



LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEE NO. 6

Road Tolling Regimes

Report 16

August 2022

6



Portfolio Committee No. 6 - Transport

Road tolling regimes

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Report no. 16.**

Road tolling regimes.

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Chair: Ms Abigail Boyd MLC.



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Terms of reference

1. That Portfolio Committee No. 6 - Transport and Customer Service inquire into and report on matters relating to tolling regimes for roads in New South Wales including:
 - (a) an updated review of the tolling regimes in place on different roads and an explanation for the differences between each,
 - (b) the total cost paid by drivers in tolls for the WestConnex toll road over the life of its contract, and across New South Wales to 2060, and the extent to which this represents value for money,¹
 - (c) the impact, and the geographical distribution of the impact, of toll costs on NSW drivers and on productivity,
 - (d) the extent of toll relief provided in NSW and whether it is adequate,
 - (e) opportunities to increase transparency for the public, particularly over how tolling contracts are negotiated and varied, and the extent to which tolls are paid,
 - (f) the rationale for allowing higher than CPI increases on certain tolls, and for the truck toll being set at three times the toll for car traffic,
 - (g) the ability or otherwise of trucking businesses to afford increases in tolling charges and the extent or otherwise of their ability to pass this through,
 - (h) opportunities to increase the assurance to the public that tolling arrangements represent the fairest possible outcome, including the appropriateness of involving an independent agency such as Independent Pricing and Regulatory Tribunal (IPART) in the determination of tolls and their escalation,
 - (i) the long term impact on government finances as a result of toll roads being wholly or partly operated by non-government entities,
 - (j) consideration of the impact of direct or debt financing of road projects, including what would have been the impact on regional road projects of the direct financing of WestConnex, and
 - (k) any other related matter.

The terms of reference were self-referred by the committee on 31 March 2021.²

¹ On 10 December 2021, the committee resolved to amend paragraph 1(b) by inserting 'and across New South Wales to 2060'.

² *Minutes*, NSW Legislative Council, 24 March 2021, p 2096.

Committee details

Committee members

Ms Abigail Boyd MLC	The Greens	<i>Chair</i>
The Hon Mark Banasiak MLC*	Shooters, Fishers and Farmers Party	<i>Deputy Chair</i>
The Hon Wes Fang MLC**	The Nationals	
The Hon John Graham MLC	Australian Labor Party	
The Hon Shayne Mallard MLC***	Liberal Party	
The Hon Daniel Mookhey MLC	Australian Labor Party	
The Hon Chris Rath****	Liberal Party	

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- * The Hon Mark Banasiak MLC was an apology from 1 March 2022 for the duration of the inquiry.
- ** The Hon Wes Fang MLC replaced the Hon Lou Amato MLC as a substantive member of the committee from 1 March 2022. The Hon Lou Amato MLC replaced the Hon Sam Farrow MLC as a substantive member of the committee from 25 January 2022 to 1 March 2022.
- *** The Hon Shayne Mallard MLC replaced the Hon Scott Farlow MLC as a substantive member of the committee from 29 March 2022
- **** The Hon Chris Rath MLC replaced the Hon Don Harwin MLC as a substantive member of the committee from 29 March 2022. The Hon Don Harwin MLC was a substantive member of the committee to 22 March 2022. The Hon Don Harwin MLC replaced the Hon Shayne Mallard MLC as a substantive member of the committee from 25 January 2022.

Committee Secretariat

Mr Anthony Hanna, Principal Council Officer

Ms Rachel Buist, Council Officer

Ms Madeleine Foley, Director

Chair's foreword

In a Westminster system, parliamentary committees serve as an important check and balance on Executive government. Often, the objects of scrutiny are areas of public administration, expenditure or government-funded programs that the government would rather not be the target of attention. It is in these poorly lit crevices that parliamentary committees can do their best work. Committees do this not for their own sake – taking a critical lens for no other reason than being critical of those in power – but because the public has a right to know that decisions are being made in their best interests, and to hold the Executive government to account.

The State's road tolling regime is ripe for this kind of public interest scrutiny. The concentration of ownership of our toll roads in one private operator, along with the lack of transparency around government-led processes, make this particular area of infrastructure delivery a worthy subject for examination by an Upper House committee. The residents and motorists of New South Wales ought to know much more about the intricacies of the deals that are struck between the NSW Government and the private sector. They should have far greater visibility into investment decisions for new roads, and the sale of concessions on existing ones. They ought to have much more understanding of how toll prices are set and how much the public is liable to pay in total over the life of a concession deed. Perhaps most importantly, they should be able to make an informed assessment of whether these deals are in the public interest and deliver a fair price to road users.

In 2017, a previous Upper House inquiry into the State's toll roads lamented the same lack of transparency and called for the release of a range of information relevant to investment decisions in toll roads and the sale of tolling concessions. It is unfortunate that so little has changed in the intervening years.

It is undeniable that Sydney's motorists are suffering from the ever-increasing toll burden. Submissions from residents of western, southwestern and northwestern Sydney made for particularly concerning reading. They document the high price – monetary and non-monetary – that communities are paying for the NSW Government's penchant for privatising our roads. The inquiry coincided with the highest quarterly inflation figures in 22 years. Paying exorbitant tolls just to complete a day's work, access medical care or attend study, is an unreasonable impost on household budgets that are already stretched by mounting cost of living pressures. To suggest otherwise would be out of touch with the realities of everyday working people. If the government is serious about addressing cost of living pressures, it must address the financial impact of tolls.

The current tolling regime is a patchwork of disparate and inconsistent pricing schemes for individual roads, an artefact of the way Sydney's motorway network has been developed over time. Drivers using different parts of the network are charged different amounts for similar journey benefits. As it stands, the system is unfair and inequitable. Meaningful and lasting reform is long overdue. To that end, the committee has recommended that, in moving to a network pricing model, the NSW Government consider the introduction of toll caps, review the application of toll escalation rates and review the current toll relief and cashback schemes, among other significant reforms. Any future reform of tolling arrangements – including the government's Toll Road Pricing and Relief Reform Review announced during this inquiry – must include consultation with affected stakeholders in government, industry and the community.

Equally pressing is the need for enhanced consumer protections. The inquiry brought to light certain industry practices that are highly problematic and point to the need for stronger protections for toll road

users. One such practice is the application of administration fees for travel on toll roads without a valid payment arrangement in place. Understanding exactly how the back-office processing work and other expenses amounted to an administration fee of ten dollars *precisely* – and then a further ten dollars for a subsequent toll notice – exercised a significant proportion of the committee's deliberations. The justifications for these fees failed to make a convincing case as to how the costs incurred by Transurban and/or Transport for NSW equate to the exact quantum that are applied. We therefore urge the NSW Government to reduce administration fees to \$1.10 for the first notice and \$2.20 for the second notice, and ensure Transurban implements these reduced fees.

This would go some way to preventing the stifling toll debts the committee heard about in evidence from consumer and legal advocacy organisations. That some of the most vulnerable members of our community incur toll debts of up to \$30,000, the majority of which are administration fees, is a stark sign that the system is not working for individuals experiencing hardship or distress. Urgent industry-wide action is needed to bring all toll road operators into line with the measures other industries have adopted to assist vulnerable customers.

Many of the reforms foreshadowed in this report will be complex for the government to implement as it is locked into contractual arrangements with the private sector for many years to come. The policy dialogue on private infrastructure financing that was given a platform through this inquiry extolled the benefits of public private partnerships but was silent on how they limit the government's flexibility and control over toll road pricing. Alternative models of road infrastructure financing and delivery, such as the model being used for the publicly-financed M6 Stage One, afford governments far greater flexibility and control over tolling. It is unfortunate that such models are not used more frequently.

Finally, I wish to thank my committee colleagues for their thoughtful contributions to the inquiry. I also acknowledge the individuals and organisations that took the time to share their views and observations on different aspects of the tolling regime. This thought-provoking evidence brought valuable perspectives to bear on the key issues at hand. And to everyone who worked away behind the scenes to make this inquiry possible, the committee is thankful.

I commend this report to the House.



Ms Abigail Boyd MLC
Committee Chair

Findings

- Finding 1** **98**
That New South Wales drivers now undertake more than one million toll trips a day, raising more than \$2 billion in total revenue every year.
- Finding 2** **98**
That the NSW Government has failed to provide information to this inquiry about the total toll burden that drivers will be forced to pay under existing toll contracts despite estimates that it is more than \$100 billion in today's dollars.
- Finding 3** **98**
That the decision by NSW Treasury to withhold from public release contract details and traffic relating to WestConnex until 2060, and possibly longer, is an abuse of executive power.

Recommendations

- Recommendation 1** **39**
 That the NSW Government as part of its Toll Road Pricing and Relief Reform Review commit to:
- genuine and meaningful reform of road tolling
 - consulting with affected stakeholders in government, industry and the community
 - no new tolls or new or revised toll road contracts being issued prior to consideration of such reform, in order to not further limit the government's flexibility and control over toll road pricing.
- Recommendation 2** **75**
 That the NSW Government move to realign toll pricing in corridors where trucks are on suburban streets to ensure trucks can feasibly use toll roads where possible, including the option of the extension of current toll relief schemes to the road freight industry.
- Recommendation 3** **75**
 That the NSW Government immediately release the traffic network performance review for the M8 and M5 toll roads, given its release was promised one year ago.
- Recommendation 4** **75**
 That the NSW Government implement a scheme to ensure that buses are not required to pay tolls when carrying passengers.
- Recommendation 5** **99**
 That the NSW Government implement Recommendation 3, relating to transparency for tolling contracts, of the 2017 Upper House inquiry into road tolling in New South Wales without further delay.
- Recommendation 6** **99**
 That, when a network approach to toll road pricing is considered by the review, the NSW Government should:
- consider the introduction of toll caps and appropriate flag falls, rather than just distance based tolling
 - review the application of toll escalation rates which often include both a minimum four per cent toll increase or inflation, whichever is higher, rather than take account of real wages growth
 - review toll relief and cashback schemes to ensure that toll relief is going to the people who most need it based on their ability to pay as well as the existence of public transport alternatives.
- Recommendation 7** **121**
 That the NSW Government considers concerns raised by the Australian Competition and Consumer Commission throughout this inquiry and adopts the Commission's recommendations:
- to compel toll road operators to publicly release traffic data

- for governments to allow sufficient time in their tendering processes for bidders other than Transurban to model traffic forecasts and other relevant commercial considerations.

Recommendation 8**121**

That, as a priority, the NSW Government:

- reduce administration fees for trips on toll roads without a payment arrangement in place to \$1.10 for the first notice and \$2.20 for a second notice
- ensures Transurban implements the reduced administration fees
- make it compulsory for all toll road operators to move to aggregated/consolidated toll notices, as has occurred in Queensland.

Recommendation 9**121**

That the NSW Government mandate the adoption of an industry-wide Code of Practice for all toll road operators which includes a framework for managing debt for vulnerable customers, consistent with the codes and guidelines used in other sectors.

Recommendation 10**121**

That the NSW Government establish an independent Tolling Customer Ombudsman with a legislative basis similar to, for example, the Energy and Water Ombudsman NSW, and that:

- the ombudsman has the power to resolve disputes against all toll road operators
- all private toll road operators be required to contribute funding to enable the delivery of a full-time, professional service
- the ombudsman has the power to enforce the Codes of Practice foreshadowed at Recommendation 9, including a framework for responding to debt incurred by consumers struggling with financial hardship, mental illness, and domestic and family violence.

Conduct of inquiry

The terms of reference for the inquiry were self-referred by the committee on 31 March 2021.

The committee received 233 submissions and two supplementary submissions, and conducted an online questionnaire completed by 503 respondents.

The committee held six public hearings: four via videoconference, one at Parliament House in Sydney and one at Bexley Manor Hall in Bexley.

The committee also conducted a site visit to Bexley.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.

Chapter 1 Road financing and strategic directions

This chapter outlines the financing options available to fund the delivery of road infrastructure projects in New South Wales, noting the increasing reliance on private financing for public road infrastructure. This is followed by a discussion of stakeholder perspectives on the merits or otherwise of private financing and the user pays model.

The chapter then turns to an overview of the NSW Government's strategic directions for transport with particular attention to the role of new and existing tolled motorways in the envisaged mix of transport infrastructure. This section includes an overview of several significant motorway projects in the infrastructure pipeline, as well as introducing the NSW Government's principles that guide tolling decisions on Sydney's motorway network.

Road infrastructure financing

- 1.1 Evidence before the committee explained the financing and funding options for road infrastructure projects, such as direct financing and 'user pays' debt financing, private funding through public private partnerships, and unsolicited proposals.
- 1.2 In thinking about the delivery of public infrastructure, there is an important distinction between funding and financing. Whereas all new public infrastructure is ultimately *funded* through either taxation or user charges, *financing* refers to the immediate cash needed for the construction of a piece of public infrastructure.³

Direct financing and 'user pays' debt financing

- 1.3 There are two principal means of financing for road infrastructure: namely, direct financing and debt financing.
- 1.4 According to the Commonwealth Parliamentary Budget Office, *direct financing* is a common way for governments to pay for policies which involves money being transferred from the government to individuals or other entities – for example, a capped government grant for an infrastructure project.⁴
- 1.5 Transport for NSW said that direct financing involves funding projects from the NSW Government budget 'without charging users or generating revenue from the assets'. Accordingly, using direct financing, the cost of delivering major road infrastructure would be borne by the New South Wales public as a whole.⁵
- 1.6 The original M5 East, opening to traffic in 2001, is an example of a motorway that was publicly funded through direct financing and was not originally tolled.⁶

³ Infrastructure NSW, *First things first: The state infrastructure strategy 2012-2032*, NSW Government, October 2012, p 198.

⁴ Parliamentary Budget Office, *Alternative financing of government policies: Understanding the fiscal costs and risks of loans, equity injections and guarantees*, Report No. 01/2020, Parliament of Australia, 2020, p 2.

⁵ Submission 146, Transport for NSW, pp 23 and 24.

⁶ Submission 34, NRMA, p 1.

- 1.7 It is common for certain types of public infrastructure in New South Wales – new hospitals and new schools, for example – to be financed in this way through an appropriation of general taxation revenue from the consolidated fund.
- 1.8 There are a number of other ways for governments to finance policies that do not involve direct financing.⁷ At the state level, it is possible for the NSW Government or its private delivery partner to take on debt to finance the delivery of new infrastructure, and that debt is recovered over an extended period of time by charging users for access to or use of the asset (for example, levying a toll).⁸ Integral to these debt financing arrangements is the principle of user pays: in its simplest form, a user pays for the right to use an asset and in return receives benefit from the asset.⁹
- 1.9 Adopting a user pays model to finance the design and construction of new road infrastructure is not a new phenomenon. The State's first toll bridge over South Creek in Windsor dates back to 1802, effectively heralding the advent of private sector investment in Sydney's roads.¹⁰ The State's first toll road followed in 1810-11 when a private individual was contracted to build a road connecting George Street, Sydney, with the bridge at Windsor (a very early Parramatta Road).¹¹

Public-private partnerships

- 1.10 Private funding, in particular through Public-Private Partnerships, has been widely used by successive State governments to finance and deliver major road projects. NSW Treasury defines Public-Private Partnerships as:
- ... long-term arrangements between the public and private sector for the delivery of service enabling public infrastructure. They include Social Infrastructure PPPs (e.g., availability payment PPPs in health, education, transport and roads), Economic Infrastructure PPPs (e.g. user fee PPPs in roads and water), joint financing arrangements and concession agreements.¹²
- 1.11 Historically in New South Wales, Public-Private Partnerships for the procurement of road infrastructure have taken various forms. These include the conventional build-own-operate-transfer model and the design-construct-own-operate model. The WestConnex model, where

⁷ Parliamentary Budget Office, *Alternative financing of government policies: Understanding the fiscal costs and risks of loans, equity injections and guarantees*, Report No. 01/2020, Parliament of Australia, 2020, p 2. Importantly, this report notes that Public-Private Partnerships can be considered a form of alternative financing of government policy, but such arrangements are most commonly used by State governments.

⁸ Submission 146, Transport for NSW, p 23.

⁹ Submission 146, Transport for NSW, p 23.

¹⁰ Submission 40, Infrastructure Partnerships Australia, Attachment B, *Urban transport challenge: Driving reform on Sydney's roads*, p 3.

¹¹ Submission 206, Business NSW, p 1; Submission 40, Infrastructure Partnerships Australia, Attachment B, *Urban transport challenge: Driving reform on Sydney's roads*, p 3.

¹² NSW Treasury, *NSW public private partnership guidelines: Preparation, procurement and contract management*, 2017, p 1.

the NSW Government sold a majority stake in the project to fund further development, is a more recent innovation in this type of private financing arrangement.¹³

- 1.12** The build-own-operate-transfer model involves a government entity granting a concession to a concessionaire to build, finance, operate and maintain a motorway for a set term or period of time before handing the motorway back to the government entity in the required condition. In return for these services, the concessionaire may collect tolls on a contractually agreed basis.¹⁴
- 1.13** The use of private financing for public infrastructure is a growing trend for governments in Australia and internationally. Citing much earlier debate in the Australian Senate about the F4 Freeway, the New South Wales Chapter of the Australasian College of Road Safety highlighted the increasing reliance by governments within Australia and internationally on private financing and user-pays models to bring forward major infrastructure projects within constrained budgetary environments. This evidence referred to a 'growing trend around the world' which has benefited citizens by delivering increased and improved infrastructure much sooner than would have otherwise been possible.¹⁵

Government owned and operated toll roads

- 1.14** Despite this growing reliance, the financing, design, construction and operation of a new toll road does not always have to involve financing and ownership by a private delivery partner. As outlined above in relation to direct financing, it is possible for governments to finance the construction of a new road, either out of general revenue or by taking on debt, and then levy a toll on road users to pay back that debt. The upcoming M6: Stage One, detailed below, is an example of a new toll road that is being funded from NSW Treasury out of consolidated revenue – that is, without private financing. When it opens to traffic, all toll revenue will flow to Transport for NSW.¹⁶ The Sydney Harbour Bridge is another example of a government owned and operated toll road, with all toll revenue flowing back to the NSW Government. As noted above, there are precedents for new roads to be built out of general revenue and not tolled, such as the original M5 East.

Unsolicited proposals

- 1.15** Unsolicited Proposals are another pathway for governments to partner with the private sector to deliver infrastructure projects. They are proposals wholly initiated by the non-government sector rather than in response to a government-initiated procurement process.¹⁷ By definition, an Unsolicited Proposal is:

...an approach to Government from a proponent with a proposal to deal directly with the Government over a commercial proposition, where the Government has not requested the proposal. This may include proposals to build and/or finance

¹³ Submission 33, Transurban-WestConnex, p 16.

¹⁴ NSW Treasury, *WestConnex: Project Summary*, NSW Government, 2019, p 18.

¹⁵ Submission 19, Australasian College of Road Safety – NSW Chapter, p 3.

¹⁶ Evidence, Ms Camilla Drover, Deputy Secretary, Infrastructure and Place, Transport for NSW, 14 February 2022, p 36.

¹⁷ NSW Government, *Unsolicited proposals: Guide for submission and assessment*, 2017, p 2.

infrastructure, provide goods or services, or undertake a major commercial transaction.¹⁸

- 1.16** By their nature, Unsolicited Proposals bring forward ideas that are often not the current focus of the NSW Government's strategic priorities.¹⁹ According to the NSW Government, unsolicited proposals 'provide opportunities for the NSW Government and the non-government sector to work together to develop and deliver innovative ideas, places, services and infrastructure'.²⁰ The NorthConnex motorway was delivered through the unsolicited proposals process.
- 1.17** In 2012, the NSW Government adopted a set of guidelines entitled *Unsolicited proposals: Guide for submission and assessment*. These guidelines set out a framework and process for assessing unsolicited proposals based on their 'uniqueness, value for money and strategic fit with Government objectives'.²¹

Stakeholder perspectives on Public-Private Partnerships and the user-pays model

- 1.18** According to Transurban, successive NSW Governments have partnered with the private sector to deliver around \$25 billion worth of road infrastructure over the past 30 years to improve the movement of passengers and freight around Sydney.²²
- 1.19** Key road projects, and the governments that commissioned them, are shown in Table 1. This table details developments at a 'key project' or corridor level. What it does not reveal are the various extensions, widening projects and other upgrades to existing motorway corridors that have been undertaken in partnership with Transurban over the past ten years. As detailed in Chapter 2 in the committee's overview of Sydney's toll roads, these upgrades have often resulted in the introduction of new tolls on existing road corridors and/or the extension of concession terms to cross-finance other projects. Such upgrades include the redevelopment of the M4 east of Church Street, the duplication of the M5 East and concession extensions to cross-finance NorthConnex.
- 1.20** According to an Infrastructure NSW publication cited in evidence by Transurban, divestment and outsourcing of government service delivery are increasingly prominent features of modern government. Together, they were credited with the potential to lower costs and promote greater innovation.²³
- 1.21** Infrastructure Partnerships Australia went even further in characterising New South Wales as a world leader in the use of Public-Private Partnerships in recent times, the success of which they attributed to bipartisan support for these arrangements. In particular, Infrastructure Partnerships Australia wrote:

¹⁸ NSW Government, *Unsolicited proposals: Guide for submission and assessment*, 2017, p 2.

¹⁹ NSW Government, *Unsolicited proposals: Guide for submission and assessment*, 2017, p 5.

²⁰ NSW Government, *Unsolicited proposals: Work collaboratively with the NSW government*, <https://www.nsw.gov.au/unsolicited-proposals>.

²¹ NSW Government, *Unsolicited proposals: Guide for submission and assessment*, 2017, p 1.

²² Submission 33, Transurban-WestConnex, p 4.

²³ Infrastructure NSW, *First things first: The state infrastructure strategy 2012-2032*, NSW Government, October 2012, p 23, cited in Submission 33, Transurban-WestConnex, p 17.

Throughout the past two decades, New South Wales has led the world in the use of [Public-Private Partnerships] to deliver motorway projects. Central to this success has been bipartisan support for innovative private financing funded by ‘user-pays’ models. The ability to harness private investment in public infrastructure has allowed complex motorway projects to be delivered decades ahead of the limited capacity of the New South Wales Government balance sheet.²⁴

Table 1 Development of Sydney's toll roads by year & commissioning government²⁵

Project	Commissioning Government	Opened
Sydney Harbour Tunnel	Unsworth Labor (1987)	Greiner Liberal National (1992)
M5 South West	Greiner Liberal National (1991)	Greiner Liberal National (1992)
M2	Fahey Liberal National (1994)	Carr Labor (1997)
Eastern Distributor	Carr Labor (1997)	Carr Labor (1999)
Cross City Tunnel	Carr Labor (2002)	Iemma Labor (2005)
Westlink M7	Carr Labor (2003)	Iemma Labor (2005)
Lane Cove Tunnel	Carr Labor (2003)	Iemma Labor (2007)
NorthConnex	Baird Liberal National (2015)	Berejiklian Liberal National (2020)
WestConnex: Stage One	O'Farrell/Baird Liberal National (2013)	
M4 Widening	O'Farrell Liberal National ²⁶	Berejiklian Liberal National (July 2017)
New M4 Tunnels	O'Farrell Liberal National ²⁷	Berejiklian Liberal National (July 2019)
WestConnex: Stage Two		
Beverly Hills Interchange Upgrade	Baird Liberal National ²⁸	Berejiklian Liberal National (June 2020)
New M5/M8 Tunnels	Baird Liberal National ²⁹	Berejiklian Liberal National (June 2020)

²⁴ Submission 40, Infrastructure Partnerships Australia, Attachment A, *Submission to the NSW inquiry into road access pricing*, p 7.

²⁵ This table is an amalgam of information sourced from: Submission 33, Transurban-WestConnex, p 16; NSW Treasury, *WestConnex: Project Summary*, NSW Government, 2019, pp 11 and 15; WestConnex Delivery Authority, *WestConnex Updated Strategic Business Case* (2015), p 60.

²⁶ WestConnex Delivery Authority, *WestConnex Updated Strategic Business Case* (2015), p 60. Business Case approved in August 2013.

²⁷ WestConnex Delivery Authority, *WestConnex Updated Strategic Business Case* (2015), p 60. Business Case approved in August 2013.

²⁸ WestConnex Delivery Authority, *WestConnex Updated Strategic Business Case* (2015), p 60. Delivery Report approved in August 2014.

²⁹ WestConnex Delivery Authority, *WestConnex Updated Strategic Business Case* (2015), p 60. Delivery Report approved in August 2014.

WestConnex: Stage Three

M4-M5 Link Tunnels
including Rozelle Interchange
Baird Liberal National³⁰Under construction: Yet to
open to traffic

- 1.22** Several other inquiry participants offered their views on the relative merits of Public-Private Partnerships and the user-pays model, especially as they relate to the development of Sydney's motorway network. Among advocates of private participation in public infrastructure delivery, the overwhelming view was that private financing has significantly benefited users of the State's roads by enabling the NSW Government to bring forward the construction of new motorways much sooner than would have been possible through direct/public financing from taxation revenue.³¹
- 1.23** A chief exponent of this view was Transport for NSW. Referring to the NSW Government's user-pays toll road program, Transport for NSW considered this a 'crucial element' in the State's broader infrastructure agenda, and one that has accelerated the construction of much-needed road infrastructure while maintaining the State's fiscal integrity:
- The Government's 'user pays' toll road program is a crucial element of this infrastructure program, as it enables the State to bring forward the creation of an extensive and much-needed motorway network, while maintaining its fiscal integrity. As a result, motorists experience the benefits of faster and safer journeys years or even decades sooner than would be possible if the State was to publicly-fund new motorways.³²
- 1.24** Roads Australia was equally emphatic about the public benefit derived from private financing arrangements for road infrastructure. The Chief Executive Officer explained to the committee the challenges public infrastructure programs face within a fiscal environment in which different interests compete for funding:
- We understand that government is fundamentally about prioritising and allocating resources for which there are competing interests. That is certainly true when it comes to the development of transport infrastructure. Governments have to consider which projects need to be supported and how they can be funded or financed within prevailing financial circumstances. Fundamentally, engaging the private sector in the development and operation of transport infrastructure allows more of that infrastructure to be provided to the community. Moreover, it generally enables it to be provided more rapidly than would be the case if the infrastructure was fully funded by taxpayers, given competing demands for finite taxpayer resources.³³
- 1.25** For Roads Australia, partnerships with the private sector are an important enabler of 'more rapid delivery of higher quality, more efficient, safer and more sustainable transport infrastructure across many Australian cities, not just Sydney'.³⁴

³⁰ WestConnex Delivery Authority, *WestConnex Updated Strategic Business Case* (2015), p 60. Delivery Report approved in October 2015.

³¹ See for example: Submission 33, Transurban-WestConnex, p 15; Submission 39, Roads Australia, p 2.

³² Submission 146, Transport for NSW, p 3.

³³ Evidence, Mr Michael Kilgariff, Chief Executive Officer, Roads Australia, 28 September 2021, p 2.

³⁴ Evidence, Mr Kilgariff, 28 September 2021, p 2.

- 1.26** Infrastructure Partnerships Australia lent weight to this perspective, arguing that tolling has been a critical source of road infrastructure funding in Australian cities over recent decades, without which many of the nation's significant road corridors would not have been delivered or would have been significantly delayed:

Tolling has been an important source of road funding in Australia's major cities over recent decades. From the 1980s until the later 2000s, effectively all road tolling concessions were granted through competed PPP-type arrangements. This facility based tolling approach created the forward cash flow to attract competitive design, construction and operation of road infrastructure – underpinned by a competition for debt and equity that positioned Australia as a global leader in innovative (private) financing of public infrastructure. ... Without tolling, many of the nation's most significant and economically valuable road corridors simply could not have been built or their delivery would have been severely delayed.³⁵

- 1.27** According to Infrastructure Partnerships Australia, by freeing up taxpayer funds that would have otherwise been spent on building motorways, tolling has also made it possible for governments to invest in other infrastructure projects (such as major public transport projects) on a significant scale:

Given the scale of public infrastructure spending in Australian cities, particularly on major public transport projects, this pipeline of works would also not have been possible had the funding burden for toll road projects also fallen to taxpayers.³⁶

- 1.28** The NRMA expressed similar views, with its Director of Policy and Public Affairs highlighting the increasing reliance on private sector investment to support roads and transport and the vital role this plays in alleviating pressures on government budgets:

Over the past several decades, governments have increasingly relied on private sector investment to support roads and transport, bringing projects forward and increasing travel choice. Private sector involvement supports broad economic outcomes and will continue to play a vital role, alleviating pressures on government budgets so that public funds can be increasingly directed at social infrastructure and services.³⁷

- 1.29** The NSW Government's so-called 'asset-recycling program' was highlighted by some inquiry participants. Asked about the merits of this program, Mr Adrian Dwyer, Chief Executive Officer of Infrastructure Partnerships Australia, agreed that many other infrastructure projects around the State would not have been possible without the capital released from existing assets:

Yes, I think the asset recycling initiative in New South Wales has been highly effective at releasing capital from an existing or legacy asset and then distributing that funding to a whole range of other priorities, including schools and hospitals. I might just say, it is not just isolated to the recycling of toll roads; it is also poles and wires and other assets. As for the exhaustive list of things that have been built that otherwise could not, I think there is an arguable case for a huge range of different pieces of infrastructure that could not have been built or that things that were built, such as schools and hospitals, would

³⁵ Submission 40, Infrastructure Partnerships Australia, p 2.

³⁶ Submission 40, Infrastructure Partnerships Australia, p 2. See also: Evidence, Mr Andrew Head, Chief Executive Officer, WestConnex, 10 December 2021, p 23.

³⁷ Evidence, Mr Robert Giltinan, Director, Policy and Public Affairs, NRMA, 25 October 2021, p 13.

have been in a competitive decision versus building a road, which would have been a bad outcome.³⁸

- 1.30** Elsewhere in evidence, partnerships with the private sector were perceived to be of significant public benefit on the basis that they transfer much of the project risk away from the government and onto the private sector. The planning, design and construction of large-scale road infrastructure is a complex undertaking involving investments of large sums of money, complex project variables and – if viewed from a commercial perspective – significant risks. The operator of most of Sydney's tolled motorways, namely Transurban, enumerated the benefits of Public-Private Partnerships in shifting these risks away from the government and ensuring ongoing community benefit from an asset:

The benefits that have come from private-sector participation go well beyond the initial project, with the Public Private Partnership (PPP) model proven to deliver ongoing investment into the network. ... The risk transfer away from the public sector has also been shown to be real and effective, as demonstrated by the Cross City Tunnel and Lane Cove Tunnel projects. In both instances the under performance of the project against the initial owners' expectations led to significant losses to the private sector, however the city still benefitted from the delivery of these major pieces of infrastructure and government was protected from the downside risks.³⁹

- 1.31** Additionally, advocates of private financing arrangements suggested that it has clear cost and project governance advantages over the more conventional, direct financing methods of procuring public infrastructure – on the basis that the private sector is much better at managing and delivering large-scale infrastructure projects than the public sector.⁴⁰ A variation on this argument was that the involvement of the private sector has clear advantages in creating greater competition, incentivising design innovation and therefore leading to better project outcomes overall.⁴¹ Mr Michael Kilgariff, Chief Executive Officer, Roads Australia, subscribed to this view, telling the committee that 'the involvement of the private sector in designing, constructing, financing, operating and then maintaining toll roads facilitates innovation and ultimately leads to better project and community outcomes'.⁴²
- 1.32** Tom Lawler Transport Pty Ltd – a small road transport company in the New South Wales Hunter Valley with a 43 year history – was less convinced of the benefits of Public-Private Partnerships and the user-pays model. This inquiry participant viewed Public-Private Partnerships as a form of 'looting' whereby public benefit is stripped from economies in order to line the pockets of private consortiums and their investors.⁴³

³⁸ Evidence, Mr Adrian Dwyer, Chief Executive Officer, Infrastructure Partnerships Australia, 7 October 2022, p 13.

³⁹ Submission 33, Transurban-WestConnex, p 6.

⁴⁰ See for example: Submission 33, Transurban-WestConnex, p 15. See also: Infrastructure NSW, *First things first: The state infrastructure strategy 2012-2032*, NSW Government, October 2012, p 23.

⁴¹ See for example: Submission 39, Roads Australia, p 2; Submission 40, Infrastructure Partnerships Australia, Attachment A, *Submission to the NSW inquiry into road access pricing*, p 8; Submission 40, Infrastructure Partnerships Australia, p 2.

⁴² Evidence, Mr Kilgariff, 28 September 2021, p 2.

⁴³ Submission 38, Tom Lawler Transport Pty Ltd, p 1.

- 1.33** Unlike advocates of Public-Private Partnerships such as Transurban, Tom Lawler Transport Pty Ltd maintained that construction costs for new roads are far more competitive when delivered by the public sector and that – where a toll is necessary on a publicly-owned road – it would be far cheaper than tolls currently levied on roads operated by private consortiums:

The actual costs for construction of a project by the public sector are far cheaper than private consortiums requiring tax incentives and maximum profits for investors... The cost of construction would be far cheaper under government than private, and if tolls were necessary to recoup some of that cost, they would be far cheaper than what is currently permitted... Rather than only Sydney-siders and those using the toll network in Sydney bearing the cost, it could be shared across the state through the tax system.⁴⁴

Stakeholder perspectives on unsolicited proposals

- 1.34** According to Transurban, governments have in recent years identified good ideas and fast-tracked projects using the Unsolicited Proposals Framework. NorthConnex – a recently completed tunnel linking the M2 Motorway and the M1 Pacific Motorway thereby bypassing Pennant Hills Road – is the State's first transport project to be delivered through the NSW Government's Unsolicited Proposal process.⁴⁵
- 1.35** The new NorthConnex tunnel was not without its detractors among inquiry participants. Both its procurement method and resulting tolling regime attracted some criticism, especially from stakeholders in the road freight and logistics industry.⁴⁶ The evidence about the impacts of NorthConnex on the road freight industry is explored in further detail in Chapter 3.
- 1.36** More broadly, although it has no direct regulatory oversight of tolling regimes, the Australian Competition and Consumer Commission (ACCC) provided commentary on Unsolicited Proposals as they relate to the procurement of new toll road concessions, casting doubt on whether they actually deliver benefit to taxpayers and motorists:

The [Australian Competition and Consumer Commission] also found that unsolicited proposals for new toll road concessions generally result in higher costs to taxpayers, drivers, or both. We consider that state governments should run competitive tender processes for new toll road concessions and not accept unsolicited proposals for them.⁴⁷

- 1.37** The ACCC further noted an apparent deficiency in the NSW Government's assessment guidelines (referred to in paragraph 1.17 above) in their emphasis on 'uniqueness' as one of the evaluation criteria. In the Commission's view, this is open to 'wide discretion in its interpretation'. Critically, the ACCC concluded that, in future, this criterion should not be interpreted in a way that advantages incumbent toll road operators when considering any future Unsolicited Proposals for new toll road concessions.⁴⁸

⁴⁴ Submission 38, Tom Lawler Transport Pty Ltd, p 2.

⁴⁵ Submission 33, Transurban-WestConnex, p 32.

⁴⁶ See for example: Submission 18, National Road Transport Association, p 8; Evidence, Mr Gavin Webb, Chief Legal Officer, Transport Workers' Union of NSW, 28 September 2021, p 14.

⁴⁷ Submission 232, Australian Competition and Consumer Commission, p 3.

⁴⁸ Submission 232, Australian Competition and Consumer Commission, p 3.

- 1.38 Questions about the robustness of the NSW Government's Unsolicited Proposal assessment guidelines formed a peripheral part of a 2017 Audit Office of New South Wales examination of the processes used to determine the NorthConnex funding model and whether due consideration was given to value for money. Briefly, the audit concluded that these processes did in fact adequately consider value for money for taxpayers, with the NSW Auditor-General stating emphatically that 'NorthConnex represents value for money for the NSW Government' based on the measures used to assess Unsolicited Proposals. However, the audit also found the guidelines to be deficient in that they were unclear on the timing of key assurance stages.⁴⁹

NSW Government strategic directions and infrastructure priorities

- 1.39 Turning now from the financing of road projects, this section seeks to place the State's tolled motorways into the broader context of the NSW Government's strategic planning and priorities for a safe, reliable, efficient and sustainable transport network across various modes. It also outlines the principles the government uses to guide tolling decisions on Sydney's motorways.

Future Transport Strategy 2056

- 1.40 One of the NSW Government's key planning documents to guide long term transport infrastructure investment is the *Future Transport Strategy 2056*, first released in 2018. This master plan sets out the NSW Government's 40-year vision for customer mobility in New South Wales.⁵⁰
- 1.41 The strategy anticipates future changes in the State's demography and economy and the challenges these pose for the transport network:

Our population is forecasted to increase to around 12 million people by 2056; freight volumes are estimated to double in the Greater Sydney area and increase by 25 per cent in regional and outer metropolitan NSW; and the passenger network is preparing for over 28 million trips a day. This means planning for the future has never been more important. While recent events, such as COVID-19, impacted demand and mobility patterns, particularly for public transport trips, long-term expectations still forecast a significant increase in demand for transport.⁵¹

- 1.42 The strategy outlines six statewide principles to guide planning and investment in transport infrastructure:
1. **Customer focused:** Customers' experiences and their end-to-end journeys are seamless, interactive and personalised, supported by technology and data
 2. **Successful places:** the livability, amenity and economic success of communities and places are enhanced by transport
 3. **A strong economy:** in 2056, the transport system powers NSW's \$1.3 trillion economy and enables economic activity across the state
 4. **Safety and performance:** Every customer enjoys safe travel, regardless of transport mode or location, across a high-performing, integrated and efficient network

⁴⁹ Media release, Audit Office of New South Wales, 'NorthConnex', 8 June 2017.

⁵⁰ Transport for NSW, *Future Transport Strategy 2056*, NSW Government, 2018, p 5.

⁵¹ Transport for NSW, *Future Transport Strategy 2056*, NSW Government, 2018, p 8.

5. **Accessible services:** Transport enables everyone to get the most out of life, wherever they live and whatever their age, ability or personal circumstances
6. **Sustainability:** The transport system is economically, environmentally and socially sustainable, operationally resilient, affordable for customers and supports emissions reductions.⁵²

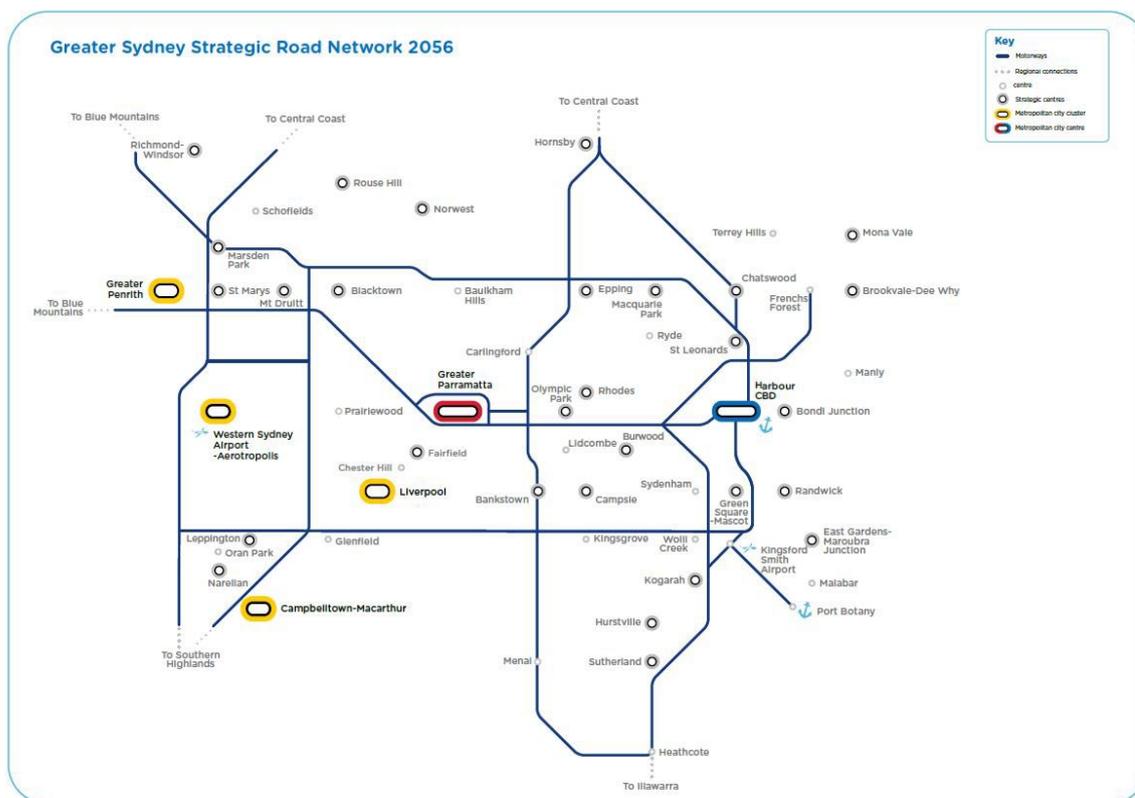
1.43 Being a high level vision and planning document, the strategy is not explicit on the role of user-pays motorways in the future network and does not foreshadow any specific new tolled motorways. It does, however, stress the importance of the State's road network as the segment that carries, and will continue to carry, the vast majority of trips made across Greater Sydney, and its significance to Sydney's economic growth:

The importance of a safe road network for Sydney cannot be understated. As Sydney grows, it is essential the efficiency of the road network is increased through the application of technologies and more efficient utilisation of the available road space. ... An arterial road network performs a critical role in linking communities and providing important connections to dispersed employment areas that are more difficult for customers to reach using public transport, walking and cycling. As well as providing key connections for people, the road network provides the primary connections to enable road-based freight movements. All freight uses the road network at some point in the supply chain. An efficient road network is therefore critical to ensuring the economic growth of Greater Sydney.⁵³

1.44 Figure 1 shows a version of the Greater Sydney road network as envisaged by the *Future Transport Strategy 2056*. This network is designed around the metropolitan city centres of the Central Business District and Greater Parramatta, and metropolitan city clusters in Greater Penrith, Liverpool, Campbell town-Macarthur and the Western Sydney Aerotropolis.

⁵² Transport for NSW, *Future Transport Strategy 2056*, NSW Government, 2018, pp 9-14.

⁵³ Transport for NSW, *Future Transport Strategy 2056*, NSW Government, 2018, p 133.

Figure 1 Greater Sydney Strategic Road Network 2056⁵⁴

State Infrastructure Strategy

- 1.45** The State Infrastructure Strategy is another key document guiding the government's strategic transport planning. The first State Infrastructure Strategy was delivered by Infrastructure NSW in 2012. Infrastructure NSW is tasked with providing independent advice and recommendations to the NSW Government to guide decision making and investment in social and economic infrastructure across a range of sectors (including transport) over a forward period.⁵⁵ Infrastructure NSW's recommendations represent independent advice; the NSW Government considers its recommendations and responds as it sees fit.⁵⁶
- 1.46** The first State Infrastructure Strategy gives detailed consideration to the 'Sydney Strategic Road Network', examining questions around its adequacy and future development against a backdrop of growing demand.⁵⁷ It builds a case for continuing to invest in this network based on a long-term vision which identified (at that time) critical missing links both within the Sydney orbital network and between the orbital network and former Federal freeways.

⁵⁴ Transport for NSW, *Future Transport Strategy 2056*, NSW Government, 2018, p 134.

⁵⁵ Infrastructure NSW, *Expert advice*, [no date], We are Infrastructure NSW, <https://www.infrastructure.nsw.gov.au/expert-advice/expert-advice/>.

⁵⁶ Infrastructure NSW, *Building Momentum: State Infrastructure Strategy 2018-2038*, 2018, p 8.

⁵⁷ Infrastructure NSW, *First things first: State Infrastructure Strategy 2012-2032*, 2018, pp 78-80.

- 1.47 In considering arguments which pit investment in road infrastructure against investment in public transport, Infrastructure NSW formed the view that these modes are in fact complementary, with each mode having its own role to play.⁵⁸ It concluded that 'private road transport is – and will remain – the only viable option for most journeys in Sydney most of the time' and, as such, there will be a need for more capacity on the motorway system.⁵⁹ Consistent with this position, Infrastructure NSW lent its support to extending and expanding the Sydney Strategic Road Network and prioritised a number of motorway projects to provide the missing connections.⁶⁰
- 1.48 Since the strategy's release in 2012, many of these motorway projects have been delivered (such as NorthConnex) or are in various stages of planning and development (such as the Northern Beaches Link).
- 1.49 The most recent State Infrastructure Strategy released in May 2022, namely *Staying Ahead: State Infrastructure Strategy 2022-2042*, recommended a re-orientation of the NSW Government's program of public infrastructure investment. In particular, it recommended that in moving forward with infrastructure delivery, the NSW Government strike an appropriate balance between complex, large-scale projects and medium-sized and smaller investments with more manageable risk profiles. This was in recognition of several challenges that, in the opinion of Infrastructure NSW, make it difficult to deliver additional large-scale projects cost effectively:

This 2022 [State Infrastructure Strategy] recommends that the NSW Government continue with a formidable program of investment, but one that achieves a balance between megaprojects and medium-sized and smaller investments that can be delivered in staged programs. This approach is commended by the high payoffs of well selected smaller projects, more manageable project cost risks as well as limited capacity of government and the construction industry to deliver more megaprojects in the near term. At present, NSW and other jurisdictions have several megaprojects on foot creating high levels of demand. At the same time, construction industry capacity, supply chains and skills have all been stretched by COVID-19 and other world events. It would be especially challenging to deliver additional megaprojects in a cost-efficient manner in coming years.⁶¹

NSW Government road tolling principles

- 1.50 In October 2014, the NSW Government approved a broad set of principles for tolling for Sydney's motorways. These principles are used to guide tolling decisions on Sydney's motorway network and are detailed in Table 2.⁶² These principles touch on several issues raised in evidence to the committee which are examined in subsequent chapters.

⁵⁸ Infrastructure NSW, *First things first: State Infrastructure Strategy 2012-2032*, 2018, p 82.

⁵⁹ Infrastructure NSW, *First things first: State Infrastructure Strategy 2012-2032*, 2018, p 82.

⁶⁰ Infrastructure NSW, *First things first: State Infrastructure Strategy 2012-2032*, 2018, pp 83-85.

⁶¹ Infrastructure NSW, *Staying Ahead: State Infrastructure Strategy 2022-2042*, 2022, p 9.

⁶² Submission 146, Transport for NSW, p 5.

Table 2 The NSW Government's road tolling principles⁶³

The NSW Government's road tolling principles	
1.	New tolls are applied only where users receive a direct benefit.
2.	Tolls can continue while they provide broader network benefits or fund ongoing costs.
3.	Distance-based tolling for all new motorways.
4.	Tolls charged for both directions of travel on all motorways.
5.	Tolls charged reflect the cost of delivering the motorway network.
6.	Tolls take account of increases in expenses, income and comparable toll roads.
7.	Tolls will be applied consistently across different motorways, to the extent practicable, taking into account existing concessions and tolls.
8.	Truck tolls at least three times higher than car tolls.
9.	Regulations could be used so trucks use new motorway segments.
10.	Untolled alternative arterial roads remain available for customers.

- 1.51** Since the commencement of this inquiry, the NSW Government has instituted a review of the tolling arrangements on the State's roads. The inquiry will examine inconsistencies in tolling arrangements and cost of living impacts, among other things. The review is discussed in detail in Chapter 2.

Motorway projects in the infrastructure pipeline

- 1.52** The government's strategic directions for the transport network include a number of new motorway projects. According to Transport for NSW, the NSW Government is investing \$71.5 billion in the State's public transport system and road network over the next four years. Of this amount, \$13 billion has been committed to: pre-construction activities for the Western Harbour Tunnel and Beaches Link Program; construction and delivery of stage one of the M6; and stage three of WestConnex.⁶⁴ These projects are outlined below.

Western Harbour Tunnel, Warringah Freeway Upgrade and Northern Beaches Link

- 1.53** Together with stage three of WestConnex, the Western Harbour Tunnel was identified by the State Infrastructure Strategy (2018 Update) as a priority project in the context of Sydney's inner urban motorway network, creating a western by-pass of the Central Business District.⁶⁵ In particular, Infrastructure NSW placed considerable import on this western by-pass as an opportunity to 'remove through traffic from sensitive residential and commercial precincts' thereby enhancing public amenity and enabling the allocation of more surface road space to other modes of transport, including active transport.⁶⁶

⁶³ Submission 146, Transport for NSW, p 5; Submission 33, Transurban-WestConnex, p 19.

⁶⁴ Submission 146, Transport for NSW, p 10.

⁶⁵ Infrastructure NSW, *Building Momentum: State Infrastructure Strategy 2018-2038*, 2018, p 9.

⁶⁶ Infrastructure NSW, *Building Momentum: State Infrastructure Strategy 2018-2038*, 2018, p 9.

- 1.54** The Western Harbour Tunnel and Warringah Freeway Upgrade project comprises a new motorway tunnel across Sydney Harbour, and an upgrade of the Warringah Freeway to integrate the new motorway infrastructure with the existing road network and to enable a future connection with the Northern Beaches Link. The Western Harbour Tunnel is to consist of twin mainline tunnels approximately 6.5 kilometres long connecting the M4-M5 Link at Rozelle to the Warringah Freeway, near Cammeray.⁶⁷
- 1.55** The Beaches Link and Gore Hill Freeway Connection project comprises a new motorway tunnel connection across Middle Harbour from the Warringah Freeway and Gore Hill Freeway to the Burnt Bridge Creek Deviation at Balgowlah and Wakehurst Parkway at Killarney Heights. This project also includes various surface upgrade and integration works for existing roads such as the Wakehurst Parkway and Gore Hill Freeway.⁶⁸
- 1.56** As at February 2022, senior representatives of NSW Treasury indicated that the Western Harbour Tunnel was 'under procurement' with a 'straight design and construct format' being the chosen financing arrangement for this project.⁶⁹ The Western Harbour Tunnel is expected to open to traffic in 2028.⁷⁰
- 1.57** The future tolling regime for the Western Harbour Tunnel has yet to be determined. Transport for NSW noted that a range of tolling options are under consideration as part of a broader business case process, but stressed '[n]o decision has yet been made on the tolling regime for the Western Harbour Tunnel'.⁷¹
- 1.58** Infrastructure NSW's five-yearly independent advice to the NSW Government, released in May 2022 and referred to at paragraph 1.49 above, recommended that the Northern Beaches Link be shelved amid soaring construction costs and global labor shortages. The Northern Beaches Link was one of several major, yet-to-be-funded projects de-prioritised by Infrastructure NSW as they were seen to carry too much risk within the current climate of pandemic-related disruptions and an overheated construction market.⁷²
- 1.59** The Legislative Council's Public Works Committee is conducting an inquiry into the impact of the Western Harbour Tunnel and Beaches Link, examining the business case, cost benefit analyses, rationale and modelling that led to the investment decision as well as aspects of the design proposal. The project's environmental impacts are also in focus.⁷³

⁶⁷ Transport for NSW, *Western Harbour Tunnel and Warringah Freeway Upgrade: Environmental Impact Statement* (January 2020), Executive Summary, pp 3 and 6.

⁶⁸ Transport for NSW, *Western Harbour Tunnel and Warringah Freeway Upgrade: Environmental Impact Statement* (January 2020), Executive Summary, p 3.

⁶⁹ Evidence, Mr Philip Gardner, Deputy Secretary, NSW Treasury, 14 February 2021, p 7.

⁷⁰ Evidence, Mr Gardner, 14 February 2021, p 10.

⁷¹ Answers to questions on notice, Transport for NSW, 14 March 2022, p 12.

⁷² Alexandra Smith and Tom Rabe, 'NSW told to put high-profile road, transport projects on ice', *Sydney Morning Herald*, 31 May 2022, <https://www.smh.com.au/politics/nsw/nsw-told-to-put-high-profile-road-transport-projects-on-ice-20220530-p5app7.html>.

⁷³ Public Works Committee, NSW Legislative Council, *Inquiry into the impact of the Western Harbour Tunnel and Beaches Link*, terms of reference, March 2021.

M6: Stage One

- 1.60** The M6 Stage One will be a tolled motorway of twin four-kilometre tunnels linking the M8 Motorway at Arncliffe to President Avenue in Kogarah. According to Transport for NSW, the tolling regime for the project is consistent with other recent motorway projects. The motorway tunnel is proposed to be tolled at a flat rate of \$2.44 (in 2021 dollars) each way. Heavy vehicles will pay three times the toll of light vehicles – a multiplier justified with reference to the purported greater wear and tear that trucks have on the State's roads.⁷⁴
- 1.61** In May 2021, NSW Government announced a \$2.52 billion contract to construct the project had been awarded to CPB Contractors and UGL in a joint venture with Ghella. Construction is due for completion in 2025.⁷⁵
- 1.62** The M6 Stage One is not under concession. Upon its opening, all toll revenue will flow to Transport for NSW to cover the ongoing operations and maintenance of the road. The funding for M6 Stage One comes from Treasury from consolidated revenue. There is no private financing associated with this project.⁷⁶

WestConnex: Stage Three

- 1.63** The third and final stage of WestConnex was under construction at the time of this inquiry. It consists of:
- M4-M5 link tunnels providing new 7.5 kilometre twin tunnels connecting the new M4 at Haberfield and the M8 at St Peters. These works are being delivered by the WestConnex toll road operator, namely Transurban.⁷⁷
 - The Rozelle Interchange, being a new underground motorway interchange which provides connectivity to the M4-M5 Link Tunnels and the City West Link, and an underground bypass of Victoria Road between Iron Cove Bridge and Anzac Bridge. The Rozelle Interchange will also provide a connection to the future Western Harbour Tunnel. The Rozelle Interchange is being delivered by the NSW Government and will be included as part of the M4-M5 Link concession upon completion. This means Transurban/WestConnex will operate and maintain the Rozelle Interchange once it becomes operational.⁷⁸
- 1.64** WestConnex Stage Three will have a maximum toll of \$5.12 (in 2021 dollars) and be subject to an overall cap for passenger vehicles.⁷⁹

⁷⁴ Submission 146, Transport for NSW, p 11.

⁷⁵ Submission 146, Transport for NSW, p 11.

⁷⁶ Evidence, Ms Drover, 14 February 2021, p 36.

⁷⁷ Submission 146, Transport for NSW, p 11.

