M4 Project. There is consequently a single Project Deed. In accordance with the Government Information (Public Access) Act 2009 (GIPA Act), a copy of the WestConnex M4 Amended and Restated Project Deed is published on the Roads and Maritime (RMS) website. (RMS is the agency contracting for the delivery of the WestConnex motorway on behalf of Government.)

Recommendation 2

That the NSW Government publish the expected internal rate of return for future individual privately operated toll roads, at suitable intervals.

NSW Government response

Noted

As noted in the inquiry report itself (2.59), Base Case Financial models, including internal rate of return, are Commercial in Confidence. Publishing this information could prejudice future negotiations between Government and private toll road operators by providing the market with commercially sensitive information. This would risk the fiscal integrity of the State budget and Government's strategy for building the infrastructure the community needs.

Recommendation 3

That the NSW Government:

- ***Mandate the disclosure of strategic business cases, appropriately redacted of commercial in confidence information, for major infrastructure projects such as toll roads,***
- ***Publish the base case financial models for the NorthConnex and WestConnex projects, and future projects, 18 months after either: (a) the commencement of construction on a project, or (b) after the opening of the first stage of a project, whichever comes first,***
- ***Mandate the disclosure of cost benefit analysis at the same time as the base case financial model is published, and***
- ***Mandate the disclosure of traffic forecast modelling and any reviews of this traffic forecast modelling, appropriately redacted of commercial in confidence information, for major infrastructure projects such as toll roads, at the same time as the base case financial model is published.***

NSW Government Response

Noted

RMS has complied with Government requirements relating to the disclosure of information, including the disclosure of the business case, redacted of commercial in confidence information. For example, the following business case materials have been published in relation to WestConnex:

- WestConnex Business Case Executive Summary in 2013
- WestConnex Updated Strategic Business Case in 2015.

In addition, a significant amount of related information has been published in the Environmental Impact Statements for the projects. These documents contain economic analysis outputs including benefit cost ratios as well as forecast traffic volumes. As explained in the response to Recommendation 2, Base Case Financial models are Commercial in Confidence and therefore have been redacted as recommended by the Committee.

Recommendation 4

That the NSW Government ensure that the Consumer Price Index be considered as the default position of the road toll escalation rate for future concession agreements.

NSW Government Response

Noted

The Consumer Price Index ('CPI') is one of the escalation rate options for toll roads.

Escalation provisions in recent contracts entered into by the Government revert to CPI after a designated period of time, in accordance with long-standing practice in NSW.

The NSW Government's tolling principles require that increases in expenses, income and the cost of comparable toll roads be taken into account in developing an appropriate escalation rate for future concession agreements.

Escalation provisions need to be balanced against the initial toll that is set and the amount of taxpayer funded contribution required to meet financing requirements for the motorway. These decisions must be weighed carefully to ensure taxpayers obtain value for money, the fiscal integrity of the State budget is maintained and all infrastructure the community needs can be delivered.

Consequently, while CPI will continue to be considered as an escalation option, it is not appropriate to adopt it as a default setting. Rather, the Government of the day needs to be able to weigh the escalation rate decision against the initial toll rate that motorist will pay, the amount of taxpayer funding that will be provided and broader consideration of all State objectives.

Recommendations 5 and 6

Recommendation 5

That the NSW Government ensure that the same level of transparency and accountability as required by a public sector agency be applied to the Sydney Motorway Corporation and any future infrastructure delivery entity.

Recommendation 6

That the NSW Government:

- ***annually publish remuneration for the senior executives of Sydney Motorway Corporation***
- ***issue directions to the Sydney Motorway Corporation so that it complies with the Government Information (Public Access) laws.***

NSW Government Response

Noted

There are already extensive reporting and transparency requirements relating to Sydney Motorway Corporation, with which the Government fully complies.

SMC is subject to the following Acts of both State and Federal parliament that play a role in assuring transparency and accountability:

Independent Commission Against Corruption Act 1988

Ombudsman Act 1974

Public Finance and Audit Act 1983

Privacy and Personal Information Protection Act 1998

Health Records and Information Privacy Act 2002

Government Advertising Act 2011

State Records Act 1998

Public Authorities (Financial Arrangements) Act.