⁷⁸ NSW Treasury, *WestConnex: Project Summary*, NSW Government, 2019, pp 11 and 15.

⁷⁹ Submission 146, Transport for NSW, p 11.

Committee comment

- 1.65** Over recent years, the use of private financing and 'user pays' to build new roads in New South Wales has been a clear policy preference for successive NSW Governments. While the committee acknowledges that both Coalition and Labor governments have partnered with the private sector to deliver new roads, under the Coalition's watch, we have witnessed a significant increase in the number of tolls on Sydney's roads. In part, this has been enabled through a policy agenda focused on finding ways to release capital for other State-led significant infrastructure including schools and hospitals and generate revenue from already built roads that were no longer under concession, or ones nearing the end of their concession. The various upgrades, extensions and widening projects have added many more tolls to the network. The committee views the current tolling regime in Sydney as ripe for reform.
- 1.66** In the committee's view, implicit in the preference for private financing is a distinction from seeing roads as essential public infrastructure like schools or hospitals, where the costs are borne by the entire taxpaying community via general taxation revenue or government debt, to thinking about roads as assets to be paid for by 'customers' who use and benefit from them. In other words, those who can afford to use a road should contribute directly to the cost of its design, financing, construction and maintenance. In the committee's view, it sets up a two-tiered system in which those who can afford to pay for the 'benefit' to use toll roads do so, while others must navigate often congested alternative routes on local, suburban roads to get where they are going.
- 1.67** In evidence before the committee, the use of private financing was often presented as a win-win: Sydney motorists get the benefit of a world-class road years earlier than would have been otherwise possible and the government can free up funds to put towards other essential infrastructure. The committee's inquiry provided an opportunity to critically engage with this narrative. What we heard from various stakeholder groups and individuals – evidence presented in subsequent chapters of this report – made it exceedingly clear that toll roads are not always a win for all. With 11 tolling regimes in place, and a further four toll roads in the infrastructure pipeline, a healthy level of public scrutiny and informed skepticism about the benefits of the user pays model is now more important than ever. We need more in-depth, evidence-based policy dialogue on whether the State's current trajectory on tolling is actually in the public's best interests – or only the best interests of Transurban's shareholders. Additionally, this dialogue should be more balanced in considering some of the benefits of the direct financing model for new roads, where roads are publicly financed, remain in public ownership and all toll revenue flows back to the NSW Government – if indeed these roads are tolled at all. In the committee's view, this clearly provides greater flexibility for the government in terms of toll pricing and tolling arrangements than privately operated toll roads.
- 1.68** The committee notes that many of the missing connections or links in Sydney's motorway network have now been built or are in the process of being delivered. And yet the NSW Government's appetite for new tolls shows no signs of slowing down. Finding new ways to re-purpose or 'recycle' existing segments of a largely mature network, such as the reintroduction of tolls on the widened M4, gives us cause for concern. It is easy to see how drivers would see this as unfair 'double dipping' on roads that they have already paid off.
- 1.69** The committee agrees with the Australian Competition and Consumer Commission's conclusion that unsolicited proposals for new toll road concessions generally result in higher costs to government, drivers, or both. This is especially the case when the proponent such as Transurban already owns or controls a majority of the infrastructure in question. Ultimately,

procurement conditions which create competition between several bidders is always going to deliver better value for money for governments and the public.

- 1.70** The committee notes evidence from various proponents of Public-Private Partnerships about the benefits of these financing arrangements in bringing forward the construction of new motorways much sooner than would have otherwise been possible. In the committee's view, this evidence must be balanced by Infrastructure NSW's latest assessment of the current climate for major infrastructure projects, seen to be overheated and with too much risk for large-scale, complex infrastructure projects to be delivered cost-effectively. As noted above in relation to the Northern Beaches Link, such 'mega projects' were recently recommended to be cancelled or re-sequenced as a result of the prevailing risks and pressures. Being locked into commercial arrangements with the private sector makes it very difficult to do this. It limits the government's ability to respond nimbly to changing circumstances. It also complicates any future reform to toll pricing schemes, as this is likely to trigger compensation claims by the private toll operator. Recommendation 1 in Chapter 2 addresses this issue.
- 1.71** In the committee's opinion, certain user-pays models of infrastructure delivery are fundamentally inequitable and regressive as they fail to consider capacity to pay. In asking people who utilise motorway infrastructure intending to save time and have a more reliable journey to contribute to the cost of a road, it makes no distinction between those who can most afford to contribute and those who can least afford to. This is at odds with the principles of a progressive taxation regime. Funding new roads through general taxation revenue or government debt is, in the committee's view, a much fairer way to spread public infrastructure funding costs through a progressive taxation regime.
- 1.72** The user-pays model for infrastructure tends to assume that only those motorists who use a road derive benefits from it – benefits such as time and fuel savings and less wear and tear on their vehicles. This ignores the more diffuse social and economic benefits of road infrastructure and a city's transport system – of which roads are a key part. Like hospitals and schools and other essential social infrastructure, roads provide a benefit to society beyond those who actually use them. A well-functioning and efficient transport system that enables people to get to and from where they need to go, when they need to go and as efficiently as possible, is key to a productive society and healthy economy. The way roads are ultimately 'paid for' should reflect this.

Chapter 2 Toll roads in New South Wales

This chapter provides an overview of Sydney's motorway network and the different tolling methods that can be applied. It then details each of the tolled motorways in New South Wales – all of which are in Sydney – providing a summary of their pricing regimes, ownership details, toll method and other key characteristics.

Following this overview is an account of the toll increases since the start of this inquiry as well as the NSW Government's various cashback and toll relief schemes designed to alleviate the cost pressures caused by tolls. The chapter then introduces the NSW Government's Toll Road Pricing and Relief Reform Review announced during the committee's inquiry.

Overview of motorway network and tolling arrangements

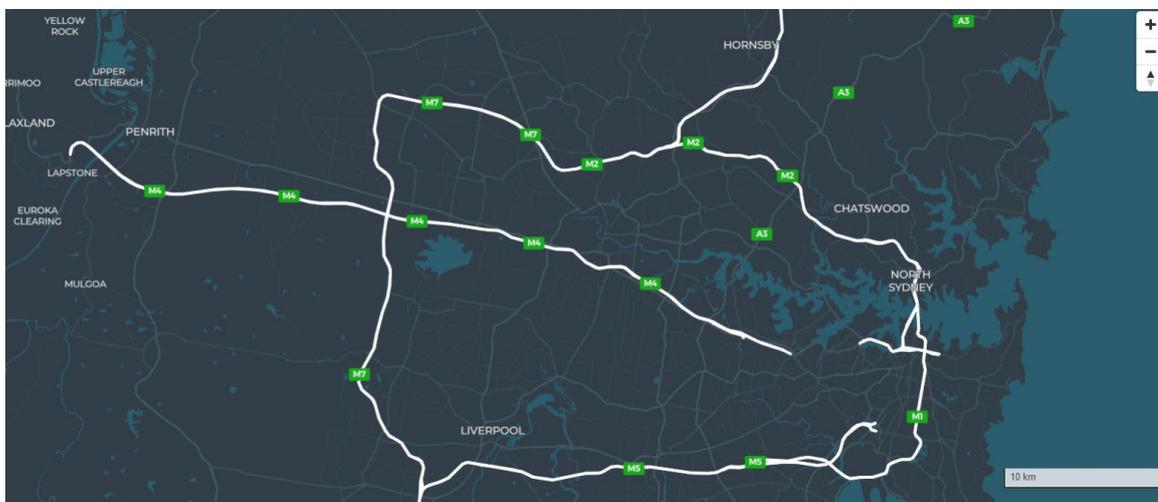
- 2.1 Sydney's motorway network was characterised in evidence as consisting of two key road corridors: the orbital network and the east-west corridor.⁸⁰
- 2.2 The **orbital network** consists of a circular ring of motorways made up of a series of linked bridges, tunnels, toll roads and freeways that circumnavigate the city's densely populated inner-west.⁸¹
- 2.3 The **east-west corridor** bisects the orbital network, linking Sydney's Eastern Suburbs and Central Business District with the city's far western suburbs. The corridor is comprised of publicly and privately owned roads, including the privately owned and tolled Cross City Tunnel.⁸²
- 2.4 Sydney's motorway network includes both public and private toll roads and is depicted spatially at Figure 2.⁸³

⁸⁰ Submission 40, Infrastructure Partnerships Australia, Attachment A, *Submission to the NSW inquiry into road access pricing*, p 18.

⁸¹ Submission 40, Infrastructure Partnerships Australia, Attachment A, *Submission to the NSW inquiry into road access pricing*, p 18.

⁸² Submission 40, Infrastructure Partnerships Australia, Attachment A, *Submission to the NSW inquiry into road access pricing*, p 18.

⁸³ Submission 146, Transport for NSW, p 5.

Figure 2 Sydney's motorway network

Source: <https://caportal.com.au/rms/motorways>

- 2.5** Three different methods of tolling exist on Sydney's motorway network: flat-rate tolls, distance-based tolls and variable time of day tolls.⁸⁴
- 2.6** A **fixed** or **flat rate toll** is where there is a fixed toll for use of the motorway, regardless of the distance or time travelled. Flat rate tolls are usually applied where there is a single entry and exit point. According to Transurban, fixed rate tolling is a traditional tolling method implemented decades ago.⁸⁵
- 2.7** A **distance-based toll** is where the toll is calculated based on the distance travelled, with toll gantries located at entry and exit ramps along the motorway to calculate the applicable toll. The toll calculation may include a flag fall.⁸⁶
- 2.8** **Time of day tolls** vary based on the time of travel. Motorists travelling outside peak periods pay a lower toll than those travelling in peak periods.⁸⁷
- 2.9** Over 950,000 trips are made on Sydney's toll roads every day.⁸⁸

The tolling regimes in place in New South Wales

- 2.10** The following sections detail the key characteristics of the 11 separate tolling regimes currently in place in New South Wales, all of which are located in Sydney. The tolls detailed in this section were valid at the time of submissions to this inquiry, although the committee notes that a number of tolls have since increased.

⁸⁴ Submission 146, Transport for NSW, p 5.

⁸⁵ Submission 146, Transport for NSW, p 5; Submission 33, Transurban-WestConnex, p 19.

⁸⁶ Submission 146, Transport for NSW, p 5; Submission 33, Transurban-WestConnex, p 19.

⁸⁷ Submission 146, Transport for NSW, p 5.

⁸⁸ Submission 146, Transport for NSW, p 3.

Sydney Harbour Bridge

- 2.11** The Sydney Harbour Bridge was opened in 1932 and is currently the only toll road in New South Wales that is owned and operated by the NSW Government.⁸⁹ In 1970, the method of tolling on the Sydney Harbour Bridge changed and in place of the north and south bound tolling system, one-way tolling was introduced.⁹⁰ Time of day tolling was introduced in 2009, with drivers paying between \$2.50 and \$4.00 depending on the time of day.⁹¹ Details of the current tolling regime are shown in Table 3.

Table 3 Sydney Harbour Bridge tolling regime⁹²

Sydney Harbour Bridge	
Direction charged	One way tolling (Southbound)
Tolling method	Time-of-day
Owner/operator	Transport for NSW/NSW Government
Cost – Class A (Cars)	\$2.50 to \$4.00 depending on time of day
Cost – Class B (Trucks)	\$2.50 to \$4.00 depending on time of day
Escalation rate	None
Contract date	N/A
Concession term end date	N/A

- 2.12** The schedule of peak and off-peak tolling charges for the Sydney Harbour Bridge is shown at Table 4.

Table 4 Sydney Harbour Bridge schedule of tolling charges⁹³

Weekdays	
From 6.30am to 9.30am	\$4.00
From 9.30am to 4.00pm	\$3.00
From 4.00pm to 7.00pm	\$4.00
From 7.00pm to 6.30am	\$2.50
Weekends and public holidays	
From 8.00am to 8.00pm	\$3.00
From 8.00pm to 8.00am	\$2.50

⁸⁹ Portfolio Committee No.2 – Health and Community Services, NSW Legislative Council, *Road tolling in New South Wales* (2017), p 12.

⁹⁰ Roads and Traffic Authority, *Sydney harbour bridge tolling: Summary report*, Oral history series, 2011, p 18.

⁹¹ Submission 40, Infrastructure Partnerships Australia, Attachment A, *Submission to the NSW inquiry into road access pricing*, p 25; Submission 146, Transport for NSW, p 6.

⁹² Submission 146, Transport for NSW, p 6.

⁹³ Transport for NSW, *E-toll FAQs: Calculating tolls*, NSW Government, [no date], <https://www.myetoll.transport.nsw.gov.au/help-and-faqs/calculating-tolls>.

Sydney Harbour Tunnel

- 2.13** The NSW Government partnered with the private sector to design, construct, finance and operate the Sydney Harbour Tunnel, a 2.3 kilometre, four-lane underwater tunnel that provides an alternate route across Sydney harbour.⁹⁴ Planning commenced in 1986 and the tunnel opened to traffic on 31 August 1992.⁹⁵ As is the case with the Sydney Harbour Bridge, time of day tolling applies. Details of the current tolling regime are shown in Table 5.

Table 5 Sydney Harbour Tunnel tolling regime⁹⁶

Sydney Harbour Tunnel	
Direction charged	One way tolling (Southbound)
Tolling method	Time-of-day
Concessionaire /operator	Sydney Harbour Tunnel Company, comprising Transfield, Kumagai Gumi and Tenix
Cost – Class A (Cars)	\$2.50 to \$4.00 depending on time of day
Cost – Class B (Trucks)	\$2.50 to \$4.00 depending on time of day
Escalation rate	None
Contract date	June 1987
Concession term end date	August 2022

- 2.14** After the end of the concession in August 2022, the tunnel ownership will pass to the NSW Government/Transport for NSW.⁹⁷

⁹⁴ NSW Treasury, *Public Private Partnerships: Awarded projects*, NSW Government, [last updated 23 June 2021], <https://www.treasury.nsw.gov.au/projects-initiatives/public-private-partnerships/awarded-projects>.

⁹⁵ Roads and Traffic Authority, *Sydney harbour bridge tolling: Summary report*, Oral history series, 2011, p 26.

⁹⁶ Submission 146, Transport for NSW, p 6; Transfield, *Transfield: The first 60 years*, <https://www.transfield.com.au/THfirst60years/15-the-sydney-harbour-tunnel>.

⁹⁷ NSW Treasury, *Public Private Partnerships: Awarded projects*, NSW Government, [last updated 23 June 2021], <https://www.treasury.nsw.gov.au/projects-initiatives/public-private-partnerships/awarded-projects>.

- 2.15** The schedule of peak and off-peak tolling charges for the Sydney Harbour Tunnel is shown at Table 6. These are aligned to the toll charges for the Sydney Harbour Bridge.

Table 6 Sydney Harbour Tunnel schedule of tolling charges⁹⁸

Weekdays	
From 6.30am to 9.30am	\$4.00
From 9.30am to 4.00pm	\$3.00
From 4.00pm to 7.00pm	\$4.00
From 7.00pm to 6.30am	\$2.50
Weekends and public holidays	
From 8.00am to 8.00pm	\$3.00
From 8.00pm to 8.00am	\$2.50

WestConnex M4

- 2.16** Sydney's M4 Motorway is a key piece of road infrastructure originally connecting the base of the Blue Mountains with Parramatta Road at Strathfield.⁹⁹ It has been an important part of Sydney's east-west corridor since the 1960s, a much longer history which predates the significant new investment heralded by the multi-stage WestConnex works currently afoot.
- 2.17** The M4 Motorway has been constructed and upgraded in various stages since the 1960s. The western section of the motorway was constructed and opened in the 1970s, while the eastern section of the motorway was predominately constructed and opened in the 1980s. The section of the motorway between Mays Hill and Parramatta was opened in 1992.¹⁰⁰
- 2.18** The motorway was originally constructed and operated as a tollway, with the toll system introduced following completion of the Mays Hill to Parramatta stretch of the motorway.¹⁰¹ An initial toll of \$1.50 was implemented. The tolling concession ended on 15 February 2010 with the operation of the motorway handed back to the then Roads and Traffic Authority and the toll removed.¹⁰²
- 2.19** Stage one of WestConnex involved upgrades and additions to the existing M4 Motorway consisting of widening of the motorway from Parramatta to Homebush and extension of the motorway in tunnels between Homebush and Haberfield via Concord.¹⁰³ The widening of the

⁹⁸ Transport for NSW, *E-toll FAQs: Calculating tolls*, NSW Government, [no date], <https://www.myetoll.transport.nsw.gov.au/help-and-faqs/calculating-tolls>.

⁹⁹ Roads and Maritime Services, *M4 Smart Motorway: Review of Environmental Factors*, NSW Government, 2015, p 15.

¹⁰⁰ Roads and Maritime Services, *M4 Smart Motorway: Review of Environmental Factors*, NSW Government, 2015, pp 15 and 16.

¹⁰¹ Roads and Maritime Services, *M4 Smart Motorway: Review of Environmental Factors*, NSW Government, 2015, p 16.

¹⁰² Submission 17, Ms Julia Finn MP, p 1.

¹⁰³ NSW Treasury, *WestConnex: Project Summary*, NSW Government, 2019, p 11.

7.5 kilometres of the motorway commenced in March 2015 and was completed in July 2017.¹⁰⁴ The new tunnels between Homebush and Haberfield opened to traffic in July 2019.¹⁰⁵

- 2.20** This work was financed through the granting of a new concession to the NSW Government's private sector delivery partners – namely, Transurban and Sydney Transport Partners – with an obligation to build, operate, maintain, finance and right to toll the M4 widening and new M4 tunnels.¹⁰⁶
- 2.21** Having been toll-free since 2010, tolls were re-introduced on the M4 east of Church Street, Parramatta, in August 2017 in accordance with the new M4 concession.¹⁰⁷
- 2.22** The tolling method for the WestConnex M4 is distance-based. Details of the current tolling regime are shown in Table 7.

Table 7 WestConnex M4 tolling regime¹⁰⁸

WestConnex M4	
Direction charged	Each direction
Tolling method	Distance based
Operator	Transurban-WestConnex
Ownership¹⁰⁹	Sydney Transport Partners, led by Transurban (100%)
Cost – Class A (Cars)	\$1.42 flagfall + \$0.5266/km maximum toll of \$8.52
Cost – Class B (Trucks)	\$4.27 flagfall + \$1.5798/km maximum toll of \$25.58
Escalation rate	Greater of CPI or 4% (present until 2040) Greater of CPI or 0% (2041 until 2060)
Contract date	December 2014
Concession term end date	December 2060

- 2.23** In 2018, the NSW Government sold a 51 per cent stake in the WestConnex project to Sydney Transport Partners, a consortium led by Transurban.¹¹⁰ In September 2021, as the committee's inquiry was unfolding, it was announced that Sydney Transport Partners will acquire the NSW Government's remaining 49 per cent interest in WestConnex, taking this consortium's total ownership interest in WestConnex to 100 per cent.¹¹¹

¹⁰⁴ Submission 17, Ms Julia Finn MP, p 1.

¹⁰⁵ WestConnex-Transurban, *Interactive map: Roads and projects*, [no date], <https://www.westconnex.com.au/explore-westconnex/interactive-map/>.

¹⁰⁶ Submission 33, Transurban-WestConnex, p 11; NSW Treasury, *WestConnex: Project Summary*, NSW Government, 2019, p 15.

¹⁰⁷ Submission 17, Ms Julia Finn MP, p 1.

¹⁰⁸ Submission 146, Transport for NSW, p 7; Submission 33, Transurban-WestConnex, p 10.

¹⁰⁹ Prior to the September 2021 acquisition of the remaining NSW Government stake, WestConnex was owned by: Transurban (25.5%); NSW Government (49%); Australian Super (10.46%); CPP Investments (10.46%); and Tawreed (4.59%).

¹¹⁰ Submission 33, Transurban-WestConnex, p 11.

¹¹¹ Australian Stock Exchange Release, 'Transurban announces WestConnex acquisition with \$4.2 billion equity raising and 1h22 distribution guidance', 20 September 2021.

M5 South West motorway, WestConnex M5 East and M8

- 2.24** The M5 corridor connects south west Sydney with the airport, the Central Business District and the city's east and – through more recent connections – other parts of the Sydney orbital network.
- 2.25** Like the M4 corridor, the M5 corridor as it exists today is the culmination of various upgrades, additions and extensions which build on the original M5 South West motorway. This original motorway opened to traffic in 1992 and consisted of a 21 kilometre road link connecting Prestons and Beverly Hills.¹¹²
- 2.26** One of the subsequent extensions is the M5 East motorway which opened to traffic in 2001, linking the M5 South West with the Central Business District, Sydney Airport, eastern suburbs and Port Botany.¹¹³ This stretch of the M5 corridor was publicly funded and was originally not tolled.¹¹⁴
- 2.27** As part of stage two of the WestConnex project, the M5 East was duplicated from the King Georges Road interchange in Beverly Hills to a new interchange at St Peters.¹¹⁵ Referred to variously as the new M5 tunnels or the WestConnex M8, this new addition to the M5 corridor consists of a nine kilometre stretch of twin tunnels from Kingsgrove to the St Peters interchange.¹¹⁶ It opened to traffic in June 2020 and a new toll was implemented on both the M5 East and the M8.¹¹⁷

¹¹² Submission 33, Transurban-WestConnex, p 8; Roads and Maritime Services, *M5 South West motorway: Summary of contracts*, June 2012, pp 1 and 4.

¹¹³ WestConnex-Transurban, *Roads and projects: M5 East*, [no date], <https://www.westconnex.com.au/roads-projects/m5-east/>.

¹¹⁴ Submission 34, NRMA, p 1; Tabled document, Mr Jeffrey Tullock, President, Bexley Chamber of Commerce, *Talking points on traffic developments in Bexley town centre*, 24 May 2020, p 1.

¹¹⁵ NSW Treasury, *WestConnex: Project Summary*, NSW Government, 2019, p 11.

¹¹⁶ Transurban Linkt, *About Sydney toll roads: WestConnex M8*, [no date], <https://www.linkt.com.au/using-toll-roads/about-sydney-toll-roads/westconnex-m8/sydney>.

¹¹⁷ Tabled document, Mr Jeffrey Tullock, President, Bexley Chamber of Commerce, *Talking points on traffic developments in Bexley town centre*, 24 May 2020, p 1; Submission 7, Road Freight NSW, p 5. See also: Submission 227, Mr Dennis Hayman, p 1.

- 2.28 Details of the current tolling regimes for the South West motorway and the WestConnex M8/M5 East are shown in Tables 8 and 9 below.

Table 8 M5 South West motorway tolling regime¹¹⁸

M5 South West motorway	
Direction charged	Each direction
Tolling method	Fixed/flat rate
Operator	Transurban
Ownership	Transurban (100%)
Cost – Class A (Cars)	\$4.90
Cost – Class B (Trucks)	\$17.70
Escalation rate	Greater of CPI or 0%
Contract date	February 1991
Concession term end date	The concession was originally due to expire in 2014 but was extended to December 2026 as part of the upgrade arrangements. Following expiry of this concession in 2026, the M5 South West will form part of the WestConnex concession, expiring in December 2060.

Table 9 WestConnex M8/M5 East tolling regime¹¹⁹

WestConnex M8/M5 East	
Direction charged	Each direction
Tolling method	Distance based
Operator	Transurban
Ownership¹²⁰	Sydney Transport Partners, led by Transurban (100%)
Cost – Class A (Cars)	\$1.42 flagfall + \$0.5266/km maximum toll of \$7.23
Cost – Class B (Trucks)	\$4.27 flagfall + \$1.5798/km maximum toll of \$21.70
Escalation rate	Greater of CPI or 4% (present until 2040) Greater of CPI or 0% (2041 until 2060)
Contract date	November 2015
Concession term end date	December 2060

¹¹⁸ Submission 146, Transport for NSW, p 8; Submission 33, Transurban-WestConnex, p 10.

¹¹⁹ Submission 146, Transport for NSW, p 7; Submission 33, Transurban-WestConnex, p 10.

¹²⁰ Prior to the September 2021 acquisition of the remaining NSW Government stake, WestConnex was owned by: Transurban (25.5%); NSW Government (49%); Australian Super (10.46%); CPP Investments (10.46%); and Tawreed (4.59%).

Hills M2 motorway

- 2.29** Hills M2 is a 21 kilometre motorway linking Sydney's lower north shore and north west regions. Hills M2 connects with Westlink M7 and the Lane Cove Tunnel. It includes a 460 metre twin tunnel, namely the Epping–Norfolk tunnel.¹²¹
- 2.30** It was constructed through a Public-Private Partnership with the Hills Motorway consortium, consisting of Abigroup, Obayashi Corporation, Scetauroute, Westpac, Macquarie Corporate Finance, Banque Paribas, Long Term Credit Bank of Japan and Gutteridge Haskins & Davey.¹²²
- 2.31** The Hills M2 motorway opened to traffic in August 1997 and was acquired by Transurban in 2005. It is 100 per cent Transurban owned and is under concession until 2048.¹²³
- 2.32** Details of the current tolling regime for this motorway are shown in Table 10 below.

Table 10 Hills M2 motorway tolling regime¹²⁴

Hills M2 motorway	
Direction charged	Each direction
Tolling method	Fixed
Operator	Transurban
Ownership	Transurban (100%)
Cost – Class A (Cars)	\$8.28 (North Ryde mainline)
	\$4.14 (Pennant Hills Road)
	\$2.93 (Windsor Road)
	\$2.45 (Lane Cove Road)
	\$4.14 (Herring and Christie Road)
Cost – Class B (Trucks)	\$4.14 (NorthConnex)
	\$24.84 (North Ryde mainline)
	\$12.42 (Pennant Hills Road)
	\$8.79 (Windsor Road)
	\$7.35 (Lane Cove Road)
Escalation rate	\$12.41 (Herring and Christie Road)
	\$12.42 (NorthConnex)
Contract date	Greater of CPI or 1% per quarter
Contract date	August 1994
Concession term end date	June 2048. The concession was originally due to expire in May 2042 but was extended as part of upgrade and integration works.

¹²¹ Transurban, *Roads and projects: Hills M2*, [no date], <https://www.transurban.com/roads-and-projects/sydney#hillsm2>.

¹²² NSW Treasury, *Public private partnerships: Awarded projects* (14 April 2022), <https://www.treasury.nsw.gov.au/projects-initiatives/public-private-partnerships/awarded-projects>.

¹²³ Transurban, *Roads and projects: Hills M2*, [no date], <https://www.transurban.com/roads-and-projects/sydney#hillsm2>.

¹²⁴ Submission 146, Transport for NSW, p 8; Submission 33, Transurban-WestConnex, p 10.

- 2.33** The toll price for using the M2 Hills motorway depends on the points at which motorists enter and exit the motorway.¹²⁵

Eastern Distributor

- 2.34** The Eastern Distributor is a six kilometre motorway linking the city centre, Harbour Tunnel, and Harbour Bridge with Sydney's southern suburbs and airport.¹²⁶
- 2.35** It was constructed through a Public-Private Partnership with the Airport Motorway Limited, Leighton Contractors Pty Ltd and National Australian Bank Limited.¹²⁷
- 2.36** The Eastern Distributor opened to traffic in December 1999 and was acquired by Transurban in 2007. Transurban owns 75.1 per cent, IFM Investors owns 14.4 per cent and UniSuper owns 10.5 per cent of this motorway. The Eastern Distributor is under concession until 2048.¹²⁸
- 2.37** The current tolling regime is detailed in Table 11 below.

Table 11 Eastern Distributor tolling regime¹²⁹

Eastern Distributor	
Direction charged	Northbound only
Tolling method	Fixed
Operator	Transurban
Ownership	Transurban (75.1%) IFM Investors (14.4%) UniSuper (10.5%)
Cost – Class A (Cars)	\$8.37
Cost – Class B (Trucks)	\$16.75
Escalation rate	Greater of 37.5% CPI + 62.5% Average Weekly Earnings (AWE) or 1% per quarter
Contract date	August 1997
Concession term end date	July 2048

¹²⁵ Transurban Linkt, *Hills M2: toll pricing*, [no date], <https://www.linkt.com.au/sydney/using-sydney-tollroads/hills-m2/toll-pricing>

¹²⁶ Transurban, *Roads and projects: Eastern Distributor*, [no date], <https://www.transurban.com/roads-and-projects/sydney#easterndistributor>.

¹²⁷ NSW Treasury, *Public private partnerships: Awarded projects* (14 April 2022), <https://www.treasury.nsw.gov.au/projects-initiatives/public-private-partnerships/awarded-projects>.

¹²⁸ Transurban, *Roads and projects: Eastern Distributor*, [no date], <https://www.transurban.com/roads-and-projects/sydney#easterndistributor>; Submission 33, Transurban-WestConnex, p 10.

¹²⁹ Submission 146, Transport for NSW, p 9; Submission 33, Transurban-WestConnex, p 10.

Cross City Tunnel

- 2.38** The Cross City Tunnel is a 2.1 kilometre tunnel that links Sydney's Darling Harbour with Rushcutters Bay. It opened to traffic in August 2005.¹³⁰
- 2.39** The Cross City Tunnel was financed and constructed through a Public-Private Partnership with the CrossCity Motorway consortium, sponsored by Bilfinger Berger AG, Baulderstone Hornibrook Pty Limited and Deutsche Bank AG.¹³¹
- 2.40** Construction commenced in February 2003 and was completed in mid 2005, with the tunnel opening to traffic in August of that year.¹³²
- 2.41** Once operational, actual traffic volumes using the tunnel were significantly lower than the volumes forecast by the CrossCity Motorway and at the end of 2006, the CrossCity Motorway went into receivership.¹³³
- 2.42** The Cross City Tunnel was cited in evidence from Transurban and Infrastructure Partnerships Australia as an example of a 'failed' large-scale infrastructure project developed using private financing – where failure was defined in strictly commercial terms.¹³⁴
- 2.43** Transurban considered it a 'highly publicised failure' in which the private investors bore the risks and costs.¹³⁵ For Infrastructure Partnerships Australia, the commercial failure of the Cross City Tunnel offered a study in how the Public Private Partnership model can insulate taxpayers from the impact of overly optimistic patronage forecasts. According to this evidence, taxpayers have 'continued to enjoy access to a world class road tunnel' under the original terms of the contract, despite private investors losing out significantly.¹³⁶
- 2.44** The Cross City Tunnel was acquired by Transurban in June 2014 and is under concession until 2035.

¹³⁰ Transurban, *Roads and projects: Eastern Distributor*, [no date], <https://www.transurban.com/roads-and-projects/sydney#crosscitytunnel>.

¹³¹ Roads and Traffic Authority NSW, *Post-implementation review: M7 motorway, cross city tunnel and lane cover tunnel*, March 2010, p 15.

¹³² Roads and Traffic Authority NSW, *Post-implementation review: M7 motorway, cross city tunnel and lane cover tunnel*, March 2010, p 16.

¹³³ Roads and Traffic Authority NSW, *Post-implementation review: M7 motorway, cross city tunnel and lane cover tunnel*, March 2010, pp 16 and 17.

¹³⁴ Submission 33, Transurban-WestConnex, p 19; Submission 40, Infrastructure Partnerships Australia, Attachment B, *Urban transport challenge: Driving reform on Sydney's roads*, p 8.

¹³⁵ Submission 33, Transurban-WestConnex, p 19.

¹³⁶ Submission 40, Infrastructure Partnerships Australia, Attachment B, *Urban transport challenge: Driving reform on Sydney's roads*, p 8.

2.45 Details of the Cross City Tunnel's tolling regime are provided in Table 12 below.

Table 12 Cross City Tunnel tolling regime¹³⁷

Cross City Tunnel	
Direction charged	Each direction
Tolling method	Fixed
Operator	Transurban
Ownership	Transurban (100%)
Cost – Class A (Cars)	\$5.97 (Main tunnel) \$2.81 (Sir John Young Crescent)
Cost – Class B (Trucks)	\$11.93 (Main tunnel) \$5.63 (Sir John Young Crescent)
Escalation rate	Greater of CPI or 0% per quarter
Contract date	December 2002
Concession term end date	December 2035

Westlink M7

- 2.46 Sydney's first distance-based toll road, the Westlink M7 is a 40 kilometre road in Sydney linking the Hills M2, M4 and M5 South West.¹³⁸
- 2.47 The Westlink M7 was financed and constructed through a Public-Private Partnership with the WestLink Motorway consortium, sponsored by Leighton Contractors, Abigroup, Transurban and Macquarie Bank. Major construction commenced in July 2003 and the motorway opened to traffic in December 2005.¹³⁹
- 2.48 The Westlink M7 is owned by Transurban (50 per cent), QIC Global Infrastructure (25 per cent) and Canada Pension Plan Investments (25 per cent). It is operated under concession until 2048.¹⁴⁰

¹³⁷ Submission 146, Transport for NSW, p 9; Submission 33, Transurban-WestConnex, p 10.

¹³⁸ Transurban, *Roads and projects: Westlink M7*, [no date], <https://www.transurban.com/roads-and-projects/sydney#westlinkm7>.

¹³⁹ Roads and Traffic Authority NSW, *Post-implementation review: M7 motorway, cross city tunnel and lane cover tunnel*, March 2010, pp 11 and 12; Transurban, *Roads and projects: Westlink M7*, [no date], <https://www.transurban.com/roads-and-projects/sydney#westlinkm7>.

¹⁴⁰ Submission 33, Transurban-WestConnex, P 10.

2.49 The Westlink M7 tolling regime is detailed in Table 13 below.

Table 13 Westlink M7 tolling regime¹⁴¹

Westlink M7	
Direction charged	Each direction
Tolling method	Distance based
Operator	Transurban
Ownership	Transurban (50%), QIC Global Infrastructure (25%), Canada Pension Plan Investments (25%)
Cost – Class A (Cars)	42.29 cents/km capped at \$8.46
Cost – Class B (Trucks)	\$1.2687/km capped at \$25.38
Escalation rate	CPI per quarter
Contract date	February 2003
Concession term end date	June 2048. The concession was originally due to expire in February 2037 but was extended to finance NorthConnex.

Lane Cove Tunnel

- 2.50 The Lane Cove Tunnel is a 3.6 km long motorway in twin tunnels between the Epping Road bridge crossing of the Lane Cove River in Lane Cove West and the Gore Hill Freeway in Artarmon.¹⁴²
- 2.51 It was financed and constructed through a Public Private Partnership with the Lane Cove Tunnel Consortium, sponsored by Thiess, Transfield Holdings and ABN AMRO.¹⁴³
- 2.52 In addition to the twin tunnels linking Lane Cove West and Artarmon, the project's scope included the construction of two new north-facing ramps connecting the Warringah Freeway to Falcon Street and Military Road in North Sydney. These Military Road e-ramps are tolled separately to the tunnel.¹⁴⁴ On a price-per-distance basis, the ramps have been described in Parliamentary debate as 'the world's largest toll per kilometre'.¹⁴⁵
- 2.53 Construction commenced in April 2004 and the tunnel opened to traffic in March 2007, two months ahead of schedule. Like the Cross City Tunnel, following the initial post-opening ramp-up, actual traffic patronage was significantly lower than the volumes forecast by the government's original private sector partner.¹⁴⁶

¹⁴¹ Submission 146, Transport for NSW, p 9; Submission 33, Transurban-WestConnex, p 10.

¹⁴² NSW Treasury, *Public private partnerships: Awarded projects* (14 April 2022), <https://www.treasury.nsw.gov.au/projects-initiatives/public-private-partnerships/awarded-projects>.

¹⁴³ Roads and Traffic Authority NSW, *Post-implementation review: M7 motorway, cross city tunnel and lane cover tunnel*, March 2010, p 22.

¹⁴⁴ Roads and Traffic Authority NSW, *Post-implementation review: M7 motorway, cross city tunnel and lane cover tunnel*, March 2010, p 18.

¹⁴⁵ *Hansard*, NSW Legislative Assembly, 12 November 2020, p 4937 (Felicity Wilson).

¹⁴⁶ Roads and Traffic Authority NSW, *Post-implementation review: M7 motorway, cross city tunnel and lane cover tunnel*, March 2010, p 22.

- 2.54 The Lane Cove Tunnel was acquired by Transurban in 2010. It is 100 per cent Transurban owned and under concession until 2048.¹⁴⁷
- 2.55 The Lane Cove Tunnel tolling regime is detailed in Table 14 below.

Table 14 The Lane Cove Tunnel tolling regime¹⁴⁸

The Lane Cove Tunnel	
Direction charged	Each direction
Tolling method	Fixed
Operator	Transurban
Ownership	Transurban (100%)
Cost – Class A (Cars)	\$3.46 (Main tunnel) \$1.73 (Military Road E-Ramp)
Cost – Class B (Trucks)	\$11.63 (Main tunnel) \$5.81 (Military Road E-Ramp)
Escalation rate	Greater of CPI or 0% per quarter for Class A Greater of CPI or 1% per quarter for Class B
Contract date	December 2003
Concession term end date	June 2048. The concession was originally due to expire in January 2037 but was extended to finance NorthConnex.

NorthConnex

- 2.56 One of the newest additions to Sydney's motorway network, NorthConnex is a dual nine kilometre tunnel which links the M1 Pacific Motorway at Wahroonga to the Hills M2 Motorway at West Pennant Hills, providing a by-pass to Pennant Hills Road.¹⁴⁹
- 2.57 Valued at \$3 billion, NorthConnex is Australia's deepest tunnel.¹⁵⁰
- 2.58 The procurement process for NorthConnex was through an unsolicited proposal from Transurban, Canada Pension Plan Investment Board and QIC Private Capital Pty Ltd, received by the NSW Government in March 2012. As noted at paragraph 1.34 above, the project was developed under the NSW Government's Unsolicited Proposal assessment guidelines.¹⁵¹
- 2.59 Tunneling for the project commenced in April 2016 and NorthConnex opened to traffic in October 2020.¹⁵²

¹⁴⁷ Transurban, *Roads and projects: Lane Cove Tunnel*, [no date], <https://www.transurban.com/roads-and-projects/sydney#lanecovetunnel>.

¹⁴⁸ Submission 146, Transport for NSW, p 10; Submission 33, Transurban-WestConnex, p 10.

¹⁴⁹ Transurban, *Roads and projects: NorthConnex*, [no date], <https://www.transurban.com/roads-and-projects/sydney#northconnex>.

¹⁵⁰ Submission 33a, Transurban, p 2.

¹⁵¹ NSW Treasury, *Public private partnerships: Awarded projects* (14 April 2022), <https://www.treasury.nsw.gov.au/projects-initiatives/public-private-partnerships/awarded-projects>; Roads and Maritime Services, *NorthConnex project: Contracts summary*, June 2015, p 5.

¹⁵² NorthConnex, *Construction history: The road to NorthConnex*, [no date], <https://www.northconnex.com.au/construction>.

- 2.60** According to the NSW Government's *Guide to using NorthConnex for trucks and buses*, NorthConnex delivers 'faster, safer, more reliable and more efficient journeys for road users' and returns local roads to local communities by removing heavy vehicles from Pennant Hills Road.¹⁵³ The marketing rhetoric, assertions and purported benefits of NorthConnex (and other tolled motorways) were not universally accepted in inquiry evidence. This narrative around benefits is subject to detailed scrutiny by the committee in Chapter 4.
- 2.61** When NorthConnex opened to traffic, the NSW Government implemented a truck ban on alternative routes, effectively forcing certain heavy vehicles to use the NorthConnex tunnels.¹⁵⁴
- 2.62** Trucks and buses over 12.5 metres long or over 2.8 metres clearance high travelling between the M1 and M2 are required to use the NorthConnex tunnels unless they have a genuine delivery or pick-up destination that can only be accessed from Pennant Hills Road.¹⁵⁵
- 2.63** To enforce this rule, two gantries monitor trucks and buses travelling on Pennant Hills Road, with cameras recording their height and length. Trucks and buses identified as being of the specified height and length dimensions – and which pass both gantries – receive a fine of \$194 with no loss of demerit points.¹⁵⁶
- 2.64** The majority of the NorthConnex project costs were financed by Transurban and Westlink M7 shareholders. The Australian and NSW Governments contributed up to \$405 million each. NSW Treasury identifies the private sector project partners as Transurban, Queensland Investment Corporation, Canadian Pension Plan, and Lend Lease Bouygues.¹⁵⁷
- 2.65** NorthConnex is owned by Transurban (50 per cent), QIC Global Infrastructure (25 per cent) and CPP (25 per cent).¹⁵⁸

¹⁵³ NSW Government, *Guide to using NorthConnex for trucks and buses* (December 2020), p 1.

¹⁵⁴ Submission 7, Road Freight NSW, p 9; Submission 18, National Road Transport Association, p 1.

¹⁵⁵ NSW Government, *Guide to using NorthConnex for trucks and buses* (December 2020), p 2.

¹⁵⁶ NSW Government, *Guide to using NorthConnex for trucks and buses* (December 2020), p 2.

¹⁵⁷ NSW Treasury, *Public private partnerships: Awarded projects* (14 April 2022), <https://www.treasury.nsw.gov.au/projects-initiatives/public-private-partnerships/awarded-projects>.

¹⁵⁸ Submission 33, Transurban-WestConnex, p 10.

2.66 The NorthConnex tolling regime is detailed in Table 15 below.

Table 15 NorthConnex tolling regime¹⁵⁹

NorthConnex	
Direction charged	Each direction
Tolling method	Fixed
Operator	Transurban
Ownership	Transurban (50%), QIC Global Infrastructure (25%), CPP (25%)
Cost – Class A (Cars)	\$8.28
Cost – Class B (Trucks)	\$24.83
Escalation rate	Greater of CPI or 1% per quarter
Contract date	January 2015
Concession term end date	June 2048

Toll increases and measures to assist road users

2.67 There have been multiple increases in tolls since the start of this inquiry. This section outlines the increases, as well as the government's efforts to assist road users struggling with the cost of road tolls. These measures include the government's toll relief and cashback schemes, as well as the establishment in late 2021 of the Toll Road Pricing and Relief Reform Review.

Toll increases since the commencement of this inquiry

2.68 Following establishment of the inquiry in March 2021, there have been six toll increases across many of Transurban's toll roads. In accordance with their project deeds brokered by the NSW Government, Transurban has applied toll increases – known as 'adjustments' – on the Hills M2, Lane Cove Tunnel and Military Road E-Ramp, Eastern Distributor, Cross City Tunnel, and the M5 South West on 1 April 2021, 1 July 2021, 1 October 2021, 1 January 2022, 1 April 2022 and 1 July 2022. Tolls on the WestConnex M8 and M5 East were increased on 1 January 2022, as was the toll for the WestConnex M4 which is updated annually on 1 January.¹⁶⁰ Tolls on the Westlink M7 have increased in accordance with its concession agreement.

¹⁵⁹ Submission 146, Transport for NSW, p 10; Submission 33, Transurban-WestConnex, p 10.

¹⁶⁰ Linkt, *Quarterly toll price update for April 2021* (25 March 2021), <https://www.linkt.com.au/using-toll-roads/news/quarterly-toll-price-update-for-april-2021/sydney>; Linkt, *Quarterly toll price update for July 2021* (17 June 2021), <https://www.linkt.com.au/using-toll-roads/news/quarterly-toll-price-update-for-july-2021/sydney>; Linkt, *Quarterly toll price update for October 2021* (17 September 2021), <https://www.linkt.com.au/using-toll-roads/news/quarterly-toll-price-update-for-october-2021/sydney>; Linkt, *Quarterly toll price update for January 2022* (20 December 2021), <https://www.linkt.com.au/using-toll-roads/news/quarterly-toll-price-update-for-january-2022/sydney>; Linkt, *Quarterly toll price update for April 2022* (18 March 2022), <https://www.linkt.com.au/using-toll-roads/news/quarterly-toll-price-update-for-april-2022/sydney>; Linkt, *Quarterly toll price update for July 2022* (17 June 2022), <https://www.linkt.com.au/using-toll-roads/news/quarterly-toll-price-update-for-july-2022/sydney>.

- 2.69** With each media release informing the public of these 'adjustments', Linkt (Transurban's e-tolling brand) does not indicate what the toll was before the increase is applied – only what the new toll will be.
- 2.70** Using Linkt's media releases, the committee has collated this information for the NorthConnex tolling regime for each quarter since the establishment of this inquiry. This information is compiled in Table 16 below.

Table 16 NorthConnex toll increments since commencement of the inquiry¹⁶¹

Starting toll	1 Apr 2021	1 July 2021	1 Oct 2021	1 Jan 2022	1 Apr 2022	1 July 2022
Class A Vehicles						
\$8.11	\$8.20	\$8.28	\$8.36	\$8.44	\$8.56	\$8.74
Class B Vehicles						
\$24.34	\$24.59	\$24.83	\$25.08	\$25.33	\$25.67	\$26.22

- 2.71** Record inflation figures released in the course of this inquiry – hitting a 22 year high in the March 2022 quarter – were reported as delivering a boost to Transurban's revenue, with tolls on several of its motorways linked to quarterly inflation. According to these reports, surging inflation will trigger 'one of the biggest quarterly increases in tolls in years on many of Sydney's motorways'.¹⁶²

Toll relief and cashback schemes

- 2.72** The NSW Government provides toll relief primarily through discounts on registration fees for motorists who spend over a certain amount each year on tolls, rebates for large towed recreational vehicles and the M5 cashback scheme.¹⁶³
- 2.73** The Registration Relief Scheme provides one free or half-price 12-month vehicle registration to owners of privately registered vehicles who have spent over the yearly threshold on tolls in the previous financial year. Drivers who (in 2020-21) have spent \$1,352 or more on tolls within New South Wales in the previous financial year receive free vehicle registration. Whereas drivers who have spent \$811 or more on New South Wales toll roads during the previous financial year are eligible for half-price registration. This is valid for one eligible vehicle linked to a personal toll account.¹⁶⁴

¹⁶¹ Media release, NorthConnex, 'Quarterly toll adjustment on the NorthConnex motorway from 1 January 2021', 21 December 2020; Media release, NorthConnex, 'Quarterly toll adjustment on the NorthConnex motorway from 1 April 2021', 21 March 2021; Media release, NorthConnex, 'Quarterly toll adjustment on the NorthConnex motorway from 1 July 2021', 21 June 2021; Media release, NorthConnex, 'Quarterly toll adjustment on the NorthConnex motorway from 1 October 2021', 20 September 2021; Media release, NorthConnex, 'Quarterly toll adjustment on the NorthConnex motorway from 1 January 2022', 20 December 2021; Media release, NorthConnex, 'Quarterly toll adjustment on the NorthConnex motorway from 1 April 2022', 21 March 2022.

¹⁶² Matt O'Sullivan and Tom Rabe, 'Inflation triggers surge in tolls for Sydney motorways', *Sydney Morning Herald*, 3 May 2022.

¹⁶³ Submission 146, Transport for NSW, p 16.

¹⁶⁴ Submission 146, Transport for NSW, p 16; Service NSW, *Toll relief – FAQs*, [no date], <https://www.service.nsw.gov.au/toll-relief-faqs>.

- 2.74** Under the large towed recreational vehicle scheme, a rebate is available for vehicles towing caravans, boat trailers or horse floats. This scheme applies to all of Sydney's toll roads except the Sydney Harbour Bridge and Tunnel.¹⁶⁵
- 2.75** The M5 Cashback Scheme allows residents of New South Wales to claim back the value of tolls (excluding GST) paid while using a vehicle registered in New South Wales for private, pensioner or charitable use on the M5 South-West motorway.¹⁶⁶
- 2.76** In the concluding stages of this inquiry, the NSW Government announced a new Registration Relief Scheme, billed as 'a fairer and more equitable system based more closely on the amount a motorist actually spends on tolls'. This refreshed Registration Relief Scheme replaced the old scheme on 1 July 2022.¹⁶⁷
- 2.77** Under the new scheme, every quarter, eligible non-business and small business customers receive a 40 per cent rebate for every dollar spent on tolls once they have reached a minimum spend of \$375. The maximum annual benefit available to each eligible customer is \$750.¹⁶⁸

NSW Government's Toll Road Pricing and Relief Reform Review

- 2.78** At its hearing of 14 February 2022, the committee was made aware of a sweeping review already underway into the State's tolling arrangement. The committee was told the review had been initiated by Treasury NSW following an announcement by the Premier, the Hon Dominic Perrottet MP.¹⁶⁹
- 2.79** In questioning government officials, the committee was unable to ascertain a precise timeline for this review. Mr Philip Gardner, Deputy Secretary of NSW Treasury, told the committee the review was flagged with his agency 'around the same time the Premier made the announcement' and that, following Christmas 2021, the process commenced in earnest in January and February 2022.¹⁷⁰ In answers to questions on notice, NSW Treasury further advised that 'NSW Treasury and Transport for NSW began preparation for the tolling review in late December 2021'.¹⁷¹
- 2.80** Mr Gardner was unable to nominate a reporting date but stated that '[w]e will be expecting to provide recommendations during the course of [2022]'.¹⁷²
- 2.81** According to its terms of reference, the review is to consider the following 'potential issues':
- inconsistencies embedded in the tolling arrangements leading to customer confusion

¹⁶⁵ Submission 146, Transport for NSW, p 16.

¹⁶⁶ Submission 146, Transport for NSW, p 16.

¹⁶⁷ Media release, Hon Dominic Perrottet MP, NSW Premier, and Hon Natalie Ward MLC, Minister for Metropolitan Roads, 'New toll relief for drivers', 7 June 2022.

¹⁶⁸ Media release, Hon Dominic Perrottet MP, NSW Premier, and Hon Natalie Ward MLC, Minister for Metropolitan Roads, 'New toll relief for drivers', 7 June 2022.

¹⁶⁹ Evidence, Mr Philip Gardner, Deputy Secretary, NSW Treasury, 14 February 2022, p 2.

¹⁷⁰ Evidence, Mr Gardner, 14 February 2022, pp 2 and 7.

¹⁷¹ Answers to questions on notice, Mr Philip Gardner, Deputy Secretary, NSW Treasury, 14 March 2022, p 2.

¹⁷² Evidence, Mr Gardner, 14 February 2022, p 2.

- cost of living impacts, fairness and equity for the users of NSW toll roads
- lack of optimisation of the road network including congestion impacts.¹⁷³

2.82 NSW Treasury has overall responsibility for the review and chairs a project steering committee of NSW Treasury and Transport for NSW, established to oversee, guide and advise on the project.¹⁷⁴

2.83 The objectives of the review are to identify policy reform options most likely to achieve the best balance of the following objectives:

- consistency of toll road pricing
- fair and equitable toll road pricing
- improve road network efficiency, addressing issues of traffic congestion
- meeting emissions reduction targets
- sustainability of road funding
- having regard to: the impact on socioeconomic equity and affordability for toll road customers; and the fiscal impact to the NSW Government.¹⁷⁵

2.84 In response to more specific questioning by the committee, Mr Gardner cautiously highlighted a number of 'in scope' options that *may* be put forward for the consideration of government including:

- toll relief options, for example, the possible expansion of existing rebate or registration relief schemes
- assessing the merits of existing cashback schemes and their potential application more broadly
- a cap on tolls
- time of day tolling.¹⁷⁶

2.85 Toll harmonisation was identified as being in scope but as a longer term consideration which 'could take a significantly longer period of time to consider our options and think through implementation and how that would be undertaken'.¹⁷⁷

2.86 The NSW Government has engaged three consulting firms for the review. L.E.K. Consulting has been engaged as the Strategy Adviser, PricewaterhouseCoopers (PwC) as the Traffic Adviser and Alex Iljin as the Road Traffic Consultant.¹⁷⁸

¹⁷³ Answers to questions on notice, NSW Treasury, received 14 March 2022 – Attachment A, NSW Treasury, *Toll road pricing and relief reform review: Steering committee terms of reference*, March 2022, p 2.

¹⁷⁴ Answers to questions on notice, NSW Treasury, received 14 March 2022 – Attachment A, NSW Treasury, *Toll road pricing and relief reform review: Steering committee terms of reference*, March 2022, p 2.

¹⁷⁵ Answers to questions on notice, NSW Treasury, received 14 March 2022 – Attachment A, NSW Treasury, *Toll road pricing and relief reform review: Steering committee terms of reference*, March 2022, p 3.

¹⁷⁶ Evidence, Mr Gardner, 14 February 2022, p 3.

¹⁷⁷ Evidence, Mr Gardner, 14 February 2022, p 3.

¹⁷⁸ Answers to questions on notice, Mr Philip Gardner, Deputy Secretary, NSW Treasury, 14 March 2022, p 4.

- 2.87** The NSW Premier, the Hon Dominic Perrottet MP, has described the key principles for the reform process as 'lower prices, a fairer system and moving towards one network'. Giving some further indication around timelines, the Premier indicated that the scale and complexity of the toll system reform make it unlikely it will be implemented before March 2023 (the next State election).¹⁷⁹
- 2.88** In June 2022, the Daily Telegraph reported that the review will cost taxpayers \$2.3 million in consultant costs.¹⁸⁰

Committee comment

- 2.89** The 2017 Upper House inquiry into road tolling heard suggestions that Sydney is the most tolled city in the world. Since the inception of that inquiry in December 2016, and noting committee comment at paragraph 1.72, Sydney motorists have been hit with: a new toll for the widened M4 between Parramatta and Homebush; a new toll for the M4 tunnels between Homebush and Haberfield; a new toll for the M5 East from the King Georges Road interchange; a new toll for the M8 tunnels between Kingsgrove and St Peters; and a new toll for NorthConnex. Looking ahead, motorists will pay new tolls for: WestConnex Stage Three; the M6 Stage One, the Western Harbour Tunnel and possibly the Northern Beaches link. If there was any doubt about Sydney being the most tolled city back in 2017, that has now been dispelled.
- 2.90** The concerning growth in the number of tolls has been matched by a steady increase in toll prices since the last inquiry. For example, the cost of the Eastern Distributor for cars went from \$7.09 as at 1 July 2017 to \$8.74 as at 1 July 2022. As a result of record inflation, tolls rose by more than double the usual amount on six Sydney toll roads on 1 July 2022.
- 2.91** Now more than ever, household budgets are under significant strain. Record inflation, rising interest rates, surging rents, soaring energy prices and record high fuel prices are some of the cost-of-living pressures people are facing. The ever-increasing financial burden of tolls is a further drain on already stretched household budgets, one that many motorists can ill-afford. Every quarter sees an inexorable increase in tolls. Furthermore, whilst acknowledging the complexity involved in financing and delivering large-scale infrastructure, the committee was disappointed in the language used by Transurban regarding inflation and revenue, just as household budgets are being stretched to their breaking point.
- 2.92** The committee welcomes the NSW Treasury-led review of toll road pricing and toll relief, announced just prior to the government's appearance before this inquiry. The inadequate answers from NSW Treasury officials about how the review came about do little to instill confidence. The NSW Government has had a long time to address issues with the current tolling regime. Instead, it has taken an Upper House inquiry and a looming State election to end the inaction.
- 2.93** The current tolling regime is a product of the government's own making, and reform is well overdue. As acknowledged by this report, stakeholders and the NSW Government, the current

¹⁷⁹ Tom Rabe, 'No guarantee of reforms for Sydney's toll system before election, say Perrottet', *Sydney Morning Herald*, 30 May 2022.

¹⁸⁰ James O'Doherty and Lachlan Leeming, 'External road toll review to cost \$2.3m', *Daily Telegraph*, 1 June 2022.

tolling regime has led to inefficient pricing and delivery of single pieces of road infrastructure rather than a holistic view of Sydney's motorway network. In the committee's view, there needs to be commitment to sweeping and meaningful reform, not just tinkering around the edges with band-aid fixes. Motorists have been suffering for far too long. They deserve better than piecemeal reforms that barely move the needle. Perhaps most importantly, the process must include genuine consultation with all affected stakeholders. In addition, as a result of the continuing privatisation of Sydney's roads, the NSW Government has limited flexibility and control over toll road pricing due to new or revised contractual arrangements with private toll operators. While the committee is not convinced that the government's toll pricing review will deliver genuine reform, given its reporting date of later this year, it is the best placed mechanism at present to address some of the issues identified during this inquiry.

Recommendation 1

That the NSW Government as part of its Toll Road Pricing and Relief Reform Review commit to:

- genuine and meaningful reform of road tolling
 - consulting with affected stakeholders in government, industry and the community
 - no new tolls or new or revised toll road contracts being issued prior to consideration of such reform, in order to not further limit the government's flexibility and control over toll road pricing.
-

Chapter 3 **The impact of tolls on the community and industry**

Since the 2017 Upper House inquiry into road tolling, the price that private motorists and trucks are paying to use Sydney's motorways has increased steadily. The increases are in line with the escalation rates established in contractual agreements between the government and private operators – most notably, Transurban which operates all but two of Sydney's privately held toll roads. Sydney has also seen the addition of several new tolled motorways to the network, with several more in the infrastructure pipeline. This has meant an ever increasing financial burden on industry and private users of the Sydney road network.

In this chapter, the committee examines the impacts of tolls on the community and industry. The first section focuses on the impact of tolls on private motorists, household budgets and communities more broadly. The second section focuses on the road freight industry, including small operators and owner-drivers, as well as the private bus and coach industry. While the discussion in this section is primarily about financial impacts and the cost burden of tolls, broader, non-financial impacts – such as road safety and amenity – are also considered.

The impact of tolls on the community

- 3.1** In evidence before the committee, there was a very clear discord between, on one hand, the assertions made by the NSW Government and Transurban about the relatively small amounts Sydney motorists are paying in tolls and, on the other, evidence from inquiry participants laying bare the realities of living in western, southwestern or northwestern Sydney and being largely dependent on private vehicle transport. This section begins with a review of these positions before turning to the related issue of transport disadvantage within Sydney and how this plays out in the geographic distribution of the costs and benefits of the tolling regime.
- 3.2** The section draws on two case studies to illustrate the consequences of the NSW Government's road tolling policy settings within a local community context: a case study on the road safety impacts of toll avoidance on the M4, and another on the effects of the M5 tolling arrangements for residents and business owners in Bexley, New South Wales.

The financial impost of tolls: How much are motorists really paying?

- 3.3** Transport for NSW gave evidence that 60 per cent of Sydney's motorists pay less than \$10 per week in tolls (or \$520 per year), while the average toll road user is paying \$23 per week in tolls (or \$1,196 per year). For context, Transport for NSW noted that the average public transport user spends \$17 per week (or \$884 per year).¹⁸¹
- 3.4** This accorded with evidence from Transurban. Drawing on Linkt customer data for the period between March 2019 and to February 2020 which excludes COVID-19 impacts, Transurban submitted that the average motorist travelling in a personal vehicle spent \$9.52 per week or \$495 per year.¹⁸²

¹⁸¹ Submission 146, Transport for NSW, p 3.

¹⁸² Submission 33, Transurban-WestConnex, p 22.

3.5 In its submission to the inquiry, Transurban provided a region-by-region breakdown of the average weekly spend across the Sydney metropolitan area based on consumer and commercial customers of Linkt. Linkt – Transurban's retail e-tolling brand – represents roughly 54 per cent of the retail market, with the remainder being the NSW Government's E-Toll service or interstate operators.¹⁸³ The average weekly spend for private consumer vehicles (i.e. not including commercial freight vehicles) is reproduced in Table 17 below.

Table 17 Region by region analysis of average Linkt customer spend¹⁸⁴

North	
Proportion of customers spending less than \$10 per week	65%
Proportion of customers spending less than \$20 per week	83%
Proportion of customers spending less than \$50 per week	96%
Proportion of customers spending more than \$100 per week	0.4%
Northwest	
Proportion of customers spending less than \$10 per week	56%
Proportion of customers spending less than \$20 per week	74%
Proportion of customers spending less than \$50 per week	92%
Proportion of customers spending more than \$100 per week	1.2%
West	
Proportion of customers spending less than \$10 per week	62%
Proportion of customers spending less than \$20 per week	79%
Proportion of customers spending less than \$50 per week	95%
Proportion of customers spending more than \$100 per week	0.6%
Inner Sydney	
Proportion of customers spending less than \$10 per week	67%
Proportion of customers spending less than \$20 per week	84%
Proportion of customers spending less than \$50 per week	97%
Proportion of customers spending more than \$100 per week	0.3%
Southwest	
Proportion of customers spending less than \$10 per week	61%
Proportion of customers spending less than \$20 per week	78%
Proportion of customers spending less than \$50 per week	94%
Proportion of customers spending more than \$100 per week	0.6%
South	
Proportion of customers spending less than \$10 per week	76%
Proportion of customers spending less than \$20 per week	88%
Proportion of customers spending less than \$50 per week	98%
Proportion of customers spending more than \$100 per week	0.2%
Rest of New South Wales	
Proportion of customers spending less than \$10 per week	93%
Proportion of customers spending less than \$20 per week	97%
Proportion of customers spending less than \$50 per week	99.6%
Proportion of customers spending more than \$100 per week	0.03%

¹⁸³ Evidence, Mr Andrew Head, Chief Executive Officer, WestConnex, 10 December 2021, p 26.

¹⁸⁴ Submission 33, Transurban-WestConnex, p 23.

- 3.6** Evidence cited by Transport for NSW and Transurban about the average consumer spend appeared to be at odds with that of the Western Sydney Regional Organisation of Councils, a peak body representing seven councils in Greater Western Sydney, namely: Blacktown, Blue Mountains, Cumberland, Hawkesbury, Lithgow, Liverpool and the City of Parramatta.
- 3.7** This organisation calculated that regular users of the M2 motorway, M5 motorway and M4 motorway commuting to the city for work spend \$9,335 per year, \$5,100 per year and \$4,290 per year on tolls respectively.¹⁸⁵ This was premised on a five-day working week with the M5 cashback rebate applied, and was calculated for journeys that originated in the North West Growth Centre for the M2 calculation, the South West Growth Centre for the M5 calculation and Penrith for the M4 calculation.¹⁸⁶
- 3.8** The Western Sydney Regional Organisation of Councils explained how they arrived at these figures, telling the committee they had 'a staff member sit down and actually work out the costs of real-life people going to real jobs in the east' and that these figures are actually understated for reasons explained below.¹⁸⁷ In its view, they also reflect the 'wide disparity in toll charges or toll costs for households' depending on where you live within the region.¹⁸⁸
- 3.9** Furthermore, the sheer number of tolls payable in one single trip was highlighted by way of an example: motorists living in northwestern Sydney pay a total of four tolls to travel to the city, consisting of a toll to get onto the M7, followed by a toll to turn onto the M2 city bound, then another toll to use the Lane Cove Tunnel, and then finally a toll to use the Sydney Harbour bridge or tunnel.¹⁸⁹
- 3.10** Appearing before the committee, Mr Barry Calvert, the organisation's president, suggested the figures detailing how much residents of western Sydney are paying in tolls, including their own figures at paragraph 3.7 above, could in fact be a significant understatement as they are premised on the assumption of one car per household.¹⁹⁰ He explained:
- ... most households, especially in outer western Sydney, have at least two cars. In some cases that second car also has to go through tollways, often to the medical services or even shopping or taking kids to school, but also often the two people living in that address go to different workplaces and use different tolls. In many cases, the figures we have put in there have to be doubled; it is twice as bad as it sounds in those tables.¹⁹¹
- 3.11** Taking into account these secondary vehicles making non-commute or non-work related journeys, the committee heard it would not be unreasonable to add another \$20 or \$30 per week on top of the official toll costs figures for households across greater western Sydney.¹⁹²

¹⁸⁵ Submission 35, Western Sydney Regional Organisation of Councils, p 7.

¹⁸⁶ Submission 35, Western Sydney Regional Organisation of Councils, p 7.

¹⁸⁷ Evidence, Mr Charles Casuscelli, Chief Executive Officer, Western Sydney Regional Organisation of Councils, 7 October 2021, p 18.

¹⁸⁸ Evidence, Mr Casuscelli, 7 October 2021, p 18; Submission 35, Western Sydney Regional Organisation of Councils, p 7.

¹⁸⁹ Evidence, Mr Barry Calvert, President, Western Sydney Regional Organisation of Councils, 7 October 2021, p 18.

¹⁹⁰ Evidence, Mr Calvert, 7 October 2021, p 17.

¹⁹¹ Evidence, Mr Calvert, 7 October 2021, p 17.

¹⁹² Evidence, Mr Casuscelli, 7 October 2021, p 18.

- 3.12** The State Member for Granville, Ms Julia Finn MP, was another inquiry participant concerned about the cost of tolls. Offering a broad brush demographic profile of affected postcodes in her electorate, Ms Finn assessed the costs of tolls as being 'incredibly expensive' while noting the wide variation in how much motorists are paying across the Granville electorate.¹⁹³
- 3.13** Ms Finn went on to detail the average spend for the most affected suburbs in her electorate as a proportion of the average income, which she estimated to be five percent:
- The average amount per year for people in the 2145 postcode area—so in my electorate that covers residents of Westmead, Wentworthville and Greystanes and these are suburbs where you do have a lot of tradies, so people who might make more than a journey to work and a journey home, that might be going across Sydney between multiple worksites on any given day. The average amount those people are spending per year on tolls is \$4,310. That is astounding.¹⁹⁴
- 3.14** Ms Finn described the M4 toll as 'an unfair tax on the people of western Sydney', suggesting that the widened M4 motorway will be paid off 'by the end of the year but we will be paying to use that road until 2060. That is not fair'.¹⁹⁵
- 3.15** The road safety and amenity impacts of the M4 toll are outlined in paragraph 3.47 and Case Study A below.

Individual motorists' experience of tolls

- 3.16** The committee received a number of submissions from individual motorists which illustrated the impact tolls are having on their personal budgets and lives more generally. This evidence included the following statements:
- A working parent in a double-income family stated: 'The cost of tolls is so high that we sometimes have to think whether we eat or let the toll account go into a negative balance and figure it out later'.¹⁹⁶
 - 'Tolls cost my family around \$200 a week, there are times which our toll account is in the negative, as we still need to get to work but cannot pay it'.¹⁹⁷
 - One resident of southwestern Sydney who works at Sydney airport commented: 'the tolls are so expensive which take a big chunk out of my income which should be spent on my family and children.... On average I spend \$150 on tolls per week if not more'.¹⁹⁸
 - 'The amount of tolls which are now inflicted on myself and my community is ridiculous... My husband works in Artarmon. For him to travel to work the tolls are more than \$20

¹⁹³ Evidence, Ms Julia Finn MP, Member for Granville, 7 October 2021, p 2.

¹⁹⁴ Evidence, Ms Finn, 7 October 2021, p 2.

¹⁹⁵ *Hansard*, NSW Legislative Assembly, 30 July 2019, p 1253 (Julia Finn) cited in Submission 17, Ms Julia Finn MP, p 10.

¹⁹⁶ Submission 62, Ms Laura Henao, p 1.

¹⁹⁷ Submission 66, Mr Daniel Cardona, p 1.

¹⁹⁸ Submission 57, name suppressed, p 1.

each way, how is that sustainable for my family? We are a family of 5 and these tolls impact our ability to live well'.¹⁹⁹

- Another resident of southwestern Sydney highlighted the lack of public transport options in their region, stating 'We as residents feel helpless to do anything as successive governments neglected people of western and southwestern Sydney in regards to public infrastructure including good affordable public transport'.²⁰⁰
- 'I travel from the central coast to western Sydney for work 5 days a week. Travelling on 3 toll roads to get to work each day. I am spending upwards of \$50 per day return. As a single parent with a mortgage and supporting a legally blind child the cost to travel is having a significant impact on me financially. Currently I have a debt of \$3,200 that I'm required to pay off, this has gone to a third party collecting agency and effects my credit rating'.²⁰¹
- Referring to the impact of the new M5 East and M8 tolls, one submission author observed: 'My husband has to use an alternate route to get to his place of work to avoid tolls. He now gets off at King Georges Road and goes through back streets ultimately arriving at his workplace in Alexandria. My sister who is a Nurse at RPA hospital has also had to do the same. As shift workers, after their nightshifts, they just want to get home but are forced to travel the long winding backroads through suburbs or pay the toll'.²⁰²
- Referring to the Eastern Distributor toll and new tolls on the M5, one submission author stated 'Living in south west Sydney and working in the city has become a financial burden beyond reason... It is absolutely ridiculous and means I leave for work 30-40 minutes earlier so I can go the long way ... Visiting family who live in inner city has been decreased due to the cost of each trip'.²⁰³
- Another submission author told the inquiry they spend more than \$1,000 per month on tolls, equating to a huge portion of their salary.²⁰⁴
- 'As a small business owner who goes to the wharf several times a day our tolls are costing us anywhere from \$700 to \$1200 a week. We virtually work for nothing one whole day to pay for tolls'.²⁰⁵
- 'I am a 19 year old university student who lives in the South-West of Sydney, yet works, studies, socialises and plays sport predominately in the Eastern and northern suburbs. I spend over \$2,000 a year on tolls, and as a student who earns barely minimum wage, tolls take up over 15% of my weekly wage'.²⁰⁶
- 'The western suburbs of Sydney are punished simply for our post codes. ... To get to and from work is simply unaffordable for most, including my family. At present I am currently paying \$25 per day, 5 days per week, to get to and from work in a timely manner, so I can

¹⁹⁹ Submission 59, name suppressed, p 1.

²⁰⁰ Submission 68, Mr David Lee, p 1.

²⁰¹ Submission 70, Ms Michelle Beveridge, p 1.

²⁰² Submission 51, name suppressed, p 1.

²⁰³ Submission 71, Dusan Misic, p 1.

²⁰⁴ Submission 78, Kyle Young, p 1.

²⁰⁵ Submission 85, Ms Karen Williams, p 1.

²⁰⁶ Submission 87, name suppressed, p 1.

get to after school care in before closing time. In order to have such a luxury, our family forgoes other essential expenses and experiences'.²⁰⁷

- 'As a person with a limited fixed income, a recipient of [the Disability Support Pension], the ever increasing number of tolls between my home and my specialist doctors' appointments, in the inner city, makes it almost impossible to attend. To get to my doctors I have to use the M5. I ride a motorcycle and even with this, I'm faced with over \$30 in tolls for a round trip. It was a very rude shock when I discovered, following the opening of the M8, an additional toll on the M5 ... To contemplate going into the city for recreation or a cultural event is totally out of the question'.²⁰⁸
- 'For those who can't afford to buy in Paddington, Waterloo or Surry Hills get penalised for buying in places like Blacktown, Penrith or Toongabbie. ... Live in Sydney CBD, pay no tolls. Live out west and we will hit you where it hurts every day of the week, every week of the year'.²⁰⁹
- Another submission author shared their experience of toll debt, a topic the committee considers in Chapter 5. This submission author told the inquiry: 'I started a Linkt account to pay for the tolls and avoid the handling fee they put on it if you don't have an account – only for the tolls to not go on the tag account. And I still rack up the handling fees. As a result, I cannot use tolls as it is too expensive and I have accumulated an excessive amount of debt because.... of the fees on top'.²¹⁰
- 'I have ADHD as an adult, the stigma around this curse and I say curse is because of how debilitating it is. A toll road could be the difference between me being at work on time so I don't lose my job. Not only that, I unfortunately due to organisational problems associated with my ADHD forget to fix my E-toll pass and now I get charged by a private company admin fees for my illness'.²¹¹
- 'Sydney is the highest tolled city in the world. It's out of control. Transurban should be banned from owning any more roads in this country. My wife spends roughly \$5,000 per annum on tolls. My company pays for mine I expect they are around \$7,000 per annum'.²¹²
- 'Tolls are ever increasing, yet incomes for the average Sydney resident have remained stagnant, which is prohibiting drivers using toll roads and causing yet again significant congestion on the local roads the toll roads were built to resolve. That's not value added for Sydneysiders'.²¹³
- Another individual told the inquiry that, in addition to the financial impost just to get to work, tolls have 'increased the traffic around suburban streets. We have heavy trucks and noise now detouring into quiet streets which have caused damage to electrical wires as the trucks are too high and not supposed to drive in our streets. There are more potholes and

²⁰⁷ Submission 134, Tracy Lynch, p 1.

²⁰⁸ Submission 142, Scott Thrift, p 1.

²⁰⁹ Submission 151, Aaron Giddings, p 1.

²¹⁰ Submission 153, name suppressed, p 1.

²¹¹ Submission 162, David Barber, p 1.

²¹² Submission 163, Ben Pailas, p 1.

²¹³ Submission 164, Patricia McAloon, p 1.

damage in my area due to the increase number of trucks using normal small streets. This is also more dangerous'.²¹⁴

- 'People sometimes have put off a new work opportunity due to the cost of the toll to get to work, especially when public transport is not an option. This is certainly a loss to the economy both state and federal'.²¹⁵

3.17 Moreover, in response to the committee's online questionnaire, the majority of the 503 respondents answered that they either paid between \$20 and \$50 per month (26.40 per cent) or less than \$20 per month (23.60 per cent). A further 17.20 per cent answered that they paid between \$50 and \$75 per month, and 14.40 per cent paid between \$75 and \$100 per month. Finally, 18.40 per cent answered that they paid more than \$100 per month.²¹⁶

Geographical distribution of impacts

3.18 The inquiry sought to explore evidence on whether some segments of the community are bearing a disproportionate share of the costs and/or benefits of the tolling regime. Some evidence questioned whether the ever-increasing costs of tollways are evenly and fairly distributed across the demographic landscape of Sydney, suggesting instead that certain areas or regions are carrying a much larger share of the burden than others. This lack of parity is discussed below. The social and economic factors behind it are discussed in the subsequent section.

3.19 Based on Transurban's own data, customers in northwestern Sydney, southwestern Sydney and western Sydney spend more per week on tolls than other parts of Sydney.²¹⁷ Comparatively speaking, and taking an average weekly spend of \$20 as the key metric or 'bar':

- 26 per cent of customers in northwestern Sydney, 21 per cent of customers in western Sydney and 22 per cent of customers in southwestern Sydney spend \$20 per week or more in tolls, equivalent to more than \$1,000 per year;
- whereas, only 17 per cent of customers in northern Sydney, 16 per cent of customers in inner Sydney and 12 per cent of customers in southern Sydney spend \$20 per week or more in tolls, equivalent to more than \$1,000 per year.²¹⁸

3.20 According to Transurban, the higher average weekly spends in northwestern, western and southwestern Sydney are partly due to 'the location of the toll roads providing the option for customers in those areas to conveniently cross the city and/or travel into the [Central Business District]'.²¹⁹

²¹⁴ Submission 177, name suppressed, p 1.

²¹⁵ Submission 191, name suppressed, p 1.

²¹⁶ Portfolio Committee No. 6 – Transport, NSW Legislative Council, *Report on the online questionnaire: Inquiry into road tolling regimes*, p 6.

²¹⁷ Submission 33, Transurban-WestConnex, p 23. See also: Evidence, Ms Michele Huey, Group Executive, Transurban, 10 December 2021, p 27.

²¹⁸ Submission 33, Transurban-WestConnex, p 23.

²¹⁹ Submission 33, Transurban-WestConnex, p 23

3.21 The relatively higher toll burden for motorists in northwest, western and southwestern Sydney – when compared with other regions in Sydney – was also alluded to in evidence from the NRMA.²²⁰

3.22 In particular, Mr Robert Giltinan, the NRMA's Director of Policy and Public Affairs, brought into focus the financial implications of increasing tolls for household budgets, including those of northwestern Sydney. Mr Giltinan observed:

... we do know that in the north-west, in particular, pre-COVID that there were motorists who were paying thousands and thousands of dollars per annum just on tolls, which is obviously one component of the transport spend and one component of the family budget. Ultimately, if they deem that too much, it feels like it is too much, then we need to do something about it.²²¹

3.23 When asked about how transport costs in Sydney compare with costs in Brisbane or Melbourne as a proportion of household budgets, Mr Giltinan remarked that costs are 'more considerable' in Sydney especially throughout western Sydney:

It is more considerable in Sydney compared to any of the other cities, including for parking—if you look at Brisbane, it has very expensive parking but Sydney is more so. So transport costs are continuing to increase and become a greater percentage of the household budget. That is particularly true throughout western Sydney, and again that comes back to the equity issue.²²²

3.24 This corresponded with evidence from the Transport Workers' Union of New South Wales. The Union cited data showing that Sydney has the highest average spend on road tolls per week compared to Melbourne and Brisbane while maintaining that the cost burden of Sydney's tolling regime disproportionately affects residents of western Sydney.²²³ It gave evidence that:

As at October 2020, data indicates that the households based in Wollondilly, Camden, Liverpool, Penrith, Fairfield, Blacktown and the Hills District encounter the highest toll expenses. Of the top seven (7) areas outlined in these findings, six (6) are based in Western Sydney. Further, 'the Western Sydney Regional Organisation of Councils has estimated a daily return trip from the North Western Growth Centre (encompassing the Blacktown, Hills Shire and Hawkesbury council) to the city at \$27.62 a day. The adds up to about nine percent of average weekly earnings in Australia and 20% of the minimum weekly wage'.²²⁴

3.25 The ways in which socioeconomic drivers and the spatial distribution of disadvantage result in a much greater reliance on private vehicles for some Sydneysiders than others, was the subject of evidence from the Western Sydney Regional Organisation of Councils. This peak body proposed that a large proportion of the 300,000 western Sydney residents who travel outside of the region for work are 'burdened with hefty tolls on top of their other transport costs'.²²⁵ By

²²⁰ Evidence, Mr Robert Giltinan, Director, Policy and Public Affairs, NRMA, 25 October 2021, pp 13 and 15.

²²¹ Evidence, Mr Giltinan, 25 October 2021, p 19.

²²² Evidence, Mr Giltinan, 25 October 2021, p 19.

²²³ Submission 20, Transport Workers' Union of NSW, p 9.

²²⁴ Submission 20, Transport Workers' Union of NSW, pp 9-10.

²²⁵ Submission 35, Western Sydney Regional Organisation of Councils, p 1.

its estimation, the annual spend on tolls is somewhere in the vicinity of \$9,300 for residents of northwestern Sydney and \$5,100 for residents of southwestern Sydney.²²⁶

- 3.26** Central to its submission was the contention that western Sydney residents are 'the greatest users of toll roads' for both commuter and recreational travel:

We travel further, for longer, and more often than any other residents of Sydney to access high value jobs and recreational cultural experience, primarily in the city's East. Over 65 per cent of Greater Western Sydney workers commute by private vehicle both within and outside the region.²²⁷

- 3.27** This inquiry participant spoke of western Sydney residents as being 'chained to the roads, much like the Romans of 2,000 years ago', telling the committee that commuters either have to pay expensive tolls or face extra hours navigating gridlocked alternative routes which has an impact on their quality of life.²²⁸

- 3.28** The Western Sydney Regional Organisation of Councils pointed to the perceived inequities and inconsistencies in the way toll roads are priced within the existing regime. In particular, it observed that, even within the greater western Sydney region, motorists across the region are paying vastly different sums for similar journey benefits – for instance, users of the M2 motorway pay three to four times more on a return journey to the Central Business District compared with users of the M5 motorway.²²⁹

Transport disadvantage in western Sydney: the disadvantage of distance

- 3.29** Not all regions within greater Sydney have equal access to transport options. Inquiry participants sought to unpack the social and economic determinants of transport inequality across greater Sydney, explaining how one's purchasing power determines one's postcode, which in turn determines one's transport advantage or disadvantage. For such commentators, consideration of transport access more broadly across multiple modes, was critical to assessing the fairness and equitability of the existing tolling regime.

- 3.30** The Western Sydney Regional Organisation of Councils articulated this argument in evidence to the committee, crediting the 'lack of public transport coverage and capacity' in greater western Sydney as the main reason residents of this region are 'more greatly impacted by tolling issues' than other parts of Sydney.²³⁰ Expanding on this point, this peak body highlighted the socioeconomic determinants behind the 'wider economic geography' of Sydney and how these play out in the context of equity of access to transport and knowledge economy jobs:

Looking at motorway pricing in isolation also fails to consider the wider economic geographies of our city (the way in which advantage and disadvantage are distributed spatially). Land prices reflect many factors, including amenity, of which distance from

²²⁶ Submission 35, Western Sydney Regional Organisation of Councils, p 1.

²²⁷ Submission 35, Western Sydney Regional Organisation of Councils, p 2.

²²⁸ Evidence, Mr Casuscelli, 7 October 2021, p 16.

²²⁹ Submission 35, Western Sydney Regional Organisation of Councils, p 2. See also: Evidence, Mr Casuscelli, 7 October 2021, p 16.

²³⁰ Submission 35, Western Sydney Regional Organisation of Councils, p 1.

transport services is a significant component. With fixed capacity to pay, people make trade-offs and, in most cases, those with the least capacity to pay (for homes on land) are forced to accept the compromise of less amenity (i.e. distance from the Central Business District and in Sydney's case the harbour and the coast) to access affordable housing. Likewise, the workplaces which can afford the highest rents inevitably offer high-value, knowledge economy jobs often located close to [Central Business Districts]. In summary, those with lower incomes, are forced to compromise with the lowest cost homes, located furthest from the [Central Business District] and public transport networks. Therefore, these groups are subjected to the highest travel costs (motorways) to gain high value employment closest to Sydney [Central Business District].²³¹

- 3.31** In questioning before the committee, the organisation's Chief Executive Officer repudiated suggestions that people 'choose' to live in greater western Sydney, asserting instead that it is often a simple economic equation that leaves little room for choice for many (but not all) residents of the region:

It is interesting when people use that phrase, "people choose to live". I do not think they actually have a choice ... I agree that there are some people out there that choose to be out there. There are many people that are out there because it is the only place that they can afford to live.²³²

- 3.32** To bolster its contention, the Western Sydney Regional Organisation of Councils compared 'the commuter experience' for residents of outer western Sydney and the inner west travelling to work in the Central Business District. The results of this analysis are reproduced in Table 18 below.

Table 18 Commute times, costs and options: outer west versus inner west²³³

	Penrith (Glenmore Park)	Five Dock
Leave home	5.26 am – 6.52 am	6.33 am – 7.47 am
Arrive at work (Sydney CBD)	7.03 am – 8.27 am	7.05 am – 8.28 am
Number of available public transport trips	5*	23**
Cost	\$8.62 - \$9.69	\$3.73 - \$5.68

* Walking for 15 minutes at Penrith would make no difference to the number of options

** Analysis of options limited to two bus routes only. Other bus routes and bus-rail combinations increase available options by more than double this number. Walking for 15 minutes at Five Dock dramatically increases the number of options.

- 3.33** This argument resonated with evidence from the NRMA. This organisation referred the committee to the results of a recent survey which sought to elicit members' views on how they move around Sydney's motorway network.²³⁴ These results pointed to clear concerns about the

²³¹ Submission 35, Western Sydney Regional Organisation of Councils, p 1.

²³² Evidence, Mr Casuscelli, 7 October 2021, pp 17-18.

²³³ Submission 35, Western Sydney Regional Organisation of Councils, p 7.

²³⁴ Evidence, Mr Wal Setkiewicz, Principal Adviser, Infrastructure and Economics, NRMA, 25 October 2021, p 14.

lack of public transport coverage in certain parts of Sydney as well as pressures related to housing affordability in shaping the city's social and economic landscape:

We did a survey a couple of years ago where we sought to find out what our members thought about the way they manoeuvre around the Sydney motorway network. There was a concern that it is those most distant motorists who need to travel on these roads. In some cases, as in the north-west sector, the ability to use public transport is quite limited. That was also a factor.²³⁵

- 3.34** For the Western Sydney Regional Organisation of Councils, one of the deficiencies of the current transport policy settings and road tolling regime was seen to be its failure to discriminate between those who have real choice in how and when they move around the city and those who do not.²³⁶ Foreshadowing possible future reforms to make the system fairer, one of its spokespersons commented:

I think there has to be a recognition that over decades there has been a lack of investment in western Sydney—that is well recognised by all sides of politics and all three levels of government—that has to be addressed in some way. A good tolling arrangement in Sydney would actually accommodate the fact that different communities in different parts of Sydney have significantly different access to public transport and viable alternatives to toll roads—other roads that are non-tolled, for example. That should be built into the pricing mechanism.²³⁷

The cost-benefit relationship of toll roads: A critical perspective

- 3.35** The Western Sydney Regional Organisation of Councils offered a critical perspective on the cost-benefit relationship of the user-pays model for toll roads. This peak body argued that certain segments of the community reap the more diffuse benefits of toll roads without paying directly for them.²³⁸
- 3.36** According to the Western Sydney Regional Organisation of Councils, commuters using WestConnex get the travel time savings at a significant personal cost in tolls, while communities surrounding WestConnex get the more diffuse benefits of improved air quality, reduced noise, increased safety and amenity of local neighbourhoods, and increased property values.²³⁹ According to this perspective, as non-users of toll road, the surrounding communities pay nothing for these benefits.²⁴⁰ The essence of the issue is that 'largely tollways are funded through user-pays, even though the benefits go to those that may not necessarily be users of the system'.²⁴¹

²³⁵ Evidence, Mr Setkiewicz, 25 October 2021, p 14.

²³⁶ Submission 35, Western Sydney Regional Organisation of Councils, p 1.

²³⁷ Evidence, Mr Casuscelli, 7 October 2021, p 23.

²³⁸ Submission 35, Western Sydney Regional Organisation of Councils, p 8; Evidence, Mr Casuscelli, 7 October 2021, p 16.

²³⁹ Submission 35, Western Sydney Regional Organisation of Councils, p 8.

²⁴⁰ Submission 35, Western Sydney Regional Organisation of Councils, p 8.

²⁴¹ Evidence, Mr Casuscelli, 7 October 2021, p 16.

- 3.37** Infrastructure Partnership Australia also pointed to the diffuse benefits of toll roads for non-users.²⁴²

Impacts of toll avoidance and 'rat running'

- 3.38** Understanding the neighborhood amenity and safety impacts caused by toll avoiders formed a significant focus of the committee's inquiry.
- 3.39** Some evidence before the committee suggested that the increasing costs of tolls – to the extent that they are now prohibitive for some users – has resulted in increased traffic on local suburban roads, the so-called 'rat run' effect. According to this evidence, this increased traffic has adverse impacts on both safety and neighborhood amenity.
- 3.40** Focusing specifically on freight vehicles, the NRMA suggested that the level at which tolls are set may be acting as an impediment to heavy vehicles using the motorways that were put in place with the express purpose of reducing congestion.²⁴³ When asked to comment on the proposition that the tolling prices for heavy vehicles caused them to use local roads, Mr Robert Giltinan of the NRMA remarked '[t]hat is some of the feedback we have from the freight industry in particular'.²⁴⁴
- 3.41** Mr Giltinan identified the M5 East as one motorway corridor where toll avoidance has been reported as an issue, telling the committee:

.... what we have seen, particularly with the M5 East, is that there is evidence from Road Freight NSW and other advocacy groups to say that heavy vehicles are avoiding the toll roads. Whether that is being confined to maybe they see little benefit, given potentially reduced traffic during COVID, or whether it is a broader issue and they do not feel that using that toll road actually provides value across their chain is something that we do not know the detail of. There is certainly anecdotal evidence to support trucks and heavy vehicles using local roads as opposed to being incentivised to using the new motorway.²⁴⁵

- 3.42** Adding to this evidence, Road Freight NSW also drew attention to the consequences for local communities when road freight operators make commercial decisions to use toll road alternatives. Referring specifically to communities in the vicinity of Stoney Creek Road within the M5 corridor, Road Freight NSW stated that those communities are seeing an increase in truck movements on local roads and this is 'symptomatic' of putting a cost on toll roads.²⁴⁶
- 3.43** This was echoed by the National Road Transport Association, known in shorthand as NatRoad. NatRoad is Australia's largest national representative road freight transport operators' association. According to its members, diversions away from toll roads have led to increasing congestion, worsening community impacts from heavy vehicles on local roads, and increasing

²⁴² Submission 40, Infrastructure Partnerships Australia, p 2.

²⁴³ Evidence, Mr Giltinan, 25 October 2021, p 15.

²⁴⁴ Evidence, Mr Giltinan, 25 October 2021, p 15.

²⁴⁵ Evidence, Mr Giltinan, 25 October 2021, p 1

²⁴⁶ Evidence, Mr Simon O'Hara, Chief Executive Officer, Road Freight NSW, 28 September 2021, p 41.

emissions. As a case in point, NatRoad members referred to the congestion and traffic issues in the Bexley area, considered to be caused by the introduction of the M5 East toll.²⁴⁷

3.44 These impacts are considered in detail through Case Study B below which looks at the impacts of the M5 tolling regime for Bexley residents and businesses, drawn from the committee's offsite hearing in Bexley, conducted in the concluding stages of the inquiry.

3.45 Mr Charles Casucelli of the Western Sydney Regional Organisation of Councils added further evidence to this line of inquiry, arguing that, by reconfiguring routes that run parallel to a new tollway, the government actually exacerbates the impact of rat running. He observed:

When you build a new tollway... what happens is they reconfigure the parallel routes. You can have a look at this on Parramatta Road. Look at the WestConnex tunnel between Strathfield and Ashfield, for example, and go and have a look at Parramatta Road. What normally happens, for whatever reason, is the capacity of those roads is actually reduced. They reconfigure the roads for various reasons. It may be that there is a promise of increased amenity in local communities; there may be other factors that come into play. But the rat runs are real. They are made worse by Government policy that actually reduces capacity on those parallel routes after the new infrastructure is built.²⁴⁸

3.46 Mr Casucelli also spoke of the pressure rat running places on local council-managed roads, leading to an 'additional impost on local government' on account of increased road maintenance costs and the possible requirement for traffic-calming measures to combat loss of amenity in those neighbourhoods.²⁴⁹

3.47 Ms Julia Finn MP, State Member for Granville, posited a direct correlation between the extent of rat running in the backstreets of Granville and the periods when travel on the M4 has been free or tolled. Notably, the reintroduction of the toll in 2017 was, in her view, followed swiftly by the return of rat runners in the residential streets of Granville, leading to poor safety outcomes and damage to parked vehicles.²⁵⁰ The road safety impacts of drivers avoiding the reintroduced toll on the M4 are detailed in the following case study.

²⁴⁷ Submission 18, National Road Transport Association, pp 7-8.

²⁴⁸ Evidence, Mr Casucelli, 7 October 2021, p 19.

²⁴⁹ Evidence, Mr Casucelli, 7 October 2021, p 19.

²⁵⁰ Submission 17, Ms Julia Finn MP, pp 1-2.

Case study A: M4 Church Street offramp or 'crash alley'²⁵¹

The M4 is a 40 kilometre stretch of motorway from the foothills of the Blue Mountains to Concord via Parramatta, with a recent extension to Haberfield via new tunnels. The M4 is one of the most utilised roads in New South Wales. The section west of Parramatta is not tolled.

In July 2017, the NSW Government completed the widening of the M4 between Parramatta and Homebush to increase capacity from three to four lanes in each direction. On 15 August 2017, roughly seven years after the motorway was handed back to the NSW Government and became free to use, a distance-based toll was introduced between Parramatta and Homebush. This was in accordance with the WestConnex M4 concession with the government's private sector project partners.

Following the introduction of the toll in 2017, the eastbound Church Street offramp became the final exit before the tolled section of the motorway between Parramatta and Homebush. As a result, traffic volumes accessing this offramp increased significantly. According to a government report, the number of vehicles using this offramp in the morning and evening peaks increased by approximately 35 per cent.

The committee received reports of the serious road safety hazards and risks this has given rise to, with lengthy queueing and risky driver behaviour to access the offramp and avoid the new toll. As just one example, drivers had been observed exceeding the speed limit and crossing the unbroken lane demarcation in an attempt to 'jump the queue' for the Church Street exit.

A safety review of the eastbound Church Street offramp, undertaken by Transport for NSW, reported the following accidents and fatalities:

- On 18 July 2018, there was a fatal crash involving three cars when a car attempting to merge onto the M4 from the onramp immediately before the Church Street offramp, collided with a stationary vehicle queueing to access the Church Street offramp. A passenger in the merging vehicle was killed.
- On 9 May 2019, a fatal, multiple-vehicle crash occurred when a car came to a stop on the M4 at the Church Street offramp and activated its hazard lights. This caused a number of vehicles to brake heavily and collide, including a large rigid truck in lane five which collided with a ute in the same lane. The ute was pushed into another vehicle in the same lane, and the ute's driver was killed.
- On 18 May 2019, another multiple-vehicle crash occurred when a number of vehicles in lanes three and four collided a short distance after the Burnett Street onramp, the onramp delivering traffic onto the M4 immediately before the Church Street offramp in an eastbound direction. No injuries were recorded from that collision. However, this caused

²⁵¹ *Hansard*, NSW Legislative Assembly, 21 June 2018, p 78 (Julia Finn) cited in Submission 17, Ms Julia Finn MP, p 10; Submission 17, Ms Julia Finn MP, p 7; Transport for NSW, *Review of road safety: M4 eastbound offramp at Church Street near Parramatta* (June 2019), cited in Submission 19, Australian College of Road Safety (NSW Chapter), p 5; Natassia Chrysanthos and Jenny Noyes, 'Two fatalities in two months: motorcyclist dies in crash on M4 off-ramp', *Sydney Morning Herald*, 30 July 2019; Media release, Transport for NSW, 'M4 Church Street Off Ramp Extensions Complete', 9 December 2019.

a secondary collision between multiple vehicles in lanes one and two, with one vehicle flipping onto its side. No one involved was transported to hospital.

On 30 July 2019, the *Sydney Morning Herald* reported the death of a man whose motorcycle collided with a truck near the Church Street offramp on a stretch of the M4 colloquially dubbed 'crash alley'. This fatality was reported as 'the second death on the notorious stretch of road in just over two months'.

The Transport for NSW safety review looked at accident data for a five-year period prior to the introduction of the toll and for roughly 12 months following the introduction of the toll. It concluded that 'there was a notable increase in casualty crashes at the Church Street M4 offramp and surrounds after the toll was introduced ... in August 2017'.

During the inquiry, the committee heard of the very serious safety hazards caused by so many motorists trying to avoid the toll – a worrying sign of the lengths people will go to in order to lessen the financial impost of tolls on their personal budgets. The committee heard of motorists:

... queueing for very long periods of time. People were trying to cut in across the queue, which is what caused a lot of the accidents, including at least one of the fatalities. The changes there include some barriers to make sure people cannot change lanes late. But, yes, that queue often goes back for a couple of kilometres and you often come around a bend—it is kind of a blind corner and you are straight into stalled traffic. So it is quite dangerous but it is very much an indication of the number of people who are trying to avoid the toll. And it was not really a big problem until the toll was brought back.

The NSW Government has since taken steps to address the safety hazards of the Church Street offramp through the implementation of a package of safety treatments (a traffic barrier, solid line markings to prohibit merging, a lower speed limit and an additional traffic camera). In December 2019, Transport for NSW completed upgrades to the Church Street off-ramp with new and extended lanes coming into operation, intended to make the off-ramp safer and less congested.

Case study B: M5 toll avoidance and impacts on traffic in Bexley

Bexley is located roughly 15 kilometres south of the Sydney Central Business District and is home to approximately 20,000 people.²⁵² It is located within proximity to the M5 corridor, with its northern border and the adjacent Bexley North being flanked by the motorway.

Bexley's town centre consists of a suburban high street shopping strip bisected by Forest Road, which is classified as a Main Road (MR No. 665) according to the Roads and Maritime Services (Transport for NSW) Schedule of Classified Roads.²⁵³ This same classification schedule identifies 'from Forest at Bexley via Stoney Creek Road to Forest Road at Peakhurst' as a State road for administrative purposes.²⁵⁴

In the heart of the Bexley town centre, Forest Road meets Stoney Creek Road and Kingsland Road South at a three-way intersection. Stoney Creek Road terminates at this intersection. This is the first of two major intersections in the Bexley town centre, the second being the intersection of Forest Road and Harrow Road slightly to the northeast.²⁵⁵

Historically, traffic volumes, flows and the associated amenity of the high street through Bexley have been tied closely to the development of Port Botany as well as various infrastructure upgrades to the contiguous M5 corridor over time. The Bexley town centre has experienced regular periods of high-volume traffic, including heavy vehicle traffic, since the opening of Port Botany in 1979.²⁵⁶

In 2001, the original M5 East opened providing an untolled passageway between the Bexley North area and Marsh Street at Arncliffe. This relieved traffic congestion, noise and pollution in Bexley markedly.²⁵⁷

As detailed in Chapter 2, stage two of WestConnex saw the M5 East duplicated from the King Georges Road interchange at Beverly Hills to a new interchange at St Peters. Referred to variously as the new M5 tunnels or the WestConnex M8, this new addition to the M5 corridor consists of a nine kilometre stretch of twin tunnels from Kingsgrove to the St Peters interchange. It opened to traffic in June 2020 and a new toll was implemented on both the M5 East and the M8.

²⁵² Bayside Council, *About the profile areas: Bexley*, [no date], <https://profile.id.com.au/baysidensw/about?WebID=130>.

²⁵³ Roads and Maritime Services, *Schedule of Classified Roads and Unclassified Regional Roads* (2017), Transport for NSW, accessed online at <https://roads-waterways.transport.nsw.gov.au/business-industry/partners-suppliers/lgr/documents/classified-roads-schedule.pdf>.

²⁵⁴ Roads and Maritime Services, *Schedule of Classified Roads and Unclassified Regional Roads* (2017), Transport for NSW, accessed online at <https://roads-waterways.transport.nsw.gov.au/business-industry/partners-suppliers/lgr/documents/classified-roads-schedule.pdf>.

²⁵⁵ Tabled document, Mr Jeffrey Tullock, President, Bexley Chamber of Commerce, *Talking points on traffic developments in Bexley town centre*, May 2022, p 1.

²⁵⁶ Tabled document, *Talking points on traffic developments in Bexley town centre*, p 1.

²⁵⁷ Tabled document, *Talking points on traffic developments in Bexley town centre*, p 1.

Since the implementation of the new M8/M5 East tolls, there has been a significant increase in traffic on nearby major arterial roads as motorists seek to avoid the toll. Figures published in the *Sydney Morning Herald* on 28 January 2021 state that an extra 7,500 vehicles were recorded per day on average at the intersection of Forest Road and Stoney Creek Road following the implementation of the new tolls. This was according to the government's own analysis obtained under freedom of information laws.²⁵⁸ On nearby Harrow Road which intersects with Forest Road, in a five-to-six year period, the number of heavy vehicle movements went from 610 per day in 2015 to 2,695 in 2021, a 300 per cent increase.²⁵⁹

On 17 February 2020, only a short time before the tolled M8/M5 East opened to traffic, new 'no stopping' and clearway restrictions came into effect along both Forest and Stoney Creek Roads in Bexley. Prior to that, Bexley town centre had unidirectional clearways in place in the morning and afternoon peaks with 50 per cent of shopfront parking available during the clearway times.

The February 2020 changes ushered in extended 'no stopping' zones at intersections in Bexley town centre and clearways on Forest Road in both directions – in operation from 6.00 am to 10.00 am in the morning and 3.00 pm to 7.00 pm in the afternoon.²⁶⁰ This resulted in all shopfront/kerbside parking being removed during the clearway times and 60 per cent of shopfront parking being removed during the day in non-clearway hours.²⁶¹

On 24 May 2022, the committee met with some of the residents and business owners of Bexley to hear first-hand how the increased traffic volumes and new clearways have impacted the liveability, amenity, safety and viability of Bexley as a place to live and operate a successful small business in. Some of their personal stories and experiences are told below. These vignettes bring into sharp focus the human toll of the government's tolling decisions, arrangements and policy settings.

Mr Angelo Elliot, Proprietor, Forest Inn Hotel²⁶²

Mr Angelo Elliot has been the proprietor of the Forest Road Inn for 44 years. The Inn is located in the heart of the Bexley town centre at the intersection of Forest and Stoney Creek Roads. Mr Elliot spoke of the history of traffic issues in the area, crediting the original M5 East, opened in 2001, with fixing most of the traffic problems and being largely supported by businesses in Bexley. For Mr Elliot, these gains were wiped out with the implementation of the new tolls and new clearway rules in 2020. He described in detail how the dramatic increase in both light and heavy vehicle traffic has affected businesses in Bexley and given rise to safety concerns:

²⁵⁸ Tom Rabe and Nigel Gladstone, 'Thousands of vehicles flooding Sydney roads to avoid tolls', *Sydney Morning Herald*, 28 January 2021; Submission 227, Mr Dennis Hayman, pp 1-2.

²⁵⁹ Evidence, Mr Jeremy Morgan, Manager, City Infrastructure, Bayside Council, 24 May 2022, p 18.

²⁶⁰ Tabled document, *Talking points on traffic developments in Bexley town centre*, p 1; Evidence, Mr Jeffrey Tullock, President, Bexley Chamber of Commerce, 24 May 2022, p 2.

²⁶¹ Tabled document, *Talking points on traffic developments in Bexley town centre*, p 1.

²⁶² Evidence, Mr Angelo Elliot, Proprietor, Forest Inn Hotel, 24 May 2022, pp 2-4.

Since what has happened with the tolls, you have really strangled us in that area. There is no parking, there are no people, there are no shoppers and the shops are all poor. They are all going broke and they haven't even opened. As well as that, I've had to redesign my whole hotel to reverse it so that the entrance for people to get in was more at the rear than at the front. The streetscape with all the trucks going past is so annoying. ... Why would you want to drive up there with all those trucks? It is scary to drive near those trucks. They drive those trucks like they are sports cars half the time so it's even more dangerous. We have had a lot of accidents in the area, which is not good. To me personally

it has been a huge cost because to redesign my pub is really expensive. I had to organise parking for my hotel but there was no parking, so I ended up buying three or four houses at the back of the pub so I could supply parking for my customers. That wasn't easy because it wasn't earmarked for parking. I had to get the zone changed, which I did with a great big expense. When I did that, the council charged me \$300,000 after I changed the zoning.²⁶³

Mr Elliot also detailed the air pollution impacts of the constant stop-start of the heavy vehicles, telling the committee 'all that pollution finishes up on us—we breathe it—and on our food. And once people start thinking about that, why would they want to come to see us?'²⁶⁴

Mr Ahmad Sleitini, Proprietor, Scotts Chemsave Pharmacy²⁶⁵

Mr Ahmad Sleitini has been the owner of Scotts Chemsave Pharmacy on Forest Road, Bexley, for the last 12 years and has lived in the area for eight of those years. He told the committee of a marked drop-off in customers to his chemist following the introduction of the new clearways, noting that a lot of his frail or elderly patients can no longer see him because they cannot walk from the only available parking to his shopfront.²⁶⁶ Mr Sleitini has also lost many family customers as parents feel very unsafe on Forest Road with 40-tonnes trucks passing by their children. He commented:

They just don't come to the area anymore. Our once thriving baby section, children's medicine has all diminished. We are actually doing a quarter of what we used to do two or three years ago. Even with COVID, pharmacies should've been thriving. We should've been doing major sales because we did not close for one day. When everybody closed, we stayed open and operating and that has still diminished. We just could not bring that back. There were no parents. Every time I spoke to parents—they just do not want to come to the local area. Our elderly population—we had to go and start doing six days delivery service because they just could not come and see us. If we didn't do that, we would've lost a good chunk of our business just from that.²⁶⁷

²⁶³ Evidence, Mr Elliot, 24 May 2022, p 2.

²⁶⁴ Evidence, Mr Elliot, 24 May 2022, p 3.

²⁶⁵ Evidence, Mr Ahmad Sleitini, Proprietor, Scotts Chemsave Pharmacy, 24 May 2022, pp 2-4.

²⁶⁶ Evidence, Mr Sleitini, 24 May 2022, pp 2-3.

²⁶⁷ Evidence, Mr Sleitini, 24 May 2022, p 3.

The noise pollution impacts of heavy vehicle traffic on Forest Road were described by Mr Sleitini in vivid detail, assessed as being much worse than before the original M5 East opened to traffic:

We could never hold a conversation in the pharmacy and have it as a private conversation anymore. The noise was just so loud. We could not say something in confidence to them without other customers hearing. That led us to actually increase the thickness of our glass on our front door to make sure we can actually have some privacy. That also meant—the trucks coming so close to our doors the sensors went off. And I was actually mentioning it to a lot of the Committee members. This is actually a lot worse than before the M5 opened up. It's a lot worse. We never used to have trucks going flying by and making so much excessive noise. What has happened has actually poisoned the community and has poisoned the local businesses and it's just very unhealthy and very unsafe.²⁶⁸

Mr Sleitini explained how the introduction of the new clearways has allowed traffic to travel at greater speeds through the corridor – as traffic no longer bottlenecks – and this has led to poor pedestrian safety outcomes in Bexley, with one person being killed in 2021.²⁶⁹

Ms Jasmina Kovacevic, private individual and owner of a commercial building in Bexley²⁷⁰

Ms Jasmina Kovacevic is a local resident and owner of a commercial property in Bexley. Her personal story presented a picture of a local community suffering on many different fronts from the dramatic increase in traffic through Bexley from motorists avoiding the new tolls. Her contributions to the inquiry included the following account of the personal toll this has taken on her:

I live on Forest Road, Bexley. My property has a retail shop of some 98 square metres and a shop-top small apartment. I also have a single woman who lives upstairs as a tenant. What can I tell you about the noise? The retail tenant will be exiting and giving up the lease, I guess. The tenant has been paying rent that has been a very cheap rate because of the impact of this situation with the noise pollution and vibration that shakes the building at all hours, not just business hours. In fact, some days it is heavier at night. This tenant is vacating and I am concerned that I won't be able to get another tenant or I will be able to get a tenant but at very, let's say, dirt cheap rent that doesn't match the inflation. The situation on a personal level is—and I haven't brought it with me today—that I am actually using melatonin which, for people who don't know, is a medicine that helps regulate sleep. I haven't made mention of that in my submission because I think this issue is broader than just myself. But I wonder how many other people are dealing with this. I have also invested in some window shutters that are not doing the job and I have applied for the noise abatement plan through Transport for NSW. Since you asked that question, Chair, I am yet to get an answer. I believe I submitted that application well before Christmas. I recently received a letter to say, "We will come out and do an assessment in June." But the same letter says, "It will be a further 12 weeks

²⁶⁸ Evidence, Mr Sleitini, 24 May 2022, p 3.

²⁶⁹ Evidence, Mr Sleitini, 24 May 2022, p 3.

²⁷⁰ Evidence, Ms Jasmina Kovacevic, private individual, 24 May 2022, pp 22-28.

after that visit before we can tell you what we decide." That visit is supposed to, I guess, analyse and assess the impact of noise on my building.²⁷¹

Ms Kovacevic highlighted the high levels of pollution from 'heavy trucks, cars and semitrailers that are toll avoiding' by exiting at King Georges or Bexley Roads to use local and state roads that were never designed for heavy traffic. She alerted the committee to: several businesses that have had to close their doors due to a lack of customers; award winning fast food operators facing critical safety issues for their customers as a result of heavy vehicle traffic on Forest Road; and a well-known restaurant not renewing their lease as they did not have a sufficient customer base to afford an adjustment in rent.²⁷²

Mr Osman Karolia, private individual and Principal of Arkana College²⁷³

Mr Osman Karolia is the Principal and Chief Executive Officer of Arkana College, located on Stoney Creek Road in Kingsgrove. Mr Karolia drew the committee's attention to the safety, noise and amenity impacts, not just from the perspective of students and families of Arkana College but also other local residents of the area. Referring to the significant increase in new traffic, particularly heavy vehicles, Mr Karolia described the huge lines of trucks which are moving off the motorway to get onto Stoney Creek or Forest Road:

The impact it has is beyond just added noise, and the added noise is a real concern for not just residents but schools that face onto Stoney Creek Road. It's unrelenting, and it goes on all day, well after school hours. We are also concerned that the increased traffic, particularly of heavy vehicles, has not just caused backlog in local areas but often it's cars travelling at speed in what was once a reasonably quiet suburban area, even with Stoney Creek Road on our doorstep. We now have parents almost playing a game of roulette as they try to get access outside of the school. That is due to heavy vehicles coming on. Unfortunately, you always get the fear that there is an accident—and a significant accident—waiting to happen.²⁷⁴

In addition to the noise and safety impacts, Mr Karolia also highlighted the cost impost of tolls on his community. Some of the staff at Arkana College travel from Mascot and Eastlakes, meaning there is now an additional cost for them just to come to work. The tolls have also added to the travel costs of residents who regularly travel to the city or the east for study, medical or other reasons.²⁷⁵

²⁷¹ Evidence, Ms Kovacevic, 24 May 2022, p 28.