SMC also complies with the reporting requirements for NSW Government businesses as set out in the Reporting and Monitoring Policy for Government Businesses (TPP05-2), which forms part of Treasury's Commercial Policy Framework.

Sydney Motorway Corporation Pty Ltd. is a private company, limited by shares and established by the NSW Government in August 2014 under the Corporations Act 2001, on behalf of the State to deliver WestConnex. Sydney Motorway Corporation and its subsidiaries are corporations registered under the Corporations Act 2001 and comply with all reporting regulations under ASIC legislation. Sydney Motorway Corporation and its subsidiaries operate

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on a fully commercial basis. This is to ensure Sydney Motorway Corporation and its subsidiaries are able to seek private sector finance on a “non-recourse” basis and without the borrowings being guaranteed by the State. This helps to reduce risk to taxpayers and ensures the best value for money.

NSW Government is now in the process of conducting a competitive process to sell a majority of the shareholding in SMC to private sector interests. The transaction is expected to be finalised by mid-2018. Whilst the successful bidder will be the majority shareholder, NSW Government interests will continue to be subject to the same level of transparency.

Recommendation 7

That the NSW Government, prior to signing any future road tolling concession agreement, establish an independent entity that can publish an informed statement on whether any proposed road tolling agreement safeguards the public interest.

NSW Government Response

Noted

The Committee was unable to identify or define a unique role that is different to other expert bodies already providing advice to Government. Introducing a new form of regulatory control could result in changes to the risk profile for private finance, which in turn could reduce the viability or increase the cost of building toll roads in the future. This proposed measure would put at risk the fiscal integrity of the State budget and Government's strategy for building the infrastructure the community needs.

The Government already has well established principles and practices for setting tolls that protect the public interest based on objective evidence, expert analysis and advice from RMS, TfNSW and Treasury. Additionally, Infrastructure NSW undertake rigorous independent assurance of business cases to ensure they deliver value for money.

Recommendation 8

That the NSW Government investigates the costs and benefits of implementing a capped toll across all of Sydney's road network, and publish this information so that the community can have an informed debate.

NSW Government Response

Noted

Moving to a capped network-wide tolling arrangement would require a lengthy and complex renegotiation of all concession agreements, with the Government assuming the risks involved and taxpayers bearing increased costs.

The NSW Government has made it a priority address cost of living pressures for motorists by introducing Toll Relief for owners of all standard privately registered cars, utes, 4 wheel-drives and motorcycles who spend \$25 a week, on average, over a 12 month period on tolls. The eligibility period is to be backdated to include toll amounts paid since 1 July 2017. It will include spend on existing toll roads or any new toll roads.

NSW Government has also put downward pressure on costs for motorists with the CTP Green Slips reforms, which will make third party insurance more affordable; and with the introduction of the FuelCheck app that enables motorists to purchase cheaper fuel.

Recommendation 9

That the NSW Government identify and publish the evidence supporting its decision to toll heavy vehicles three times that of light vehicles.

NSW Government Response

Noted

Heavy vehicle (Class B vehicles) toll multipliers of 2x to 3x have been used on NSW toll roads since 1992. As the Committee notes, it received evidence of the fact that heavy vehicle owners derive greater benefits from use of toll roads (Inquiry Report 4.30).

As heavy vehicles are generally commercially owned and operated, businesses claim the cost of tolls as a tax deduction. This tax benefit means the effective vehicle multiplier is less than 3x. For example, for a profitable small business subject to a corporate tax rate of 27.5%, the effective heavy vehicle toll multiplier is 2.18x.

Building roads to accommodate heavy usage increases the upfront cost and results in higher on-going maintenance cost. Heavy vehicles also occupy more road space than cars.

Recommendation 10

That the NSW Government ensure that new or renegotiated road tolling concession agreements enhance the ability of future governments to manage the wider road network.

NSW Government Response

Supported

The Government's Tolling Principles enhance the ability of future governments to manage the wider road network. For example, the Principles state:

- Tolls will be applied consistently across different motorways, to the extent practicable, taking into account existing concessions and tolls.
- Untolled alternative arterial roads remain available for customers.

Over the long term, road planning issues will be considered as part of Future Transport 2056.