²⁷² Tabled document, Ms Jasmina Kovacevic, private individual, *Submission to the inquiry into road tolling regimes*, May 2022, p 4.

²⁷³ Evidence, Mr Osman Karolia, private individual, 24 May 2022, pp 22 and 23.

²⁷⁴ Evidence, Mr Karolia, 24 May 2022, p 22.

²⁷⁵ Evidence, Mr Karolia, 24 May 2022, p 22.

Mr Les Crompton, private individual²⁷⁶

Ms Les Crompton is a life-time resident of Bexley, former councillor on Rockdale council and former small business operator in Bexley. Having lived in Bexley his whole life, Mr Crompton has witnessed a long history of changes in the area stretching back to 'before there were traffic lights' and 'before there were pedestrian crossings'.²⁷⁷ Like other residents who met with the committee, Mr Crompton spoke of how the opening of the original M5 East in 2001 had a dramatic improvement in reducing traffic on suburban roads, but lamenting that 'the current government has virtually turned back time and brought it all back'.²⁷⁸ As an example of the financial impost of everyday citizens, Mr Crompton took up the cause for airport workers and owner-drivers who divert through Bexley to avoid paying the tolls:

The worst part as well is that when you have a lot of people at work at the airport, all of those are hand-to-mouth people. They work four-hour shifts. They can't afford the tolls, so they're coming through Bexley and I can't blame them. A lot of owner-drivers come through Bexley with their trucks because they can't pay \$25 to go through to Port Botany, and the residents can't afford to pay \$7.31 to drive through to go to work. That is what we have got back on our roads, and that is a problem that our current Government has created.²⁷⁹

Mr Daniel Egli, private individual²⁸⁰

Mr Daniel Egli lives between Hurstville and Kingsgrove with his family and has a daughter who attends high school in the area. Mr Egli shared recollections of when his daughter's high school was a safe and healthy learning environment, which 'dramatically changed about two years ago when the Perrottet Government, on behalf of Transurban, imposed a new toll on the old M5 East tunnel'.²⁸¹ According to Mr Egli, the 'massive health and safety crisis' his community is suffering/experiencing, was created because the new toll does not represent value for money:

It becomes more and more unaffordable with every double-inflation increase and redirects most traffic from the tunnel to suburban streets, like you see out here in Bexley. The fact is that rat-run traffic along Stoney Creek and Forest Road has more than doubled, trucks have increased tenfold, noise pollution is on harmful levels and road accidents, hooning, speeding and dangerous driving have drastically escalated.

[...]

Already this year there were multiple horrible accidents along Stoney Creek Road, some right in front of Kingsgrove High School where my daughter has to endure not only harmful noise levels every day but also more and more dangerous roads. There was also a pedestrian that was hit by a truck recently in Bexley. It is not the fault of the pedestrian or the truck; it is the fault of the deals of the Government with Transurban and not respecting the health and safety of the people affected.²⁸²

²⁷⁶ Evidence, Mr Les Crompton, private individual, 24 May 2022, p 23.

²⁷⁷ Evidence, Mr Crompton, 24 May 2022, p 23.

²⁷⁸ Evidence, Mr Crompton, 24 May 2022, p 23.

The impact of tolls on industry

- 3.48** Evidence from transport unions and associations, road transport peak bodies and member-based organisations showed the impact that ballooning toll charges are having on the viability and profitability of road freight operators and the commercial bus sector. The extent of this impact can only be fully appreciated by understanding some of the road freight industry's defining characteristics, placing tolls within a web of pressures and structural disadvantages which effectively prevent cost recovery of tolls for many operators.
- 3.49** In this section, the committee turns its attention to questions surrounding the industry's ability to keep absorbing escalating toll costs – and whether there is any scope to pass on such costs vertically through supply chains and commercial negotiations.

Road freight and logistics

- 3.50** In evidence before the committee, there was a chorus of concern about the escalating cost burden on the road freight transport industry imposed by the New South Wales tolling regime. This view was expressed by NatRoad, with a majority of its members being heavy vehicle operators within New South Wales.²⁸³
- 3.51** NatRoad referred to the many complaints it receives from its members about the costs of tolls which, in its view, have been an 'increasing cost burden over the last three to five years in particular'.²⁸⁴
- 3.52** In NatRoad's opinion, a combination of bad government policy on road tolling and market conditions are at the heart of the problems its members are currently facing, whereby 'toll charges for heavy vehicles continue to increase, affecting the slim margins of transport operators and adding to cost pressures during the current pandemic'.²⁸⁵
- 3.53** Evidence from Road Freight NSW – a member based association that advocates for trucking operators – presented an equally dire picture of the impact that tolls are having on the industry. Referring to Sydney as the most 'extensive and expensive urban toll road network in the world', Road Freight NSW submitted that increasing toll costs are 'enervating businesses and leaving road freight operators in significant debt or leading them to go bust all together', adding that 'tolls are putting a stranglehold on road freight businesses, workers and their families'.²⁸⁶

²⁷⁹ Evidence, Mr Crompton, 24 May 2022, p 23.

²⁸⁰ Evidence, Mr Daniel Egli, private individual, 24 May 2022, pp 23-24

²⁸¹ Evidence, Mr Egli, 24 May 2022, pp 23-24.

²⁸² Evidence, Mr Egli, 24 May 2022, p 24.

²⁸³ Submission 18, National Road Transport Association, p 2.

²⁸⁴ Submission 18, National Road Transport Association, p 2.

²⁸⁵ Submission 18, National Road Transport Association, p 2.

²⁸⁶ Submission 7, Road Freight NSW, pp 3 and 7.

- 3.54** Like NatRoad, Road Freight NSW saw this as a direct consequence of 'poor public decisions by the NSW Government'.²⁸⁷ This association noted that one of its members, a family owned and operated transport company, is paying more than \$100,000 in tolls every month.²⁸⁸
- 3.55** An overview of the industry, as reflected in NatRoad's membership, was profiled in evidence to the committee, described as being highly competitive with poor profitability, subject to a range of other regulatory and cost pressures and one in which operators simply cannot afford to use toll roads. Its Chief Executive Officer, Mr Warren Clark, explained:
- ... our industry is extremely competitive, with a large number of operators experiencing poor profitability. The sector is being severely impacted by increased regulation, compliance, testing and operation costs during the pandemic, yet has kept New South Wales running and made sure supermarkets' and pharmacies' shelves have remained stocked with the essential needs. The average net profit margin for most of my members has fallen to about 2½ per cent, putting extreme pressure on people trying to feed their families and modernise their equipment. ... Truck tolls are generally three times greater than those for cars and up to about 11 times more for registration charges. Annual toll bills up to \$100,000 are not unknown in Sydney. I have members who refuse point-blank to use tollways, simply because they cannot afford to do so.²⁸⁹
- 3.56** Citing a specific example, Mr Clark drew the committee's attention to one particular NatRoad member whose toll bill for a four-hour round journey from Sydney's western suburbs to the northern beaches was more than what that operator pays their driver in wages.²⁹⁰
- 3.57** NatRoad's profile of the industry was given further weight in evidence from the 'Transport Workers' Union of New South Wales. Like NatRoad, this union deemed tolls as an 'enormous issue across the entire road transport industry' and one that is only getting worse with time.²⁹¹
- 3.58** The 'Transport Workers' Union characterised the industry as 'one of the most competitive in the nation' with retail sector behemoths, such as Coles, Woolworths or Amazon, enhancing their own profits by 'squeezing' transport operators to breaking point.²⁹² According to this evidence, increases in the price of the tolls and the development of new toll roads continue to place financial pressure on small operators in the road transport industry – operators who 'merely seek to complete an honest an honest day's work where reasonable rates are upheld and safety outcomes are accounted for'.²⁹³
- 3.59** Referring to the 'rampant growth' in toll roads over the past 15 years, Mr Richard Olsen, the Union's State Secretary, explained how in such a market, most transport operators are required to absorb the increasing cost of tolls, further eroding their profitability:

²⁸⁷ Submission 7, Road Freight NSW, p 3.

²⁸⁸ Submission 7, Road Freight NSW, p 5.

²⁸⁹ Evidence, Mr Warren Clark, Chief Executive Officer, National Road Transportation Association, 28 September 2021, p 32.

²⁹⁰ Evidence, Mr Clark, 28 September 2021, p 32.

²⁹¹ Evidence, Mr Richard Olsen, State Secretary, Transport Workers' Union of NSW, 28 September 2021, p 10.

²⁹² Evidence, Mr Olsen, 28 September 2021, p 10.

²⁹³ Submission 20, Transport Workers' Union of NSW, p 1.

In this environment all operating costs become significant, particularly for owner-drivers ... who are responsible for all operating costs of their vehicle. While just about every operating cost for owner-drivers has increased steadily over the years, none have increased as massively as toll roads. Some roads which drivers used to complete for free or a minimum cost now can exceed \$50 one way for heavy vehicles. While some owner-drivers are compensated for the use of toll roads by their principal contractors ... most are not as fortunate and are required to absorb these costs themselves.²⁹⁴

- 3.60** Road Freight NSW drew a similar conclusion, advising the committee that '[t]he road freight industry operates on tight margins, and additional fees and charges are impossible to pass on to customers while maintaining competitiveness'.²⁹⁵
- 3.61** Further illuminating the predicament of road transport operators, evidence from industry groups and the Transport Workers' Union emphasised their inability to recover the cost of tolls from the companies they cart/carry for, due to diminished bargaining power. For example, NatRoad members have reported a proliferation of 'take it or leave it' contracts which offer the operator limited ability to negotiate.²⁹⁶ Additionally, NatRoad noted that most contracts provide no guarantee of exclusivity, meaning that in instances where an operator may be 'theoretically able' to negotiate to recover costs, the customer can simply choose an alternative carrier for their work. As a result, operators are reluctant to insist on passing on cost increases, including rising tolls, where this could result in a loss of work.²⁹⁷
- 3.62** Understanding these industry dynamics led into committee consideration of who in the supply chain actually bears the cost of increasing toll costs – where you have a client, a road freight operator engaged by that client to cart goods, and finally consumers who purchase those goods. Reflecting on speculation that consumers could ultimately end up paying more for goods, Mr Richard Olsen of the Transport Workers' Union did not consider this possible, stating instead that the small business transport operators are the ones who bear the costs of increasing tolls.²⁹⁸ This was a position shared by his colleague, Mr Gavin Webb, who pointed to the 'lack of pressure that can be pushed upwards back up that chain towards retailers' to evidence his assertion that 'it is very likely that it is transport operators and therefore ... their employees and owner-drivers that are more likely to be impacted, rather than consumers'.²⁹⁹
- 3.63** In addition to the top-down supply chain pressures on road transport operators, the committee heard evidence of intense lateral competition which made it difficult for operators to increase their prices. Mr Allan Thornley, member of NatRoad and Managing Director of Shaw's Darwin Transport, told the committee that '[e]very time you seek a price increase, your customer goes out and requotes, and there is somebody that will undercut your price every time'.³⁰⁰

²⁹⁴ Evidence, Mr Olsen, 28 September 2021, p 10.

²⁹⁵ Submission 7, Road Freight NSW, p 9.

²⁹⁶ Submission 18, National Road Transport Association, p 8.

²⁹⁷ Submission 18, National Road Transport Association, p 9.

²⁹⁸ Evidence, Mr Olsen, 28 September 2021, p 14.

²⁹⁹ Evidence, Mr Gavin Webb, Chief Legal Officer, Transport Workers' Union of NSW, 28 September 2021, p 15.

³⁰⁰ Evidence, Mr Allan Thornley, Managing Director, Shaw's Darwin Transport, 28 September 2021, p 35.

3.64 While it acknowledged that smaller operators are very sensitive to road pricing, NatRoad maintained that larger operators are also on the backfoot as they often generate a large proportion of their revenue from one customer. According to feedback from NatRoad members, with so much of their commercial viability tied to one customer, these operators have reduced contract bargaining power as a result of this dependence.³⁰¹

3.65 In questioning before the committee, Mr Warren Clark of NatRoad spoke of the various disadvantages and imbalances intrinsic to the road freight industry and the paramount importance of remaining competitive in order to stay in business:

The way [our industry] works is that we have very, very large players and we have very, very small players and they all compete in the same market. To survive in this industry, some have got advantages, some have got disadvantages, but the one thing that they have to be is competitive. We have had hundreds of years of an industry that has to adapt and has to make things work. So being competitive is the only way these guys can stay in business.³⁰²

3.66 Mr Clark emphatically agreed with the characterisation of the trucking industry as 'price takers' who have limited capacity to negotiate with their clients to recover the cost of tolls, posing to the committee rhetorically:

Do you really think that [operators with three trucks or less] have the ability to negotiate a hard contract with Coles and Woolworths? I think the negotiation side is going to be on the larger customer there.³⁰³

3.67 This characterisation of trucking operators as 'price takers' was reinforced in the 'Transport Workers' Union submission to this inquiry. Specifically, this evidence detailed the impact of tolls on 'contract carriers' defined as 'small business people who own and operate single vehicles which are engaged by principal contractors by a contract of carriage'.³⁰⁴

3.68 According to the 'Transport Workers' Union, not only are contract carriers unable to recover tolls costs from principal contractors, but they are also often forced to use toll roads instead of untolled alternative routes:

It is a commercial reality that most Contract Carriers are unable to recover the costs associated with tolls from Principal Contractors. Despite this, Contract Carriers are often forced to use toll roads instead of free alternative routes as either restrictions are placed on non-toll roads, Contract Carriers are explicitly directed to use the fastest route available or in many instances, Contract Carriers are penalised for missing a delivery window and are therefore forced to take toll roads in order to avoid said penalty.³⁰⁵

3.69 Illustrating the financial impact this has, the 'Transport Workers' Union reported cases in which, as a result of being directed to take the fastest route, contract carriers have travelled through up to 15 toll points per day. With the significant costs incurred, it was reported that some contract

³⁰¹ Submission 18, National Road Transport Association, p 9.

³⁰² Evidence, Mr Clark, 28 September 2021, p 35.

³⁰³ Evidence, Mr Clark, 28 September 2021, p 35.

³⁰⁴ Submission 20, Transport Workers' Union of NSW, p 1.

³⁰⁵ Submission 20, Transport Workers' Union of NSW, p 2.

carriers have had to rely on 'various lines of credit to pay their amassed toll debts, despite operating a financially viable business as a contract carrier for decades'.³⁰⁶

- 3.70** Other feedback the Transport Workers' Union has received from its members suggests rising toll costs are making the contract carrier business model less viable.³⁰⁷ This evidence identified surging toll costs as the 'leading reason' why many contract carriers have either transitioned – or seek to transition – to being a company driver on the payroll.³⁰⁸ Under questioning before the committee, the union referred to an example of a small operator carrying for Linfox which went 'loosely broke' because of costs. The committee heard that this company 'actually had thousands and thousands of debts in toll notices that they could not afford, and that they were also not maintaining their vehicles properly'.³⁰⁹ Sounding a similar note, Road Freight NSW submitted that '[t]he introduction of additional fees and charges has caused some operators to cease trading, causing increased unemployment and reducing productivity'.³¹⁰
- 3.71** Receiving special attention in evidence from industry groups was the newly built NorthConnex and the further operational expenses it has added to the bottom line of some businesses. As detailed in Chapter 2, the NSW Government has implemented rules to mandate use of NorthConnex for many heavy vehicles, with a penalty of \$194 for non-compliance. This essentially means there is no free alternative route between the M1 and M2 for heavy vehicles of the specified dimensions.
- 3.72** NatRoad was one of several inquiry participants to raise concerns about the impacts of NorthConnex. In particular, it suggested that the government's policy of mandating toll road use for heavy vehicles (as is the case with NorthConnex) has exacerbated the cost burden on industry. For NatRoad, this is reflected in the many complaints they receive from their members specifically about NorthConnex, where the one-way toll as at 1 April 2021 was \$24.59.³¹¹
- 3.73** Adding to these concerns, Mr Gavin Webb of the Transport Workers' Union conveyed to the committee the disenfranchisement of its members upon realising they would be required to absorb the unavoidable costs of using NorthConnex when it opened to traffic in 2020. Noting that it costs roughly \$61 each way from North Connex to a transport hub in south-western Sydney, Mr Webb remarked that some of its members:
- ...were very upset and disenfranchised with the opening of NorthConnex because they saw how much additional cost it is going to add to their bottom line that they could not avoid. They had extreme difficulty knowing they were not going to be able to pass that on to their principal contractors and had to wear that cost themselves.³¹²
- 3.74** In the Union's estimation, the imposition of a fine for heavy vehicles using Pennant Hills Road has created 'an inequitable situation' whereby drivers are punished just for doing their job.³¹³

³⁰⁶ Submission 20, Transport Workers' Union of NSW, p 2.

³⁰⁷ Submission 20, Transport Workers' Union of NSW, p 2.

³⁰⁸ Submission 20, Transport Workers' Union of NSW, p 2.

³⁰⁹ Evidence, Mr Olsen, 28 September 2021, p 15; Evidence, Mr Webb, 28 September 2021, p 15.

³¹⁰ Submission 7, Road Freight NSW, p 9.

³¹¹ Submission 18, National Road Transport Association, p 8.

³¹² Evidence, Mr Webb, 28 September 2021, p 14.

³¹³ Submission 20, Transport Workers' Union of NSW, p 11.

- 3.75** Elsewhere in evidence, it was noted that, following the opening of NorthConnex, transport companies that haul between the Central Coast and Sydney are now hundreds if not thousands of dollars worse off with nowhere to recoup those costs.³¹⁴
- 3.76** While the evidence presented to the committee primarily focused on financial impacts, concerns around safety and how this might be compromised by ever increasing operational costs were also raised in evidence. It was suggested, for example, that contract carriers will be forced to drive faster and for longer periods of time to offset the impact on their bottom line of tolls that cannot be recovered from their principal contractors – and that this has the potential to lead to poor safety outcomes for drivers and the public at large.³¹⁵
- 3.77** Putting tolls costs in perspective as a percentage of total income, evidence to the committee revealed an estimated range starting from roughly 6 per cent for a small vehicle operator through to roughly 12 to 18 per cent of total income for operators of larger vehicles that are subject to higher tolls.³¹⁶
- 3.78** The ability of road freight operators to keep absorbing the cost of tolls was touched on in evidence from the NRMA, with its Director of Policy and Public Affairs telling the committee that 'what we have seen progressively occur is that there are obviously concerns, particularly with the freight industry, that the price setting of tolls is becoming unsustainable for some of the members, particularly those who live in northwest, southwest and western Sydney'.³¹⁷
- 3.79** The committee had an opportunity to hear first-hand from road transport businesses of varying sizes about the impact tolls are having on their bottom line. Highlighted in the break-out boxes below, this evidence provides a stark glimpse into how much some businesses are actually spending on tolls.

Mr Paul Newton, owner-driver and contract carrier with 38 years in the industry³¹⁸

Mr Newtown spends \$5,623.20 per year in tolls. Mr Newton bears the full cost of these tolls himself. When pressed on the impact this has on his bottom line as a contract carrier, Mr Newton remarked:

On my bottom line? It is whether or not I go on a holiday. From my bottom line, that is the way I look at it. I mean I have never really looked at it as a percentage until now, until the figures got so high. But for myself, personally, I would say that is roughly 6 per cent for me.

Mr Newton referred the committee to a further case that speaks to the prohibitive cost of tolls on the M5 corridor following the completion of the M5 east duplication. Using the

³¹⁴ Evidence, Mr Olsen, 28 September 2021, p 14.

³¹⁵ Submission 20, Transport Workers' Union of NSW, p 5.

³¹⁶ Evidence, Mr Webb, 28 September 2021, p 15.

³¹⁷ Evidence, Mr Robert Giltinan, Director, Policy and Public Affairs, NRMA, 25 October 2021, p 15.

³¹⁸ Evidence, Mr Paul Newton, Owner driver and contract carrier, 28 September 2021, pp 12-13; Submission 20, Transport Workers' Union of NSW, p 4.

M5, this carrier incurs a cost of \$71 per day, roughly equivalent to 12 per cent of his daily income. It was not sustainable for this carrier to complete his duties with that kind of hit to his bottom line. As a result, he was forced to use an alternative route which extended the duration of his working day to 12 hours, thereby eating into the time he spends with his family and placing more pressure on his home life.

As a carrier who has been in the industry for more than three decades, Mr Newton's evidence to the committee included the following account of the sharp increase in tolls over time and its effects on owner-drivers:

I am approached on a daily basis by owner drivers concerned about the mounting toll costs they have to pay and whether it is viable for them to continue working for a Principal Contractor that does not offer financial assistance for tolls. There has been a sharp price increase in toll charges that has made it a lot less affordable to continue using toll roads as an owner driver. A prime example of this is that at or around 1985, tolls between Banksmeadow and North Ryde would cost approximately twenty (20) cents. Comparatively, the same route would now cost me approximately seventeen (17) dollars. My regular run is from Botany and Macquarie Park. This journey is eighteen (18) kilometres. I make this journey approximately twice a day. I consequently encounter a minimum of six (6) toll points on a thirty-six (36) kilometre stretch of road. I have calculated that per year, these tolls cost me as an owner driver a minimum of \$5300.

Mr Allan Thornley, Managing Director, Shaw's Darwin Transport³¹⁹

Shaw's Darwin Transport is an independently owned freight company that operates a fleet of 50 prime movers and 150 trailers running primarily long haul across the country. It has been in business since 1989, carting almost anything from consumer goods to industrial machines and plant and equipment. Most of their freight task is long haul to Perth and Darwin.

The majority of Shaw's toll costs are incurred from their much smaller fleet of local rigid movers that cart goods around Sydney and Brisbane. Shaw's Managing Director, Mr Allan Thornley, told the committee that their last toll bill roughly equated to \$13,000 for Sydney alone in just one month, or approximately \$150,000 per year.

Referring to the aggregate toll costs (Sydney and Brisbane), Mr Thornley explained that these have been increasing over time, becoming a larger and larger proportion of their operational expenses:

If you go back five or six years, it was about \$10,000, a few years before that it was \$5,000—a month. Now it is \$26,000 and rising continuously. The automatic indexation of toll fees at higher than the rate of inflation is a significant challenge. It

³¹⁹ Evidence, Mr Thornley, 28 September 2021, pp 35-36.

is very hard to get price increases in this market. Every time you seek a price increase, your customer goes out and requotes, and there is somebody that will undercut your price every time.

Mr Thornley observed that 'very, very little' of Shaw's yearly spend on tolls can be recovered from their clients, stating that there is no formal cost recovery mechanism.

Mr Rocky Reitano, contract carrier of 17 years³²⁰

Mr Rocky Reitano's evidence to the committee consisted of the following recollection of having a principal contractor take back e-tags from owner drivers, thereby 'shirking' the responsibility to pay for tolls:

I recall my principal contractor holding a toolbox talk where owner drivers were advised by management, words to the effect of 'as small businesses you should be paying for your own tolls, as this is an expense that is part and parcel with running a transport business. It is not the principal contractor's responsibility to pay you as contractors and pay for your toll expenses at the same time'.

I was frustrated that my principal contractor was confiscating e-tags from owner drivers, as we already operate on thin financial margins. I also felt that my principal contractor had acknowledged that it is their responsibility to pay for tolls by providing owner drivers with e-tags, but were choosing to now shirk this responsibility by revoking the e-tags.

Registering an e-tag to my company name made me far less profitable as an owner driver. I would characterise my pay as an owner driver before paying toll charges as being fair. I was able to operate profitably for the work I completed. My business suffered as a result of not being compensated for toll charges. I felt that money was handed to me in one hand, yet taken out of the other as toll expenses would eat into my profits.

Mr Dawid Wojcik, contract carrier of 11 years³²¹

Mr Dawid Wojcik provided the following insights on the impact of toll costs on the profitability of his operations, drawn from his 11 years' experience in the road freight industry as an owner driver:

When I commenced work as an owner driver, I could operate profitably. Over time, various expenses have made it increasingly difficult to operate at a profit. The main

³²⁰ Submission 20, Transport Workers' Union of NSW, pp 4-5.

³²¹ Submission 20, Transport Workers' Union of NSW, p 4.

expenses that hinder my business operations, include the increased toll costs upon Sydney motorways, which continually increase at a rate greater than CPI every quarter, the introduction of new tolled motorways and continual increases of insurance costs.

Mr Dean Smith, Managing Director, Winstone Express Haulage³²²

Mr Dean Smith of Winstone Express Haulage highlighted the impact of NorthConnex on their monthly toll spend, noting that:

Our toll cost for October 2020 was approximately \$25,500.00. After the introduction of the Northconnex it went to \$33,600.00 and has continued to track the same each month. The tolls do give a benefit to heavy vehicles. However, this benefit is nowhere near the cost of the toll. Way too expensive and the only one getting a benefit is Transurban. Corporate greed at its finest.

Mr Bill Lovatt, Owner and Managing Director, Lovatt Transport³²³

Lovatt Transport experienced a 73 per cent increase in its toll bill across two consecutive 12-month reporting periods. Mr Bill Lovatt, the company's Owner and Managing Director, placed the following statement on the record:

For the 12 months from [1 May 2020 to 30 April 2021], our toll cost was \$1,136,302 plus GST, which gives an average of \$71 per job cost of tolls. For the 12 months from [1 May 2019 to 30 April 2020] our toll cost was \$618,989 plus GST which gives an average of \$41 per job toll cost. [This represents] an increase of 73 per cent.

Comparative costs per container in April 2021 compared to April 2017 to a western suburb (Pemulwuy) from Port Botany and return: in 2017 the toll cost was \$64.78, in 2021 it was \$111.50. This showed a similar increase of 72%.

Prior to early 2019 the tolls were only increased quarterly by CPI but in the past year seeing the introduction of the M4 and M5 East this has contributed substantially to the cost of cartage.

A recent toll increase from July 2020 went from no cost on the M5 East to \$43.40 return for a [heavy vehicle] and has affected truck movements and seen many operators who can't afford it use the suburban roads in Rockdale, Brighton, Bexley and Beverly Hills to avoid paying this exorbitant charge.

³²² Submission 7, Road Freight NSW, p 5.

³²³ Submission 7, Road Freight NSW, p 5.

- 3.80** It was difficult for the committee to reconcile these anecdotal reports from the industry with the evidence from Transurban about the average weekly spend for commercial customers of its Linkt business (Transurban's e-tolling retail arm). According to Transurban, for the period between March 2019 and to February 2020 which excludes COVID-19 impacts, the average spend for its commercial customers was \$89 per week or \$4,628 per year.³²⁴
- 3.81** More specifically, during that period:
- 49 per cent of commercial customers spent less than \$10 per week;
 - 62 per cent of commercial customers spent less than \$20 per week;
 - 78 per cent of commercial customers spent less than \$50 per week; and
 - 12 per cent of commercial customers spent more than \$100 per week.³²⁵
- 3.82** The committee questioned Transurban witnesses on the very high frequency commercial customers in a bid to shed light on exactly how high their toll bills could reach, particularly for the top one per cent of business account-holders. In response, Ms Michele Huey, Group Executive of Transurban, stated that the average spend on tolls is 'around \$4,600' for this top echelon.³²⁶
- 3.83** This did not accord with Transurban's written evidence to the committee which (as noted above at paragraph 3.80) cited roughly the same amount (\$4,628) as the *average* spend for its commercial customers – that is, not the top one per cent or most frequent business users.

Private bus and coach industry

- 3.84** While discussion throughout the inquiry largely focused on the road freight transport industry as guided by the inquiry's terms of reference, the committee also received evidence about the impact of tolls on the private bus and coach industry in New South Wales. With buses being treated the same as trucks as another category of heavy vehicle – and therefore subject to the same tolls as trucks³²⁷ – the industry's peak body raised a number of concerns about the cost of tolls and the impact on the profitability of commercial bus transport operators. This evidence forms the focus of the following paragraphs.
- 3.85** By way of background, the bus industry in New South Wales is comprised of two distinct sectors:
- **first**, bus services provided under contract to Transport for NSW including route and school bus services in Sydney metropolitan, outer-metropolitan and regional areas
 - **second**, the long distance, tourist and charter sector, for example commercial coach operators which conduct sight-seeing, airport transfers and other tours³²⁸

³²⁴ Submission 33, Transurban-WestConnex, p 22.

³²⁵ Submission 33, Transurban-WestConnex, p 22.

³²⁶ Evidence, Ms Michele Huey, Group Executive, Transurban, 10 December 2021, p 27. Ms Huey did not specify whether this was on an annual or other basis.

³²⁷ Evidence, Mr Matt Threlkeld, Executive Director, BusNSW, 28 September 2021, p 7.

³²⁸ Submission 21, BusNSW, p 3. See also: Evidence, Mr Threlkeld, 28 September 2021, p 7.

- 3.86** According to the industry's peak body, namely BusNSW, the cost of tolls for the first of these sectors is generally factored into operators' contracts and is partly absorbed by the NSW Government.³²⁹ The long distance, tourist and charter sector, however, operates on a different model and as a result does not enjoy the same protections.³³⁰
- 3.87** Referring to discussions between the peak body and operators within the long distance, tourist and charter sector, BusNSW submitted that 'the cost of tolls is a significant burden for these operators as it affects their customer value proposition'.³³¹ In particular, BusNSW considered the rising cost of tolls to be less and less sustainable for many Sydney-based coach operators, especially where tolls are rising above CPI.³³² It further argued that operators often do not have the option of using untolled routes, as the booking and travel expectations of their customers leave them 'little choice but to travel on toll roads'.³³³
- 3.88** As the committee examined in the previous section for the road freight industry, evidence from BusNSW turned to questions around the ability of operators in the long distance, tourist and charter sector to afford continually increasing tolls or otherwise pass them on, be it up or down the chain.³³⁴
- 3.89** On the issue of whether coach companies can afford increases in toll charges, BusNSW argued that operators are sensitive to any increase in operational expenses, and that this can easily compromise profit margins. BusNSW attributed this to the nature of their business and the characteristics of the market they operate in:

Bus and coach operators work in what is an inherently capital-intensive industry with significant financial investments in their equipment and depots. This combined with operating in a highly competitive deregulated market means profit margins are easily compromised with increased costs.³³⁵

- 3.90** In relation to cost recovery of tolls, BusNSW saw little scope for operators to seek reimbursement of any additional or unforeseen operating costs from their customers due to how commercial transactions typically work for each job:

Bus and Coach companies operate in a customer service industry where flexibility and change are frequent. Generally, operators quote and are paid for a job prior to departure. The job price usually includes the cost of using toll roads based on pre-planned routes however this is often varied on the day due to changes in customer requirements or due to changes in traffic conditions. This often results in additional operating costs (including tolls) for which the operator has little ability to seek reimbursement from the customer.³³⁶

³²⁹ Submission 21, BusNSW, p 3. See also: Evidence, Mr Threlkeld, 28 September 2021, p 7.

³³⁰ Evidence, Mr Threlkeld, 28 September 2021, p 7.

³³¹ Submission 21, BusNSW, p 3.

³³² Submission 21, BusNSW, p 4.

³³³ Submission 21, BusNSW, p 4.

³³⁴ Submission 21, BusNSW, p 4.

³³⁵ Submission 21, BusNSW, p 4.

³³⁶ Submission 21, BusNSW, p 5.

3.91 A specific example cited in evidence from BusNSW provided some sense of the toll costs incurred as a proportion of the total hire fee for operators in the long distance, tourist and charter sector – an amount BusNSW considered disproportionate to the journey distance and incommensurate with any benefits gained. BusNSW advised:

In some instances, for example, a simple transfer to and from Sydney airport, can include toll charges which represent up to 10 percent of the hire fee. This amount is significant and disproportionate to the journey distance and the customers perceived benefit. Many operators are citing that their annual toll fees are now costing more than their fleet registration and compulsory third-party insurance combined.³³⁷

3.92 Putting an actual figure on what some companies spend each year, Mr John King, BusNSW's President and operator of Premier Motor Service, told the committee his company spent \$300,000 in tolls in 2019 in pre-COVID-19 times.³³⁸

3.93 Additionally, BusNSW took exception to the current road access and tolling policy which treats buses as just another heavy vehicle and charges them accordingly. In its opinion, such a 'short-sighted' view fails to recognise and take into consideration the 'broader societal and community benefits of buses and coaches'.³³⁹ In particular, it does not reflect:

- the important role buses play in providing transport services for communities, such as local transport for school students, seniors and sporting groups;
- the potential of bus transport to manage population growth, alleviate congestion and facilitate the efficient functioning of cities; and
- the contribution bus travel can make to managing greenhouse gas emissions, with each full bus load of passengers taking more than 45 cars off the road.³⁴⁰

Committee comment

3.94 Evidence before the committee painted a concerning picture of the impact tolls are having on everyday people. Tolls are clearly a significant burden on households and – along with other cost of living pressures – are absorbing an increasing share of household income. Some of the submissions from members of the public made for particularly concerning reading. These are everyday people hit with unjustifiably high toll costs just to get to work, access medical care or study. The annual spend on tolls reported in these submissions is difficult to reconcile with reports from Transurban and Transport for NSW about how much motorists spend on average. It is easy for motorists to vent their frustrations at the private toll operator but, in truth, this is a situation of the NSW Government's own making.

3.95 In accordance with tolling concessions, tolls on the majority of Sydney's motorways increase every quarter like clockwork. Wages are not increasing at the same pace. In the committee's

³³⁷ Submission 21, BusNSW, p 5

³³⁸ Evidence, Mr John King, President, BusNSW and Bus Operator, Premier Motor Service, 28 September 2021, p 8.

³³⁹ Submission 21, BusNSW, p 2.

³⁴⁰ Submission 21, BusNSW, p 2.

view, the current trajectory is not sustainable. Decisive action from government on escalation rates is urgently needed, as recommended by the committee in Chapter 4.

- 3.96** The committee notes with concern the safety and amenity impacts of toll avoidance for communities around Sydney. This evidence is a compelling counterbalance to the rhetoric we often hear about toll roads which trumpets their benefits in alleviating congestion, saving travel time and returning local roads to local communities. With the incessant expansion of the tolled network, toll avoidance and rat running has reached a new level in Sydney. In the context of this report and an upcoming State election, it places significant onus on all candidates to clearly articulate a policy position and plan of action for road infrastructure delivery.
- 3.97** The committee sympathises with the residents and business owners of Bexley. This is a community suffering from the effects of toll avoidance and 'rat running' by heavy vehicles. In the committee's opinion, they are bearing the brunt of a deeply flawed pricing regime which, perversely, acts as a deterrent to heavy vehicles using the infrastructure designed for them as 'key demand drivers' for new motorways. Previous government interventions have meant that 'through-traffic' vehicles now have priority passage through the town centre at the expense of locals wishing to visit the high street shops. The scale and magnitude of this issue was revealed by the local government figures for truck movements on Harrow Road in Bexley: 610 heavy vehicles per day in 2015, growing to 2,695 in 2021. That is an additional 2,085 heavy vehicles through Bexley every day, adding to safety hazards for motorists and pedestrians, air and noise pollution, vibration and other amenity impacts. We note that the road network performance review for the M5 and M8 tunnels – including analysis of traffic impacts to adjoining road networks – has yet to be released.³⁴¹ We call on the NSW Government to release this review without further delay.
- 3.98** Evidence before the committee made it exceedingly clear that the greatest financial burden of Sydney's tolling regime falls on western Sydney. Transurban's own data shows that drivers in northwestern Sydney, southwestern Sydney and western Sydney spend more per week on tolls than other parts of the city. Residents of western Sydney have fewer public transport options and also live further away from high-paying knowledge economy jobs in the Central Business District and the city's east. They have little choice but to pay the ever-increasing costs of tolls. The tolling regime fails to recognise this transport disadvantage. It assumes a level playing field in which all Sydney residents have equal choice in how and when they travel – when the stubborn reality is one's wealth determines one's postcode, which in turn determines one's transport advantage or disadvantage. If that postcode happens to be in western Sydney, then you are disproportionately burdened by the NSW Government's penchant for toll roads. The committee makes recommendations to address these issues in Chapter 4 through reforms to toll road pricing and, in particular, moving to a network approach to pricing.
- 3.99** Under the user pays model, the funding costs of delivering and operating road infrastructure fall directly on those who use that infrastructure. And yet, roads deliver much broader benefits to the community and the economy, far beyond the direct personal benefits of individual, toll-paying users. Similarly, the costs of toll roads are felt by a much broader group of people than those simply paying the tolls, as shown in the Bexley case study where the community is paying a high price in safety, liveability, amenity and other impacts so that others can use (*or not use*) a new toll road. In the committee's opinion, it is not possible to separate out the costs and benefits to drivers from the larger costs and benefits to society as a whole. It would benefit the people

³⁴¹ Evidence, Mr Jeffrey Tullock, President, Bexley Chamber of Commerce, 24 May 2022, p 2.

of Bexley hugely not to have trucks on their suburban roads, and that needs to be weighed up against a simple assertion that trucks cause more wear and tear to the toll road when working out toll pricing for trucks. Additionally, if trucks are being forced by regulation to use the toll roads because of the broader benefit of not having trucks on suburban roads (as is the case with the truck ban on Pennant Hills Road), then it is inequitable to charge them three times as much as cars. Looking long-term, the NSW Government needs to reassess its strategy for moving freight in New South Wales, including moving more freight via rail. In the absence of a movement towards rail, and as long as there are insufficient viable alternatives for transporting freight by road, trucks need to be encouraged to use toll roads for the benefit of society more broadly. The committee therefore calls on the NSW Government to realign toll pricing to ensure that it is feasible for trucks to use the roads intended to take them off suburban streets. The committee recognises that substantial reform to the system is complex and will take time, with the NSW Government locked into contracts with the private sector. The industry needs a lifeline now – pending the implementation of longer term reforms – and we therefore call for the extension of current toll relief schemes to the road freight industry.

- 3.100** In the committee's view, the current toll pricing policy fails to recognise the clear social and environmental benefits of private bus and coach travel. This mode of transport plays an important role in reducing the number of private vehicles on the road, and in providing transport services to local communities. That buses are treated like any other heavy vehicle, and tolled accordingly, is highly problematic. In recognition of the social and environmental benefits identified in evidence from BusNSW, we encourage the NSW Government to introduce arrangements to exempt buses from paying tolls when carrying passengers.

Recommendation 2

That the NSW Government move to realign toll pricing in corridors where trucks are on suburban streets to ensure trucks can feasibly use toll roads where possible, including the option of the extension of current toll relief schemes to the road freight industry.

Recommendation 3

That the NSW Government immediately release the traffic network performance review for the M8 and M5 toll roads, given its release was promised one year ago.

Recommendation 4

That the NSW Government implement a scheme to ensure that buses are not required to pay tolls when carrying passengers.

Chapter 4 Toll pricing and value narratives

In this chapter, the committee addresses the complex issue of toll road pricing while examining the different value narratives on the benefits of toll roads, aired in the course of the inquiry.

The chapter begins by explaining how toll prices are currently set. This is followed by a detailed review of the key issues raised in inquiry evidence about toll road pricing, including consideration of the fairness and equity of the existing pricing regimes. The NSW Government's existing toll relief and cashback schemes are then evaluated through stakeholder insights and perspectives, as are the government's justifications for charging heavy vehicles three times as much as cars on toll roads. This leads into stakeholder reflections on the level of transparency surrounding road tolling decisions and privatisation processes. Finally, Transurban's value narrative on the benefits of toll roads is detailed alongside alternative perspectives advanced in evidence by private motorists and road freight organisations.

How toll prices are set

- 4.1 Toll charges are set under a concession deed negotiated between the NSW Government and a private toll road provider at the initial stage of a project.³⁴²
- 4.2 Concession deeds regulate the commercial arrangements for the ownership and operation of a privately-held road asset.³⁴³
- 4.3 Currently in New South Wales, each toll road is subject to separate commercial arrangements. The terms of each concession deed are determined on a project-by-project basis, which means pricing is set in isolation of the other toll roads that make up Sydney's network.³⁴⁴
- 4.4 The tolls that apply to the privately owned sections of the Sydney motorway network are based on these separate commercial agreements between the NSW Government and the private sector.³⁴⁵
- 4.5 When negotiating commercial arrangements for the procurement of a new toll road, the NSW Government has four levers at its disposal: the starting toll, capital contributions from the government, the toll escalation rate and the concession length. An adjustment to any one of these levers means the others must also be adjusted to secure the up-front financing needed to construct the road. Infrastructure Partnerships Australia unpacked how this works:

At a point government decides to build a particular piece of, in this case, road infrastructure. That is paid for either by users or taxpayers. They are the only pots of money available. Where government makes a decision to have a tolled road it has some options in front of it—essentially four levers. It has the starting toll, any capital contributions on behalf of the taxpayer, the escalation rate of the toll and the concession length. If you move any one of those levers, the others move themselves to self-level to

³⁴² Submission 18, National Road Transport Association, p 3.

³⁴³ Submission 33, Transurban-WestConnex, p 27.

³⁴⁴ Submission 18, National Road Transport Association, p 3.

³⁴⁵ Submission 40, Infrastructure Partnerships Australia, Attachment A, *Submission to the NSW inquiry into road access pricing*, p 20.

get the appropriate amount of money required up-front to build the piece of infrastructure.³⁴⁶

- 4.6 Referring to the same four levers, the NRMA explained that a lower initial government contribution would increase the toll price, indexation and concession length:

Whenever a toll road is put in place and you are after capital investment or institutional funds to bring forward the construction of that asset, you have to look at the Government input initially and also the starting toll price—where that is set—the toll increase that is either consumer price index [CPI] or indexed at 4 per cent and the concession length. All of those things ultimately interchange. If you look at bringing down government investment initially, then those other levers have to increase. The traditional model has been that government will put a significant funding envelope on the table up front and that would have a better impact on those other levers. But if you change one thing, it is going to change some other part of the network design or the network model.³⁴⁷

- 4.7 According to Infrastructure Partnerships Australia, there is now significant complexity in the system because of the piecemeal, project-by-project manner in which Sydney's toll roads have been developed over time with multiple concession deeds being negotiated independently of each other.³⁴⁸ The consequences of this complexity are outlined below.

Pricing: Key issues and concerns

- 4.8 The following section considers the key issues and concerns raised in evidence about the way toll prices are currently determined, including assessments of equity and fairness of tolls and toll relief, the rationale for charging higher tolls for heavy vehicles, and concerns around the transparency of concession deeds and the setting of tolls.

The equity and fairness of toll pricing and toll relief: stakeholder perspectives

- 4.9 Assessments of the fairness, equitability and consistency of the current tolling regime abounded in evidence before the committee. Much of this commentary highlighted the perceived deficiencies in the way individual toll prices are set and saw significant scope for reforms to make the system fairer and more equitable. This evidence is outlined in the following paragraphs.
- 4.10 An expert voice in the commentary around pricing was Infrastructure Partnerships Australia. In its view, current variations in pricing reflect the complex and ad-hoc delivery of privately-financed roads over time, with each pricing schedule reflecting the cost of delivering and operating individual roads:

³⁴⁶ Evidence, Mr Adrian Dwyer, Chief Executive Officer, Infrastructure Partnerships Australia, 7 October 2021, p 10.

³⁴⁷ Evidence, Mr Robert Giltinan, Director of Policy and Public Affairs, NRMA, 25 October 2021, p 16.

³⁴⁸ Submission 40, Infrastructure Partnerships Australia, Attachment A, *Submission to the NSW inquiry into road access pricing*, p 14.

Despite the benefits toll roads have brought, their rollout has been ad hoc. Planning and delivery has been undertaken on a project-by-project basis with the pricing structure reflecting the cost of financing, designing, constructing and operating individual portions of the network. However, when considered across the network, can be viewed as complex and, to a degree, inadequate in the recovery of the true costs of the use of the motorway network.³⁴⁹

- 4.11** Infrastructure Partnerships Australia formed the view that the current approach to pricing, where access is priced on the basis of stand-alone project costs, is unable to account for its broader transport network impacts:

Despite improvements in transport network performance as these motorways are connected, the approach to their pricing remains tied to the commercial arrangements at the point of contract execution. This is because ... tolls are typically set for each motorway as a means of meeting the costs of constructing, operating and maintaining that road. By their nature, these arrangements do not account for the broader transport network impacts of setting toll road prices at this level.³⁵⁰

- 4.12** For Infrastructure Partnerships Australia, this has led to inconsistent and inefficient road network pricing with some users facing disproportionate transport costs.³⁵¹ Referring to the tolling arrangements as a 'patchwork', 'quagmire' and as 'deeply unfair', Infrastructure Partnerships Australia drew attention to the equity issues with the current regime, issues made worse by the NSW Government's cashback and toll relief schemes:

The differential pricing regimes across the network also gives rise to issues of equity where motorists using different sections of the network pay vastly different sums for similar functionality. This perception of unfairness has been compounded by the M5 Cashback and Toll Relief schemes. Government rebate programs only add to the quagmire of network pricing, as a form of quasi-welfare unconnected to the individual needs and capacity to pay of users. These programs further complicate any analysis of who pays what for roads, and whether the costs borne by some transport users are equitably distributed.³⁵²

- 4.13** These observations gave impetus to Infrastructure Partnership Australia's case for reform. This focused on the implementation of a single network-wide pricing structure with the potential to rationalise road tolling while maintaining revenue neutrality across the transport network.³⁵³ In its view, such a reform would benefit users and governments by:

- improving fairness via the linking of price to usage and the spreading of the total cost burden across all users; and
- providing governments with a powerful tool to integrate toll roads within broader network planning which, with the right settings, could reduce congestion across the entire network by more actively managing supply and demand on the tolled arterial routes.³⁵⁴

³⁴⁹ Submission 40, Infrastructure Partnerships Australia, p 2.

³⁵⁰ Submission 40, Infrastructure Partnerships Australia, p 2.

³⁵¹ Submission 40, Infrastructure Partnerships Australia, p 3.

³⁵² Submission 40, Infrastructure Partnerships Australia, p 3.

³⁵³ Submission 40, Infrastructure Partnerships Australia, p 3.

³⁵⁴ Submission 40, Infrastructure Partnerships Australia, p 3.

- 4.14** Infrastructure Partnerships Australia's characterisation of the current toll pricing settings resonated with other inquiry participants:
- Road Freight NSW regarded the current tolling charges as 'unfair and inequitable' especially for truck operators who increasingly have no other option but use toll roads.³⁵⁵
 - The NRMA referred to it as a 'patchwork' that has led to inequity and inefficiencies across the network.³⁵⁶
 - The Western Sydney Regional Organisation of Councils viewed Sydney's tolling arrangements as unfair and inequitable, stating that price setting processes are 'highly project-based, resulting in variable outcomes which do not reflect user benefits, nor transport charges across the rest of the network'³⁵⁷
- 4.15** According to the last of these inquiry participants, the regime is an artefact of 'an eclectic mix of policy and protocols based on project-specific financing arrangements and the political landscape at the time of their inception. The significant differences in tolling arrangements across different parts of the city is, on its own, enough to demonstrate Sydney's tolling regime is neither fair nor equitable'.³⁵⁸
- 4.16** The Western Sydney Regional Organisation of Councils further argued that the current toll charges bear no relation to actual use of roads, highlighting the wide variation in the per-kilometre cost of using each motorway and how this results in pricing inconsistencies and disparities for toll road users.³⁵⁹ How this disproportionate impact affects certain parts of Sydney was discussed in Chapter 3.
- 4.17** This evaluation of the current toll price settings was repeated in evidence from the NRMA. The NRMA told the committee that pricing structures are reflective of project-specific considerations, leading to 'disparate pricing, inconsistencies and inequity for users'.³⁶⁰
- 4.18** In relation to toll escalation rates, the National Road Transport Association – known in shorthand as NatRoad – failed to see any relationship between increases in tolls which 'come around like clockwork' and the actual costs of road repair.³⁶¹

Toll relief and cashback

- 4.19** Several inquiry participants provided commentary on the merits of the NSW Government's toll relief schemes as detailed in Chapter 2. These were often considered in the context of the variable and disparate price settings outlined in evidence above.

³⁵⁵ Submission 7, Road Freight NSW, p 4.

³⁵⁶ Evidence, Mr Giltinan, 25 October 2021, pp 15 and 18.

³⁵⁷ Submission 35, Western Sydney Regional Organisation of Councils, p 8.

³⁵⁸ Submission 35, Western Sydney Regional Organisation of Councils, p 3.

³⁵⁹ Submission 35, Western Sydney Regional Organisation of Councils, p 6.

³⁶⁰ Evidence, Mr Giltinan, 25 October 2021, p 13.

³⁶¹ Evidence, Mr Warren Clark, Chief Executive Officer, National Road Transport Association, 28 September 2021, p 32.

4.20 For example, Infrastructure Partnerships Australia argued that the government's toll relief schemes are responsible for compounding the unfairness and inconsistency of the system.³⁶² In its view, the M5 cashback scheme and other toll relief schemes might be 'electorally convenient' but are 'bad policy':

While schemes like M5 cashback are electorally convenient, they add further distortions to an already complex system, delivering benefits to a small number of users and the concession holders of those tolls at the expense of other taxpayers.³⁶³

4.21 Infrastructure Partnerships Australia elaborated on their concerns with the government's cashback and toll relief schemes under questioning by the committee. Its Chief Executive Officer, Mr Adrian Dwyer, argued that providing government-funded rebates to drivers using the M5 effectively means non-users of the road are subsidising drivers who use it and derive the direct benefit:

I might just take the M5 cashback as a first example. If I travel over the M5, at a quarterly interval I am able to claim back the cost of that toll for my use of that. I am sure that is very good for Transurban's shareholders but it is not very good for the taxpayer in Dubbo who is making a contribution towards my use of that toll, which I am perfectly capable of paying for myself and I have been the principal beneficiary of travelling over that route.³⁶⁴

4.22 According to Mr Dwyer, this distorts incentives for use, is unfair and is an inefficient use of infrastructure.³⁶⁵ The Government's toll relief schemes were considered to be similarly deficient as they benefit a small number of users only and are not properly targeted to those who most need them:

Toll Relief, similarly, flows to a very small number of users of the network. The very legitimate cost-of-living concerns that exist beyond that small number of users could be addressed through having a broader reform to an integrated approach to tolling across the system. If we are making a decision that there are some people that are heavily impacted then let us make sure we are targeting it properly at those that need that help, not a fairly blunt instrument in Toll Relief and an entirely blunt instrument in M5 cashback.³⁶⁶

4.23 These sentiments were largely echoed by the Western Sydney Regional Organisation of Councils. This inquiry participant described toll relief schemes as a 'blunt way' of dealing with transport disadvantage in certain parts of Sydney and also suggested they are not targeted to those most in need. Bolstering their evaluation, the Western Sydney Regional Organisation of Councils observed that motorists who pay \$28 per day on tolls and motorists who pay as little as \$6 per day in tolls both receive the same registration relief.³⁶⁷

³⁶² Evidence, Mr Dwyer, 7 October 2021, p 8.

³⁶³ Evidence, Mr Dwyer, 7 October 2021, p 8.

³⁶⁴ Evidence, Mr Dwyer, 7 October 2021, p 15.

³⁶⁵ Evidence, Mr Dwyer, 7 October 2021, p 15.

³⁶⁶ Evidence, Mr Dwyer, 7 October 2021, p 15.

³⁶⁷ Evidence, Mr Charles Casuscelli, Chief Executive Officer, Western Sydney Regional Organisation of Councils, 7 October 2021, pp 16 and 21.

- 4.24** Road Freight NSW also questioned why toll relief should only apply to certain road users, such as 'light vehicle users and grey nomads', and not heavy vehicle users.³⁶⁸ Road Freight NSW felt that freight operators have been discriminated against because they have been excluded from the NSW Government's suite of toll relief initiatives.³⁶⁹
- 4.25** Business NSW also registered its opposition to 'location-based discount or rebate programs such as the M5 cashback', maintaining that other reforms, such as a weekly toll cap, are more appropriate.³⁷⁰

Rationale for heavy vehicle multiplier

- 4.26** As detailed in Chapter 2, heavy vehicles are charged significantly more to use Sydney's toll roads than cars. For example, as at 1 April 2022, a one way journey on NorthConnex was \$8.56 for a car and \$25.67 for a heavy vehicle – that is, equivalent to three times the toll paid by cars.
- 4.27** Setting truck tolls at least three times higher than car tolls is one of the NSW Government's road tolling principles detailed in Chapter 1.
- 4.28** In the course of the inquiry, the committee heard various justifications for this heavy vehicle multiplier, including cost recovery for additional wear and tear on roads, that freight users derive a greater benefit from toll roads than private motorists, and the additional construction costs to accommodate or cater for freight users.
- 4.29** Weighing up these arguments formed a significant focus of the committee's proceedings. These issues are examined in the following paragraphs, starting with a summary of the stated justifications for the heavy vehicle multiplier. This is followed by a discussion of stakeholder perceptions of the three-times uplift for heavy vehicles.
- 4.30** Transport for NSW set out the case for charging trucks three times more than cars. First and foremost was the supposition that commercial vehicles derive greater benefit from using toll roads than cars:

Commercial vehicles are comparatively heavy users of toll roads when compared to light private vehicles suggesting that commercial users are deriving greater benefits from using toll roads through more efficient movement of goods and services such as productivity, travel time benefits and other operating cost savings.³⁷¹

- 4.31** Transport for NSW pointed to a number of additional factors to justify the higher toll charges for trucks:
- the additional wear and tear caused by heavy vehicles, noting that setting pricing to reflect the greater damage to roads is consistent with the pricing model for vehicle registration
 - the additional space that large vehicles take up on the road compared with cars

³⁶⁸ Evidence Mr Simon O'Hara, Chief Executive Officer, Road Freight NSW, 28 September 2021, p 40.

³⁶⁹ Submission 7, Road Freight NSW, p 10.

³⁷⁰ Submission 206, Business NSW, p 4.

³⁷¹ Submission 146, Transport for NSW, p 19.

- heavy vehicles and freight are key demand drivers for building new motorways and increase construction costs
- the ability for commercially owned and operated vehicles to claim the cost of tolls as a tax deduction and in some cases, pass these costs on to their customers.³⁷²

4.32 Transurban laid out a similar case for the heavy vehicle multiplier. The Chief Executive Officer of WestConnex, Mr Andrew Head, referred to certain design specifications that guide the development of new motorways and which are of benefit to the freight industry:

[T]here are a number of things that go into the development of a new motorway. When we start we think most about the design of it. So we try to make them flatter, we try to make them wider and we try to make them higher. All of those things benefit the freight industry.³⁷³

4.33 Such design features also include 'suitable pavement depth and grades, tunnel ventilation and breakdown bays ... which increases the overall project costs'.³⁷⁴ Furthermore, Transurban observed that the more gradual inclines required for trucks lengthens the required amount of tunnelling, as demonstrated in the design of NorthConnex.³⁷⁵

4.34 In relation to quantifying heavy vehicle wear-and-tear on roads, evidence from Transurban varied somewhat. In its written submission, Transurban states:

The wear-and-tear to road infrastructure caused by one articulated truck has been estimated to equal that of 6,000 cars. Comparatively, the tolling charges for these vehicles are currently set at two to three times the car toll charge. Currently every workday we record more than 70,000 truck trip transactions across the toll roads we operate in Sydney; so the scope of the maintenance task borne by the private sector is evident.³⁷⁶

4.35 By contrast, Mr Head of WestConnex told the committee they apply a multiple of five times that of a car, describing this as a conservative multiplier and noting the existence of 'numbers much higher than that'.³⁷⁷

4.36 In any event, Transurban concluded that the current tolls charged for large vehicles do not accurately reflect these costs.³⁷⁸

4.37 The additional road capacity that trucks take up was seen to be another reason why trucks are charged more than cars.³⁷⁹ Together with the design costs mentioned above, these factors were explained as the rationale for the three times multiplier for heavy vehicles, with Mr Head telling the committee:

³⁷² Submission 146, Transport for NSW, p 19.

³⁷³ Evidence, Mr Andrew Head, Chief Executive Officer, WestConnex, 10 December 2021, p 22.

³⁷⁴ Submission 33, Transurban-WestConnex, p 30.

³⁷⁵ Submission 33, Transurban-WestConnex, p 30.

³⁷⁶ Submission 33, Transurban-WestConnex, p 30.

³⁷⁷ Evidence, Mr Head, 10 December 2021, p 22.

³⁷⁸ Submission 33, Transurban-WestConnex, p 30.

³⁷⁹ Submission 33, Transurban-WestConnex, p 30.

But [large vehicles] are heavier and they have an impact and they do take up additional space. As a general rule of thumb we assume that a general size truck is about two and a half times the size of a car. There are a number of elements that go into the assessment of a truck's impact on a road and it results in that three times multiplier, which is what is applied in Sydney.³⁸⁰

- 4.38** Adding to this evidence, Mr Head spoke of the purported commercial benefits that trucking companies gain from using toll roads through time-savings and an ability to make additional trips. For Mr Head, the truck drivers hauling spoil out of the WestConnex M4-M5 link (currently under construction) provided a case in point. He asserted that, by using toll roads, these truck drivers are able to make an extra trip or two every day, with each trip being charged somewhere between \$400 and \$700 per load. Reflecting on anecdotal feedback from these drivers, Mr Head told the committee 'they think it is a great outcome to take the toll road and to get those extra trips and get the extra revenue'.³⁸¹
- 4.39** Comparing hourly operating costs for heavy vehicle and cars, Transurban asserted that even with the higher toll price, trucks derive the equivalent amount of value from toll roads as cars.³⁸²
- 4.40** As part of its value narrative, Transurban provided a case study of a fictional trucking company – 'Trucking Company T' – to demonstrate a favourable cost-benefit equation in using Sydney's toll roads.³⁸³ This case study is examined in detail in the next section as part of the committee's analysis of the conflicting value narratives that were aired throughout the inquiry.
- 4.41** Evidence from Infrastructure Partnerships Australia supported these arguments. Responding to suggestions the toll price for trucks is too high and acts as a disincentive, its Chief Executive Officer, Mr Adrian Dwyer, brought the discussion back to benefits. He implied the higher tolls trucks pay are reflective of the greater benefits they get and also their 'higher impact on the network':

I think it is pretty clear, obviously, that the freight industry, and us as ultimate customers of the things that the freight industry is moving, have been beneficiaries of the tolled motorway network for exactly the benefits that you have mentioned around getting those vehicles onto roads that are fit for purpose and, in particular, roads that mean that, as a delivery company, you can make more deliveries in a day and you can do it in a safer and more dependable way. It is certainly true that they have been the beneficiaries of the tolled network. [Any future reform] ...will have to reflect that heavy vehicles have a higher impact on the network than light vehicles do. The roads need to be built with a higher degree of capital cost to support heavy vehicles and that should be reflected in the toll that is charged on heavy vehicles. I think it would be seen as unfair if, for instance, a heavy vehicle, a B-double, paid the same as a Hyundai Getz.³⁸⁴

- 4.42** Mr Michael Kilgariff, Chief Executive Officer of Roads Australia, was reluctant to be drawn on the appropriateness of the heavy vehicle multiplier but nevertheless saw the greater wear-and-tear on roads from freight vehicles as a valid justification for higher tolls.³⁸⁵

³⁸⁰ Evidence, Mr Head, 10 December 2021, p 22.

³⁸¹ Evidence, Mr Head, 10 December 2021, p 22.

³⁸² Submission 33, Transurban-WestConnex, p 30.

³⁸³ Submission 33, Transurban-WestConnex, p 27.

³⁸⁴ Evidence, Mr Dwyer, 7 October 2021, p 8.

³⁸⁵ Evidence, Mr Michael Kilgariff, Chief Executive Officer, Roads Australia, 28 September 2021, p 4.

- 4.43 Not all inquiry participants, however, were as convinced of these justifications.
- 4.44 The Australian Logistics Council, for instance, called for an independent investigation into the economic rationale for the heavy vehicle multiplier and the extent to which 'revenue collected through application of the policy exceeds the costs attributable to heavy vehicle usage of the infrastructure'.³⁸⁶
- 4.45 The Council told the committee that the automatic application of the three-times multiplier, as a reflection of the greater productivity benefits and wear-and-tear on roads, was not founded in evidence:
- It is well known there is a large vehicle multiplier by which heavy vehicles accessing the New South Wales toll road network pay between two to three times the car toll to access the road infrastructure. The toll is justified because of the perceived greater value road operators derive from time savings and reliability gains provided by using the toll road. We also note that the Transurban submission suggests that the wear and tear to road infrastructure caused by one articulated truck has been estimated to equal that of 6,000 cars. Without disputing these assumptions, there is no evidence the automatic application of a three-times uplift accurately captures the costs and benefits discussed above.³⁸⁷
- 4.46 Furthermore, the Council referred to perceptions from within the industry that the three-times multiplier for heavy vehicles is being used 'as an additional profit margin to the concessionaire'.³⁸⁸
- 4.47 Road Freight NSW raised similar concerns. In its estimation, while the processes for setting heavy vehicle tolls through concession agreements are clear, the principles on which they are set are not.³⁸⁹
- 4.48 Road Freight NSW refuted each of the arguments used by government to justify the heavy vehicle multiplier.
- 4.49 **First**, it dismissed justifications of tolling rates as nationally consistent, as 'just an excuse to increase tolls'.³⁹⁰
- 4.50 **Second**, it submitted that the heavy vehicle multiplier vastly exceeds the marginal cost of road wear. To evidence this assertion, Road Freight NSW referred to marginal wear-and-tear costs estimated by the Australian Trucking Association which are detailed in paragraph 4.52 below.³⁹¹ Road Freight NSW further observed that calculations around heavy vehicle road wear assume (erroneously) that heavy vehicles are always carrying their maximum allowable weight. In reality,

³⁸⁶ Submission 37, Australian Logistics Council, pp 3 and 5.

³⁸⁷ Evidence, Ms Rachel Smith, Director, Policy and Advocacy, Australian Logistics Council, 28 September 2021, p 33.

³⁸⁸ Evidence, Ms Kerry Corke, Policy Adviser, Australian Logistics Council, 28 September 2021, p 36.

³⁸⁹ Submission 7, Road Freight NSW, p 8.

³⁹⁰ Submission 7, Road Freight NSW, p 8.

³⁹¹ Submission 7, Road Freight NSW, p 8.

the actual cost of road wear would be considerably lower for vehicles that are not carrying their maximum weight.³⁹²

- 4.51** **Third**, Road Freight NSW dismissed assertions that, because of their higher operating costs, the value of time savings is greater than cars. It argued instead that smaller trucking operators are less able to use their fleets to convert travel time savings into direct monetary benefits and are also very sensitive to costs. In the association's opinion, toll charges have increased significantly but the travel time savings are either minimal or non-existent, especially on the M7. The fact that truck bans are necessary for some alternative routes was seen as tacit acknowledgment that the multiplier does not reflect the purported economic benefits for trucking operators.³⁹³
- 4.52** NatRoad drew on the same Australian Trucking Association estimates cited by Road Freight NSW to lend weight to its assertion that the heavy vehicle multiplier exceeds the cost of road repair. Using this modelling, NatRoad concluded that for a continuous journey on the M7, the actual road damage costs represent less than 20 per cent of additional toll collected for a heavy vehicle:
- [T]he Transurban heavy vehicle multiplier discussed in [the 2017 Upper House report on road tolling] clearly exceeds the marginal cost of road wear and repair costs as a result of the impact of an additional trip made by a heavy vehicle. Transurban applies a 'large vehicle multiplier' of two to three times the car toll depending on the road asset, with the higher toll for heavy vehicles reflecting what Transurban indicated during the outworking of the NSW Report, as its findings regarding the greater value derived from the time savings provided by the tolled network. In 2019, the Australian Trucking Association (ATA) of which NatRoad is a member, estimated that for a fully laden 6 axle articulated heavy vehicle, the estimated maximum marginal cost would be \$0.16 per kilometre for an urban toll road. Using 2019 toll pricing on the M7, the ATA calculated that the maximum capped truck toll is \$24.72 for a continuous 20km or greater trip, three times the maximum car toll of \$8.24. Of the extra \$16.48 that is collected, just \$3.20 represents road damage costs over 20km, under 20 per cent of the increased toll rate. This evidence stands in stark contrast to the multiplier used by Transurban.³⁹⁴
- 4.53** In terms of pricing for each individual toll road, NatRoad maintained that there is currently no reliable information to quantify the damage caused by heavy vehicles compared to cars for each toll road or tunnel – nor is there sufficient information on the cost of road repairs that would justify the toll charges set for heavy vehicles.³⁹⁵
- 4.54** The Transport Workers' Union of New South Wales took a slightly different focus, calling into question how length and height criteria are applied to classify Class A and Class B vehicles. In its view, this system of classification is unjust because it treats all Class B vehicles the same regardless of whether they only just meet the stipulated dimensions or are some of the largest and heaviest vehicles on the road. The Union explained:

³⁹² Submission 7, Road Freight NSW, p 8.

³⁹³ Submission 7, Road Freight NSW, p 9.

³⁹⁴ Submission 18, National Road Transport Association, pp 6-7.

³⁹⁵ Submission 18, National Road Transport Association, p 7.

As aforementioned, Class B vehicles are generally charged up to three (3) times the rate of Class A vehicles. Vehicles are determined to meet Class B vehicle requirements on the basis of exceeding the dimensions of Class A vehicles. The [Transport Workers' Union] is of the view that the current differentiation between Class A and Class B vehicles does not represent the fairest possible outcome for road users, as currently vehicles that are marginally longer than 12.5 metres or a fraction higher than 2.8 metres are being charged the same class rate as vehicles that are of far greater height, weight and axles. In light of the justification for Class B vehicles being charged up to three (3) times the rate of Class A vehicles due to heavy wear and tear on roads, it is manifestly unjust that vehicles that merely meet the Class B vehicle requirements are charged the same rate as the heaviest vehicles on roads as theoretically the damage caused by the two are not comparable. The [Transport Workers' Union] is of the view that vehicles classifications should be reviewed to account for the scale and varying classes of vehicles to ensure that tolling arrangements represented the fairest possible outcome for all road users.³⁹⁶

- 4.55** Directly relevant to the issue of heavy vehicle tolling, the committee notes Recommendation 9 of the previous Upper House inquiry into road tolling in New South Wales, which called on the NSW Government to identify and publish evidence supporting its decision to toll heavy vehicles at three times the rate of light vehicles.³⁹⁷ This recommendation sought to address concerns about transparency in price setting, a topic to which the committee's discussion now turns.

Concerns around transparency of concession deeds and toll setting

- 4.56** This section outlines concerns about the level of transparency around how the terms and commercial arrangements of tolling concession deeds are negotiated. The overwhelming sentiment in inquiry evidence was that such processes lack transparency, making it difficult to ascertain whether these contracts are in the public's best interests.
- 4.57** The Western Sydney Regional Organisation of Councils, for instance, argued that the processes for setting tolls and escalation rates are opaque, making it impossible to assess the appropriateness of toll charges. Citing WestConnex as the most recent example of 'opaque toll setting based on individual project costs', this peak body suggested the lack of transparency around how prices and escalation rates are struck makes it difficult for the community to be sure they are getting value for money.³⁹⁸ In its view, the community backlash against WestConnex was primarily driven by 'perceptions of fairness, equity, and lack of transparency in how new tolls are set'.³⁹⁹
- 4.58** The NRMA proposed that the calculation, indexation and application of user charges 'must be made transparent to the road user, including the user charge at commencement, the cost escalation mechanism, and the length of the toll agreement'.⁴⁰⁰ They identified a need for 'more

³⁹⁶ Submission 20, Transport Workers' Union of NSW, p 11.

³⁹⁷ Portfolio Committee No. 2 – Health and Community Services, NSW Legislative Council, *Road tolling in New South Wales* (2017), p 81.

³⁹⁸ Submission 35, Western Sydney Regional Organisation of Councils, p 8.

³⁹⁹ Submission 35, Western Sydney Regional Organisation of Councils, p 3.

⁴⁰⁰ Submission 34, NRMA, p 2.

transparency around the conditions for price setting and independent oversight of concessions', saying this would improve public knowledge and confidence.⁴⁰¹

4.59 Transparency was also seen as important in promoting a better understanding among customers of what they are being charged for and what the benefit is when they choose to use a toll road. It was proposed that, with greater transparency, 'people would be more confident in what they are getting for what they are paying for'.⁴⁰²

4.60 In questioning before the committee, the NRMA expanded on its proposal for greater transparency and oversight of toll price setting. It envisaged a role for an independent assessor to review tolling contracts to ensure the deals that have been negotiated are in the public interest:

Once the deal has been struck and they have worked out the parameters in terms of what they are going to pay, it would actually be good to get an assessment from an independent operator as to whether the way the contract is put together is in the public interest and there is a benefit to the public from this road having been built. We think it is critical that people understand the need for roads and also understand that they are actually getting a benefit out of it. I think an independent check saying it does pass the test and people will gain from using that road, I think that is quite important.⁴⁰³

4.61 Road Freight NSW also submitted that the methods for setting tolls lack transparency and called for the establishment of an independent pricing regulator.⁴⁰⁴

4.62 Similarly, NatRoad suggested there was a 'lack of disclosure' around how tolling concession deeds are negotiated, in particular the trade-off between the levers of concession length, initial toll price and escalation rates.⁴⁰⁵ As a consequence of this lack of disclosure, 'the community is not able to assess how these competing forces resulted in the particular outcome'.⁴⁰⁶

4.63 As an organisation that represents thousands of truck drivers directly affected by tolling decisions, the Transport Workers' Union of New South Wales raised concerns about the NSW Government's failure to consult with them prior to implementing changes to the tolling regime. They wrote:

The [Transport Workers' Union] further notes that despite being the largest representative body of truck drivers and the only union within New South Wales who has coverage over Contract Carriers, the [Transport Workers' Union] is unaware of any past or current attempts being made by the NSW Government to consult with heavy vehicle operators prior to changes being made to tolling regimes.⁴⁰⁷

⁴⁰¹ Evidence, Mr Giltinan, 25 October 2021, p 13.

⁴⁰² Evidence, Mr Wal Setkiewicz, Principal Adviser, Infrastructure and Economics, NRMA, 25 October 2021, p 14; Evidence, Mr Giltinan, 25 October 2021, p 19.

⁴⁰³ Evidence, Setkiewicz, 25 October 2021, p 14.

⁴⁰⁴ Submission 7, Road Freight NSW, p 7.

⁴⁰⁵ Submission 18, National Road Transport Association, p 3.

⁴⁰⁶ Submission 18, National Road Transport Association, p 3.

⁴⁰⁷ Submission 20, Transport Workers' Union of NSW, p 13.

4.64 In questioning before the committee, the Union's State Secretary, Mr Richard Olsen, highlighted the need for far greater transparency in tolling contracts, starting with industry consultation on how pricing and indexation for freight vehicles is struck:

There needs to be a lot more transparency in these contracts. We need to ensure that we are made aware of what is going to happen in the transport industry and driving on these roads for decades to come. We have more than 4 per cent now being added to the costs for tolls each and every year, for decades, and we have no input into that. No owner-driver, no small business people, had an opportunity to actually address that before it became a contract that became law, but now we are stuck with it.⁴⁰⁸

4.65 For the Union, the fact that they represent over 25,000 truck drivers and a sizeable number of owner-drivers made this need for consultation even more compelling.⁴⁰⁹ As their members are directly affected by the NSW Government's tolling decisions, the Union argued that governments 'of any colour' should consult with them in order to understand potential impacts of tolling decisions on working families and small businesses:

... being the representative body for over 25,000 truck drivers in New South Wales and a significant number of owner-drivers, we would have thought that—given a huge number of our members have an interest in the use of toll roads and therefore have the potential for significant costs on the use of toll roads—it would have been incumbent upon a government of the day of any colour to consult with us on behalf of our members so that they can properly understand any potential impacts that these decisions would have had on those working families and small business owners.⁴¹⁰

4.66 On the issue of transparency, NatRoad drew the committee's attention to Recommendation 3 of the 2017 Upper House inquiry into road tolling in New South Wales.⁴¹¹ This recommendation called for the NSW Government to mandate the disclosure of more information about road tolling projects including documents such as businesses cases, base case financial models, cost benefit analysis and transport forecast modelling.⁴¹² Disclosure of project information and constraints on government were considered by NatRoad to be essential requirements for appropriate transparency and accountability.⁴¹³

4.67 Questions around the disclosure of base case financial models, business cases and other modelling for investment decisions were again raised throughout this inquiry. For instance, the committee questioned government witnesses about the base case financial model for WestConnex which has not been publicly released. The government placed on record its view that this document should not be released until after 2060 when the concession expires.⁴¹⁴ This

⁴⁰⁸ Evidence, Mr Richard Olsen, State Secretary, Transport Workers' Union of NSW, 28 September 2021, p 15.

⁴⁰⁹ Evidence, Mr Gavin Webb, Chief Legal Officer, Transport Workers' Union of NSW, 28 September 2021, p 19.

⁴¹⁰ Evidence, Mr Webb, 28 September 2021, p 19.

⁴¹¹ Portfolio Committee No. 2 – Health and Community Services, NSW Legislative Council, *Road tolling in New South Wales* (2017), p 51.

⁴¹² Submission 18, National Road Transport Association, p 6; Portfolio Committee No. 2 – Health and Community Services, NSW Legislative Council, *Road tolling in New South Wales* (2017), p 51.

⁴¹³ Submission 18, National Road Transport Association, p 6.

⁴¹⁴ Evidence, Mr Philip Gardner, Deputy Secretary, NSW Treasury, 14 February 2021, p 10.

questioning was linked, more broadly, to the committee's efforts to ascertain the total amount drivers will pay under tolling contracts signed by the NSW Government over the life of all concessions.

- 4.68** According to the NSW Government, one of the reasons they could not put a number on this was uncertainty around future toll revenue. Specifically, the government asserted that unknown variables such as changing work patterns, future game-changing technologies and future changes in government toll relief schemes all make future toll revenues a 'highly uncertain number'.⁴¹⁵
- 4.69** On the issue of future traffic volumes, Mr Phillip Gardner, Deputy Secretary, NSW Treasury, conceded that this input had already been modelled by government as part of the privatisation of the remaining stake in WestConnex. Mr Gardner told the committee these were 'assumptions that were made at a point in time [and] were based on very complex modelling. And they were for the specific use of government and other proponents in the process and their financiers'.⁴¹⁶
- 4.70** When pressed to release these assumptions, Mr Gardner offered three reasons why this information is not publicly released, in addition to the uncertainty of future traffic forecasts:
- **first**, cabinet confidentiality
 - **second**, release of the information could compromise any future renegotiation of tolling concessions with the private sector
 - **third**, the information is commercially sensitive.⁴¹⁷
- 4.71** In relation to the third reason cited above, Mr Gardner spoke of the impacts such a disclosure could have on a publicly-listed company and the restrictions under the Corporations Act on providing forecasts of future revenue:

[T]his is sensitive commercial information. Any sophisticated investor equity analyst could take that number, can back-solve for a revenue profile that can impact the equity analyst's view on the Transurban business. It can impact on the finance-ability on the WestConnex entity. It has a lot of consequences. As you know, and Transurban made the statement in its testimony, it is a listed company. It is precluded under restrictions in the Corporations Act from providing forecasts on itself.

[...]

[W]e do not want to undermine the intent of the legislation and the purpose of the Corporations Act. So that is in the Government's interests not to be seen to be compromising those restrictions that Transurban has on making forecasts. That is an important principle.⁴¹⁸

⁴¹⁵ Evidence, Mr Gardner, 14 February 2021, p 4.

⁴¹⁶ Evidence, Mr Gardner, 14 February 2021, p 4.

⁴¹⁷ Evidence, Mr Gardner, 14 February 2021, p 5.

⁴¹⁸ Evidence, Mr Gardner, 14 February 2021, pp 5-6.

- 4.72 The committee's enquiries about the M6 Stage One final business case and traffic modelling that informed it, met with a similar response from government. This document was reported to be Cabinet in confidence.⁴¹⁹ The M6 Stage One project is described in Chapter 1.

The toll regime and the idea of value: Competing narratives

- 4.73 Narratives around the value and benefits of toll roads was a dominant theme in evidence from Transurban and the NSW Government. In this section, the committee reviews these value narratives with specific reference to two fictional case studies offered in evidence from Transurban. These value narratives are contrasted with evidence from industry and the community about their actual experience of Sydney's ever expanding toll network.

The value of toll roads according to Transurban and Transport for NSW

- 4.74 As part of its value narrative, Transport for NSW highlighted a number of benefits of WestConnex. The agency advised the committee that since the opening of the new M4 tunnels in July 2019:
- drivers are saving on average 15 minutes in the morning peak and 35 minutes in the evening peak for journeys across the length of the new M4
 - traffic along sections of Parramatta Road has been reduced by almost one third
 - there is a significant reduction in the number of heavy vehicles on Parramatta Road.⁴²⁰
- 4.75 It was also reported that, since the opening of the M8, motorists are saving up to 30 minutes on trips between Liverpool and South Sydney, with average travel times halved and peak hour speeds doubled. Trips on the entire M5 corridor were reported as being 20 minutes faster in the morning peak since the opening of the M8.⁴²¹
- 4.76 In addition to travel time savings, Transport for NSW highlighted the safety benefits that the M8 has delivered, advising that 'crashes are down by a third on the M5 East and over-height vehicle incidents have also dropped 44 per cent'.⁴²²
- 4.77 More generally, Transport for NSW asserted that Sydney's motorway construction program will result in thousands of cars and trucks being removed from local roads every day, thereby 'returning these roads to local communities for local use and improving safety and liveability'.⁴²³ It also stated that motorways save billions of dollars wasted through congestion, the cost of which was estimated to have increased beyond \$10 billion in 2021.⁴²⁴
- 4.78 Transurban's value narrative highlighted a range of purported benefits, from direct benefits to users of specific toll roads to much broader benefits for the economy.

⁴¹⁹ Evidence, Ms Camilla Drover, Deputy Secretary, Infrastructure and Place, Transport for NSW, 14 February 2022, p 37.

⁴²⁰ Submission 146, Transport for NSW, p 13.

⁴²¹ Submission 146, Transport for NSW, p 13.

⁴²² Submission 146, Transport for NSW, p 13.

⁴²³ Submission 146, Transport for NSW, p 3.

⁴²⁴ Submission 146, Transport for NSW, p 3.

- 4.79 In relation to value for direct users of toll roads, Transurban submitted that private sector investment in the M4 and M5 corridors has delivered:
- a travel-time saving of up to 56 minutes on afternoon peak westbound on the M4
 - a 60 per cent increase in travel-time savings on the M5 East
 - a 40 per cent reduction in crashes on the M5 East.⁴²⁵
- 4.80 In terms of community benefits, Transurban stated that 6,000 trucks have been removed from Pennant Hills Road as a result of NorthConnex, 70 kilometres of pedestrian and cycle paths have been delivered through major projects, and 18 hectares of open space have been delivered through WestConnex.⁴²⁶
- 4.81 Transurban submitted that, over the 30 years to 2046, the accelerated delivery of roads by the private sector will deliver a total of \$35.8 billion in economic benefits. Transurban forecast that, in that time, businesses and freight users can expect to realise an estimated \$11.8 billion in benefits through travel-time savings, reliability gains and reduced vehicle operating costs. Personal users stand to gain \$9.4 billion in similar benefits. These forecasts were based on KPMG research commissioned by Transurban.⁴²⁷
- 4.82 The same research estimates that, over the next 30 years, Sydney's toll roads will deliver an average of \$5.6 billion in annual economic, environmental and social benefits to all road users.⁴²⁸
- 4.83 This amount includes a claimed \$3.6 billion of benefits every year for all road users in Sydney, made up of \$2 billion of benefits for all trucks and freight operators and \$1.6 billion in benefits for all car users.⁴²⁹ In relation to these benefits, Transurban asserted:
- Toll roads help make the entire road network more efficient and reliable. All road users benefit with faster travel times, more reliable journeys and lower fuel consumption and vehicle operating costs.⁴³⁰
- 4.84 Transurban sought to bring these benefits to life using two fictional case studies. These are reproduced below.

Trucking Company T: Value of travel time savings for freight operators⁴³¹

Trucking Company T owns and operates a fleet of articulated trucks out at Ingleburn Industrial Precinct. Its business is to pick up freight from Port Botany and take it to Ingleburn for processing, packaging and redistribution. The business operates between 6am

⁴²⁵ Submission 33, Transurban-WestConnex, p i.

⁴²⁶ Submission 33, Transurban-WestConnex, p ii.

⁴²⁷ Submission 33, Transurban-WestConnex, p 4.

⁴²⁸ Submission 33, Transurban-WestConnex, p 13.

⁴²⁹ Submission 33, Transurban-WestConnex, p 13.

⁴³⁰ Submission 33, Transurban-WestConnex, p 13.

⁴³¹ Submission 33, Transurban-WestConnex, p 27.

and 8pm. The table below outlines the one-way costs and benefits to the business of using the tolled route versus the untolled route.

	Unit of measure	Translated saving
Travel time savings	34 minutes	\$43.00*
Traffic lights avoided	49	N/A
Litres of diesel saved	17 litres	\$22.95**
<hr/>		
Gross savings	\$65.95	
Amount paid in tolls	\$36.34	
Net savings	\$29.61	

* Travel-time savings based on TomTom data for average workday in April 2021.

**Assuming a diesel price of \$1.35 per litre, NRMA Fuel Report, 10 May 2021.

Each one-way trip delivers a net benefit of \$29.61 to Company T, excluding additional vehicle operating cost benefits. In addition, the time saved by using the tolled route would allow it to make 14 one-way trips each workday (factoring in dwell time), compared to around nine via the untolled route, thereby making the company 56 per cent more productive.

The working parent collecting their child from childcare⁴³²

A working parent who works in Macquarie Park is running late to pick up his child from a Blacktown childcare centre which charges \$1 per minute in late fees. If he leaves just before 5.30pm on a Monday and takes the M2 and M7 tolled route he will arrive at 6pm, spending \$10.44 on tolls, while saving approximately \$37 in late fees and 1 litre in petrol. The travel time for the untolled route is 68 minutes; the travel time for the tolled route is 31 minutes. The net benefit of using the tolled route is \$39.03, excluding additional vehicle operating cost benefits.

	Unit of measure	Translated saving
Travel time savings	37 minutes	\$47.93*
Traffic lights avoided	29	N/A
Litres of fuel saved	1.1 litres	\$1.54**
<hr/>		
Gross savings	\$49.47	
Amount paid in tolls	\$10.44	
Net savings	\$39.03	

* Consisting of \$37 savings in childcare late fees plus \$10.93 in travel time savings.

**Assuming an unleaded price of \$1.40 per litre, NRMA Fuel Report, 10 May 2021.

⁴³² Submission 33, Transurban-WestConnex, p 28.

Alternative perspectives on the value of toll roads

- 4.85** Other evidence responded directly to the case studies submitted by Transurban and presented a vastly different perspective on the benefits of toll roads.
- 4.86** For example, Mr Warren Clark, Chief Executive Officer of NatRoad, dismissed Transurban's case study of Trucking Company T as a 'myth' which 'tried to make out that there was a cost benefit of a mythical truck company that used M5 South-West and East motorways'.⁴³³ In his opinion, the lived realities of NatRoad members – such as those captured in Chapter 3 – are a 'real-life response' to this myth.⁴³⁴
- 4.87** Countering the Transurban case study, NatRoad advised the committee that its members frequently use alternative free routes where available, based on a commercial decision:
- [W]here other NSW tolled roads are in contention [not regulated by truck bans on alternative routes], the costs of tolls are assessed by members and, as a result, frequently members report that they use other routes to avoid paying tolls. A commercial decision is made based on the consideration that toll costs are not justified. These decisions take into account the cost offset of time savings and a potential reduction in vehicle operating costs and often weigh against the tolled route.⁴³⁵
- 4.88** The committee heard other evidence from the Transport Workers' Union of a boycott of toll roads within the road transport industry because the 'enormous toll costs are so out of control'.⁴³⁶
- 4.89** In a supplementary submission, NatRoad countered the Transurban case study using route analysis by two of its members – that is, a cost-benefit analysis based on the day-to-day operational realities of real trucking companies. This evidence analysed three journeys originating in Wetherill Park to Chatswood, Dee Why and Hornsby respectively. It weighed up the costs and travel times for each of these journeys using tolled and untolled routes.⁴³⁷ NatRoad noted that while the untolled routes take longer, the trucking company often uses those routes to save the direct expense of tolls. According to NatRoad, this evidence confirms that 'members are often motivated to take untolled routes to avoid tolled roads because of the large imposition associated with tolled routes'.⁴³⁸
- 4.90** A document tendered by the Transport Workers' Union of New South Wales repudiated the Transurban case study. This focussed on a memo from the Toll Group to its drivers on a Woolworths lot and is detailed in the break out-box below.

⁴³³ Evidence, Mr Clark, 28 September 2021, p 33.

⁴³⁴ Evidence, Mr Clark, 28 September 2021, p 33.

⁴³⁵ Submission 18, National Road Transport Association, p 2.

⁴³⁶ Evidence, Mr Olsen, 28 September 2021, p 10.

⁴³⁷ Submission 18a, National Road Transport Association, pp 4 and 5.

⁴³⁸ Submission 18a, National Road Transport Association, p 1.

The Toll Group: Woolworths Toolbox Briefing

On 28 September 2021, the Transport Workers' Union of New South Wales tendered to the committee a 'tool box' briefing from the Toll Group, one of the biggest trucking operators in Australia, to the Union's members at the Woolworths yard in Minchinbury.⁴³⁹

Issued on 21 May 2021, the briefing included an update on the use of toll or e-tag roads which read:

We thank you for your cooperation in reducing toll road use. This is a reminder to ensure you are not using toll roads unless you have authorisation to do so. In most cases, the cost of the toll roads outweighs any benefit we receive from using them.⁴⁴⁰

The briefing was issued to over 300 drivers at the Woolworths yard. It was presented as evidence that the road freight industry does not see the value in using toll roads, a commercial decision with consequences for suburban roads and local communities:

[these are 300 drivers] that could be utilising these roads, that could be stopped using public roads and filling them up with trucks and by actually using toll roads. But they have been encouraged to and clearly identified by the Toll Group that they do not wish for truck drivers to use the toll roads because there is no benefit to the company in using those. That is the crisis point. We will see more and more trucks on our public roads. Rather than using a proper constructed tollway at a reasonable cost, they will be using public roads, and they obviously will be bearing the costs for that in other places, such as maintenance of our public roads, rather than having them use the toll roads, which is what its design was for.

[...]

Of course, this stretches out not just to the Woolworths contract but to all Toll vehicles in the Sydney surrounding area. There will be hundreds, if not thousands or more vehicles that are not using toll roads as was promised in the setting up of these tollways to get the trucks off the roads, non-tollways.⁴⁴¹

The Union advised that drivers who do not comply with this direction could face disciplinary action:

They could get written warnings; they could be breached from their contracts if they are contractors. And to that end, if it continues, they could be terminated and lose their job altogether.⁴⁴²

⁴³⁹ Tabled document, Mr Richard Olsen, State Secretary, Transport Workers' Union of NSW, *Toll Woolworths Toolbox Briefing*, May 2021, p 1; Lachlan Leeming, 'Single mum clocks up \$30,000 road toll debt', *Daily Telegraph*, 29 September 2021.

⁴⁴⁰ Tabled document, Mr Richard Olsen, State Secretary, Transport Workers' Union of NSW, *Toll Woolworths Toolbox Briefing*, May 2021, p 1.

⁴⁴¹ Evidence, Mr Olsen, 28 September 2021, p 10.

⁴⁴² Evidence, Mr Olsen, 28 September 2021, p 12.

4.91 The committee received a number of submissions from individual toll road users which were difficult to reconcile with Transurban's value narrative, including the following:

- Mr Geoff Marr, a subcontractor truck driver, highlighted that a typical western Sydney route from Minchinbury to St Peters costs \$119.26 per day for a return journey, equivalent to \$29,815 per year. For Mr Marr, it was 'absurd' to suggest this represents value for money.⁴⁴³
- A resident of western Sydney told the inquiry they paid over \$1,000 in tolls for a three month period, costs that 'put us over the edge'.⁴⁴⁴
- A motorist who regularly travels between a regional area and Sydney gave evidence that 'we basically avoid tolled roads. The North Connex costs over \$8 and would only save us about 2-3 minutes in travel time'.⁴⁴⁵
- A company owner and director with a fleet of seven vehicles told the inquiry it was 'totally unacceptable to be paying the amounts of the toll charges that have been allowed to be imposed since the privatisation of our road network' and further stated 'the time savings by use of the toll roads is too often non-existent'.⁴⁴⁶
- A regular user of the M5 and M8 commented 'I use the M5 and M8 tolls twice a day each and the cost is around \$140 each week. I only use \$40 in petrol each week. Very hard to justify this when most days I sit in bumper to bumper traffic'.⁴⁴⁷
- Another submission author expressed strong objection to '[p]aying exorbitant fees for a road that ends up being a carpark'.⁴⁴⁸
- Another inquiry participant viewed toll roads as being 'really poor value for the consumer' and the current system as only of benefit to the private equity partner.⁴⁴⁹
- One submission author observed that 'the cost of road tolls keeps going up and up and yet the roads are full of traffic. I am sure motorists would pay tolls if it reduces the time to get to a place'.⁴⁵⁰

4.92 Moreover, in response to the committee's online questionnaire:

- of the respondents who self-identified as infrequent users of toll roads, 79 per cent of them said they did not use toll roads because they were too expensive
- among those who use toll roads to commute to and from work, roughly 40 per cent said using toll roads saves them either no time at all or less than ten minutes.⁴⁵¹

⁴⁴³ Submission 6, Mr Geoff Marr, p 1.

⁴⁴⁴ Submission 14, Ms Kate Graham, p 1.

⁴⁴⁵ Submission 49, Ms Sue-Anne Henderson, p 1.

⁴⁴⁶ Submission 79, name suppressed, p 1.

⁴⁴⁷ Submission 156, Mr Tom Keen, p 1.

⁴⁴⁸ Submission 196, name suppressed, p 1.

⁴⁴⁹ Submission 8, Mr Jeff Womald, p 1.

⁴⁵⁰ Submission 23, name suppressed, p 1.

⁴⁵¹ Portfolio Committee No. 6 – Transport, NSW Legislative Council, *Report on the online questionnaire: Inquiry into road tolling regimes*, p 5.

Committee comment

- 4.93** Evidence gathered for this inquiry made a compelling case for reforming the way toll prices are set in New South Wales. The existing system is, in the committee's view, a patchwork of disparate and inconsistent pricing regimes for each toll road – an artefact of the way in which Sydney's motorway network has been developed on a project-by-project basis over time. There was an overwhelming consensus that this system is no longer fit for purpose, and it results in unfair, inconsistent and inequitable outcomes for toll road users.
- 4.94** As we heard in evidence, under the current system, drivers are charged different amounts for similar journeys, inconsistencies that are made worse by selective cashback schemes. Perhaps more importantly, existing pricing arrangements fail to account for the lack of equity in access to public transport across different parts of Sydney, an issue dissected in detail in Chapter 3. Residents of western Sydney have far fewer public transport options than residents of other parts of Sydney. Private vehicle travel is often the only option. In the absence of viable public transport alternatives, it is highly inequitable to demand drivers pay exorbitant tolls just to get to work, school, medical appointments and other day-to-day activities.
- 4.95** The committee notes with concern the lack of transparency around processes for setting toll prices under each concession deed. This made it difficult for the committee to assess the integrity of price-setting processes and weigh up if they in fact deliver a fair price for drivers. However, it is clear that one of the main considerations for determining what drivers pay at the toll collection point has been the ability to attract private investment in a new road, and for the government's private sector partner to recoup their initial investment, the ongoing operating and maintenance costs, and to ultimately realise a return on their investment. The committee has concluded that this set of pricing criteria has been privileged over other considerations. While a given pricing regime may be optimal for getting the toll road built and realising the private operator's commercial interests, the same pricing regime may be suboptimal and inefficient when viewed from a network management perspective. Additionally, that so many drivers are avoiding tolls in Sydney sends a clear signal that prices are set at the wrong level. It suggests drivers have assessed their willingness to pay against the potential time savings, fuel savings and other benefits, and do not see value in the current pricing.
- 4.96** Significantly, the fact that the Toll Group, one of Australia's largest trucking companies, has issued a memo advising their drivers to stay off toll roads, should be a red flag to the government that they have got the pricing wrong. This is the exact opposite of the promise of toll roads – namely, to ease congestion, take heavy vehicles off local roads, reduce through-traffic on local roads and return suburban roads to their local communities.
- 4.97** The committee is concerned that the NSW Government's existing cashback and toll relief schemes are only adding to the complexity and inequity of the system. A comprehensive review of these schemes should be included in any future reforms. Indeed, if toll pricing was fair, consistent and equitable, toll relief schemes may no longer be needed.
- 4.98** The committee notes the evidence challenging the government's and Transurban's rationale for charging trucks at three times the rate of cars. There were various justifications for this heavy vehicle multiplier, including cost recovery for additional wear and tear on roads, that freight users derive a greater benefit from toll roads than private motorists, and the additional construction costs to accommodate or cater for freight users. In the committee's view, there are sufficient questions around the rationale behind the three-times uplift to warrant an independent

look at this. The absence of a solid evidence-base has clearly led to suspicions and misgivings from within the road freight and logistics industry. The previous Upper House inquiry into road tolling recommended that the NSW Government identify and publish evidence supporting the heavy vehicle multiplier. We note that this recommendation was not adopted.

4.99 The committee is dismayed by the continuing lack of transparency and openness plaguing so much of the public policy dialogue about road tolling. It was disappointing that this continued throughout the inquiry, with the NSW Government showing an unwillingness to disclose or provide information that the public has a right to know. In particular, drivers have a right to know how much they are paying in tolls over the life of the contracts. Additionally, by refusing to release tolling contracts in full and other relevant information, it is impossible to evaluate whether these contracts are in the public interest and whether drivers are paying a fair price. The committee therefore reiterates calls made in the previous Upper House inquiry for the NSW Government to mandate the disclosure of strategic business cases, base case financial models, cost benefit analyses and traffic forecast modelling, among other things.

4.100 While the committee was unable to ascertain how much drivers will pay in tolls over the life of the contracts, we know that drivers now undertake more than one million toll trips per day, raising more than \$2 billion on total revenue every year.⁴⁵² It has been reported that this would equate to more than \$100 billion (in today's dollars) over the life of existing road tolling contracts.⁴⁵³

Finding 1

That New South Wales drivers now undertake more than one million toll trips a day, raising more than \$2 billion in total revenue every year.

Finding 2

That the NSW Government has failed to provide information to this inquiry about the total toll burden that drivers will be forced to pay under existing toll contracts despite estimates that it is more than \$100 billion in today's dollars.

Finding 3

That the decision by NSW Treasury to withhold from public release contract details and traffic relating to WestConnex until 2060, and possibly longer, is an abuse of executive power.

⁴⁵² Transurban, *Transurban: Financial 2021 Results* (August 2021), p 50; *Questions and Answers Paper*, NSW Legislative Council, 3 March 2021, pp 5283-5285.

⁴⁵³ Charles Casuscelli, 'WestConnex taking its toll, but will it pay back?', *Daily Telegraph*, 23 August 2019.

Recommendation 5

That the NSW Government implement Recommendation 3, relating to transparency for tolling contracts, of the 2017 Upper House inquiry into road tolling in New South Wales without further delay.

Recommendation 6

That, when a network approach to toll road pricing is considered by the review, the NSW Government should:

- consider the introduction of toll caps and appropriate flag falls, rather than just distance based tolling
 - review the application of toll escalation rates which often include both a minimum four per cent toll increase or inflation, whichever is higher, rather than take account of real wages growth
 - review toll relief and cashback schemes to ensure that toll relief is going to the people who most need it based on their ability to pay as well as the existence of public transport alternatives.
-

Chapter 5 The road tolling industry, toll debt and consumer protections

The final chapter focuses on the characteristics of the road tolling industry, including industry practices around the application of fees and debt collection as well as the remit of the current industry ombudsman.

It starts by noting the concentration of Sydney's toll roads in one private operator, namely Transurban, the implications for toll road pricing, and the potential to limit competition in any future privatisation process. The committee then turns its attention to the issue of administration fees, giving detailed consideration to the justifications provided in evidence for why these fees are set at the level they are. This is followed by an evaluation of the evidence to explain why toll notices for 'non-arranged' travel are currently issued individually for each trip. The chapter closes with an introduction to the Tolling Customer Ombudsman, outlining its corporate structure, powers and remit.

Concerns about the lack of competition

- 5.1** The inquiry raised concerns about the concentration of ownership and control of the State's toll roads in one private operator, namely Transurban. Transurban operates all but two of Sydney's privately-held toll roads.⁴⁵⁴
- 5.2** Transurban's portfolio continued to grow as this inquiry unfolded. In September 2021, a private consortium led by Transurban acquired the NSW Government's remaining 49 per cent interest in WestConnex, taking this consortium's total ownership interest in WestConnex to 100 per cent.⁴⁵⁵ The Australian Competition and Consumer Commission was unable to confirm whether Transurban faced competing bids from other market participants for this remaining stake in WestConnex.⁴⁵⁶
- 5.3** Issues of interest to the committee included whether the monopoly-like characteristics of the road tolling industry have led to bad consumer outcomes for toll road users. In this regard, the National Road Transport Association (NatRoad) submitted that the unfairness, lack of transparency and financial impacts of tolling on the road freight industry is being compounded by a lack of competition among private toll operators.⁴⁵⁷
- 5.4** Similarly, Road Freight NSW expressed concerns about the 'monopoly status of toll roads', a situation made worse by the implementation of truck bans on alternative routes. These concerns also highlighted the effects of privatising monopoly assets on pricing, drawing on a public statement by the Australian Competition and Consumer Commission:

The [Australian Competition and Consumer Commission] has publicly stated that the privatisation of monopoly or near monopoly assets, without appropriate pricing

⁴⁵⁴ Evidence, Mr Warren Clark, Chief Executive Officer, National Road Transportation Association, 28 September 2021, p 32.

⁴⁵⁵ Australian Stock Exchange Release, 'Transurban announces WestConnex acquisition with \$4.2 billion equity raising and 1h22 distribution guidance', 20 September 2021.

⁴⁵⁶ Answers to questions on notice, Mr Tom Leuner, Executive General Manager, Mergers, Exemptions and Digital Division, Australian Competition and Consumer Commission, 24 January 2022, p 1.

⁴⁵⁷ Submission 18, National Road Transport Association, p 1.

controls, can result in the transfer of market power and economic rent extraction to private hands. Many infrastructure assets, such as toll roads, have legislated or natural monopoly characteristics. The introduction of truck bans on alternative routes is increasing the monopoly status of toll roads.⁴⁵⁸

- 5.5** The Commission placed on record its broader concerns about the way privatisation occurs in instances where short-term gains are prioritised at the expense of future prices for users of the asset. While not specifically about toll roads, this applied more broadly to industries with monopoly characteristics in which assets are sold to private owners without an appropriate regulatory regime to constrain pricing:

Our concerns are more broad and we have been advocating around Government privatisations and how they have been run, not specific to New South Wales and not specific to toll roads. ... The concern is that there is an incentive for the government of the day to privatise assets with monopoly characteristics or very, very strong market power without appropriate constraints on it to maximise the up-front capital returns, which, in effect, cause attacks on the people of that jurisdiction in the future. So, for example, if you are privatising a port which has monopoly power, you will get a higher price if you do not put in an appropriate regulatory regime, which constrains their pricing.⁴⁵⁹

- 5.6** In addition to pricing issues, the committee explored whether Transurban, by virtue of owning all but two of Sydney's toll roads, has an entrenched competitive or 'incumbency' advantage, giving it a stranglehold on the market. The concern was, where such an advantage exists, it would be difficult for anyone else to compete with Transurban for any future road infrastructure projects or in any future privatisation process.⁴⁶⁰

- 5.7** Such concerns were placed on the public record by the Commission's former Chair, Mr Rod Sims. In a media report coinciding with the September 2021 sale of the remaining share in WestConnex, Mr Sims expressed the view that the NSW Government's privatisation agenda did not adequately consider long-term competition for the government and drivers.⁴⁶¹ He was quoted as saying:

By continually selling to Transurban, they have made it very hard for anyone else to compete with Transurban ... Less competition means either the government gets less proceeds for a privatisation sale or the bidder puts in a higher toll cost for motorists.⁴⁶²

- 5.8** Under examination by the committee, Mr Tom Leuner, the Commission's Executive General Manager of its Mergers, Exemptions and Digital Division, elucidated these concerns. In particular, he explained that Transurban's incumbency advantage is a relevant consideration for the future sale of tolling concessions precisely because there needs to be sufficient competition

⁴⁵⁸ Submission 7, Road Freight NSW, pp 9-10.

⁴⁵⁹ Evidence, Mr Matthew Schroder, General Manager, Infrastructure, Transport Access and Pricing Branch, Australian Competition and Consumer Commission, 10 December 2021, p 5.

⁴⁶⁰ See for example: Evidence, Mr Tom Leuner, Executive General Manager, Mergers, Exemptions and Digital Division, Australian Competition and Consumer Commission, 10 December 2021, p 2.

⁴⁶¹ John Kehoe, 'ACCC laments 'bad' Transurban monopoly', *Australian Financial Review*, 20 September 2021.

⁴⁶² John Kehoe, 'ACCC laments 'bad' Transurban monopoly', *Australian Financial Review*, 20 September 2021.

in the bidding process to ensure 'the government extracts a good deal for users of the road and for the government itself'.⁴⁶³

5.9 His contention was that, as Transurban acquires more and more of the toll road network, its incumbency advantage increases.⁴⁶⁴ Mr Leuner stressed, however, that ultimately 'the government does not have to sell new roads to Transurban'.⁴⁶⁵

5.10 Transurban's exclusive access to traffic data was given as an example of how the incumbent has an advantage over other bidders, referred to as its 'data advantage'.⁴⁶⁶ The committee heard that Transurban has 'modellers that sit there analysing the data. It has all the gantry data from the gantries that measure when you go through the toll. And other bidders do not have that position of incumbency'.⁴⁶⁷

5.11 According to the Commission, this undermines competition and hurts both the government's revenue and all New South Wales residents:

[T]he way this works is the Government goes out to tender and it lists the toll rates in that tender. So it is basically saying, for example, you have got a right to charge \$4 on that road for the next 20 years ... then where the harm could come in is in how much people are willing to bid for that. So Transurban is, in essence, the only player with a position of incumbency. It is the only player that has all of that detailed modelling ability to really confirm that its traffic forecasts are accurate, and the concern is the bids will be low. So in essence it is just hurting government consolidated revenue because it will get less for that road when it is offered, so indirectly hurting all New South Wales taxpayers.⁴⁶⁸

5.12 For the first tranche of the WestConnex privatisation, the Commission required Transurban to publish its gantry data to make it available to other bidders so as to level the playing field.⁴⁶⁹

5.13 Going forward, the Commission was of the opinion that the NSW Government should compel toll road operators to publicly release all the traffic data they hold. This was seen as necessary to support traffic modelling and forecasting by bidders other than the incumbent:

[The Commission] found that detailed traffic data is critical for potential bidders for future toll road concessions, particularly data relating to existing toll roads. The degree of confidence a bidder has in its traffic forecasts is a key component for how much it can bid for a road, and the degree of confidence in traffic forecasts is materially affected by the extent of its knowledge of traffic flows on pre-existing toll roads. [The Commission] considers that state governments should ensure that all traffic data held by toll road operators is available to all potential bidders for future toll road concessions. This is to support effective traffic modelling and forecasting by bidders for future toll road concessions. [It ensures] that incumbents do not have an advantage when

⁴⁶³ Evidence, Mr Leuner, 10 December 2021, p 2.

⁴⁶⁴ Evidence, Mr Leuner, 10 December 2021, p 2.

⁴⁶⁵ Evidence, Mr Leuner, 10 December 2021, p 2.

⁴⁶⁶ Evidence, Mr Leuner, 10 December 2021, p 7.

⁴⁶⁷ Evidence, Mr Leuner, 10 December 2021, p 2.

⁴⁶⁸ Evidence, Mr Leuner, 10 December 2021, p 2.

⁴⁶⁹ Evidence, Mr Leuner, 10 December 2021, p 3.

bidding for future toll roads due to superior traffic data and the ability to better calibrate and validate traffic models.⁴⁷⁰

- 5.14** This recommendation acknowledges that '[e]ffective competition for future toll road concessions is important in ensuring the State achieves the best outcomes for the public'.⁴⁷¹
- 5.15** To further encourage competition, the Commission also proposed that state governments build sufficient time into their tender process to allow bidders other than Transurban to build traffic models and forecasts with the same level of confidence as Transurban:

[The Commission] also found that bidders for toll roads have not always had sufficient time to build sophisticated traffic models to give them increased confidence in their traffic forecasts. To ensure competitive bids for toll road concessions, [the Commission] therefore considers that state governments should build sufficient time into their tender processes so that rival bidders to Transurban have the ability to build traffic models and obtain modelling expertise that is comparable to Transurban.⁴⁷²

Administration fees and toll notices for drivers without a valid account

- 5.16** The inquiry sought to illuminate Transurban's administrative arrangements for travel on its roads without a valid payment arrangement in place. In particular, the justification for charging administration fees and issuing individual notices were subject to considerable scrutiny through the committee's process. This section brings together key evidence on these issues.

Administration fees for 'no arrangement' travel

- 5.17** Motorists who travel on a toll road with no payment arrangement in place (for example, drivers without an automated tag or pass), or with a suspended tolling account, receive a single toll notice for each trip taken. An administration fee of ten dollars is applied to each toll notice in addition to the unpaid toll amount. If the amount remains unpaid, the administration fee increases to twenty dollars for subsequent reminder notices.⁴⁷³
- 5.18** According to Transurban, New South Wales has the highest rate of 'no arrangement' toll travel with 29 million toll notices issued for Transurban's roads in this State every year.⁴⁷⁴
- 5.19** For Transurban operated roads, administration fees are discounted where motorists are able to pay toll notices using an existing customer account. Where this occurs, the toll notice administration fee is discounted from ten dollars to \$1.10 for the first toll notice and from twenty dollars to \$2.20 for the second toll notice (or, in the case of the M7, to \$1.90 and \$2.90 respectively). Each toll notice has a payment term of 14 days from the date of issue.⁴⁷⁵

⁴⁷⁰ Submission 232, Australian Competition and Consumer Commission, p 2.

⁴⁷¹ Submission 232, Australian Competition and Consumer Commission, p 2.

⁴⁷² Submission 232, Australian Competition and Consumer Commission, p 2.

⁴⁷³ Submission 33, Transurban-WestConnex, p 45.

⁴⁷⁴ Submission 33, Transurban-WestConnex, p 45.

⁴⁷⁵ Answers to questions on notice, Ms Michele Huey, Group Executive, Transurban, 2 February 2022, p 5.

- 5.20** Transport for NSW highlighted similar arrangements. If the recipient of a toll notice has a valid account with any retail provider – be it with Linkt or the NSW Government's E-Toll brand – the agency can run number plate recognition and arrange for the toll to be paid automatically.⁴⁷⁶
- 5.21** In answers to questions on notice, Transurban advised the committee that the quantum of ten dollars was agreed with Transport at an industry level in 2001 and has not changed since then:
- Our understanding is that the \$10 quantum of the toll notice administration fee was agreed with [Transport for NSW] at an industry level in 2001 when NSW moved to 'free flow' tolling. The fee was not proposed by Transurban (noting that Transurban began operating its first NSW toll road in 2005). The fee has remained at \$10 since that time and is reflected in arrangements between [Transport for NSW] and toll road operators pursuant to which [Transport for NSW] issues toll notices on their behalf.⁴⁷⁷
- 5.22** In relation to the specific amounts, Mr Andrew Head, Chief Executive Officer of WestConnex, stressed 'it is prescribed by the government; it is a government process'.⁴⁷⁸
- 5.23** Transport for NSW arranges production and dispatch of toll notices on behalf of each motorway operator. This is because only Transport for NSW has access to the driver licensing and registration system. Each toll road operator pays Transport for NSW for the production and dispatch services that it provides.⁴⁷⁹ The tolls owed and the toll notice administration fee are paid by the customer directly to the toll road operator. Transport for NSW does not collect payments for unpaid tolls on privately operated toll roads.⁴⁸⁰
- 5.24** While only Transport for NSW has access to the driver licensing and registration database, Transurban holds customer account details for motorists using their retail e-tolling brand, Linkt Sydney. As such, Transurban is able to link a trip on their toll roads to their customer accounts where that trip is undertaken by a driver who already has a Linkt account. This is not the case for drivers who either have no account at all, or who have an account with another retailer.⁴⁸¹
- 5.25** Transport for NSW is responsible for collecting 'no arrangement' travel debts on the Sydney Harbour Bridge and Sydney Harbour Tunnel, while Transurban is responsible for collecting these debts for the toll roads it operates.⁴⁸²

⁴⁷⁶ Evidence, Ms Camilla Drover, Deputy Secretary, Infrastructure and Place, Transport for NSW, 14 February 2022, p 34.

⁴⁷⁷ Answers to questions on notice, Ms Michele Huey, Group Executive, Transurban, 2 February 2022, p 11.

⁴⁷⁸ Evidence, Mr Andrew Head, Chief Executive Officer, WestConnex, 10 December 2021, p 31.

⁴⁷⁹ Answers to questions on notice, Ms Michele Huey, Group Executive, Transurban, 2 February 2022, p 6; Answers to questions on notice, Mr Joost de Kock, Deputy Secretary, Customer Strategy and Technology, Transport for NSW, 14 March 2022, pp 5 and 6.

⁴⁸⁰ Answers to questions on notice, Mr Joost de Kock, Deputy Secretary, Customer Strategy and Technology, Transport for NSW, 14 March 2022, p 8.

⁴⁸¹ Evidence, Ms Michele Huey, Group Executive, Transurban, 10 December 2021, p 18.

⁴⁸² Evidence, Mr Joost de Kock, Deputy Secretary, Customer Strategy and Technology, Transport for NSW, 14 February 2022, pp 32 and 33.

- 5.26** In Financial Year 2019-20, Transport for NSW collected \$4.5 million from 'toll collection activity' for the Sydney Harbour Bridge and Sydney Harbour Tunnel. In Financial Year 2020-21, this amount was \$4.2 million.⁴⁸³
- 5.27** Transurban was at pains to emphasise that '[w]e do not profit from any of the fees we charge'.⁴⁸⁴ On the contrary, Transurban maintained that the costs they incurred in Financial Year 2019-20 in collecting unpaid tolls were actually more than six times the revenue from administration fees:
- Transurban does not profit from any fees. In fact, we would prefer to see customers not incur additional fees, which is why we have fee-free options available to suit their needs. In FY20, the cost associated with collecting unpaid tolls for travel on Transurban operated toll roads in NSW, including direct costs, corporate overheads, related technology costs and uncollected toll charges, was more than six times the revenue collected from administration fees.⁴⁸⁵
- 5.28** Underscoring this point, Mr Andrew Head of WestConnex stressed that 'we are completely audited and checked on every single thing ... by Transport for NSW', and that this agency 'goes over all the questions that you are asking in very fine detail to ensure that there are no profits from fees'.⁴⁸⁶
- 5.29** According to Transurban, only a small number of customers make 'no arrangement' trips and incur administration fees. More than 95 per cent of drivers pay their toll on time, mostly with an automated tag or pass.⁴⁸⁷
- 5.30** Similarly, Transport for NSW stressed that the vast majority of its customers pay their tolls promptly through their current arrangements.⁴⁸⁸

Non-arranged travel: The administrative process at a glance

- 5.31** Understanding the extent of automation within Transurban's processes and workflows for following up on 'no arrangement' trips formed another priority for the committee in questioning Transurban witnesses. To this end, the administrative process was set out in detail and is summarised below.
- 5.32** When a vehicle uses a toll road without a tag, Transurban captures certain information about that vehicle as it passes through gantries or toll collection points. This information is captured

⁴⁸³ Answers to questions on notice, Mr Joost de Kock, Deputy Secretary, Customer Strategy and Technology, Transport for NSW, 14 March 2022, p 7.

⁴⁸⁴ Evidence, Ms Huey, 10 December 2021, pp 17 and 18.

⁴⁸⁵ Answers to questions on notice, Ms Michele Huey, Group Executive, Transurban, 2 February 2022, p 5.

⁴⁸⁶ Evidence, Mr Head, 10 December 2021, p 18.

⁴⁸⁷ Answers to questions on notice, Ms Michele Huey, Group Executive, Transurban, 2 February 2022, p 7; Evidence, Ms Huey, 10 December 2021, p 19.

⁴⁸⁸ Evidence, Mr de Kock, 14 February 2022, pp 32 and 34.

by 'cameras, video equipment and meters that [Transurban] needs to install by the roadside to detect the vehicle'.⁴⁸⁹

- 5.33** This equipment measures, for example, the vehicle's registration plate and dimensions to correctly classify the vehicle in accordance with the tolling regime. For distance-based toll roads, the same vehicle's entry and exit points need to be matched up to calculate the toll. This matching is done automatically. However, as an exception rather than the rule, there are certain circumstances where a vehicle's details cannot be read in an automated way. For example, if weather conditions or glare prevent the system from reading the vehicle's visual data, Transurban staff need to check it manually.⁴⁹⁰
- 5.34** Where licence plate checking needs to be performed manually, Transurban employs a team of around 40 full-time equivalent employees who use their tolling and image processing systems to undertake manual vehicle matching on Transurban roads.⁴⁹¹
- 5.35** Following back-office processing, a hard copy notice is despatched seeking payment of the unpaid toll amount plus the initial administration fee of ten dollars. This fee increases to twenty dollars for the second notice. Each toll notice has a payment term of 14 days from the date of issue.⁴⁹²
- 5.36** If drivers continue to use toll roads without paying, Transurban can take 'appropriate steps' to recover uncollected revenue. As the final stage of the process, after all other attempts have been unsuccessful, legal proceedings may be initiated.⁴⁹³ Transurban advised that, for the past five financial years, there are roughly 120 cases that are ongoing, while a further 300 cases were resolved. Of the 300 cases that were resolved in that period, 85 per cent were resolved prior to going to court.⁴⁹⁴

Rationale for administration fees

- 5.37** The committee sought to shed light on the administrative processes and overheads that would justify application of a ten dollar administrative fee (plus potentially another ten dollars), to recuperate the cost to Transport for NSW or Transurban of collecting 'no arrangement' toll charges.
- 5.38** Transport for NSW told the committee that the administration fees are set 'to recover direct and indirect costs expended in recovery of unpaid tolls'. Such costs include, for example:

⁴⁸⁹ Evidence, Ms Huey, 10 December 2022, p 17.

⁴⁹⁰ Evidence, Ms Huey, 10 December 2022, p 17; Evidence, Mr Head

⁴⁹¹ Answers to questions on notice, Ms Michele Huey, Group Executive, Transurban, 2 February 2022, p 4.

⁴⁹² Evidence, Ms Huey, 10 December 2022, p 18; Answers to questions on notice, Ms Michele Huey, Group Executive, Transurban, 2 February 2022, p 5.

⁴⁹³ Answers to questions on notice, Mr Andrew Head, Chief Executive Officer, WestConnex, 30 March 2022, p 3.

⁴⁹⁴ Answers to questions on notice, Mr Andrew Head, Chief Executive Officer, WestConnex, 30 March 2022, p 3.

... operating and maintaining the associated tolling systems and processing, administrating and collecting the revenue. This includes call centres, websites and other systems for communication with these customers and civil debt recovery costs.⁴⁹⁵

5.39 In further evidence to the committee, Transport for NSW summarised these costs as being costs that 'relate to the operation of the system, resourcing required to process toll notice related issuance and payments under different scenarios, and other costs such as postage'.⁴⁹⁶

5.40 In a statement to the committee, Ms Michele Huey outlined examples of the costs that are incurred by Transurban when motorists use their roads without a payment arrangement in place. Ms Huey pointed to investment in and maintenance of roadside equipment as well as back office processes and systems, noting again they do not make any money on administration fees:

So some of the examples, for example, that we have would be the investment and also the upkeep of equipment that we need on the roadside in order for the vehicle to be detected and for the trip to be measured correctly and then all of the systems and the processes that need to be in place in the back office to make sure that that process occurs and then any support and administering and service that we need to provide to the customer in the back office as well. Across all the categories are fees; none of them we make money on. That is required in the concessions and the contract that we have.⁴⁹⁷

5.41 Transurban submitted that the costs and overheads incurred throughout this process are 'more than just the vehicle detection of the trip' and the issuing of notices. Ms Huey of Transurban explained there are a lot of follow-up processes after that, such as 'contacting the customer, providing customer service, collections and all of those processes to make sure that from an end-to-end perspective the fees reflect the costs that are incurred in operating that'.⁴⁹⁸

5.42 In addition to these processing costs, both Transport for NSW and Transurban underscored their investment in the systems and technology that support and enable the processes outlined in paragraphs 5.31 to 5.36. Investment in these systems was seen as adding to their costs to recover payment for 'no arrangement' trips on their roads.

5.43 For instance, Mr Joost de Kock of Transport for NSW told the committee the agency needs to invest in the systems that support unpaid toll collection processes, and that administration fees require 'investments in technology and investments in our call centre'.⁴⁹⁹ Mr de Kock later qualified these remarks by confirming that revenue from administration fees does not go towards capital investment in the roads: '[T]here is no correlation between the admin fees and the tolling and the toll roads'.⁵⁰⁰

5.44 As part of their evidence on administration fees, Transurban underscored their ongoing investment in the technology to make the vehicle 'reading' process more automated without the need for operator intervention:

⁴⁹⁵ Answers to questions on notice, Mr Joost de Kock, Deputy Secretary, Customer Strategy and Technology, Transport for NSW, 14 March 2022, p 5.

⁴⁹⁶ Answers to questions on notice [additional answers], Transport for NSW, 20 May 2022, p 3.

⁴⁹⁷ Evidence, Ms Huey, 10 December 2022, p 17.

⁴⁹⁸ Evidence, Ms Huey, 10 December 2021, p 18.

⁴⁹⁹ Evidence, Mr de Kock, 14 February 2022, p 34.

⁵⁰⁰ Evidence, Mr de Kock, 14 February 2022, p 35.

Transurban has invested hundreds of millions of dollars into its state-of-the-art tolling platforms, including roadside technology, image processing and back-office systems, and continues to make significant investments to ensure we provide our customers with industry-leading tolling solutions. This technology is supported by a team of hundreds of people. These investments mean that the large majority of trips are processed automatically without the need for human intervention.⁵⁰¹

- 5.45 In a statement to the committee, Mr Andrew Head of WestConnex remarked that 'the investment in the technology to make it automated, the plate read to match the account, but also determining the length and height of [the vehicle] – all those things go into the cost of the process'.⁵⁰²

Concerns about the level of transparency around administration fees

- 5.46 Other inquiry participants expressed concerns about the level of transparency around administration charges.
- 5.47 Legal Aid NSW, for instance, argued there is very little transparency around why administration fees are the precise amounts that they are.⁵⁰³ Its spokesperson took the view that administration fees are comparatively 'very high', and that such fees should be a reflection of the actual costs incurred rather than a penalty.⁵⁰⁴ She further volunteered that, while the administration fee appears to be related to accessing the Transport for NSW driver and registration database, there was scant detail around the costs associated with that:

Ten dollars seems very high to us when we look at what is happening in other areas. We do not know what that cost is and there is not a great deal of transparency about how that comes about. From a legislative point of view, from what I can tell, it is related to the arrangement with the RMS around the release of driver and car registration information. That seems to be where the cost is incurred and then passed on to the customer. We have not had any success really getting any more detail around the detail of those charges.⁵⁰⁵

- 5.48 Legal Aid NSW's sentiments about the lack of transparency around administration fees were shared by Toll Redress, an organisation set up to advocate for toll road consumers. This organisation suggested there are subtle variations in Transurban's publicly stated justifications for charging the amounts they do for administration fees, depending on the platform they are addressing.⁵⁰⁶
- 5.49 Toll Redress addressed assertions that administration fees are a reflection of the actual costs incurred to Transurban in identifying the vehicle and seeking payment of the toll. According to Toll Redress, such assertions did not hold up when considered alongside Transurban's practice

⁵⁰¹ Answers to questions on notice, Ms Michele Huey, Group Executive, Transurban, 2 February 2022, p 4.

⁵⁰² Evidence, Mr Head, 10 December 2021, pp 17 and 18.

⁵⁰³ Evidence, Ms Rebekah Doran, Senior Manager, Civil Law, Western Sydney, Legal Aid NSW, 28 September 2021, p 23.

⁵⁰⁴ Evidence, Ms Doran, 28 September 2021, p 25.

⁵⁰⁵ Evidence, Ms Doran, 28 September 2021, p 25.

⁵⁰⁶ Evidence, Mr Michael Fraser, Co-Founder, Operation Redress, 28 September 2021, p 25.

of discounting the administration fee where a trip can be matched with a valid customer account.⁵⁰⁷ Mr Michael Fraser of Toll Redress explained how, in their view, this did not make commercial sense:

But to give you a sense of how weird it is with the [administration] fee argument, that it is the actual cost, in New South Wales the second notice costs you \$20 for the admin fee, but if you transfer it to your account—Transurban's argument would be, 'That \$20, that is our cost,' but if you transfer it to your account they will say, 'Oh, no, we only want \$2.40 from you now if you transfer it over'. So would the argument be to their shareholders that they just willingly throw \$17-odd away each time someone does that, not a problem of their cost?⁵⁰⁸

5.50 Transurban's total annual revenue from the collection of administration fees was also seen by Toll Redress to be veiled in secrecy. Mr Fraser remarked that 'Transurban has fought to keep confidential just how much the community is affected by their additional fees that almost all of us have incurred at one point or another'.⁵⁰⁹

5.51 Furthermore, the committee heard that Transurban used to report in their financial statements their annual revenue from the collection of administration fees. According to Mr Fraser, Transurban rolled that number into their toll revenue which obscured the exact quantum they receive from administration fees.⁵¹⁰

The issuing of separate toll notices

5.52 As noted above, motorists receive a single toll notice for each trip on a toll road without a valid payment arrangement in place. If a motorist makes ten trips with no valid payment arrangement, they receive ten separate toll notices each with its own administration fees.⁵¹¹

5.53 When asked if Transurban could change their procedures to consolidate several toll notices into a single notice issued, for example, every three days, Ms Huey commented that Transurban, as the concessionaire, is bound by a requirement to issue toll notices individually:

At the moment, these are industrywide practices, and there are requirements that we need to meet, as a concessionaire, in terms of how we issue toll notices that are limited to being individually issued.

[...]

[This requirement] is set forth in the concession – as a concession, having ownership of the asset – the processes and requirements for how we issue toll notices.⁵¹²

5.54 Noting that the concession deed for NorthConnex is silent on whether toll notices must be issued individually, Transurban provided further clarification in its response to questions on

⁵⁰⁷ Evidence, Mr Fraser, 28 September 2021, p 25.

⁵⁰⁸ Evidence, Mr Fraser, 28 September 2021, p 25.

⁵⁰⁹ Evidence, Mr Fraser, 28 September 2021, p 22.

⁵¹⁰ Evidence, Mr Fraser, 28 September 2021, p 22.

⁵¹¹ Evidence, Ms Huey, 10 December 2021, p 19; Evidence, Ms Doran, 28 September 2021, p 22.

⁵¹² Evidence, Ms Huey, 10 December 2021, p 20.

notice. It submitted that any change to the way toll notices are issued would require approval from Transport for NSW and system changes, as toll notices are produced and issued by that agency on behalf of private toll road operators:

[Transport for NSW]'s current systems and processes are based on issuing individual toll notices (i.e. one toll notice per trip per toll road). Any change to the form or scope of these toll notices, including to allow for the aggregation of toll notices, would require [Transport for NSW] approval and system changes. It is anticipated that any move to aggregate toll notices may also necessitate enabling one toll operator to collect debts on behalf of other toll road operators, and developing a regime as to how any recovered tolls and charges are shared between two or more toll road operators.⁵¹³

- 5.55** This evidence was put to Transport for NSW in an attempt for the committee to better understand any potential obstacles to toll notice consolidation. In response, Mr Joost de Kock highlighted that toll notices are sent by two different organisations and pointed to the limitations of their 'legacy' technology systems:

In terms of the toll notices, they are sent by the two different organisations, ourselves and the private operator. In terms of our roads, we have quite an old legacy system in the tolling space. We are just in the process of updating our technology systems and that may allow us to be smarter about how we can combine some of those toll notices as well going forward.⁵¹⁴

- 5.56** Transport for NSW expressed its in-principle support for streamlining and consolidating the customer experience, seeing it as 'a good idea', subject to system limitations. The agency further noted that the NSW Treasury-led review of toll road pricing, outlined in Chapter 2, would include consideration of the customer experience when using toll roads.⁵¹⁵

- 5.57** As noted above, the committee heard suggestions that the toll operator is subject to certain requirements that govern how toll notices are issued. This evidence stood in direct opposition to advice from Ms Rebekah Doran, Senior Manager, Civil Law, Western Sydney, Legal Aid NSW, who is a senior solicitor in consumer and civil law. Briefly, this witness contended that the law currently gives toll operators complete discretion over debt collection policies and administration fees, saying: 'There are no provisions that we are aware of in the law that require toll operators to participate in particular approaches to debt collection or hardship'.⁵¹⁶

- 5.58** The committee also noted evidence that, in Queensland, Transurban originally argued that the legislation did not allow them to aggregate toll notices. However, responding to public pressure, Transurban in that State has subsequently moved to issue aggregated toll notices without any changes to the legislation. This has resulted in a reduction of up to \$36 million per year in charges to Queensland motorists.⁵¹⁷

⁵¹³ Answers to questions on notice, Ms Michele Huey, Group Executive, Transurban, 2 February 2022, p 6.

⁵¹⁴ Evidence, Mr de Kock, 14 February 2022, p 34.

⁵¹⁵ Answers to questions on notice, Mr Joost de Kock, Deputy Secretary, Customer Strategy and Technology, Transport for NSW, 14 March 2022, p 8.

⁵¹⁶ Evidence, Ms Doran, 28 September 2021, p 24.

⁵¹⁷ Evidence, Mr Fraser, 28 September 2021, p 24; Submission 41, Operation Redress Pty Ltd, p 4.

- 5.59** Incidentally, in that same State, Transurban is facing a class action from an estimated 23,000 people, claiming somewhere in the vicinity of \$300 million for unfair administration fees.⁵¹⁸

Toll debt and customers in hardship

- 5.60** Another specific thread of evidence brought into focus the ways in which toll debt can impact on peoples' lives – especially individuals who are already experiencing some form of hardship, crisis or distress. This evidence revealed the human dimension of the industry's practices for recovering unpaid tolls, resulting in individuals accumulating many thousands of dollars in toll debt who are unable to pay it back. Administration fees (discussed above) were singled out as a significant factor in the way toll debt can quickly escalate for people in crises. This section is dedicated to understanding and unpacking these issues.
- 5.61** In their contributions to the inquiry, Legal Aid NSW brought to life some of the many cases they see of vulnerable individuals with significant toll debt. Often, these clients have debts of over \$10,000, and it is common for roughly two-thirds of this debt to be administration fees alone.⁵¹⁹
- 5.62** Such clients include individuals who have experienced family and domestic violence, including elder abuse; clients who are struggling with mental health conditions and disability; clients living in financial hardship; and clients who have experienced trauma.⁵²⁰
- 5.63** Based on this case work, Legal Aid NSW expressed concerns that the current toll collection practices do not respond appropriately to vulnerable members of the community who have accrued large toll debts.⁵²¹ On the issue of administration fees, Ms Doran of Legal Aid, formed the opinion that toll debt 'feels insurmountable almost from the outset' precisely because of the additional administration fees, and that there is very little transparency around their justification.⁵²²
- 5.64** While they acknowledged the options customers have to avoid administration fees, Legal Aid NSW observed that their clients often have multiple crises and must prioritise other financial commitments. This may mean choosing between responding to toll notices and other essentials such as utilities, food and housing.⁵²³
- 5.65** According to Legal Aid NSW, the current practice of issuing toll notices individually makes it difficult for their clients to appreciate the full extent of their toll debt, which can escalate quite quickly into insurmountable debt and the commencement of court proceedings.⁵²⁴ Legal Aid NSW explained:

⁵¹⁸ Evidence, Mr Fraser, 28 September 2021, p 27.

⁵¹⁹ Submission 42, Legal Aid NSW, p 5.

⁵²⁰ Evidence, Ms Doran, 28 September 2021, p 21.

⁵²¹ Evidence, Ms Doran, 28 September 2021, p 21.

⁵²² Evidence, Ms Doran, 28 September 2021, p 23.

⁵²³ Submission 42, Legal Aid NSW, p 7.

⁵²⁴ Evidence, Ms Doran, 28 September 2021, p 23.

In our experience, many clients do not understand how much debt they are amassing. Each individual notice is for one toll road use only. Although a \$20 fee may be applied, the overall total may not appear as significant as other debts in our client's lives, such as a utility notice. The total figure is never sent to the consumer on one notice. A notice detailing the total amount owing is not sent to the consumer until recovery action or court proceedings are started. This may consist of contact from a debt collection agency, or Court documents initiating proceedings.⁵²⁵

- 5.66** The following Legal Aid NSW case studies illustrate how significant toll debt can overwhelm individuals with difficult life circumstances.

'Fina'

Fina is a single mother who lives in social housing in the outskirts of Sydney. She is unemployed and had been struggling with mental health issues after a family bereavement. Fina had reached a point where she just was not coping with day-to-day affairs. Despite receiving a number of toll notices, she simply did not pay them. Unfortunately, by the time she attended Legal Aid there had already been court proceedings and an examination notice had been issued by the court to investigate her ability to pay that debt. By that time, the debt had become \$30,000. In that instance the substantive tolls debt was around \$8,000; the rest of the debt was the administration fees and legal costs. Legal Aid NSW applied to have the judgement set aside and eventually settled with the toll debt collection agency.⁵²⁶

'Lee'

Lee had significant mental health issues and was unemployed. A toll operator filed a statement of claim against her for toll charges spanning a period of over three years. The toll operator was claiming about \$6,000 in unpaid tolls and almost \$15,000 in administration fees.⁵²⁷

'Sandra'

Sandra is a victim of domestic and family violence who is currently a protected person in an Apprehensive Domestic Violence Order. When they were together, her partner had bought Sandra a car that was registered in her name. However, her partner exclusively used the car to travel to work using the toll roads. After their separation, Sandra's ex-partner retained the car and continued to use the car. She asked her ex-partner through text messages to pay the tolls but in the context of all her other problems, each individual toll was not a priority for her. She had contacted the toll operator who stated that she can only be assisted through their hardship program if the car was de-registered from her name. However, Sandra could not cancel the car's registration without being able to access the vehicle. Within a period of three months her toll debts increased to over \$10,000. Legal Aid NSW was able to assist Sandra to negotiate an outcome directly with the toll operator's Hardship Team.

⁵²⁵ Submission 42, Legal Aid NSW, p 7.

⁵²⁶ Submission 42, Legal Aid NSW, p 8; Evidence, Ms Doran, 28 September 2021, p 23.

⁵²⁷ Submission 42, Legal Aid NSW, p 8.

'Tadic'

Tadic is a recipient of the Disability Support Pension, and a victim of elder abuse. Her daughter had registered her car in Tadic's name so registration would be cheaper. Tadic was afraid of her daughter, who had a history of violence. Tadic received a number of toll notices, and tried to pass them on to her daughter without directly confronting her. Eventually, Tadic was contacted by debt collectors who asked her to pay nearly \$800 in toll debts. Tadic said that she explained her circumstances to the debt collector, but they were not interested in hearing her story. The debt collectors were pressuring her to enter into a payment plan and were threatening to take her to court to recover the money. She came to Legal Aid NSW to ask for help. Our solicitors prepared a statutory declaration outlining her circumstances to ask the toll operator to recall the debt from the debt collectors and cancel the debts. Eventually the toll debt was waived. However, the process was very traumatic for Tadic.

5.67 It is not only vulnerable people who end up with toll debt and in the court system according to inquiry evidence. Toll Redress referred to many stories of 'sophisticated motorists' incurring tens of thousands of dollars in administration fees. They observed: 'Quite often they pay them or, in a number of instances, Transurban seeks to wind them up in court for debts that are mostly [administration] fees'.⁵²⁸

5.68 Toll Redress labelled Transurban as 'aggressive' in its legal proceedings against other parties, a characterisation supported by data showing how many times Transurban entities were in New South Wales courts in 2020 during the COVID-19 pandemic:

Our proprietary software has revealed how many times Transurban entities have been in NSW Courts during 2020. We can't confirm whether these legal cases are against consumers and to do with unpaid tolls, but we are proceeding on this assumption. Roam Tolling Pty Ltd was the litigant at a hearing 30 times during COVID-19. Their entity Tollaust Pty Ltd was the litigant at a hearing 11 times during COVID-19. Their entity The Hills Motorway Limited was the litigant at a hearing 7 times during COVID-19. Their entity Interlink Roads Pty Ltd was the litigant at hearing 29 times during COVID-19. These include multiple hearing dates for the one matter, but this reinforces the aggressive nature of this company: suing individuals during a global pandemic, where many people lost their job and had their livelihoods disrupted. These figures above do not account for any litigation that was settled before going to court.⁵²⁹

5.69 This evidence was reinforced by Ms Maddison Johnstone, the organisation's Co-Founder, when she appeared before the committee. Asked about how debt collection in the tolling industry compares with other industries, Ms Johnstone remarked that Transurban was 'a lot more aggressive in their debt collection' and drew on the following example to illustrate her case:

[W]e had a case where somebody had had extenuating life circumstances— they were grieving, essentially, for many months—and they had accrued a lot of debt with a lot of organisations, including the Australian Tax Office and with Transurban as well. What we found was when they were emerging from this grief, they were able to get every

⁵²⁸ Evidence, Mr Fraser, 28 September 2021, p 22.

⁵²⁹ Submission 41, Operation Redress Pty Ltd, p 3.

single organisation to understand and help them out, including the Australian Taxation Office [ATO]. Everybody but Transurban would come to the table to help them out there. They actually had to come to us to intervene and help them write some communication. It took a year or two to actually get Transurban to come to the table and to help wipe some of the debt, but in that case specifically Transurban was definitely a lot more aggressive in their debt collection, much more so than any other organisation in that specific case. I would say that that is something we see across the board.⁵³⁰

- 5.70** Comparisons between the road toll industry and other industries were drawn elsewhere in evidence in order to call for industry reform. In particular, Ms Doran commended the progress that other industries have made in responding to customers in hardship, including individuals experiencing domestic and family violence. This was deemed to be an improvement 'across the board' in big businesses making it easier for individuals to escape violent relationships without their enduring financial consequences:

We have seen a huge improvement across various industries over the last few years with the rising awareness around the impact of family and domestic violence. A lot of the major industries now not only have hardship policies but they have specific policies around family and domestic violence ... The Australian Financial Complaints Authority [AFCA], which is the national body that deals with disputes in banking, insurance, superannuation, they have a very comprehensive approach. What we see in that space is a real commitment to ensuring that the work of the company in a big industry actually contributes to making it easier to escape circumstances of domestic violence and to ensure that people are not living with the ongoing consequences of that violent relationship in the form of debt.⁵³¹

- 5.71** By contrast, Legal Aid NSW observed that the road tolling industry 'really stands out as the only industry providing a core service without legislation or industry standards around debt collection and financial hardship practices'.⁵³² Legal Aid NSW therefore recommended that New South Wales adopts a Code of Practice for all toll road operators which includes a framework for managing debt of vulnerable customers. This would be consistent with the codes and guidelines used in sectors such as banking and insurance, and energy and utilities.⁵³³
- 5.72** In relation to these issues, the committee noted that both Transurban and Transport for NSW have special teams and support services in place to assist customers in hardship who have incurred toll debt.⁵³⁴
- 5.73** Evidence from Legal Aid NSW and Toll Redress introduced the Tolling Customer Ombudsman. The committee sought to interrogate how this ombudsman is set up, its funding and jurisdiction and how it operates – matters to which this report now turns its attention.

⁵³⁰ Evidence, Ms Maddison Johnstone, Co-Founder, Operation Redress, 28 September 2021, p 24.

⁵³¹ Evidence, Ms Doran, 28 September 2021, p 27.

⁵³² Evidence, Ms Doran, 28 September 2021, p 27; Submission 42, Legal Aid NSW, p 11.

⁵³³ Submission 42, Legal Aid NSW, pp 12 and 13.

⁵³⁴ Evidence, Ms Huey, 10 December 2021, p 21; Evidence, Mr de Kock, 14 February 2022, p 34.

The Tolling Customer Ombudsman

- 5.74** The Tolling Customer Ombudsman is an industry-based scheme which provides 'an independent dispute resolution process for customers of Linkt Sydney, Linkt Brisbane, and Linkt Melbourne'.⁵³⁵
- 5.75** It was established in 2004 as part of a reform coming out of Queensland.⁵³⁶ It is a company limited by guarantee whose sole member is Transurban.⁵³⁷
- 5.76** The Ombudsman's powers are established in a 'scheme or terms of reference' agreed to by the Ombudsman and the toll operator and also the company's constitution.⁵³⁸
- 5.77** The Ombudsman role itself is a part-time position, intended as three days per week. The Ombudsman employs one other staff member, also on a part-time basis.⁵³⁹
- 5.78** The Tolling Customer Ombudsman is funded by the road tolling industry, receiving approximately \$350,000 per year.⁵⁴⁰ For the year ended 30 June 2021, the Ombudsman revenue was \$360,000. The 'employee benefit' amount for the same period was \$219,173, which included the salary and wages of the Ombudsman, the part-time staff member and the three company directors.⁵⁴¹
- 5.79** It oversees roughly 1,000 disputes per year. Approximately 55 per cent of those disputes come out of New South Wales.⁵⁴²
- 5.80** The Ombudsman can only deal with disputes against toll road operators that have agreed to be part of the Tolling Customer Ombudsman scheme. In New South Wales, this is Linkt Sydney only. Toll roads operated by Transport for NSW and westlinkM7 are not part of the scheme.⁵⁴³ In this sense, it is a voluntary ombudsman scheme.⁵⁴⁴
- 5.81** Complaints can only be referred to the Tolling Customer Ombudsman after the consumer has attempted to resolve the complaint through the toll operator's internal customer complaints

⁵³⁵ Tolling Customer Ombudsman, *About the Tolling Customer Ombudsman*, [no date], <https://www.tollingombudsman.com.au/>; Evidence, Mr Phillip Davies, Tolling Customer Ombudsman and Chief Executive Officer, Tolling Customer Ombudsman, 25 October 2021, p 2.

⁵³⁶ Tolling Customer Ombudsman, *About the Tolling Customer Ombudsman*, [no date], <https://www.tollingombudsman.com.au/>; Evidence, Mr Phillip Davies, Tolling Customer Ombudsman and Chief Executive Officer, Tolling Customer Ombudsman, 25 October 2021, p 5.

⁵³⁷ Evidence, Mr Phillip Davies, Ombudsman and Chief Executive Officer, Tolling Customer Ombudsman, 25 October 2021, p 5.

⁵³⁸ Evidence, Mr Davies, 25 October 2021, pp 4 and 5.

⁵³⁹ Evidence, Mr Davies, 25 October 2021, p 8.

⁵⁴⁰ Evidence, Mr Davies, 25 October 2021, p 2.

⁵⁴¹ Answers to questions on notice, Mr Phillip Davies, Ombudsman and Chief Executive Officer, Tolling Customer Ombudsman, 10 December 2021, p 1.

⁵⁴² Evidence, Mr Davies, 25 October 2021, p 2.

⁵⁴³ Submission 42, Legal Aid NSW, p 14.

⁵⁴⁴ Evidence, Ms Doran, 28 September 2021, p 26.

process. This is where the Ombudsman's jurisdiction starts.⁵⁴⁵ It ends when the toll operator refers a debt to the State for collection or commences legal action against the consumer.⁵⁴⁶ The Ombudsman can only assist with matters that are somewhere between these two stages of the process.

- 5.82** Mr Phillip Davies, the Ombudsman and Chief Executive Officer, described the Ombudsman's role as that of a mediator between the toll operator and the consumer in respect of a particular dispute and noted that, in most cases, they are able to resolve the issue and 'people are happy'.⁵⁴⁷
- 5.83** If the dispute cannot be resolved informally, the Ombudsman can make a formal written determination on the matter. The toll operator is bound by the Ombudsman's decision, whereas the consumer is not. Following a written determination, the consumer still has a legal right to pursue the matter through other recourse.⁵⁴⁸
- 5.84** Mr Davies told the committee that the two biggest issues that come to him for resolution relate to, firstly, account management and, secondly, billing and tolling.⁵⁴⁹ In relation to the latter, Mr Davies observed that these complaints generally involve the application of administration fees. In the Ombudsman's words, '[t]hat is where people's ... temperature tends to rise significantly because they do not always understand why and how the tolling operator can impose penalties or administrative penalties'.⁵⁵⁰
- 5.85** Working across three different States, Mr Davies observed that concerns around toll notice administration are more significant in New South Wales than in other States and reiterated how overwhelming it can be for customers to receive multiple toll notices:

The consolidated toll notice issue is a significant one in New South Wales because there is so much more administration. People can cope with getting one toll notice but if they start getting 15 toll notices that is when they are on the phone to me saying, 'What's happening? I am being flooded. I do not know what to do. My life is going bad, sideways with all these other things. This is a problem'. The consolidated toll notice absolutely needs to be something New South Wales looks at. I do not doubt Victoria and Queensland have had them for some time and they kick in in certain circumstances. One of them is when you have a suspended account. People get upset when they have got a suspended account, but then when they get a number of toll notices that go on, rather than a consolidated toll notice, you can imagine even in your circumstances thinking, 'One, I can deal with. If I get three or four, I cannot'. I think that is a really important issue in New South Wales'.⁵⁵¹

- 5.86** The inquiry explored the structure of the Tolling Customer Ombudsman and its independence.

⁵⁴⁵ Evidence, Mr Davies, 25 October 2021, p 3.

⁵⁴⁶ Evidence, Mr Davies, 25 October 2021, p 4.

⁵⁴⁷ Evidence, Mr Davies, 25 October 2021, p 4.

⁵⁴⁸ Evidence, Mr Davies, 25 October 2021, p 4.

⁵⁴⁹ Evidence, Mr Davies, 25 October 2021, p 2.

⁵⁵⁰ Evidence, Mr Davies, 25 October 2021, p 3.

⁵⁵¹ Evidence, Mr Davies, 25 October 2021, p 4.

5.87 The Ombudsman is not a member of the Australia and New Zealand Ombudsman Association (ANZOA).⁵⁵² To be a member of ANZOA, an ombudsman must meet six criteria. These criteria are accessibility, independence, fairness, accountability, efficiency and effectiveness. Asked whether he was not accepted as a member of ANZOA because his organisation does not have the necessary level of independence, Mr Davies remarked:

Well, that is not what ANZOA has necessarily said to me but that may be an issue. It is difficult to understand the reasons for ANZOA not giving me membership. That may be one but they have not clearly articulated that to me.⁵⁵³

5.88 However, Mr Davies stressed that he is a member of the International Ombudsman Association, and that 'the benchmarks that are required for IOA are the same for ANZOA'. He told the committee that 'just because you are not a member of ANZOA ... does not mean you are not a good ombudsman'.⁵⁵⁴

5.89 There are currently 22 members of ANZOA, including jurisdictional ombudsmen, such as the NSW Ombudsman, and industry-based ombudsman across sectors including telecommunications, financial services, and energy and water.

5.90 The Energy and Water Ombudsman NSW, which is a member of ANZOA, illustrates an alternative model under which an industry-based ombudsman can be established. The Energy and Water Ombudsman has a legislative basis. The *Electricity Supply Act 1995* requires that customers may be able to apply to an energy ombudsman for review of a decision in a dispute or complaint. An energy ombudsman scheme was approved by the Minister and established under the Act. Before approving the scheme, section 96B(2) of the Act required the Minister to be satisfied that the scheme met its specified objections, including that all licence holders are members of the scheme and have agreed to be bound by its decisions; that the scheme has satisfactory arrangements to deal with disputes and complaints; and that the scheme will satisfy best practice benchmarks for similar schemes. It is a condition of an electricity or gas distributor's licence that the distributor is a member of an approved energy ombudsman scheme.

5.91 Toll Redress raised concerns about the Tolling Customer Ombudsman's independence. They advised the committee of their previous research into the Ombudsman, which purportedly found that:

- Transurban had set up and owned the Tolling Customer Ombudsman's website;
- contrary to ASIC requirements, the Ombudsman had never registered a business name in over a decade;
- did not provide an office address; and
- used the fax number for the local post office.⁵⁵⁵

5.92 In addition, Toll Redress claimed that the Ombudsman appeared to favour Transurban in its determinations.⁵⁵⁶

⁵⁵² Evidence, Mr Davies, 25 October 2021, p 6.

⁵⁵³ Evidence, Mr Davies, 25 October 2021, p 6.

⁵⁵⁴ Evidence, Mr Davies, 25 October 2021, p 7.

⁵⁵⁵ Submission 41, Operation Redress Pty Ltd, p 4.

⁵⁵⁶ Submission 41, Operation Redress Pty Ltd, p 4.

5.93 On several occasions, Mr Davies reiterated his independence as the Ombudsman and the independence of his company.⁵⁵⁷

5.94 Mr Davis acknowledged that few members of the public know about his existence, and that this is a barrier to people accessing the service:

... to be quite frank, before I got to this job I had no idea there was a Tolling Customer Ombudsman. I had absolutely no idea and saw the advertisement in the paper and applied. So we are not particularly high profile in terms of that and the board and I are trying to, in a sense, enhance our brand and promote ourselves more in terms of what service we provide.⁵⁵⁸

Committee comment

5.95 The committee echoes the sentiments of the former Chair of the Australian Competition and Consumer Commission. By continuing to sell its interests in the State's motorways to Transurban, the NSW Government has ceded to them an entrenched position of incumbency advantage, one that is increasingly difficult to wind back. Transurban owns even more of the motorway network now than it did at the time of the 2017 Upper House inquiry. In the committee's view, this concentration of ownership in one private operator gives that operator the upper hand and is ultimately bad for governments as well as drivers. The committee lends its support to the Commission's recommendations aimed at levelling the playing field for any future privatisation process.

5.96 Despite our best efforts, the committee was unable to ascertain any rational basis for the administration fee being set at ten dollars *precisely* for the first toll notice and at twenty dollars *precisely* for the subsequent one. While we do not deny there are costs to Transurban and Transport for NSW to identify vehicles, issue notices and follow-up payment, the justifications given in evidence failed to make a convincing case as to how these costs amount to the exact quantum that are applied. In the committee's opinion, the administration fees are unreasonably high and arbitrary. It is curious, too, that Transurban and Transport for NSW are willing to waive most of the administration fee – presumably after some of the processing work has already been undertaken – in instances where a trip can be linked to a valid customer account.

5.97 The committee notes that the administration fees were set in 2001 and have never been reviewed, despite advances in technology. Systems are becoming increasingly sophisticated and automated, with vehicle identification processes requiring less human operator intervention. This is one compelling argument among many others, for urgently reviewing the administration fees.

5.98 Administration fees contribute to some of the most vulnerable members of our community ending up with stifling toll debts. The committee is appalled by the case studies submitted in evidence from Legal Aid NSW. Hearing of individuals with \$30,000 of toll debt, of which \$22,000 is administration fees, was confronting to say the least. The committee recommends that the NSW Government reduce administration fees to \$1.10 for the first notice and \$2.20 for the second, and ensures Transurban implements the reduced administration fees.

⁵⁵⁷ Evidence, Mr Davies, 25 October 2021, pp 2, 5 and 6.

⁵⁵⁸ Evidence, Ms Davies, 25 October 2021, p 3.

- 5.99** It would perhaps be difficult to conceive of a system that is less responsive to the needs of individuals in hardship, crisis or distress. Nearly everything about the system is set up to work against these individuals, whether it is the way administration fees are applied, the way toll notices are issued or the way toll debts are pursued. Pursuing vulnerable individuals through the courts for toll debts (much of which is administration fees) is, in the committee's view, objectionable in the strongest possible terms. The committee backs calls from Legal Aid NSW for the adoption of an industry-wide Code of Practice for all toll road operators which includes a framework for managing debt for vulnerable customers, consistent with the codes and guidelines used in other sectors.
- 5.100** In the committee's view, evidence from Transurban and Transport for NSW did not present cogent and compelling reasons why toll notices cannot be aggregated for multiple 'non arranged' trips by the same driver or vehicle, with a single administration fee applied. Initially, the committee heard from Transurban that they were required to issue toll notices individually as a stipulation of their concession deed. Changing tack, Transport for NSW's systems and processes were singled out as being the main impediment to consolidating multiple toll notices into a single notice. Elsewhere, we heard that the current 'legacy' technology operated by Transport for NSW does not allow it. The committee is not satisfied with these answers. Again, complete transparency would allay any lingering suspicions about these processes. It is unfortunate that the evidence fell short of this. The committee further notes that toll notice aggregation has occurred in Queensland without any changes to the governing legislation in that State. We implore the NSW Government to ensure that Transurban follows suit, and recommend that it be compulsory for all toll road operators to issue consolidated toll notices, as has occurred in Queensland.
- 5.101** In the committee's opinion, the Tolling Customer Ombudsman is a Clayton's ombudsman that does not have any real 'teeth'. Its existence appeared to the committee to be a tick-the-box exercise, despite the best intentions of the current occupant. In contrast to other industry-based ombudsmen that meet the criteria necessary to be a member of ANZOA, the Tolling Customer Ombudsman is an industry-based and industry-run organisation, with no legislative basis. Membership is on a voluntary basis. There is an inherent conflict in its corporate structure and constitution in that Transurban is its sole member. Indeed, the Ombudsman's own website acknowledges that since its establishment there have been lingering 'perceptions of bias and favouritism towards the industry'. In addition to these issues, there is limited public awareness that the Tolling Customer Ombudsman even exists and the ombudsman operates with limited resources, making it only a part-time proposition.
- 5.102** There is clearly a need within the industry for robust consumer protections, including a fully independent and adequately resourced ombudsman with a legislative basis similar to, for example, the scheme under which the Energy and Water Ombudsman operates. The committee therefore recommends that the government establish in legislation a Tolling Customer Ombudsman and require all toll road operators to participate in the scheme, which will be a full-time service funded by the industry, namely all private toll road operators. In addition to resolving disputes, the Tolling Customer Ombudsman will be responsible for policing the industry-wide Code of Practice the committee has recommended be adopted to assist vulnerable consumers.

Recommendation 7

That the NSW Government considers concerns raised by the Australian Competition and Consumer Commission throughout this inquiry and adopts the Commission's recommendations:

- to compel toll road operators to publicly release traffic data
- for governments to allow sufficient time in their tendering processes for bidders other than Transurban to model traffic forecasts and other relevant commercial considerations.

Recommendation 8

That, as a priority, the NSW Government:

- reduce administration fees for trips on toll roads without a payment arrangement in place to \$1.10 for the first notice and \$2.20 for a second notice
- ensures Transurban implements the reduced administration fees
- make it compulsory for all toll road operators to move to aggregated/consolidated toll notices, as has occurred in Queensland.

Recommendation 9

That the NSW Government mandate the adoption of an industry-wide Code of Practice for all toll road operators which includes a framework for managing debt for vulnerable customers, consistent with the codes and guidelines used in other sectors.

Recommendation 10

That the NSW Government establish an independent Tolling Customer Ombudsman with a legislative basis similar to, for example, the Energy and Water Ombudsman NSW, and that:

- the ombudsman has the power to resolve disputes against all toll road operators
 - all private toll road operators be required to contribute funding to enable the delivery of a full-time, professional service
 - the ombudsman has the power to enforce the Codes of Practice foreshadowed at Recommendation 9, including a framework for responding to debt incurred by consumers struggling with financial hardship, mental illness, and domestic and family violence.
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Appendix 1 Submissions

No.	Author
1	Name suppressed
2	Name suppressed
3	Mr Joseph Awad
4	Mr John Hermez
5	Name suppressed
6	Mr Geoff Marr
7	Road Freight NSW
8	Mr Jeff Wormald
9	Mr Michael Hodge
10	Mr John Ha
11	Mr David Healey
12	Mr Jonathon Tong
13	Mr Allan Lovell
14	Ms Kate Graham
15	Mr Tristan Masterson
16	Vratislav Bejsak
17	Ms Julia Finn MP
18	National Road Transport Association
18a	National Road Transport Association
19	Australasian College of Road Safety - New South Wales Chapter
20	Transport Workers' Union of New South Wales
21	BusNSW
22	Action for Public Transport (NSW) Inc
23	Name suppressed
24	Name suppressed
25	Name suppressed
26	Name suppressed
27	Name suppressed
28	Name suppressed
29	Name suppressed
30	Name suppressed

No.	Author
31	Name suppressed
32	Confidential
33	Transurban-WestConnex
33a	Transurban-WestConnex
34	National Roads and Motorists' Association (NRMA)
35	Western Sydney Regional Organisation of Councils Ltd
36	Mr Peter Egan
37	Australian Logistics Council (ALC)
38	Tom Lawler Transport Pty Ltd
39	Roads Australia
40	Infrastructure Partnerships Australia
41	Operation Redress Pty Ltd
42	Legal Aid NSW
43	Mr Keith Austin
44	Name suppressed
45	Name suppressed
46	Name suppressed
47	Name suppressed
48	Name suppressed
49	Mrs Sue-Anne Henderson
50	Name suppressed
51	Name suppressed
52	Name suppressed
53	Mrs Patrizia De Lellis
54	Name suppressed
55	Confidential
56	Name suppressed
57	Name suppressed
58	Name suppressed
59	Name suppressed
60	Confidential
61	Name suppressed
62	Laura Henao
63	Confidential
64	Name suppressed

No.	Author
65	Confidential
66	Mr Daniel Cardona
67	Name suppressed
68	Mr David Lee
69	Name suppressed
70	Ms Michelle Beveridge
71	Mr Dusan Misic
72	Confidential
73	Name suppressed
74	Confidential
75	Philip Hannigan
76	Name suppressed
77	Name suppressed
78	Kyle Young
79	Name suppressed
80	Name suppressed
81	Name suppressed
82	Name suppressed
83	Confidential
84	Confidential
85	Mrs Karen Williams
86	Ghazanfar Tahir
87	Name suppressed
88	Confidential
89	Miss Srishti Suri
90	Name suppressed
91	NPM Events
92	Name suppressed
93	Name suppressed
94	Confidential
95	Kin McLaughlin
96	Name suppressed
97	Ms Heidi Fiveash
98	Name suppressed
99	Mr Craig Gross

No.	Author
100	Name suppressed
101	Confidential
102	Name suppressed
103	Name suppressed
104	Name suppressed
105	Harpreet Singh
106	Name suppressed
107	Name suppressed
108	Name suppressed
109	Mr Chetan Kochhar
110	Confidential
111	Name suppressed
112	Name suppressed
113	Name suppressed
114	Mr Guy Southwell
115	Name suppressed
116	Confidential
117	Mrs Julie Wilsom
118	Name suppressed
119	Name suppressed
120	Name suppressed
121	Confidential
122	Name suppressed
123	Mr Manzar Malik
124	Name suppressed
125	Name suppressed
126	Name suppressed
127	Name suppressed
128	Name suppressed
129	Mr Saravanan Ramiah
130	Name suppressed
131	Name suppressed
132	Name suppressed
133	Name suppressed
134	Mrs Tracey Lynch

No.	Author
135	Name suppressed
136	Name suppressed
137	Name suppressed
138	Name suppressed
139	Name suppressed
140	Name suppressed
141	Mr R Murphy
142	Mr Scott Thrift
143	Ms Chloe Traill-John
144	Name suppressed
145	Name suppressed
146	Transport for NSW
147	Anne Stanley
148	Name suppressed
149	Name suppressed
150	Confidential
151	Mr Aaron Giddings
152	Confidential
153	Name suppressed
154	Jay Patel
155	Mr Mehmet Genc
156	Mr Tom Keen
157	Name suppressed
158	Name suppressed
159	Name suppressed
160	Mr Vincent Yako
161	Name suppressed
162	Mr David Barber
163	Mr Ben Pailas
164	Ms Patricia McAloon
165	Name suppressed
166	Name suppressed
167	Mr Nathen Marabani
168	Mr Dave Ragen
169	Mrs Stephanie Cusack

No.	Author
170	Name suppressed
171	Confidential
172	Name suppressed
173	Name suppressed
174	Confidential
175	Confidential
176	Mr Nicholas Irwin
177	Name suppressed
178	Mr Vipul Parker
179	Name suppressed
180	Name suppressed
181	Name suppressed
182	Name suppressed
183	Mr Mohammed Sharafeldin
184	Mr Leo Skowronek
185	Confidential
186	Mr Ben Bailey
187	Mr Mark Konemann
188	Mr Sam Rupasinghe
189	Name suppressed
190	Name suppressed
191	Name suppressed
192	Name suppressed
193	Mr Guy Franklin
194	Ms Paola Alfred-Castro
195	Name suppressed
196	Name suppressed
197	Mrs Leanne Bullard
198	Mrs Anik Ali
199	Mr Anoulack Chanthivong MP
200	Name suppressed
201	Mr Patrick Holmes
202	David Sullivan
203	Confidential
204	Name suppressed

No.	Author
205	Mr Jzawo Pointon-English
206	Business NSW
207	Mrs Sharon Pearce
208	Name suppressed
209	Mrs Cathy Hoffman
210	Name suppressed
211	Confidential
212	Mrs Suzanne Knowles
213	Ms Kate Mauger
214	Name suppressed
215	Name suppressed
216	Confidential
217	Mr Elliot Birrell
218	Name suppressed
219	Mr James Shonk
220	Confidential
221	Name suppressed
222	Mr Azzam Siddiqui
223	Name suppressed
224	Name suppressed
225	Mr Parvez Khan
226	Ms Jeevan Shrestha
227	Mr Dennis Hayman
228	Mr Harrison Lo
229	Mr Eddi D'Elia
230	Miss Robyn Griffiths
231	Mr Ian Spring
232	Australian Competition & Consumer Commission
233	Mr Daniel Egli

Appendix 2 Witnesses at hearings

Date	Name	Position and Organisation
Tuesday 28 September 2021 Via videoconference	Mr Michael Kilgariff	Chief Executive Officer, Roads Australia
	Mr Royce Christie	Director – Policy, Roads Australia
	Mr Matt Threlkeld	Executive Director, Bus NSW
	Mr Phillip Whipp	Industry Development Manager, Bus NSW
	Mr John King	President, Bus NSW
	Mr Richard Olsen	State Secretary, Transport Workers' Union of NSW
	Mr Gavin Webb	Chief Legal Officer, Transport Workers' Union of NSW
	Mr Paul Newton	Contract carrier
	Mr Glen Finlay	Contract carrier
	Ms Rebekah Doran	Senior Manager, Civil Law – Western Sydney, Legal Aid NSW
	Ms Maddison Johnstone	Co-founder, Operation Redress
	Mr Michael Fraser	Co-founder, Operation Redress
	Mr Warren Clark	Chief Executive Officer, National Road Transport Association (NatRoad)
	Mr Allan Thornley	Managing Director, Shaws Darwin Transport, NatRoad Member Organisation
	Ms Rachel Smith	Director – Policy and Advocacy, Australian Logistics Council
	Mr Kerry Corke	Policy Consultant, Australian Logistics Council
Mr Simon O'Hara	Chief Executive Officer, Road Freight NSW	
Thursday 7 October 2021 Via videoconference	Ms Julia Finn MP	Member for Granville
	Mr Adrian Dwyer	Chief Executive Officer, Infrastructure Partnerships Australia

Date	Name	Position and Organisation
	Cr Barry Calvert	President, Western Sydney Regional Organisation of Councils (WSROC)
	Mr Charles Casuscelli	Chief Executive Officer, Western Sydney Regional Organisation of Councils (WSROC)
Monday 25 October 2021	Mr Phillip Davies	Tolling Customer Ombudsman
Via videoconference	Mr Robert Giltinan	Director of Policy & Public Affairs, NRMA
	Mr Wal Setkiewicz	Principal advisor, Infrastructure and Economics, NRMA
Friday 10 December 2021	Mr Tom Leuner	Executive General Manager, Mergers, Exemptions and Digital Division, Australian Competition and Consumer Commission
Room 814/815	Mr Matthew Schroder	General Manager, Infrastructure, Transport Access and Pricing Branch, Australian Competition and Consumer Commission
Parliament House, Sydney	Mr Daniel McCracken-Hewson	General Manager, Merger Investigations Branch, Australian Competition and Consumer Commission
	Ms Michele Huey	Group Executive, Transurban, New South Wales
	Mr Andrew Head	Chief Executive Officer, WestConnex
Monday 14 February 2022	Mr Philip Gardner	Deputy Secretary, NSW Treasury
Via videoconference	Ms Jacqui Christie	Executive Director, NSW Treasury
	Ms Cassandra Wilkinson	Executive Director, NSW Treasury
	Ms Camilla Drover	Deputy Secretary, Infrastructure and Place, Transport for NSW
	Mr Joost de Kock	Deputy Secretary, Customer Strategy and Technology, Transport for NSW
	Ms Meg Bourke-O'Neil	Deputy Secretary, Greater Sydney, Transport for NSW

Date	Name	Position and Organisation
	Ms Michele Huey	Group Executive, Transurban, New South Wales
	Mr Andrew Head	Chief Executive Officer, WestConnex
Tuesday 24 May 2022	Mr Angelo Elliot	Proprietor, Forest Inn Hotel
Bexley Manor Hall, Bexley	Mr Ahmad Sleitini	Proprietor, Scotts Chemsave Pharmacy
	Mr Jeffrey Tullock	President, Bexley Chamber of Commerce
	Mr Jeremy Morgan	Manager, City Infrastructure, Bayside Council
	Ms Sue Weatherley	Director, City Strategy and Innovation, Georges River Council
	Mr Daniel Egli	Private individual
	Mr Les Crompton	Private individual
	Mr Eugene McFarlane	Private individual
	Mr Osman Karolia	Private individual
	Ms Yasmina Kovacevic	Private individual
	Mr Fajid Khan	Private individual

Appendix 3 Minutes

Minutes no. 34

Wednesday 31 March 2021

Portfolio Committee No. 6

Room 1254, Parliament House, Sydney at 11.03 am

1. Members present

Ms Boyd, *Chair*

Mr Farlow

Mr Farraway (via Webex from 11.06 am)

Mr Graham (via Webex until 11.18 am)

Mr Mallard (via Webex)

Mr Mookhey

2. Apologies

Mr Banasiak, *Deputy Chair*

3. Previous minutes

Resolved, on the motion of Mr Mookhey: That draft minutes nos. 30, 31, 32 and 33 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received

- 25 March 2021 – Letter from Mr Mookhey, Ms Boyd and Mr Banasiak requesting a meeting of Portfolio Committee No. 6 to consider a proposed self-reference into road tolling.

5. Consideration of terms of reference

The committee to consider the following terms of reference:

That Portfolio Committee No. 6 - Transport and Customer Service inquire into and report on matters relating to tolling regimes for roads in New South Wales including:

- a) an updated review of the tolling regimes in place on different roads and an explanation for the differences between each,
- b) the total cost paid by drivers in tolls for the Westconnex toll road over the life of its contract, and the extent to which this represents value for money,
- c) the impact, and the geographical distribution of the impact, of toll costs on NSW drivers and on productivity,
- d) the extent of toll relief provided in NSW and whether it is adequate,
- e) opportunities to increase transparency for the public, particularly over how tolling contracts are negotiated and varied, and the extent to which tolls are paid,
- f) the rationale for allowing higher than CPI increases on certain tolls, and for the truck toll being set at three times the toll for car traffic,
- g) the ability or otherwise of trucking businesses to afford increases in tolling charges and the extent or otherwise of their ability to pass this through,

- h) opportunities to increase the assurance to the public that tolling arrangements represent the fairest possible outcome, including the appropriateness of involving an independent agency such as Independent Pricing and Regulatory Tribunal (IPART) in the determination of tolls and their escalation,
- i) the long term impact on government finances as a result of toll roads being wholly or partly operated by non-government entities, and
- j) any other related matter.

Resolved, on the motion of Mr Mallard: That the proposed terms of reference be amended by inserting after item i) the following new paragraph:

"consideration of the impact of direct or debt financing of road projects, including what would have been the impact on regional road projects of the direct financing of West Connex."

Resolved, on the motion of Mr Graham: That the committee adopt the terms of reference as amended.

Resolved, on the motion of Mr Mallard: That this committee:

- a) notes that the Public Works Committee is conducting an inquiry into the Northern Beaches and Western Harbour Tunnel
- b) take into account the committee secretariat and agency workloads when conducting these inquiries concurrently, and
- c) liaise with the Public Works Committee in relation to the conduct of these two inquiries.

6. Conduct of the inquiry into road tolling regimes

6.1 Proposed timeline

Resolved, on the motion of Mr Mookhey: That the committee adopt the following timeline for the administration of the inquiry:

- Sunday 23 May 2021 – submission closing date
- June/July 2021 – hearings and site visits.

6.2 Stakeholder list

Resolved, on the motion of Mr Farlow: That the secretariat circulate to members the Chairs' proposed list of stakeholders to provide them with the opportunity to amend the list or nominate additional stakeholders, and that the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

6.3 Advertising

The committee notes that all inquiries are advertised via Twitter, Facebook, stakeholder letters and a media release distributed to all media outlets in New South Wales.

It is no longer standard practice to advertise in the print media. The committee should pass a resolution if it wishes to do so.

7. Inquiry into the acquisition of land in relation to major transport projects

7.1 Hearings and site visits

Resolved, on the motion of Mr Mookhey: That the committee:

- conduct a site visit to Orchard Hills and hold a half day public hearing on date in late April or May 2021 to be determined in consultation with the Chair, with members availability to be canvassed by the secretariat via email
- invite the Member for Mulgoa, Mrs Tanya Davies MP, to make a submission to the inquiry and appear as a witness at the half day public hearing

- invite representatives of Sydney Metro to appear as a witness at the half day hearing
- meet and hear from affected residents.

8. Adjournment

The committee adjourned at 11.24 am, until *Sine die*.

Emma Rogerson
Committee Clerk

Minutes no. 35

Thursday 13 May 2021

Portfolio Committee No. 6 – Transport and Customer Service

Members' Lounge, Parliament House, 2.16 pm

1. Members present

Ms Boyd, *Chair*
Mr Banasiak, *Deputy Chair*
Mr Farlow
Mr Graham
Mr Mallard
Mr Mookhey

2. Apologies

Mr Farraway (substantive member for inquiry into Budget Estimates 2020-2021)
Mr Latham (participating for inquiry into acquisition of lands for major transport projects)
Mr Martin (substituting for Mr Farraway for the duration of the inquiry into acquisition of lands for major transport projects)

3. Previous minutes

Resolved, on the motion of Mr Mookhey: That draft minutes no. 34 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received

- 19 April 2021 – Letter from the Hon Sam Farraway MLC, Deputy Government Whip to secretariat, providing advice that the Hon Taylor Martin MLC will be substituting for Mr Farraway for the duration of the inquiry into acquisition of lands for major transport projects
- 26 April 2021 – Letter from Ms Julia Finn MP, Member for Granville to secretariat, seeking advice as to what is admissible under the inquiry's terms of reference
- 27 April 2021 - Email from Mrs Tanya Davies MP, Member for Mulgoa to secretariat, declining invitation to give evidence at a hearing in Penrith on 19 May 2021 due to other engagements
- 27 April 2021 – Email from Mr Todd Lister, Parliamentary Services, Transport for NSW to secretariat - advising Sydney Metro representatives decline invitation to give evidence in Penrith on 19 May 2021 but will attend hearings at Parliament House

5. Inquiry into the acquisition of land in relation to major transport projects

5.1 Provision of documents to participating member

Resolved, on the motion of Mr Farlow: That Mr Latham, who has advised the committee that he intends to participate for the duration of the inquiry into acquisition of land in relation to major transport projects, be provided with copies of inquiry related documents.

5.2 Amendment to Terms of Reference

Resolved, on the motion of Mr Mookhey: That submissions and evidence regarding the acquisition of land by councils in relation to major transport projects are permitted by the inquiry's terms of reference.

6. Inquiry into Budget Estimates 2020-2021

6.1 Correspondence

The committee noted the following items of correspondence relating to the inquiry into Budget Estimates 2020-2021:

Received

- 23 March 2021 – Letter from Ms Camilla Drover, Deputy Secretary Infrastructure and Place, Transport for NSW to secretariat, clarifying evidence given during the hearing on 25 February 2021
- 25 March 2021 – Letter from Mr Damon Rees, Chief Executive Officer, Service NSW to secretariat, clarifying evidence given during the hearing on 8 March 2021
- 6 April 2021 – Letter from Ms Carol-anne Nelson, Deputy Secretary, Regional and Outer Metropolitan, Transport for NSW to secretariat, clarifying evidence given during the hearing on 10 March 2021

Sent

- 2 March 2021 – Email from the secretariat to Hon Andrew Constance MP, Minister for Transport and Roads, attaching transcript of evidence with questions on notice highlighted and supplementary questions
- 10 March 2021 – Email from the secretariat to Hon Kevin Anderson MP, Minister for Better Regulation and Innovation, attaching transcript of evidence with questions on notice highlighted and supplementary questions
- 11 March 2021 – Email from the secretariat to Hon Victor Dominello MP, Minister for Customer Service, attaching transcript of evidence with questions on notice highlighted and supplementary questions
- 15 March 2021 – Email from the secretariat to Hon Paul Toole MP, Minister for Regional Transport and Roads, attaching transcript of evidence with questions on notice highlighted and supplementary questions

6.2 Answers to questions on notice and supplementary questions

The committee noted that the following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution establishing the Inquiry:

- answers to questions on notice from Ms Elizabeth Tydd, Information Commissioner, Information and Privacy Commission NSW, received 22 March 2021
- and supplementary questions from the Hon Andrew Constance MP, Minister for Transport and Roads, received 23 March 2021
- answers to supplementary questions from Ms Samantha Gavel, Privacy Commissioner, Information and Privacy Commission NSW, received 29 March 2021
- answers to questions on notice and supplementary questions from the Hon Kevin Anderson MP, Minister for Better Regulation and Innovation, received 31 March 2021
- answers to questions on notice and supplementary questions from the Hon Victor Dominello MP, Minister for Customer Service, received 1 April 2021
- answers to questions on notice and supplementary questions from the Hon Paul Toole MP, Minister for Regional Transport and Roads, received 6 April 2021.

6.3 Consideration of Chair's draft report

The Chair submitted her draft report entitled *Budget Estimates 2020-2021*, which, having been previously circulated, was taken as being read.

Resolved, on the motion of Mr Mookhey: That:

- a) The draft report be the report of the committee and that the committee present the report to the House;
- b) The transcripts of evidence, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry be tabled in the House with the report;
- c) Upon tabling, all unpublished transcripts of evidence, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- d) The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling
- e) That the report be tabled on 18 May 2021.

7. Inquiry into road tolling regimes

7.1 Consideration of an online questionnaire

Resolved, on the motion of Mr Graham: That the committee conduct an online questionnaire for the Inquiry into road tolling and that:

- the online questionnaire be open for 3 weeks
- the wording for the website be as follows:
 - While online questionnaire is open:**
 - Online submissions
 - Individuals are invited to submit their comments on the inquiry here [hyperlink to online questionnaire]. This is a new way for individuals to participate in inquiries in a timely and accessible way.
- the secretariat prepare a summary report of responses to the online questionnaire for publication on the website and use in the report, and that:
 - the committee agree to publish the report via email, unless a member raises any concerns
 - individual responses be kept confidential on tabling.
- questions be circulated by the secretariat and agreed to via email

8. Adjournment

The committee adjourned at 2.27 pm, until Wednesday 19 May 2021, 1.50 pm, Orchard Hills (Site visit).

Emma Rogerson
Committee Clerk

Minutes no. 37

Tuesday 15 June 2021

Portfolio Committee No. 6 – Transport and Customer Service

Jubilee Room, Parliament House, 1.03 pm

1. Members present

Ms Boyd, *Chair*
Mr Farlow
Mr Graham
Mr Martin
Mr Mookhey

2. Apologies

Mr Banasiak, *Deputy Chair*
Mr Latham (participating)
Mr Mallard

3. Previous minutes

Resolved, on the motion of Mr Martin: That draft minutes nos. 35 and 36 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received:

- 1 June 2021 – Email from Ms Anju Sharma, A/Manager, Government Services, Office of the Secretary, Transport for NSW to secretariat, advising that Transport for NSW will respond to the Auditor-General's report in relation to the acquisition of land at Camellia by 30 June 2021, and that a hearing date after 30 June may be of greater assistance to the Committee in its inquiries
- 3 June 2021 – Letter from Ms Rachel Simpson, Chief of Staff, Transport for NSW to secretariat, advising it would be inappropriate for Mr Rodd Staples to give evidence as he was not employed when Camellia land was purchased
- 7 June 2021 – Email from Ms Hayley McIntosh, Executive Officer, Office of the Secretary, Department of Premier and Cabinet to secretariat, advising Mr Tim Reardon is unable to attend hearing on 15 June 2021 due to long standing Board commitments
- 10 June 2021 – Email from Mr Rodd Staples, former secretary, Transport for NSW to secretariat, declining invitation to give evidence at hearing on 15 June 2021.

Sent:

- 7 May 2021 – Letter from Chair, to Ms Julia Finn MP, Member for Granville, providing advice on the scope of the inquiry into the acquisition of land for major transport projects terms of reference
- 8 June 2021 – Letter from secretariat to Mr Rodd Staples, former Secretary, Transport for NSW, inviting him to give evidence at a public hearing on 15 June 2021.

5. Inquiry into the acquisition of land in relation to major transport projects**5.1 Site visit summary report**

Resolved, on the motion of Mr Graham: That the committee authorise and publish the site visit summary report prepared by the secretariat.

5.2 Public hearing***Allocation of questioning***

Resolved, on the motion of Mr Mookhey: That the sequence of questions to be asked during the inquiry hearings be left in the hands of the Chair.

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters

The following witnesses were sworn and examined:

- Mr Rick Graf, Development Director, Billbergia Group
- Mr Paul Addison, Group Commercial Manager, Billbergia Group

Mr Graf tendered the following documents:

- Opening statement
- Bundle of emails regarding the sale of land at 4-6 Grand Ave, Camellia to Transport for NSW, as provided to the NSW Auditor General.

Mr Mookhey tabled the following documents:

- Excerpt from mortgage taken out by Akzo Nobel Pty Ltd
- Timeline of events of sale of 4-6 Grand Ave, Camellia according to Transport for NSW
- Timeline of events of sale of 4-6 Grand Ave, Camellia from the NSW Auditor General's report.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Rob Sharp, Secretary, Transport for NSW
- Ms Camilla Drover, Deputy Secretary, Infrastructure and Place, Transport for NSW

Mr Sharp tendered the following documents:

- Opening statement
- Correspondence between the Hon Andrew Constance MP, Minister for Transport and Roads and Mr Rob Sharp, Secretary, Transport for NSW, in relation to the NSW Auditor-General's recommendation that an investigation be conducted.

Mr Mookhey tabled the following documents:

- Colliers valuation report of 4-6 Grand Ave, Camellia
- Parramatta Light Rail - Remediation Contract – 6 Grand Avenue Camellia - ISD-17-6467 with Ventia Utility Services Pty.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Margaret Crawford, NSW Auditor-General, Audit Office of NSW
- Mr Ian Goodwin, Deputy Auditor-General, Audit Office of NSW
- Ms Claudia Migotto, Assistant Auditor-General, Performance Audits, Audit Office of NSW.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 4.20 pm. The public and the media withdrew.

Tendered documents

Resolved, on the motion of Mr Mookhey: That the committee accept and publish the following documents tendered during the public hearing:

- Opening statement, tendered by Mr Rick Graf, Development Director, Billbergia Group
- Timeline of events of sale of 4-6 Grand Ave, Camellia according to Transport for NSW, tabled by Hon Daniel Mookhey MLC
- Timeline of events of sale of 4-6 Grand Ave, Camellia from the NSW Auditor General's report, tabled by Hon Daniel Mookhey MLC
- Opening statement, tendered by Mr Rob Sharp, Secretary, Transport for NSW
- Correspondence between the Hon Andrew Constance MP, Minister for Transport and Roads and Mr Rob Sharp, Secretary, Transport for NSW, in relation to the NSW Auditor-General's recommendation that an investigation be conducted, tendered by Mr Rob Sharp, Secretary, Transport for NSW
- Colliers valuation report of 4-6 Grand Ave, Camellia, tabled by Hon Daniel Mookhey MLC
- Parramatta Light Rail - Remediation Contract – 6 Grand Avenue Camellia - ISD-17-6467 with Ventia Utility Services Pty, tabled by Hon Daniel Mookhey MLC.

Resolved, on the motion of Mr Mookhey: That the committee accept and publish, except for identifying information, the following document tendered during the public hearing:

- Excerpt from mortgage taken out by Akzo Nobel Pty Ltd, tabled by Hon Daniel Mookhey MLC.

Resolved, on the motion of Mr Mookhey: That the:

- a) committee defer consideration of the bundle of emails regarding the sale of land at 4-6 Grand Ave, Camellia to Transport for NSW, as provided to NSW Auditor General. tendered during the hearing by Mr Rick Graf, Development Director, Billbergia Group until the secretariat has reviewed the document for identifying information
- b) committee secretariat provide an electronic copy to committee members for their information.

5.3 Future inquiry activities

The committee discussed potential topics for future hearing dates for the inquiry and possible witnesses, including:

- impacted businesses at Hunter Connection in relation to the Sydney Metro Project,
- other local communities affected by acquisitions, including Jannali, Riverview and the Hawkesbury
- those impacted by the M9 (Outer Sydney Orbital) Route, and
- Mr Tim Reardon, Secretary, Department of Premier and Cabinet, in relation to the Camellia site.

Resolved, on the motion of Mr Mookhey: That the committee hold a further hearing on Friday 23 July 2021 and invite the following witnesses:

- Sydney Metro (3 hours)
- Orchard Hills residents
- Policy and legal experts in relation to the *Land Acquisition (Just Terms Compensation) Act 1991*.

6. Inquiry into road tolling

6.1 Invitation to visit NorthConnex

The committee discussed Transurban's invitation for members to visit the NorthConnex.

Resolved, on the motion of Mr Graham: That the committee write to Transurban to seek further information on the proposed site visit being offered and advise that the committee is considering the invitation.

6.2 Re-opening of submission portal and questionnaire

Resolved, on the motion of Mr Graham: That the submission portal and online questionnaire be re-opened until 21 July 2021.

7. Adjournment

The committee adjourned at 4.36 pm, until Wednesday 14 July 2021, Macquarie Room, Parliament House (public hearing).

Emma Rogerson
Committee Clerk

Minutes no. 42

Tuesday 28 September 2021

Portfolio Committee No. 6 – Transport and Customer Service

Via Webex, 9.16 pm

1. Members present

Ms Boyd, *Chair*
Mr Fang (substituting for Mr Farraway)
Mr Farlow
Mr Graham
Mr Mallard (*until 12.50 pm*)
Mr Mookhey

2. Apologies

Mr Banasiak, *Deputy Chair*

3. Previous minutes

Resolved, on the motion of Mr Mallard: That draft minutes nos. 37 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Sent

- 18 June 2021 – Letter from Chair to Ms Penny Roberts Head of Corporate Affairs – NSW & WestConnex, Transurban, requesting additional information on the benefits of a potential site visit to NorthConnex.

Received:

- 21 May 2021 – Letter from Ms Margaret Crawford, Auditor-General for New South Wales, to the Chair, regarding the invitation to make a submission to the inquiry into road tolling regimes.
- 25 June 2021 – Letter from Ms Penny Roberts, Head of Corporate Affairs – NSW & WestConnex, Transurban, in response to correspondence from the Chair, providing additional information on the benefits of a potential site visit to NorthConnex.
- 10 September 2021 – Letter from Ms Claudia Migotto, Assistant Auditor-General, Audit Office of NSW, declining the committee's invitation to appear at a public hearing as part of the inquiry into road tolling regimes.
- 13 September 2021 – Letter from Mr Nathen Matababi regarding the inquiry into road tolling regimes.
- 17 September 2021 – Email from Ms Shani Murphy, Office of the Hon. Shayne Mallard MLC, Government Whip in the Legislative Council, advising that the Hon. Wes Fang MLC will be substituting for the Hon. Sam Faraway for the hearing on 28 September 2021 as part of the inquiry into road tolling regimes.
- 23 September 2021 – Email from Mr Robert Giltinan, Director of Policy and Public Affairs, NRMA, declining the committee's invitation to appear at a hearing on 28 September or 7 October as part of the inquiry into road tolling regimes, and offering to answer any questions in writing.

5. Inquiry into road tolling regimes**5.1 Public Submissions**

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 1-25, 27, 29-30, 33-40, 43-54, 56-69, 61-62, 64, 66-71, 73, 75-82, 85-87, 89-93, 95-100, 102-109, 111-115, 117-120, 122-149, 151, 153-170, 172-173, 176-178, 180-184, 186-202, 204-210, 212-215, 218, 221-230.

Resolved, on the motion of Mr Mookhey: That submission no.41 be published.

5.2 Partially confidential submissions

Resolved, on the motion of Mr Mookhey:

- That the committee authorise the publication of submission nos. 26, 28, and 31 with the exception of identifying and/or sensitive information which are to remain confidential, as per the recommendation of the secretariat.
- That the committee authorise the publication of submission no. 217, with the exception of highlighted sections which may be considered offensive, with these sections to remain confidential.

5.3 Confidential submissions

Resolved, on the motion of Mr Graham: That the committee keep submission nos 55, 60, 63, 65, 72, 74, 83-84, 88, 94, 101, 110, 116, 121, 150, 152, 171, 174-175, 185, 203, 211, 216, 220 confidential, as per the request of the authors.

5.4 Online questionnaire report

The committee noted that as agreed by email, an online questionnaire report based on the responses to the Survey Monkey questionnaire was published on the committee's website.

5.5 Witness invitation to the Australian Competition & Consumer Commission (ACCC)

Resolved, on the motion of Mr Mookhey: That the committee invite the Australian Competition & Consumer Commission to make a submission to the inquiry into road tolling regimes, noting recent commentary regarding the sale of the remaining 49% stake in WestConnex to Transurban by the NSW Government.

5.6 Briefing on virtual hearing proceedings

The Chair briefed members on virtual hearing arrangements.

5.7 Live streaming and recording of hearing

The committee noted that all hearings for the inquiry into road tolling regimes, including this hearing, will be live streamed via the Parliament's website and recorded. All recordings will be made publicly available online.

6. ***

7. Public hearing

Organisation of contract carrier witnesses

The committee noted that the Transport Workers' Union NSW assisted in facilitating the individual contract carriers who are appearing alongside the TWU as witnesses, as previously agreed by the committee.

Allocation of questioning

Resolved, on the motion of Mr Graham: That in accordance with the resolution appointing the committee, the sequence of questions to be asked during the inquiry hearings will alternate between opposition, crossbench and government members, in that order, with equal proportion of time allocated being allocated to each.

Witnesses were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters

The following witnesses were sworn and examined:

- Mr Michael Kilgariff, CEO, Roads Australia
- Mr Royce Christie, Director – Policy, Roads Australia.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Matt Threlkeld, Executive Director, Bus NSW
- Mr Philip Whipp, Industry Development Manager, Bus NSW
- Mr John King, President, Bus NSW.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Richard Olsen, State Secretary, Transport Workers' Union of NSW
- Mr Gavin Webb, Chief Legal Officer, Transport Workers' Union of NSW
- Mr Paul Newton, Contract carrier
- Mr Glen Finaly, Contract carrier.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Rebekah Doran, Senior Manager, Civil Law – Western Sydney, Legal Aid NSW
- Ms Maddison Johnstone, Co-founder, Operation Redress
- Mr Michael Fraser, Co-founder, Operation Redress.

The evidence concluded and the witnesses withdrew.

Mr Mallard departed at 12.50 pm.

The following witnesses were sworn and examined:

- Mr Warren Clark, Chief Executive Officer, National Road Transport Association (NatRoad)
- Mr Allan Thornley, Managing Director, Shaws Darwin Transport, NatRoad Member Organisation
- Ms Rachel Smith, Director – Policy and Advocacy, Australian Logistics Council
- Mr Kerry Corke, Policy Consultant, Australian Logistics Council.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Simon O'Hara.

The public hearing concluded at 3.00 pm.

8. Adjournment

The committee adjourned at 3.00 pm, until Tuesday 5 October 2021, via videoconference (public hearing for inquiry into land acquisitions)

Madeleine Dowd
Committee Clerk

Minutes no. 44

Wednesday 6 October

Portfolio Committee No. 6 - Transport and Customer Service

Via videoconference, 9.18 am

1. Members present

Ms Boyd, *Chair*

Mr Banasiak, *Deputy Chair*

Mr Farlow (from 9.20 am)

Mr Graham

Mr Mallard (until 11.00 am)

Mr Martin (from 11.00 am)

Mr Mookhey

2. Apologies

Mr Latham (participating)

3. Correspondence

The committee noted the following items of correspondence:

Received

- 5 October 2021 – Email from Mr Sam and Mrs Therese Grima, Orchard Hills residents to committee, advising on the discount to proposed land valuation due to retained trees on their property
- 6 October 2021 – Email from Mr Mark Harrold, Sydney Helicopters to committee, requesting that his solicitor, Mr Adrian McMillan of Slater and Gordon be invited to give evidence on the legal process of compulsory acquisitions.

Resolved, on the motion of Mr Banasiak: That the committee authorise:

- the publication of correspondence from Mr Sam and Mrs Therese Grima regarding the discount to proposed land valuation due to retained trees on their property, dated 5 October 2021
- the insertion of a footnote to the transcript of evidence of Mr Sam and Mrs Therese Grima, dated 5 October 2021, containing the clarification provided in the correspondence.

4. Inquiry into the acquisition of land in relation to major transport projects**4.1 Public hearing**

The committee proceeded to take evidence in public.

Witnesses were admitted via video link.

The Chair made an opening statement regarding the broadcasting of proceedings, virtual hearing etiquette and other matters.

The following witnesses were sworn and examined:

- Mr Chris Drury, Deputy Chair, Environmental Planning & Development Committee, The Law Society of NSW
- Ms Penny Murray, Member, Environmental Planning & Development Committee, The Law Society of NSW

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Chris Walsh, Head of Property, Heworth Holdings Group

Mr Walsh tendered the following documents:

- bundle of correspondence between Heworth Holdings and Transport for NSW regarding the former Balmain Tigers Leagues Club, Rozelle.

The evidence concluded and the witness withdrew.

The Chair noted that Members of Parliament swear an oath to their office, and therefore do not need to be sworn prior to giving evidence before a committee.

Ms Julia Finn MP, Member for Granville was admitted and examined.

The evidence concluded and the witness withdrew.

4.2 Deliberative meeting (via teleconference)

Resolved, on the motion of Mr Mookhey: That Mr Adrian McMillan, Associate, Slater and Gordon be invited to appear to give evidence before the Committee on 6 October 2021.

4.3 Public hearing resumed

The following witnesses were sworn and examined:

- Mr Mark Harrold, Sydney Helicopters Pty Ltd, Heliport Developers Pty Ltd
- Mr Adrian McMillan, Slater and Gordon Ltd

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Dr David Parker, Valuer General of NSW

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 1.36 pm.

Tendered documents

Resolved, on the motion of Mr Mookhey: That the committee accept and publish, with the exception of identifying information, the following document tendered during the public hearing, upon receipt:

- Emails from valuer of the Just Terms Compensation team, Department of Industry and Environment to Mr Mark Harrold, Sydney Helicopters Pty Ltd regarding final valuation by the Valuer General of NSW, tendered by Mr Mark Harrold.

Resolved, on the motion of Mr Mookhey: That the committee defer consideration of the bundle of correspondence between Heworth Holdings and Transport for NSW regarding the former Balmain Tigers Leagues Club, Rozelle, tendered during the hearing by Mr Christopher Walsh, Head of Property, Heworth Holdings until the secretariat has reviewed the documents for identifying information.

4.4 Partially confidential submissions

The committee deferred consideration of Submission no. 92.

4.5 Invitations to further witnesses

Resolved, on the motion of Mr Mookhey: That the committee write to the Secretary of the Department of Planning, Industry and Environment, inviting:

- the Head of the Just Terms Compensation Team to attend as a witness at a future hearing date
- the Department make a submission addressing comments made by the NSW Valuer General in his evidence provided during the public hearing on 6 October 2021.

Resolved, on the motion of Mr Mookhey: That the committee write to Mr Jim Betts, in his former capacity as Secretary of the Department of Planning, Industry and Environment, inviting him to attend as a witness at a future hearing date, and make a submission addressing comments made by the NSW Valuer General in his evidence provided during the public hearing on 6 October 2021.

5. Inquiry into Road Tolling

The committee noted changes to the hearing schedule for the public hearing on the 7 October 2021:

- Ms Finn, appearing from 11.00 am until 12.30 pm
- Infrastructure Partnerships appearing from 12.30 pm until 1.15 pm
- The Western Sydney Regional Organisation of Councils Ltd (WSROC) appearing from 1.15 pm until 2.00 pm.

6. Adjournment

The committee adjourned at 1.41 pm, until Thursday 7 October 2021, 10.00 am, via Webex, Road tolling inquiry (public hearing).

Emma Rogerson
Committee Clerk

Minutes no. 45

Thursday 7 October 2021

Portfolio Committee No. 6 – Transport and Customer Service

Via Webex, 10.05 am

1. Members present

Ms Boyd, *Chair*

Mr Farraway (*until 12.30 pm*)

Mr Farlow

Mr Graham

Mr Mallard

Mr Mookhey

2. Apologies

Mr Banasiak, *Deputy Chair*

3. Previous minutes

Resolved, on the motion of Mr Mookhey: That draft minutes nos. 42 be confirmed.

4. Inquiry into road tolling regimes

4.1 Document tendered by Transport Workers Union of NSW

Resolved, on the motion of Mr Graham: That the committee accept and publish the following documents tendered during the public hearing on 28 September 2021:

- Toll Woolworths Toolbox Briefing, tendered by Mr Richard Olsen, State Secretary, Transport Workers' Union of NSW.

4.2 Replacement submission made by Infrastructure Partnerships Australia

Resolved, on the motion of Mr Graham: That the committee accept and publish the replacement submission provided by Infrastructure Partnerships Australia.

4.3 Briefing on virtual hearing proceedings

The Chair briefed members on virtual hearing arrangements.

4.4 Live streaming and recording of hearing

The committee noted that all hearings for the inquiry into road tolling regimes, including this hearing, will be live streamed via the Parliament's website and recorded. All recordings will be made publicly available online.

5. Inquiry into land acquisition of land in relation to major transport projects

5.1 Consideration of submission no. 92

Resolved, on the motion of Mr Mookhey: That the committee authorise the publication of submission no. 92 with the exception of potential adverse mention, which is to remain confidential, as per the recommendation of the secretariat.

6. Public hearing

Allocation of questioning

The committee noted that in accordance with the resolution appointing the committee, the sequence of questions to be asked during the inquiry hearings will alternate between opposition, crossbench and government members, in that order, with equal proportion of time allocated being allocated to each.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The Chair noted that Members of Parliament swear an oath to their office, and therefore do not need to be sworn prior to giving evidence before a committee.

Ms Julia Finn MP, Member for Granville was admitted and examined.

The evidence concluded and the witness withdrew.

Mr Farraway departed at 12.30 pm.

The following witness was sworn and examined:

- Mr Adrian Dwyer, Chief Executive Officer, Infrastructure Partnerships Australia.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Clr Barry Calvert, President, Western Sydney Regional Organisation of Councils (WSROC)
- Mr Charles Casuscelli, Chief Executive Officer, Western Sydney Regional Organisation of Councils (WSROC).

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 2.05 pm.

7. Inquiry into road tolling regimes

7.1 Future hearings

The committee discussed the future conduct of the inquiry, including holding a further two public hearings.

8. Adjournment

The committee adjourned at 2.10 pm, *sine die*.

Madeleine Dowd
Committee Clerk

Minutes no. 47

Monday 25 October 2021

Portfolio Committee No. 6 – Transport and Customer Service

Via Webex, 9.48 am

1. Members present

Ms Boyd, *Chair*
Mr Fang (substituting for Mr Farraway)
Mr Farlow
Mr Graham
Mr Mallard
Mr Mookhey

2. Apologies

Mr Banasiak, *Deputy Chair*

3. Previous minutes

Resolved, on the motion of Mr Mallard: That draft minutes nos. 43, 44 and 45 be confirmed.

4. Correspondence

Committee noted the following items of correspondence:

Received:

- 9 October 2021 - Letter from Councillor Ian Mutton to the committee, calling on the committee to examine Transport for NSW's conduct in relation to the planning of Sydney Harbour Bridge cycleway.
- 11 October 2021 – Affidavit of service of summons to private citizen for the hearing on 5 October 2021 for the inquiry into acquisition of land for major transport projects.
- 14 October 2021 – Email from Mr Christopher Walsh, Heworth Holdings to secretariat, requesting all tabled documents be published in full, for the inquiry into the acquisition of land for major transport projects.
- 19 October 2021 - Email from Mr Tim Sowden, Senior Media and Government Relations Manager, Transurban, to the secretariat declining the invitation to appear at a hearing as part of the inquiry into road tolling regimes on 25 October 2021.
- 20 October 2021 – Email from Mr Tom Marshall, Assistant Director, Australian Competition & Consumer Commission, to the secretariat declining the invitation to appear at a hearing as part of the inquiry into road tolling regimes on 25 October 2021.
- 20 October 2021 – Letter from the Hon. Shayne Mallard MLC, Government Whip in the Legislative Council, advising that the Hon. Wes Fang MLC will be substituting for the Hon. Sam Farraway MLC at the road tolling hearing on 25 October 2021.

Resolved, on the motion of Mr Mallard: That the committee keep the Affidavit of service of summons, dated 11 October 2021, confidential, as per the recommendation of the secretariat, and consistent with previous resolutions regarding this matter

5. Inquiry into the acquisition of land for major transport projects

5.1 Documents tendered by Heworth Holdings Group

Resolved, on the motion of Mr Mookhey: That the committee accept and publish the following document, and its attachments, with the exception of identifying information which is to remain confidential, as per the recommendation of the secretariat:

- Brief to Portfolio Committee No. 6, tendered by Mr Christopher Walsh, Head of Property, Heworth Holdings Group, to the public hearing held 6 October 2021

5.2 Future hearings

The committee discussed the future conduct of the inquiry, and agreed to defer consideration of this matter at the next meeting of the committee on 26 October 2021.

6. Inquiry into road tolling regimes

6.1 Additional public submissions

Resolved, on the motion of Mr Graham: That the committee accept and publish submission nos. 231 (Mr Ian Spring) and 232 (Australian Competition & Consumer Commission).

6.2 Future activity and timeline

The committee discussed the future conduct of the inquiry, and agreed to defer consideration of which witnesses will be invited to future hearings at the next meeting of the committee on 26 October 2021.

Resolved, on the motion of Mr Mallard: That the secretariat canvass member availability for two dates in February, one for a hearing and the other for a potential site visit to visit NorthConnex.

Resolved, on the motion of Mr Graham: That the report be tabled by end April 2022.

6.3 Briefing on virtual hearing proceedings

The Chair briefed members on virtual hearing arrangements.

6.4 Live streaming and recording of hearing

The committee noted that all hearings for the inquiry into road tolling regimes, including this hearing, will be live streamed via the Parliament's website and recorded. All recordings will be made publicly available online.

7. Public hearing

The committee noted that in accordance with the resolution appointing the committee, the sequence of questions to be asked during the inquiry hearings will alternate between opposition, crossbench and government members, in that order, with equal proportion of time allocated being allocated to each.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was sworn and examined:

- Mr Phillip Davies, Tolling Customer Ombudsman.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Robert Giltinan, Director of Policy & Research, NRMA
- Mr Wal Setkiewicz, Principal Advisor, Infrastructure & Economics, NRMA.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 12.16 pm.

8. Adjournment

The committee adjourned at 12.22 pm until Thursday 26 October 2021, 9.15 am, Macquarie Room, Parliament House (Budget Estimates hearing).

Madeleine Dowd
Committee Clerk

Minutes no. 48

Tuesday 26 October 2021

Portfolio Committee No. 6 - Transport and Customer Service
Macquarie Room, Parliament House, Sydney, at 9.17 am

1. Members present

Ms Boyd, *Chair* (from 9.17 am until 11.16 am, and then from 11.57 am)

Mr Banasiak, *Deputy Chair*

Mr Fang (substituting for Mr Faraway)

Mr Farlow

Mr Graham

Mr Poulos (substituting for Mr Mallard *via WebEx*)

Mr Veitch (substituting for Mr Mookhey)

Mr Field (participating, from 10.34 am until 11.00 am)

2. Correspondence

The committee noted the following items of correspondence:

Received

- 12 October 2021 - Email from Mr Justin Field to the Chair advising that he will be a participating member for the Regional Transport and Roads hearing on 26 October and the Customer Service and Digital hearing on 27 October 2021
- 14 October 2021 - Email from Ms Nella Hall, Office of Hon Mark Latham to the secretariat, advising Mr Latham will be a participating member for the PC7 hearings on 26 and 28 October, PC1 hearings on 27 October and 4 November and the PC6 Transport and Roads hearing on 2 November 2021
- 18 October 2021 - Email from Ms Shani Murphy, Office of the Hon Shayne Mallard MLC, Government Whip, to secretariat, advising that Mr Poulos will be substituting for Mr Mallard for the Regional Transport and Roads hearing on 26 October 2021
- 19 October 2021 - Email from Ms Cara Punch, Office of the Hon Mark Buttigieg MLC, Opposition Whip, to the secretariat, providing Opposition substitutions and participating member advice for preliminary Budget Estimates 2021-2022
- 19 October 2021 - Email from Ms Charlie Inwood, Office of Minister Stokes MP, Minister for Transport and Roads, to the secretariat, confirming witnesses for the hearing on 26 October 2021
- 19 October 2021 - Email from Ms Mica Magee, Office of the Hon Paul Toole MP, Deputy Premier and Minister for Regional Transport and Roads, to the secretariat, confirming witnesses for the hearing on 26 October 2021
- 19 October 2021 - Email from Mr Rowan Carter, Office of the Hon Kevin Anderson MP, Minister for Better Regulation and Innovation, to the secretariat, confirming witnesses for the hearing on 27 October 2021
- 20 October 2021 - Email from Mr Lachlan Barnsley, Office of Mr Sam Farraway MLC, Deputy Government Whip, to the secretariat, advising that Mr Fang will be substituting for Mr Farraway for the PC6 Budget Estimates hearings on 26 and 27 October 2021
- 20 October 2021 - Email from Mr Rowan Carter, Office of the Hon Kevin Anderson MP, Minister for Better Regulation and Innovation, to the secretariat, advising that Mr David Chandler, NSW Building Commissioner will appear instead of Mr Mathew Whitton, Director Consumer, Building and Property, NSW Department of Customer Service at hearing on 27 October 2021.

Sent

- 15 October 2021 - Email from the secretariat to the Hon Paul Toole MP, Deputy Premier and Minister for Regional Transport and Roads, forwarding witness invitation for supplementary Budget Estimates 2021-2022
- 15 October 2021 - Email from the secretariat to the Hon Rob Stokes MP, Minister for Transport and Roads, forwarding witness invitation for supplementary Budget Estimates 2021-2022
- 15 October 2021 - Email from the secretariat to Hon Victor Dominello MP, Minister for Customer Service and Digital, forwarding witness invitation for supplementary Budget Estimates 2021-2022
- 15 October 2021 - Email from the secretariat to Hon Kevin Anderson MP, Minister for Better Regulation and Innovation, forwarding witness invitation for supplementary Budget Estimates 2021-2022
- 20 October 2021 - Email from the secretariat to Mr Rowan Carter, Office of the Hon Kevin Anderson MP, seeking confirmation of attendance of Mr Mathew Whitton, Director Consumer, Building and Property, NSW Department of Customer Service at hearing on 27 October 2021.

3. Inquiry into Budget Estimates 2021-2022 – supplementary hearings**3.1 Order for examination of portfolios**

The committee noted that under the Budget Estimates 2021-2022 resolution the portfolios of Regional Transport and Roads be examined concurrently by Opposition and Crossbench members only, from 9.30 am to 12.45 pm, with 15 minutes reserved for Government questions from 12.45 pm to 1.00 pm, if required.

3.2 Live streaming and recording of hearing

Resolved, on the motion of Mr Banasiak: That the committee publish all recordings of Budget Estimates 2021-2022 supplementary hearings on the Parliament's YouTube channel.

3.3 Public hearing: Regional Transport and Roads

Departmental witnesses were admitted.

The Hon Paul Toole MP, Deputy Premier and Minister for Regional Transport and Roads was admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters. The Chair noted that members of Parliament swear an oath to their office, and therefore do not need to be sworn prior to giving evidence before a committee.

The following witnesses were sworn:

- Mr Rob Sharp, Secretary, Transport for NSW (*in person*)
- Mr Dale Merrick, A/Chief Customer Officer & Chief Executive, NSW Trainlink, Transport for NSW (*via WebEx*)
- Mr Pete Allaway, A/Deputy Secretary, Regional and Outer Metropolitan, Transport for NSW (*via WebEx*)
- Mr Anthony Hayes, Executive Director, Community and Place, Regional and Outer Metropolitan, Transport for NSW (*via WebEx*)
- Ms Gillian Geraghty, Head of Regional Project Delivery, Infrastructure and Place, Transport for NSW (*via WebEx*)
- Mr Bernard Carlon, Executive Director, Centres for Road Safety and Maritime Safety, Transport for NSW (*via WebEx*)
- Ms Barbara Wise, Executive Director, Transport Partnerships, Regional and Outer Metropolitan, Transport for NSW (*via WebEx*).

The Chair declared the proposed expenditure for the portfolio of Regional Transport and Roads open for examination.

The Deputy Premier and departmental witnesses were examined by the committee.

The Deputy Premier withdrew at 12.46 pm.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 12.46 pm.

4. Other business

Resolved, on the motion of Mr Graham: That:

- the hearing scheduled for the inquiry into the acquisition of land in relation to major transport projects on 10 December 2021 be postponed and in its place the committee conduct a hearing for the inquiry into the road tolling regime.
- Transurban and the Australian Competition and Consumer Commission be called as witnesses for the hearing scheduled on 10 December 2021, and appear in person if possible, for the inquiry into the road tolling regime inquiry.

5. Adjournment

The committee adjourned at 12.51 pm, until 9.15 am, Wednesday 27 October 2021, Macquarie Room, Budget Estimates hearing — Customer Service and Digital.

Vanessa O'Loan
Committee Clerk

Minutes no. 52

Friday 10 December 2021

Portfolio Committee No. 6 – Transport and Customer Service

Room 814/815, Parliament House, Sydney, 10.18 am

1. Members present

Ms Boyd, *Chair*

Mr Farlow (*from 12.00 pm*)

Mr Farraway (*via WebEx, from 12.00 pm until 12.50 pm*)

Mr Graham

Mr Mallard

Mr Mookhey

2. Apologies

Mr Banasiak, *Deputy Chair*

3. Previous minutes

Resolved, on the motion of Mookhey: That draft minutes no. 47 be confirmed.

4. Correspondence

Committee noted the following items of correspondence:

Received:

- 9 December 2021 - Letter from Ms Michele Huey, Group Executive, Transurban, and Mr Andrew Head, Chief Executive Officer, WestConnex, to the committee Chair addressing various evidence provided to the committee for the inquiry into road tolling regimes.

Resolved, on the motion of Mr Mookhey: That the committee authorise the publication of correspondence from Ms Michele Huey, Group Executive, Transurban, and Mr Andrew Head, Chief Executive Officer, WestConnex, addressing various evidence provided to the committee for the inquiry into road tolling regimes, dated 9 December 2021.

5. Inquiry into the acquisition of land for major transport projects

5.1 Future activity and timeline

The committee noted that further hearings have been confirmed for 18 February 2021 and 18 March 2021.

Resolved, on the motion of Mr Mookhey: That the report be tabled by 30 June 2022.

5.2 Witnesses at future hearings

Resolved, on the motion of Mr Mookhey: That members nominate witnesses for the hearing on 18 February by 26 January 2022.

5.3 Answers to questions on notice and supplementary questions

The committee noted that the following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice from Mr Sam and Mrs Therese Grima, Orchard Hills residents received on 28 October 2021
- answers to questions on notice from Mrs Lauren Vella, Orchard Hills resident received on 3 November 2021
- answers to questions on notice from Ms Christine Vella, Orchard Hills resident received on 3 November 2021
- answers to questions on notice and supplementary questions from the NSW Valuer General received on 3 November 2021
- answers to questions on notice and supplementary questions from Sydney Metro received on 5 November 2021
- answers to questions on notice from Mr Adrian McMillan, Slater and Gordon, received on 12 November 2021.

6. Inquiry into road tolling regimes

6.1 Answers to questions on notice and supplementary questions

Resolved, on the motion of Mr Mookhey: That the committee authorise the publication status of answers to questions on notice and supplementary questions from

- Ms Rebekah Doran, Legal Aid, received 25 October 2021
- Mr Matt Threlkeld, Executive Director, BusNSW, received 26 October 2021
- Mr Charles Casuscelli, Chief Executive Officer, Western Sydney Regional Organisation of Councils, received 15 November 2021.

6.2 Future activity and timeline

The committee discussed future activity for the inquiry, including a potential hearing to hear from residents affected by tolls in the south west corridor.

Resolved, on the motion of Mr Graham: That the committee table its report by 31 May 2022.

6.3 Hearing on 14 February 2022

Resolved, on the motion of Mr Graham: That the committee invite NSW Treasury and Transport for NSW for 2 hours each at the hearing on 14 February 2022.

6.4 Public hearing

The committee noted that in accordance with the resolution appointing the committee, the sequence of questions to be asked during the inquiry hearings will alternate between opposition, crossbench and government members, in that order, with equal proportion of time allocated being allocated to each.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Tom Leuner, Executive General Manager, Mergers, Exemptions and Digital Division, Australian Competition and Consumer Commission
- Mr Matthew Schroder, General Manager, Infrastructure, Transport Access and Pricing Branch, Australian Competition and Consumer Commission
- Ms Daniel McCracken-Hewson, General Manager, Merger Investigations Branch, Australian Competition and Consumer Commission.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Michele Huey, Group Executive, Transurban, New South Wales

- Mr Andrew Head, Chief Executive Officer, WestConnex.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 2.01 pm.

6.5 Amendment to the inquiry terms of reference

Mr Graham moved: That paragraph 1(b) of the terms of reference be amended by inserting 'and across New South Wales to 2060' before 'and the extent to which this represents value for money'.

Question put.

The committee divided.

Ayes: Ms Boyd, Mr Graham, Mr Mookhey.

Noes: Mr Farlow, Mr Mallard.

Question resolved in the affirmative.

6.6 Recall of Transurban-WestConnex to hearing on 14 February 2022

Resolved, on the motion of Mr Graham: That Transurban-WestConnex be recalled to the committee's fifth hearing on 14 February 2022 for 1 hour, and that they be notified of the committee's invitation as soon as possible.

7. Adjournment

The committee adjourned at 2.08 pm, *sine die*.

Anthony Hanna
Committee Clerk

Minutes no. 54

Monday 14 February 2022

Portfolio Committee No. 6 – Transport and Customer Service

Via WebEx at 9.45 am

1. Members present

Ms Boyd, *Chair*

Mr Amato

Mr Farlow (*until 2.30 pm*)

Mr Graham

Mr Harwin

Mr Martin (*substituting for Mr Farlow from 2.30 pm*)

Mr Mookhey

2. Apologies

Mr Banasiak, *Deputy Chair*

3. Previous minutes

Resolved, on the motion of Mr Mookhey: That draft minutes nos. 52 and 53 be confirmed.

4. Inquiry into road tolling regimes

4.1 Answers to questions on notice

Resolved, on the motion of Mr Mookhey: That the committee authorise the publication of answers to questions on notice from:

- the Australian Competition and Consumer Commission, received on 24 January 2022
- Ms Michele Huey of Transurban and Mr Andrew Head of WestConnex, received on 2 February 2022.

4.2 Offsite hearing

Resolved, on the motion of Mr Mookhey: That:

- the committee hold a sixth half day public hearing (offsite) within the south west M5 corridor to examine issues surrounding traffic on local roads as a result of the M5 toll; and
- the Chair's proposed witness list be circulated via email to the committee with members given 24 hours to provide comments.

4.3 Live streaming and recording of hearing

The committee noted that all hearings for the inquiry into road tolling regimes will be live streamed via the Parliament's website and recorded. All recordings will be made publicly available online.

4.4 Photo of committee for social media

Resolved, on the motion of Mr Farlow: That the secretariat take a screenshot of the committee during its deliberative for the purposes of publishing on social media.

4.5 Proposal from Mr Graham – NSW Government witnesses on 14 February 2022

Resolved, on the motion of Mr Mookhey: That:

- the NSW Government witnesses appearing on 14 February 2022 be given notice that they will be asked questions relating to paragraph (b) of the ToR
- the Chair write to NSW Government witnesses inviting them to make a supplementary submission to the inquiry to provide information as to the amount drivers will pay in tolls in total to 2060.

4.6 Public hearing

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Philip Gardner, Deputy Secretary, NSW Treasury
- Ms Jacqui Christie, Executive Director, NSW Treasury
- Ms Cassandra Wilkinson, Executive Director, NSW Treasury

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Camilla Drover, Deputy Secretary, Infrastructure and Place, Transport for NSW
- Mr Joost de Kock, Deputy Secretary, Customer Strategy and Technology, Transport for NSW
- Ms Meg Bourke-O'Neil, Deputy Secretary, Greater Sydney, Transport for NSW

The evidence concluded and the witnesses withdrew.

The following witnesses were examined on their former oath:

- Ms Michele Huey, Group Executive, Transurban, New South Wales
- Mr Andrew Head, Chief Executive Officer, WestConnex.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 4.00 pm.

5. Inquiry into the acquisition of land in relation to major transport projects

5.1 Witnesses on 18 February 2022

Resolved, on the motion of Mr Mookhey: That the appearance of Mr Matthew Scard, Chief Executive Officer of Celestino, be deferred to the next hearing date for this inquiry.

6. Adjournment

The committee adjourned at 4.04 pm, until 9.15 am, Friday 18 February 2022 via WebEx – Land acquisitions (public hearing).

Anthony Hanna
Committee Clerk

Minutes no. 56

Tuesday 1 March 2022

Portfolio Committee No. 6 - Transport and Customer Service

Macquarie Room, Parliament House, Sydney, at 9.15 am

1. Members present

Ms Boyd, *Chair* (to 5pm)

Mr Banasiak, *Deputy Chair*

Mr Farlow

Mr Graham

Mr Harwin

Mr Mookhey (from 9.26 am)

Ms Sharpe (*participating* from 11.12 am-11.40 am)

2. Previous minutes

Resolved, on the motion of Mr Farlow: That draft minutes no. 55 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 24 February 2022 - Email from Mr Dan Rubenach, Office of the Hon. Rob Stokes MP, confirming the Minister's availability to attend the hearing and nominating departmental witnesses
- 24 February 2022 - Email from Mr Dom Bondar, Office of the Hon David Elliott MP, confirming the Minister's attendance at the hearing and nominating departmental witnesses
- 25 February 2022 - Email from Mr David Tricca, Office of the Hon Natalie Ward MLC, confirming the Minister's attendance at the hearing and nominating departmental witnesses

Sent

- 23 February 2022 - Email from the secretariat, to the Hon Natalie Ward MLC, Minister for Metropolitan Roads, and Minister for Women's Safety and the Prevention of Domestic and Sexual Violence, issuing witness invitations for the Budget Estimates 2021-2022 additional hearings
- 23 February 2022 - Email from the secretariat, to the Hon David Elliott MP, Minister for Transport, and Minister for Veterans, issuing witness invitations for the Budget Estimates 2021-2022 additional hearings
- 23 February 2022 - Email from the secretariat, to the Hon Rob Stokes MP, Minister for Infrastructure, Minister for Cities, and Minister for Active Transport, issuing witness invitations for the Budget Estimates 2021-2022 additional hearings
- 23 February 2022 - Email from the secretariat, to the Hon Sam Farraway MLC, Minister for Regional Transport and Roads, issuing witness invitations for the Budget Estimates 2021-2022 additional hearings

4. Leave of absence of a committee member

Resolved, on the motion of Mr Harwin: That the committee grant Mr Banasiak leave of absence for the duration of both the inquiry into road tolling regimes and the inquiry into the privatisation of bus services.

5. Inquiry into Budget Estimates 2021-2022 – supplementary hearings

5.1 Order for examination of portfolios

The committee noted that under the Budget Estimates 2021-2022 resolution each portfolio, except The Legislature, be examined concurrently by Opposition and Crossbench members only, from 9.30 am to 11.00 am, and from 11.15 am to 12.45 pm, then from 2.00 pm to 3.30 pm, and from 3.45 pm to 5.15 pm, with 15 minutes reserved for Government questions at the end of the morning and afternoon sessions, if required.

5.2 Public hearing: Metropolitan Roads, Women's Safety and the Prevention of Domestic and Sexual Violence

Departmental witnesses were admitted.

Minister Ward MLC was admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters. The Chair noted that members of Parliament swear an oath to their office, and therefore do not need to be sworn prior to giving evidence before a committee.

The Chair also reminded Mr Rob Sharp, Mr Howard Collins, Ms Megan Bourke-O'Neill, Ms Camilla Drover, Mr Bernard Carlon, and Mr Joost de Kock, that they did not need to be sworn, as they have been sworn at another Budget Estimates hearing for the same committee.

The following witnesses were sworn:

- Mr Michael Tidball, Secretary, Department of Communities and Justice
- Ms Anne Campbell, Acting Deputy Secretary, Strategy Policy and Commissioning, Department of Communities and Justice
- Mr Paul McKnight, Deputy Secretary, Law Reform and Legal Services, Department of Communities and Justice
- Mr Peter Dunphy, Acting Deputy Secretary, Safety Environment and Regulation, Transport for NSW

The Chair declared the proposed expenditure for the portfolios of Metropolitan Roads, Women's Safety and the Prevention of Domestic and Sexual Violence open for examination.

The Minister and departmental witnesses were examined by the committee.

The Minister withdrew at 12.45 pm.

Mr Mookhey tendered the following document:

- Document - Infrastructure NSW – Final Business Case Summary : F6 Extension – Stage 1 – June 2018

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 5.14 pm.

5.3 Tended documents

Resolved, on the motion of Mr Farlow: That the committee accept and publish the following documents tendered during the Metropolitan Roads, Women's Safety and the Prevention of Domestic and Sexual Violence hearing held on Tuesday 1 March 2022:

- Infrastructure NSW – Final Business Case Summary : F6 Extension – Stage 1 – June 2018, tendered by Mr Mookhey

6. Adjournment

The committee adjourned at 5.18 pm, until 9.15 am, Friday 4 March 2022, Macquarie Room, Budget Estimates hearing — Transport, Veterans

Peta Leemen

Committee Clerk

Minutes no. 60

Friday 18 March 2022

Portfolio Committee No. 6 – Transport

Macquarie Room, Parliament House, Sydney, 9.47 am

1. Members present

Ms Boyd, *Chair*

Mr Mookhey

Mr Farlow, until 12.15 pm, and from 1.30 pm

Mr Graham, until 3.00 pm

Mr Harwin, until 12.30 pm

Mr Martin (substituting for Mr Farlow from 12.15 until 12.30 pm)

2. Apologies

Mr Banasiak, *Deputy Chair*

Mr Fang

Mr Latham (participating)

3. Correspondence

The committee noted the following items of correspondence:

Received

- 4 March 2022 – Email from Mr Anthony Rowan, Director, ARPL Planning Development and Heritage, to the secretariat, declining the committee's invitation to provide evidence at the public hearing on 18 March 2022 for the inquiry into acquisition of land in relation to major transport projects
- 7 March 2022 – Email from Mr Sam Sangster, Managing Director, Klok Advisory, to the secretariat, declining the committee's invitation to provide evidence at the hearing on 18 March 2022 for the inquiry into acquisition of land in relation to major transport projects
- 7 March 2022 – Letter from Dr Paul Grimes, Secretary, NSW Treasury, to the secretariat responding to the committee's request for a supplementary submission to address paragraph 1(b) of the terms of reference for the inquiry into road tolling regimes
- 8 March 2022 – Letter from Mr Rob Sharp, Secretary, Transport for NSW, to the Chair responding to the committee's request for a supplementary submission to address paragraph 1(b) of the terms of reference for the inquiry into road tolling regimes
- 8 March 2022 – Email from Ms Rebecca Dixon, Partner, Ashurst, to the secretariat, declining the committee's invitation to provide evidence at the hearing on 18 March 2022 for the inquiry into acquisition of land in relation to major transport projects
- 8 March 2022 – Letter from Ms Nicole Ryan, Head of Government, Stakeholder and Community, Sydney Water, to the committee, nominating Mr Paul Plowman, General Manager, Asset Lifecycle as the best placed witness to give evidence on Sydney Water's behalf, and recommending his attendance in place of Mr Gould and Mr Gantt
- 10 March 2022 – Email from Mr Matthew Scard, Chief Executive Officer, Celestino, to the secretariat, advising of concerns regarding invitation to provide evidence at hearing on 18 March 2022 for the inquiry

into acquisition of land in relation to major transport projects, and requesting his invitation be dispensed or deferred to a future hearing date

- 15 March 2022 – Email from Mr Jarrad Tulloch, Manager, Government and Policy, Office of the Secretary, NSW Department of Planning and Environment, to the secretariat, advising Mr Jim Betts will not be attending to give evidence at the public hearing on 18 March 2022 for the inquiry into acquisition of land in relation to major transport projects.

Sent

- 17 February 2022 – Letter from the Chair to Dr Paul Grimes, Secretary, NSW Treasury, requesting a supplementary submission to address paragraph 1(b) of the terms of reference for the inquiry into road tolling regimes
- 17 February 2022 – Letter from the Chair to Mr Rob Sharp, Secretary, Transport for NSW, requesting a supplementary submission to address paragraph 1(b) of the terms of reference for the inquiry into road tolling regimes
- 2 March 2022 – Letter from Chair to Mr Michael Cassel, Secretary, Department of Planning and Environment, inviting the Head of the Just Terms Compensation Team to provide evidence at the hearing on 18 March 2022 for the inquiry into acquisition of land in relation to major transport projects
- 2 March 2022 – Letter from Chair to Mr Michael Cassel, Secretary, Department of Planning and Environment, inviting Mr Jim Betts, former Secretary, Department of Planning, Industry and Environment to provide evidence at the hearing on 18 March 2022 for the inquiry into acquisition of land in relation to major transport projects
- 15 March 2022 – Email from the secretariat to Mr Jarrad Tulloch, Manager, Government and Policy, Office of the Secretary, NSW Department of Planning and Environment, seeking response regarding attendance of Mr Jim Betts, former Secretary, Department of Planning, Industry and Environment at hearing on 18 March 2022 for the inquiry into acquisition of land in relation to major transport projects
- 15 March 2022 – Email from the secretariat to Mr Matthew Scard, Chief Executive Officer, Celestino, advising that the committee agree to dispensing the invitation for him to appear at the hearing on 18 March 2022 for the inquiry into acquisition of land in relation to major transport projects.

Resolved, on the motion of Mr Mookhey: That the committee authorise the publication of correspondence from Dr Paul Grimes, Secretary, NSW Treasury and Mr Rob Sharp, Secretary, Transport for NSW, responding to the committee's request for supplementary submissions to the inquiry into road tolling regimes, dated 7 March 2022 and 8 March 2022 respectively.

4. Inquiry into the the shut-down of Sydney Trains on Monday 21 February 2022

4.1 Hearings and witnesses

Resolved, on the motion of Mr Graham: That the committee have a 1.45 hour hearing on Friday 1 April 2022 at 2 pm, with 1.5 hours set aside for opposition/cross bench questions and 15 minutes kept at the end for government questions, if needed.

Resolved, on the motion of Mr Graham: That Mr Rob Sharp, Secretary, Transport for NSW and Ms Megan Burke O'Neil, Deputy Secretary, Transport for NSW be again invited to give evidence, at an in person hearing on Friday 1 April 2022.

5. Inquiry into acquisition of land in relation to major transport projects

5.1 Public submissions

Resolved, on the motion of Mr Mookhey: That the committee authorise the publication of submission no. 99.

5.2 Election of Deputy Chair for the meeting

Resolved, on the motion of Mr Graham: That, in the absence of the Deputy Chair, Mr Mookhey be elected acting Deputy Chair for the purpose of the meeting.

5.3 Public hearing

Allocation of questioning

Resolved, on the motion of Mr Farlow: That the allocation of questions for today's hearing be left in the hands of the Chair.

The committee proceeded to take evidence in public.

Witnesses were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings, virtual hearing etiquette and other matters.

The following witness was sworn and examined:

- Mr Stewart McLachlan, Head Executive Director, Property and Place, Department of Planning and Environment (via videoconference)

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr David Newhouse, Partner, Newhouse & Arnold Solicitors
- Ms Ballanda Sack, Special Counsel, Beatty Hughes & Associates

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Matthew Pearce, General Counsel, Inner West Council

The evidence concluded and the witness withdrew.

The following witnesses were examined on their former oaths or affirmations:

- Mr Peter Regan, Chief Executive, Sydney Metro
- Ms Rebecca McPhee, Deputy Chief Executive, Sydney Metro

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Paul Plowman, General Manager Asset Lifecycle, Sydney Water

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Geoff Cahill, Director Corridor Protection, Transport for NSW
- Ms Julie Gee, Chief Transport Planner, Customer Strategy & Technology, Transport for NSW
- Mr Mark Slater, Executive Director Property Group, Infrastructure & Place, Transport for NSW

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 4.38 pm

6. Adjournment

The committee adjourned at 4.40 pm, until Friday 1 April 2022, location TBC – Inquiry into Road Tolling (off-site public hearing).

Stephen Fujiwara
Committee Clerk

Minutes no. 61

Monday 2 May 2022

Portfolio Committee No. 6 – Transport

Macquarie Room, Parliament House, Sydney, 9.34 am

1. Members present

Ms Boyd, *Chair*

Mr Buttigieg

Mr Fang

Mr Mallard (*via videoconference until 11.15am*)

Mr Mookhey (*from 9.41 am*)

2. Apologies

Mr Banasiak, *Deputy Chair*

Mr Rath

3. Draft minutes

Resolved, on the motion of Mr Mookhey: That draft minutes nos 48, 49, 50 and 51 be confirmed.

4. Correspondence

Committee to note the following items of correspondence:

Received:

- 23 February 2022 – Email from Mr Sam Sanathesan, Mosman Council, to secretariat, requesting an extension to provide a submission to the inquiry into privatisation of bus services
- 25 February 2022 – Email from Mr Michael Jollon, Parramatta Council, to secretariat, requesting an extension to provide a submission to the inquiry into privatisation of bus services
- 11 March 2022 – Email from Ms Alison Goodwin, Research Officer, Health Services Union, to secretariat, advising that the Health Services Union will not be making a submission to the inquiry
- 23 March 2022 – Email from Mr Cameron Hamilton, Head of Government and Stakeholder Relations, Transgrid, to secretariat, advising that Transgrid will not be making a submission to the inquiry
- 28 March 2022 – Email from Ms Sophia Nasser, Unions NSW, to secretariat, requesting an extension to provide a submission to the inquiry into privatisation of bus services
- 29 March 2022 – Email from Mr Reza Ahmed, Randwick Council, to secretariat, requesting an extension to provide a submission to the inquiry into privatisation of bus services
- 4 April 2022 – Email from the office of Mr Buttigieg, to secretariat, to secretariat, advising substitution of Mr Graham for Mr Buttigieg for the inquiry into privatisation of bus services
- 22 April 2022 – Email from Ms Jill Robinson, to secretariat, declining invitation to give evidence at public hearing for inquiry into the privatisation of bus services on 2 May 2022
- 22 April 2022 – Email from Mr Bo Du, to secretariat, declining invitation to give evidence at public hearing for inquiry into the privatisation of bus services on 2 May 2022
- 23 April 2022 – Email from Mr Michael Berg, to secretariat, declining invitation to give evidence at public hearing for inquiry into the privatisation of bus services on 2 May 2022

- 26 April 2022 – Email from Mr Patrick Doumani, to secretariat, declining invitation to give evidence at public hearing for inquiry into the privatisation of bus services on 3 May 2022
- 27 April 2022 – Email from Mr Michael Jollon, to secretariat, declining invitation to give evidence at public hearing for inquiry into the privatisation of bus services on 3 May 2022
- 28 April 2022 – Email from Mr Charles Wiafe, to secretariat, declining invitation to give evidence at public hearing for inquiry into the privatisation of bus services on 3 May 2022

Sent:

- 22 April 2022 – Letter from Chair to Mr Hoening MP, Witness invitation to public hearing for inquiry into the privatisation of bus services on 2 May 2022
- 22 April 2022 – Letter from Chair to Mr Matt Thistlethwaite MP, Witness invitation to public hearing for inquiry into the privatisation of bus services on 2 May 2022
- 22 April 2022 – Letter from Chair to Mr Michael Daley MP, Witness invitation to public hearing for inquiry into the privatisation of bus services on 2 May 2022
- 22 April 2022 – Letter from Chair to Ms Marjorie O'Neill MP, Witness invitation to public hearing for inquiry into the privatisation of bus services on 2 May 2022
- 22 April 2022 – Letter from Chair to Mr Tim Crackanthorp MP, Witness invitation to public hearing for inquiry into the privatisation of bus services on 3 May 2022
- 22 April 2022 – Letter from Chair to Ms Jodie Harrison MP, Witness invitation to public hearing for inquiry into the privatisation of bus services on 3 May 2022
- 22 April 2022 – Letter from Chair to Ms Yasmin Catley MP, Witness invitation to public hearing for inquiry into the privatisation of bus services on 3 May 2022

5. Inquiry into privatisation of bus services

5.1 Public submissions

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 1, 1a, 2-34, 36-76, 78-113, 115-150, 153-160, 162-178, 258, 271, 411 and 412.

5.2 Name suppressed submissions

The committee noted that the following submissions were partially published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 35, 77, 114, 152, 180-200, 202-257, 259-266, 268-270, 272-283, 285-309, 311-362, 364-365, 367-369, 371-384 and 392.

Resolved, on the motion of Mr Fang: That the committee keep submission author names confidential, as per the request of the author, in submission nos. 35, 77, 114, 152, 180-200, 202-257, 259-266, 268-270, 272-283, 285-309, 311-365, 367-369, 371-384 and 392.

5.3 Partially confidential submissions

Resolved, on the motion of Mr Fang: That the committee authorise the publication of submission nos. 151 and 363, with the exception of identifying and/or sensitive information as highlighted, which are to remain confidential, as per the recommendation of the secretariat.

5.4 Confidential submissions

Resolved, on the motion of Mr Buttigieg: That the committee keep submission nos. 161, 179, 201, 284, 310, 366, 370, 385-391, 393-410 confidential, as per the request of the author, as they contain identifying and/or sensitive information.

Resolved, on the motion of Mr Buttigieg: That the committee keep submission no. 267 confidential, as per the recommendation of the secretariat, as the author is a minor.

5.5 Online questionnaire report

The committee noted:

- the online questionnaire report was circulated to members on 28 April 2022
- as there were no objections to the report's publication, it was published on the committee's webpage in accordance with the committee's resolution on 4 February 2022.

5.6 Election of Deputy Chair for the inquiry

The committee noted that at its meeting on 1 March 2022, it resolved to grant Mr Banasiak, Deputy Chair, leave of absence for the duration of both the inquiry into road tolling regimes and the inquiry into the privatisation of bus services.

In the absence of a Deputy Chair for the inquiry, the Chair called for nominations for Deputy Chair for the duration of the inquiry into the privatisation of bus services.

Mr Fang moved: That Mr Buttigieg be elected Deputy Chair for the duration of the inquiry into the privatisation of bus services.

There being no further nominations, the Chair declared Mr Buttigieg elected Deputy Chair for the duration of the inquiry into the privatisation of bus services.

5.7 Allocation of questioning

Resolved, on the motion of Mr Fang: That the allocation of questions for the hearings for the inquiry into privatisation of bus services be left in the hands of the Chair.

5.8 Live streaming and recording of hearing

Resolved, on the motion of Mr Buttigieg: That the committee authorise publication of the video recordings for all hearings of the inquiry into the privatisation of bus services on the Parliament's YouTube channel.

5.9 Public hearing

The committee proceeded to take evidence in public at 9.45 am.

Witnesses were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings, virtual participation etiquette and other matters.

The following witnesses were sworn and examined:

- Ms Gae Robinson
- Mr Ken Wilson (via videoconference)

Mr Wilson tendered the following document:

- Document entitled 'Additional information for inquiry from witness Ken Wilson'.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Matt Threlkeld, Executive Director, BusNSW
- Mr John King, President, BusNSW

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Sophia Nasser, Legal/Industrial Officer, Unions NSW
- Mr Thomas Costa, Assistant Secretary, Unions NSW
- Mr David Babineau, Divisional Secretary, Tram and Bus Division, Rail, Tram and Bus Union (NSW Branch)
- Mr Mario Denis, Bus Operator
- Mr Richard Olsen, State Secretary, Transport Workers Union of NSW

- Mr Bill Pagalis, Bus Driver, Transit Systems West Services, Transport Workers Union of NSW

Mr Mookhey tendered the following document:

- Australian Financial Review article entitled 'Transit underpaid bus drivers \$3.5m as CEO resisted wage rises', dated 19 April 2022.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Cr Dylan Parker, Mayor, Randwick City Council
- Mr Tony Lehmann, Manager Integrated Transport, Randwick City Council
- Mr Kim Woodbury, Chief Operating Officer, City of Sydney Council (via videoconference)

Cr Parker tendered the following documents:

- Randwick Council submission 1 – Land use and transport context
- Randwick Council submission 2 – Summary of not supported bus route changes.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Dr Marjorie O'Neill MP, Member for Coogee
- Mr Michael Daly MP, Member for Maroubra
- Mr Matt Thistlewaite MP, Federal Member for Kingsford Smith

The evidence concluded and the witness withdrew.

The public hearing concluded at 3.48 pm

5.10 Tendered documents

Resolved, on the motion of Mr Mookhey: That the committee accept and publish the following documents tendered during the public hearing for the Privatisation of bus services inquiry on Monday 2 May 2022:

- Document entitled 'Additional information for inquiry from witness Ken Wilson', tabled by Mr Ken Wilson
- Australian Financial Review article entitled 'Transit underpaid bus drivers \$3.5m as CEO resisted wage rises', dated 19 April 2022, tabled by Mr Mookhey
- Randwick Council submission 1 – Land use and transport context, tabled by Cr Parker
- Randwick Council submission 2 – Summary of not supported bus route changes, tabled by Cr Parker.

6. Inquiry into road tolling regimes

Resolved, on motion of Mr Mookhey: That the committee write to:

- Transurban in regards to its answers to questions taken on notice during the hearing for the road tolling regimes inquiry on 14 February 2022 noting:
 - Transurban can provide material to the committee on a confidential basis
 - That the committee will also write to Transport for NSW requesting:
 - the questions highlighted by Transurban in its answers to questions on notice that should be directed to Transport for NSW
 - information relating to Transurban which the committee sought in its questions to Transurban.
- Transport for NSW requesting:
 - responses to the questions highlighted by Transurban in its answers to questions on notice that should be directed to Transport for NSW

- information relating to Transurban which the committee sought in its questions to Transurban.

7. Adjournment

The committee adjourned at 3.51 pm, until Tuesday 3 May 2022, Macquarie Room – Inquiry into privatisation of bus services.

Emily Treeby
Committee Clerk

Minutes no. 63

Tuesday 24 May 2022

Portfolio Committee No. 6 – Transport

Bexley Manor Hall, Bexley, 9.57 am

1. Members present

Mr Fang
Mr Graham
Mr Mallard
Mr Mookhey
Mr Rath

2. Election of acting Chair and Deputy Chair

In the absence of the Chair and Deputy Chair, the committee clerk called for nominations for acting Chair and acting Deputy Chair for the road tolling hearing on 24 May 2022.

Resolved, on the motion of Mr Fang: That Mr Graham be elected acting Chair for the road tolling hearing on 24 May 2022.

Resolved, on the motion of Mr Rath: That Mr Fang be elected acting Deputy Chair for the road tolling hearing on 24 May 2022.

3. Apologies

Ms Boyd, *Chair*
Mr Banasiak, *Deputy Chair*
Mr Mookhey

4. Change of membership

The committee noted that, as of 29 March 2022:

- The Hon Chris Rath MLC replaced the Hon Don Harwin MLC as a substantive member of the committee
- The Hon Shayne Mallard MLC replaced the Hon Scott Farlow MLC as a substantive member of the committee

5. Previous minutes

Resolved, on the motion of Mr Mallard: That draft minutes nos. 54, 55 and 60 be confirmed.

6. Correspondence

The committee noted the following items of correspondence:

Received:

- 23 March 2022 – Email from Mr George Pontifix, private individual, to the committee secretariat declining the committee's invitation to give evidence at the hearing for the inquiry into road tolling regimes on 1 April 2022
- 29 March 2022 – Letter from the Hon Damien Tudehope MLC, Leader of the Government in the Legislative Council, to the Clerk of the Parliaments and Clerk of the Legislative Council, regarding changes to Government representation of membership on Legislative Council committees
- 29 March 2022 – Email from Ms Belinda Serone, Executive Assistant to the General Manager of Camden Council, to the committee secretariat declining the committee's invitation to give evidence for the inquiry into road tolling regimes on 1 April 2022
- 30 March 2022 – Email from the Office of the General Manager, Canterbury Bankstown Council, to the committee secretariat declining the committee's invitation to give evidence for the inquiry into road tolling regimes on 1 April 2022
- 2 May 2022 – Email from Ms Belinda Serone, Executive Assistant to the General Manager of Camden Council, to the committee secretariat declining the committee's invitation to give evidence for the inquiry into road tolling regimes on 24 May 2022
- 4 May 2022 – Email from private individual to the committee secretariat declining the committee's invitation to give evidence for the inquiry into road tolling regimes on 24 May 2022 and nominating Mr Osman Karolia to appear in their place
- 11 May 2022 – Email from Mr Fajid Khan, local resident and Vice President of Bexley Public School P&C, to the committee secretariat requesting to give evidence for the inquiry into road tolling regimes on 24 May 2022
- 13 May 2022 – Email from the Office of the General Manager, Canterbury Bankstown Council, to the committee secretariat declining the committee's invitation to give evidence for the inquiry into road tolling regimes on 24 May 2022
- 16 May 2022 – Email from Ms Lauren Myers, Executive Assistant to the Mayor of Liverpool City Council, to the committee secretariat declining the committee's invitation to give evidence for the inquiry into road tolling regimes on 24 May 2022.

Sent:

- 5 May 2022 – Letter from the Chair to Ms Michele Huey, Group Executive, Transurban, seeking further information relating to answers to questions on notice provided on 30 March 2022
- 5 May 2022 – Letter from the Chair to Mr Rob Sharp, Secretary, Transport for NSW, seeking information relating to answers to questions on notice provided by Transurban on 30 March 2022.

7. Inquiry into road tolling regimes**7.1 Answers to questions on notice**

The committee noted that the following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice from Transport for NSW, received on 14 March 2022
- answers to questions on notice from NSW Treasury, received on 14 March 2022
- answers to questions on notice from Transurban, received on 30 March 2022

Resolved, on the motion of Mr Mallard: That the committee authorise the publication of further answers to questions on notice from Transport for NSW, received on 20 May 2022.

7.2 Extension of inquiry timeline

The committee noted that it previously agreed via email to extend the reporting timeline from 31 May 2022 to 29 July 2022.

7.3 Optional tour of NorthConnex

The committee noted that, in response to an invitation from Transurban, an optional tour of NorthConnex was confirmed for Wednesday 25 May 2022, 9.30 am to 11.00 am.

7.4 Live streaming and recording of hearing

The committee noted that all hearings for the inquiry into road tolling regimes will be live streamed via the Parliament's website and recorded. All recordings will be made publicly available online.

7.5 COVID-safe plan for offsite hearing

The committee noted the COVID-safe plan for the offsite hearing on 24 May 2022.

7.6 Invitation from the Bexley Chamber of Commerce

The committee noted that it previously agreed via email to accept an invitation from the Bexley Chamber of Commerce to stop over in Bexley town centre to observe local traffic conditions prior to the hearing on 1 April 2022, which was ultimately postponed.

7.7 Public hearing

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Angelo Elliot, Proprietor, Forrest Inn Hotel
- Mr Ahmad Sleitini, Proprietor, Scotts Chemsave Pharmacy
- Mr Jeff Tullock, President, Bexley Chamber of Commerce

Mr Jeff Tullock tendered the following document:

- Talking points on traffic developments in Bexley Town Centre

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Jeremy Morgan, Manager, City Infrastructure, Bayside Council
- Ms Sue Weatherley, Director, City Strategy and Innovation, Georges River Council

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Fajid Khan, private individual
- Ms Yasmina Kovacevic, private individual
- Mr Osman Karolia, private individual
- Mr Eugene McFarlane, private individual
- Mr Les Crompton, private individual
- Mr Daniel Egli, private individual

Ms Yasmina Kovacevic tendered the following document:

- Submission to the inquiry into road tolling regimes

Mr Eugene McFarlane tendered the following document:

- Document entitled *Errors and overcharging in the calculation of the Sydney M5 east toll road: Document presented to the Parliament of New South Wales*, dated 1 April 2022

Mr Fajid Khan tendered the following documents:

- Undated, open letter from the Principal of Bexley Public School regarding heavy vehicle traffic on Forest Road
- Undated, open letter from stage three students at Bexley Public School regarding heavy vehicle traffic on Forest Road
- Mr Fajid Khan's opening statement in full

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 2.15 pm.

8. Tendered documents

Resolved, on the motion of Mr Mallard: That the committee accept and publish the following document tendered during the public hearing, with the exception of identifying and sensitive information and subject to the committee clerk checking for third party consent:

- Talking points on traffic developments in Bexley Town Centre, tendered by Mr Jeff Tullock, President, Bexley Chamber of Commerce
- Submission to the inquiry into road tolling regimes, tendered by Ms Yasmina Kovacevic, private individual
- Document entitled *Errors and overcharging in the calculation of the Sydney M5 east toll road: Document presented to the Parliament of New South Wales*, dated 1 April 2022, tendered by Mr Eugene McFarlane, private individual
- Undated, open letter from the Principal of Bexley Public School regarding heavy vehicle traffic on Forest Road, tendered by Mr Fajid Khan, private individual
- Undated, open letter from stage three students at Bexley Public School regarding heavy vehicle traffic on Forest Road, tendered by Mr Fajid Khan, private individual
- Mr Fajid Khan's opening statement in full, tendered by Mr Fajid Khan, private individual

9. Request for Transurban and Transport for NSW to respond to evidence from 24 May 2022

Resolved, on the motion of Mr Mallard: That the committee write to Transurban and Transport for NSW requesting their response to evidence from Mr Eugene McFarlane regarding the toll calculation for the M5 east.

10. Adjournment

The committee adjourned at 2.18 pm, until 9.45 am, Friday 27 May 2022 in Room 814/815 – Inquiry into acquisition of land in relation to major transport projects (public hearing).

Anthony Hanna
Committee Clerk

Draft minutes no. 68

Monday 25 July 2022

Portfolio Committee No. 6 – Transport

Room 1043, Parliament House, Sydney, 10.06 am

1. Members present

Ms Boyd, *Chair*

Mr Barrett (substituting for Mr Fang from 10.51 am)

Mr Fang (until 10.51 am)

Mr Graham

Mr Mallard

Mr Mookhey

Mr Rath

2. Apologies

Mr Banasiak, *Deputy Chair*

3. Previous minutes

Resolved, on the motion of Mr Mallard: That draft minutes nos. 63, 64 and 67 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received:

- 19 May 2022 – Email from Ms Megan Gellel, Executive Assistant to the General Manager, Campbelltown City Council, to the committee secretariat declining the committee's invitation to give evidence at the road tolling hearing on 24 May 2022
- 24 May 2022 – Email from private individual to the committee secretariat raising concerns about a proposal that was canvassed at the road tolling hearing on 24 May 2022
- 25 May 2022 – Email from Mr Daniel Egli, private individual, to the committee secretariat, enclosing a copy of his opening statement from the road tolling hearing on 24 May 2022 and requesting for it to be treated as a submission to the inquiry
- 7 June 2022 – Email from Ms Sue Weatherley, Director, City Strategy and Innovation, Georges River Council, to the committee secretariat clarifying her evidence to the committee on 24 May 2022
- 8 June 2022 – Email from Mr Jeffrey Tullock, President, Bexley Chamber of Commerce, to the committee secretariat clarifying his evidence to the committee on 24 May 2022
- 15 June 2022 – Email from Mr Ian Choudhury, Founding Member and Secretary, Appin Orbital Motorway Support Group, to the committee secretariat, enclosing a copy of further information clarifying the meaning of 'like-for-like' in terms of compulsory acquisition of land
- 20 June 2022 – Email from Mr Richard Capuano on behalf of Mr Raymond and Mrs Sandra Greig, former St Peters residents, to the committee secretariat, providing additional information reflecting on their experience providing evidence to the committee and providing further context about the acquisition of their property
- 21 June 2022 – Email from Mr Peter Hehir, Convenor, Rozelle Against WestConnex and Mr John Bartholomew, Committee member, Rozelle Against WestConnex, to the committee secretariat, providing additional information about the WestConnex project and suggested recommendations
- 21 June 2022 – Email from Mr Colin Charlton, former St Peters resident, to the committee secretariat, calling for a comparison of property prices paid for homes acquired in St Peters as part of the WestConnex project
- 21 June 2022 – Email from Ms Jo O'Brien, Private citizen and Member, Outer Sydney Orbital Macarthur Action Group, to the committee secretariat, providing a timeline and additional information about the Outer Sydney Orbital after 26 March 2018
- 21 June 2022 – Email from Mr Richard Capuano, former St Peters resident, to the committee secretariat, providing additional information about the land acquisition process and a complaint about members conduct during the hearing on 27 May 2022
- 28 June 2022 – Email from Mr Gavin David Wanigesekera, private individual, to the committee secretariat regarding GPS traffic data for Parramatta Road and the M4 tunnels
- 6 July 2022 – Email from Ms Talia Katz, Media and Government Relations Manager, Transurban, to the committee secretariat, enclosing Transurban's response to evidence from the road tolling hearing on 24 May 2022 on alleged overcharging on the M5 motorway
- 12 July 2022 – Letter from Mr Rob Sharp, Secretary, Transport for NSW, to the Chair, responding to evidence from the road tolling hearing on 24 May 2022 on alleged overcharging on the M5 motorway.

Sent:

- 18 May 2022 – Letter from the committee Chair to Mr Chris Minns MP, Member for Kogarah, advising Mr Minns of the road tolling hearing in his electorate on 24 May 2022
- 28 June 2022 – Letter from the committee Chair to Ms Michele Huey, Group Executive, Transurban, requesting a response to evidence from the road tolling hearing on 24 May 2022
- 28 June 2022 – Letter from the committee Chair to Mr Rob Sharp, Secretary, Transport for NSW, requesting a response to evidence from the road tolling hearing on 24 May 2022
- 2 June 2022 – Email from the committee secretariat to Mr Stewart Mclachlan, Executive Director, Property and Development, Department of Planning and Environment, proposing to publish the document titled 'Confidential answers to land acquisition hearing 18 March 2022' with the names of the public servants redacted.

Resolved, on the motion of Mr Mookhey: That the committee:

- keep the additional information from Mr and Mrs Greig dated 20 June 2022 confidential, as per the recommendation of the secretariat as it contains potential adverse mention
- keep the additional information from Mr Capuano dated 21 June 2022 confidential, as per the recommendation of the secretariat as it contains potential adverse mention
- write to Mr Capuano noting his correspondence and advising it was considered by the committee
- authorise the publication of the response from Transurban, dated 6 July 2022, addressing evidence of alleged overcharging on the M5 motorway
- authorise the publication of correspondence from Mr Rob Sharp, Secretary, Transport for NSW, dated 12 July 2022, addressing evidence of alleged overcharging on the M5 motorway.

5. Inquiry into Budget Estimates 2022-2023 – procedural resolutions

The committee noted that the Budget Estimates timetable for 2022-2023 was agreed to by the House, with hearings commencing at 9.30 am and concluding by 5.15 pm. Below is a table of Portfolio Committee No. 6 hearings:

Date	Portfolio
Wednesday 24 August 2022	Metropolitan Roads, Women's Safety and the Prevention of Domestic and Sexual Violence
Friday 26 August 2022	Transport, Veterans
Wednesday 31 August 2022	Regional Transport and Roads
Tuesday 6 September 2022	Infrastructure, Cities, Active Transport

5.1 Allocation of question time and total hearing time

The committee noted that committee to note that under the Budget Estimates 2022-2023 resolution each portfolio, except The Legislature, will be examined concurrently by Opposition and Crossbench members only, from 9.30 am to 11.00 am, and from 11.15 am to 12.45 pm, then from 2.00 pm to 3.30 pm, and from 3.45 pm to 5.15 pm, with 15 minutes reserved for Government questions at the end of the morning and afternoon session, if required.

5.2 Witness requests

Resolved, on the motion of Mr Graham: That for the portfolios of Metropolitan Roads, and Women's Safety and the Prevention of Domestic and Sexual Violence the committee invite the following witnesses:

- Hon Natalie Ward MLC, Minister for Metropolitan Roads and Minister for Women's Safety and the Prevention of Domestic and Sexual Violence
- Mr Michael Tidball, Secretary, Department of Communities and Justice
- Ms Anne Campbell, Acting Deputy Secretary, Strategy Policy and Commissioning, Department of Communities and Justice
- Mr Paul McKnight, Deputy Secretary, Law Reform and Legal Services, Department of Communities and Justice
- Mr Rob Sharp, Secretary, Transport for NSW
- Mr Howard Collins, Chief Operations Officer, Greater Sydney, Transport for NSW
- Ms Trudi Mares, Deputy Secretary, Greater Sydney, Transport for NSW
- Ms Camilla Drover, Acting Deputy Secretary, Infrastructure and Place, Transport for NSW
- Mr Bernard Carlon, Chief of the Centre for Road Safety, Transport for NSW

- Mr Joost de Kock, Deputy Secretary, Customer Strategy and Technology, Transport for NSW
- Ms Tara McCarthy, Deputy Secretary, Safety, Environment and Regulation, Transport for NSW

Resolved, on the motion of Mr Graham: That for the portfolios of Transport and Veterans the committee invite the following witnesses:

- Hon David Elliott MP, Minister for Transport, and Minister for Veterans
- Mr Rob Sharp, Secretary, Transport for NSW
- Mr Matt Longland, Chief Executive, Sydney Trains
- Mr Peter Regan, Chief Executive, Sydney Metro
- Mr Howard Collins, Chief Operations Officer, Transport for NSW
- Ms Caroline Mackaness, Director, Office for Veterans Affairs
- Ms Camilla Drover, Deputy Secretary, Infrastructure and Place, Transport for NSW
- Mr Joost de Kock, Deputy Secretary, Customer Strategy and Technology, Transport for NSW
- Ms Trudi Mares, Deputy Secretary, Greater Sydney, Transport for NSW
- Ms Benedicte Colin, Chief Executive Officer, Transport Asset Holding Authority
- Ms Daniela Fontana, Chief Executive, State Transit Authority
- Mr Anthony Wing, Commissioner, NSW Point to Point Commission
- Mr Peter Allaway, Chief Customer Officer, Regional and Outer Metropolitan, Transport for NSW
- Mr Dale Merrick, CEO, NSW TrainLink
- Ms Tracey Taylor, Chief People Officer, Transport for NSW

Resolved, on the motion of Mr Graham: That for the portfolio of Regional Transport and Roads the committee invite the following witnesses:

- Hon Sam Faraway MLC, Minister for Regional Transport and Roads
- Mr Rob Sharp, Secretary, Transport for NSW
- Mr Matt Fuller, Deputy Secretary, Regional and Outer Metropolitan, Transport for NSW
- Ms Tara McCarthy, Deputy Secretary, Safety, Environment and Regulation, Transport for NSW
- Mr Joost de Kock, Deputy Secretary, Customer Strategy and Technology, Transport for NSW
- Mr Dale Merrick, A/Chief Executive NSW Trains, Transport for NSW
- Mr Peter Allaway, Chief Customer Officer, Regional and Outer Metropolitan, Transport for NSW
- Mr Anthony Hayes, Executive Director, Community and Place, Transport for NSW
- Ms Barbara Wise, Executive Director, Transport Partnerships, Transport for NSW
- Ms Gillian Geraghty, Chief Development Officer, Infrastructure & Place, Transport for NSW
- Mr Bernard Carlon, Chief, Centre for Road Safety and Maritime Safety, Transport for NSW
- Ms Cynthia Heydon, Executive Director, Planning and Programs, Transport for NSW

Resolved, on the motion of Mr Graham: That for the portfolio of Infrastructure, Cities, Active Transport the committee invite the following witnesses:

- Hon Rob Stokes MP, Minister for Infrastructure, Minister for Cities, and Minister for Active Transport
- Mr Simon Draper, Chief Executive Officer, Infrastructure NSW
- Mr Rob Sharp, Secretary, Transport for NSW
- Ms Elizabeth Mildwater, Chief Executive Officer, Greater Sydney Commission
- Ms Kiersten Fishburn, Deputy Secretary, Cities and Active Transport, Transport for NSW
- Ms Camilla Drover, Deputy Secretary, Infrastructure and Place, Transport for NSW
- Ms Suellen Fitzgerald, Chief Executive, Greater Sydney Parklands

The committee noted that where a witness no longer occupies a position, invitations will be made based on the position.

Resolved, on the motion of Mr Graham: That the committee submit any further witness requests to the secretariat by 5.00 pm, Wednesday 27 July 2022.

Resolved, on the motion of Mr Graham: That the committee not invite parliamentary secretaries to appear as a witness at the hearings.

5.3 Witness appearance time

The committee noted that under the Budget Estimates 2022-2023 resolution ministers are invited to appear for the morning sessions only, 9.30 am to 12.45 pm, unless requested by the committee to appear also for the afternoon session.

5.4 Recording of hearing

Resolved, on the motion of Mr Rath: That all Budget Estimates 2022-2023 hearings be recorded and that these recordings be placed on the inquiry webpage as soon as practicable after the hearing.

6. Inquiry into road tolling regimes

6.1 Submissions

The committee noted that submission no. 233 was published by the committee clerk under the authorisation of the resolution appointing the committee.

6.2 Answers to questions on notice

The committee noted that the following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee:

- Ms Yasmina Kovacevic, private individual, received on 5 July 2022
- Ms Sue Weatherley, Director, City Strategy and Innovation, Georges River Council, received on 2 June 2022

Resolved, on the motion of Mr Rath: That the committee authorise the publication of Transurban's further answers to questions on notice received on 25 May 2022, with the exception of sensitive commercial information which is to remain confidential, as per the request of Transurban.

6.3 Clarification of evidence

Resolved, on the motion of Mr Graham: That the committee authorise:

- publication of the email from Ms Sue Weatherley, Director, City Strategy and Innovation, Georges River Council, providing further context to her remarks about changes to traffic volumes in the Georges River LGA from the road tolling hearing on 24 May 2022
- the addition of a footnote to Ms Sue Weatherley's evidence from 24 May 2022, reflecting her clarification of evidence
- the addition of a footnote to Mr Jeffrey Tullock's evidence from 24 May 2022, reflecting his clarification of evidence.

6.4 Consideration of Chair's draft report

The Chair submitted her draft report, entitled '*Road tolling regimes*', which, having been previously circulated, was taken as being read.

Chapter 1

Mr Mallard moved: That paragraph 1.65 be omitted:

'Over recent years, the use of private financing and 'user pays' to build new roads in New South Wales has been a clear policy preference for successive NSW Governments. While the committee acknowledges that both Coalition and Labor governments have partnered with the private sector to deliver new roads, under the Coalition's watch, we have witnessed a significant increase in the number of tolls on Sydney's roads with apparently no end in sight. In part, this has been enabled through a policy agenda focused on finding ways to release capital and generate revenue from already built roads that were no longer under concession, or ones nearing the end of their concession. The various

upgrades, extensions and widening projects have added many more tolls to the network and have further entrenched Transurban as the owner of most of the State's privately-held roads. They reveal an appetite for privatisation on a scale we perhaps have never seen before. That the NSW Government must rely so heavily on private financing to build transport infrastructure in order to maintain its 'fiscal integrity' perhaps raises questions about its overall management of the State budget.'

And the following new paragraph be inserted instead:

'Over recent years, the use of private financing and 'user pays' to build new roads in New South Wales has been a clear policy preference for successive NSW Governments. While the committee acknowledges that both Coalition and Labor governments have partnered with the private sector to deliver new roads, under the Coalition's watch, we have witnessed a significant increase in the number of tolls on Sydney's roads. In part, this has been enabled through a policy agenda focused on finding ways to release capital for other State-led significant infrastructure including schools and hospitals and generate revenue from already built roads that were no longer under concession, or ones nearing the end of their concession. The various upgrades, extensions and widening projects have further developed Sydney's motorway network, reduced congestion and helped to connect the Western Suburbs of Sydney to the Eastern side of the City, with many funded in part via the user-pay policy consistently utilised by successive Labor and Liberal Governments. Whilst the NSW Government's use of private financing to build road infrastructure in order to maintain its 'fiscal integrity' must be viewed in a broader light of investment priorities and fiscal responsibilities, the committee views the current tolling regime in Sydney as ripe for reform'.

Mr Graham moved: That the motion of Mr Mallard be amended by inserting the following new paragraph instead:

'Over recent years, the use of private financing and 'user pays' to build new roads in New South Wales has been a clear policy preference for successive NSW Governments. While the committee acknowledges that both Coalition and Labor governments have partnered with the private sector to deliver new roads, under the Coalition's watch, we have witnessed a significant increase in the number of tolls on Sydney's roads. In part, this has been enabled through a policy agenda focused on finding ways to release capital for other State-led significant infrastructure including schools and hospitals and generate revenue from already built roads that were no longer under concession, or ones nearing the end of their concession. The various upgrades, extensions and widening projects have added many more tolls to the network. The committee views the current tolling regime in Sydney as ripe for reform'

Amendment of Mr Graham put.

The committee divided.

Ayes: Ms Boyd, Mr Graham, Mr Mookhey

Noes: Mr Fang, Mr Mallard, Mr Rath

There being an equality of votes, question resolved in the affirmative on the casting vote of the Chair.

Original question of Mr Mallard, as amended, put and passed.

Resolved, on the motion of Mr Graham: That paragraph 1.66 be amended by omitting 'private financing is an ideological shift from seeing roads as essential public infrastructure' and inserting instead 'private financing is a distinction from seeing roads as essential public infrastructure'.

Mr Mallard moved: That paragraph 1.66, as amended, be omitted:

'In the committee's view, implicit in the preference for private financing is a distinction from seeing roads as essential public infrastructure like schools or hospitals, where the costs are borne by the entire taxpaying community via general taxation revenue or government debt, to thinking about roads as assets to be paid for by 'customers' who use and benefit from them. In other words, those who can afford to use a road should contribute directly to the cost of its design, financing, construction and maintenance. In the committee's view, it sets up a two-tiered system in which those who can afford to pay for the

'benefit' to use toll roads do so, while others must navigate often congested alternative routes on local, suburban roads to get where they are going.'

And the following new paragraph be inserted instead:

'In the committee's view, private financing is a distinction from seeing major motorway infrastructure development as essential public infrastructure like schools or hospitals, where the costs are borne by the entire taxpaying community via general taxation revenue or government debt, to thinking about major motorway infrastructure development as assets to be paid for by 'customers' who use and benefit from them. In other words, those who use major motorway infrastructure should contribute directly to the cost of its design, financing, construction and maintenance. In the committee's view, whilst noting motorway infrastructure delivers clear benefits to those who utilise the network, and the local communities that benefit from a reduction in local streets, it sets up a two-tiered system in which those who pay for the 'benefit' to use toll roads do so, while others must navigate alternative routes on local, suburban roads to get where they are going.'

Mr Graham moved: That the motion of Mr Mallard be amended by inserting the following new paragraph instead:

'In the committee's view, implicit in the preference for private financing is a distinction from seeing roads as essential public infrastructure like schools or hospitals, where the costs are borne by the entire taxpaying community via general taxation revenue or government debt, to thinking about roads as assets to be paid for by 'customers' who use and benefit from them. In other words, those who can afford to use a road should contribute directly to the cost of its design, financing, construction and maintenance. In the committee's view, whilst noting motorway infrastructure delivers clear benefits to those who utilise the network, and the local communities that benefit from a reduction in local streets, it sets up a two-tiered system in which those who can afford to pay for the 'benefit' to use toll roads do so, while others must navigate often congested alternative routes on local, suburban roads to get where they are going.'

Amendment of Mr Graham put.

The committee divided.

Ayes: Ms Boyd, Mr Graham, Mr Mookhey

Noes: Mr Fang, Mr Mallard, Mr Rath

There being an equality of votes, question resolved in the affirmative on the casting vote of the Chair.

Original question of Mr Mallard, as amended, put and passed.

Resolved, on the motion of Mr Graham: That paragraph 1.70 be amended by omitting 'recently recommended to be shelved' and inserting instead 'recently recommended to be cancelled'.

Mr Mallard moved: That paragraph 1.70, as amended, by omitting the sentence at the end of the paragraph:

'Being locked into commercial arrangements with the private sector makes it very difficult to do this. It limits the government's ability to respond nimbly to changing circumstances. It also complicates any future reform to toll pricing schemes, as this is likely to trigger compensation claims by the private toll operator.'

The committee divided.

Ayes: Mr Fang, Mr Mallard, Mr Rath

Noes: Ms Boyd, Mr Graham, Mr Mookhey

There being an equality of votes, question resolved in the negative on the casting vote of the Chair.

Mr Mallard moved: That paragraph 1.71 be omitted:

'In the committee's opinion, the user-pays model of infrastructure delivery is fundamentally inequitable and regressive as it fails to consider capacity to pay. In asking people to contribute to the cost of a road, it makes

no distinction between those who can most afford to contribute and those who can least afford to. This is at odds with the principles of a progressive taxation regime. Funding new roads through general taxation revenue or government debt is, in the committee's view, a much fairer way to spread public infrastructure funding costs through a progressive taxation regime.'

And the following new paragraph be inserted instead:

'In the committee's opinion, the user-pays model of infrastructure delivery has been utilised by successive Labor and Liberal Governments to fund critical major motorway infrastructure delivery. In asking people who utilise motorway infrastructure to save time and have a more reliable journey to contribute to the cost of a road, it makes no distinction between those who can most afford to contribute and those who can least afford to. This is at odds with the principles of a progressive taxation regime. Funding new roads through general taxation revenue or government debt is, in the committee's view, a much fairer way to spread public infrastructure funding costs through a progressive taxation regime.'

Mr Mookhey moved: That the motion of Mr Mallard be amended by inserting the following new paragraph instead:

'In the committee's opinion, certain user-pays models of infrastructure delivery are fundamentally inequitable and regressive as they fail to consider capacity to pay. In asking people who utilise motorway infrastructure intending to save time and have a more reliable journey to contribute to the cost of a road, they make no distinction between those who can most afford to contribute and those who can least afford to. This is at odds with the principles of a progressive taxation regime. Funding new roads through general taxation revenue or government debt is, in the committee's view, a much fairer way to spread public infrastructure funding costs through a progressive taxation regime.'

Amendment of Mr Mookhey put.

The committee divided.

Ayes: Ms Boyd, Mr Graham, Mr Mookhey

Noes: Mr Fang, Mr Mallard, Mr Rath

There being an equality of votes, question resolved in the affirmative on the casting vote of the Chair.

Original question of Mr Mallard, as amended, put and passed.

Chapter 2

Mr Mallard moved: That paragraph 2.89 be amended by:

- a) Inserting ', and noting committee comment 1.72,' after 'Since the inception of that inquiry in December 2016'
- b) Omitting 'be slugged with new tolls' after 'Looking ahead, motorists will', and inserting instead 'benefit from the delivery of mega toll-road infrastructure, accessible via the user-pay system'.
- c) Omitting the sentence at the end: 'If there was any doubt about Sydney being the most tolled city back in 2017, surely Sydney has to be an even stronger contender for this dubious distinction now.'

Mr Graham moved: That the motion of Mr Mallard be amended by:

- a) Omitting 'benefit from the delivery of mega toll-road infrastructure, accessible via the user-pay system' after 'Looking ahead, motorists will', and inserting instead 'pay'.
- b) Omitting the sentence at the end: 'If there was any doubt about Sydney being the most tolled city back in 2017, surely Sydney has to be an even stronger contender for this dubious distinction now.' And inserting instead 'If there was any doubt about Sydney being the most tolled city back in 2017, that has now been dispelled'.

Amendment of Mr Graham put and passed.

Original question of Mr Mallard, as amended, put and passed.

Mr Mallard moved: That paragraph 2.90 be amended by:

- a) Omitting 'The concerning growth' and inserting instead 'As a result of successive Labor and Liberal Government policy decisions for financing mega road infrastructure, there has been a concerning growth'
- b) Inserting 'a concession entered into by the Carr Labor Government' after 'For example, the cost of the Eastern Distributor'.

The committee divided.

Ayes: Mr Fang, Mr Mallard, Mr Rath

Noes: Ms Boyd, Mr Graham, Mr Mookhey

There being an equality of votes, question resolved in the negative on the casting vote of the Chair.

Mr Mallard moved: That paragraph 2.91 be amended by inserting 'In the Committees view, the Toll Relief package design to reduce cost of living pressures on Sydney household budgets is a welcome acknowledgment of the inefficiencies within Sydney's motorway network' after 'Every quarter see an inexorable increase in tolls'.

The committee divided.

Ayes: Mr Fang, Mr Mallard, Mr Rath

Noes: Ms Boyd, Mr Graham, Mr Mookhey

There being an equality of votes, question resolved in the negative on the casting vote of the Chair.

Mr Mallard moved: That paragraph 2.91 be amended by omitting:

'The private toll road operator Transurban has motorists over a barrel, all sanctioned and enabled by the NSW Government. Furthermore, we are disappointed that Transurban would trumpet to its investors the windfall that record inflation has delivered to their revenue, just as household budgets are being stretched to their breaking point. This is an affront to the long-suffering motorists of New South Wales.'

And inserting instead:

'Furthermore, whilst acknowledging the complexity involved in financing and delivering mega road infrastructure, the Committee were disappointed in the language used by Transurban to its investors regarding inflation and revenue, just as households budgets are being stretched to their breaking point.'

Mr Graham moved: That the motion of Mr Mallard be amended by inserting instead:

'Furthermore, whilst acknowledging the complexity involved in financing and delivering large scale road infrastructure, the Committee was disappointed in the language used by Transurban regarding inflation and revenue, just as households budgets are being stretched to their breaking point.'

Amendment of Mr Graham put and passed.

Original question of Mr Mallard, as amended, put and passed.

Resolved, on the motion of Mr Mallard: That paragraph 2.92 be amended by:

- a) Omitting 'The committee notes' and inserting instead 'The committee welcomes' at the start of the paragraph
- b) Omitting 'hastily' before 'announced'
- c) Omitting 'rubbery answers from NSW Treasury officials' and inserting instead 'The commentary from NSW Treasury officials'

Resolved, on the motion of Mr Mookhey: That paragraph 2.92, as amended, be further amended by omitting 'The commentary from NSW Treasury officials' and inserting instead 'The inadequate answers from NSW Treasury officials'.

Mr Mallard moved: That paragraph 2.92 be amended by omitting 'The inadequate answers from NSW Treasury officials about how the review came about do little to instil confidence. The NSW Government has had a long time to address issues with the current tolling regime. Instead, it has taken an Upper House inquiry and a looming State election to end the inaction.'

And inserting instead:

'The commentary from NSW Treasury officials did not adequately answer how the review came about, however the Toll-Relief package announced at the recent State Budget as the first stage of the review, illuminate a Government focused on achieving better outcomes for Sydney's motorway network. This Upper House inquiry and looking State election provide ample ground for both the Government and the Opposition to clearly outline and cost their policies on cost of living, major infrastructure delivery, tolling and toll relief in the context of responsible fiscal management of the NSW Budget'.

The committee divided.

Ayes: Mr Fang, Mr Mallard, Mr Rath

Noes: Ms Boyd, Mr Graham, Mr Mookhey

There being an equality of votes, question resolved in the negative on the casting vote of the Chair.

Mr Mallard moved: That paragraph 2.93 be amended by omitting 'The current tolling regime is a morass of the government's own making, and reform is well overdue'.

The committee divided.

Ayes: Mr Fang, Mr Mallard, Mr Rath

Noes: Ms Boyd, Mr Graham, Mr Mookhey

There being an equality of votes, question resolved in the negative on the casting vote of the Chair.

Resolved, on the motion of Mr Graham: That paragraph 2.93 be amended by omitting 'morass of the government's own making', and inserting instead 'product of the government's own making'.

Mr Mallard moved: That paragraph 2.93, as amended, be further amended by inserting after 'The current tolling regime is a product of the government's own making, and reform is well overdue':

'As acknowledged by this report, stakeholders and the NSW Government, the current tolling regime is an inefficient example of successive Labor and Liberal Governments decision making focused on the pricing and delivery of single pieces of road infrastructure rather than a holistic view of Sydney's motorway network.'

Mr Mookhey moved: That the motion of Mr Mallard be amended by inserting instead:

'As acknowledged by this report, stakeholders and the NSW Government, the current tolling regime has led to inefficient pricing and delivery of single pieces of road infrastructure rather than a holistic view of Sydney's motorway network.'

Amendment of Mr Mookhey put and passed.

Original question of Mr Mallard, as amended, put.

The committee divided.

Ayes: Ms Boyd, Mr Graham, Mr Mookhey

Noes: Mr Barrett, Mr Mallard, Mr Rath

There being an equality of votes, question resolved in the affirmative on the casting vote of the Chair.

Resolved, on the motion of Mr Mallard: That paragraph 2.93 be amended by:

- a) Omitting 'and re-branded toll relief initiatives that make expedient pre-election announcements', after 'In the committee's view, there needs to be commitment to sweeping and meaningful reform, not just tinkering around the edges with Band-Aid fixes'
- b) Omitting 'and its lack of focus on mounting cost of living pressures facing everyday people' after 'While the committee is not convinced that the government's toll pricing review will deliver genuine reform, given its reporting date of later this year'.

Mr Fang left the meeting. Mr Barrett joined the meeting.

Chapter 3

Mr Mallard moved: That paragraph 3.94 be amended by:

- a) Inserting 'if other benefits including a reduction of travel time, increased reliability of the road network and a reduction in traffic on local roads is discounted from the analysis' after 'Evidence before the committee painted a concerning picture of the impact tolls are having on everyday people,'
- b) Inserting 'a pressure that the Committee notes has been acknowledged by the NSW Government's toll relief package' after 'Tolls are clearly a significant burden on households and – along with other cost of living pressures – are absorbing an increasing share of household income,'
- c) Inserting 'successive Labor and Liberal' before 'NSW Government decision making'.

The committee divided.

Ayes: Mr Barrett, Mr Mallard, Mr Rath

Noes: Ms Boyd, Mr Graham, Mr Mookhey

There being an equality of votes, question resolved in the negative on the casting vote of the Chair.

Mr Mallard moved: That paragraph 3.96 be amended by inserting 'location specific' before 'evidence'.

The committee divided.

Ayes: Mr Barrett, Mr Mallard, Mr Rath

Noes: Ms Boyd, Mr Graham, Mr Mookhey

There being an equality of votes, question resolved in the negative on the casting vote of the Chair.

Mr Mallard moved: That paragraph 3.96 be amended by omitting the last sentence: 'With the incessant expansion of the tolled network, toll avoidance and rat running has reached a new level in Sydney' and inserting instead: 'In the context of this report and an upcoming State Election, it places significant onus on both the Government and Opposition to clearly articulate a policy position, costings and plan of action for road infrastructure delivery that will help to alleviate Sydney's congestion, and deliver City shaping infrastructure to benefit the NSW tax payer.'

Mr Mookhey moved: That the motion of Mr Mallard be amended by inserting inserting after 'With the incessant expansion of the tolled network, toll avoidance and rat running has reached a new level in Sydney':

'In the context of this report and an upcoming State Election, it places significant onus on all candidates to clearly articulate a policy position and plan of action for road infrastructure delivery.'

Amendment of Mr Mookhey put.

The committee divided.

Ayes: Ms Boyd, Mr Graham, Mr Mookhey

Noes: Mr Barrett, Mr Mallard, Mr Rath

There being an equality of votes, question resolved in the affirmative on the casting vote of the Chair.

Original question of Mr Mallard, as amended, put and passed.

Mr Mallard moved: That paragraph 3.98 be amended by omitting ' – when the stubborn reality is one's purchasing power determines one's postcode, which in turn determines one's transport advantage or disadvantage.' after 'It assumes a level playing field in which all Sydney residents have equal choice in how and when they travel'.

The committee divided.

Ayes: Mr Barrett, Mr Mallard, Mr Rath

Noes: Ms Boyd, Mr Graham, Mr Mookhey

There being an equality of votes, question resolved in the negative on the casting vote of the Chair.

Mr Mookhey moved: That paragraph 3.98 be amended by omitting 'one's purchasing power' and inserting instead 'one's wealth'.

Mr Mallard moved: That paragraph 3.99 be amended by:

- a) Inserting 'there is anecdotal evidence a' after 'Similarly, the costs of toll roads are felt by a much broader group of people than those simply paying the tolls, as shown in the Bexley case study where'
- b) Inserting 'as a result of successive Labor and Liberal Government' after 'The committee recognises that substantial reform to the system is complex and will take time, with the NSW Government'.

The committee divided.

Ayes: Mr Barrett, Mr Mallard, Mr Rath

Noes: Ms Boyd, Mr Graham, Mr Mookhey

There being an equality of votes, question resolved in the negative on the casting vote of the Chair.

Resolved, on the motion of Mr Graham: That the committee secretariat determine the most appropriate place to insert any new findings and recommendations adopted by the committee.

Resolved, on the motion of Mr Graham: That the following new finding be inserted:

'Finding X

NSW Drivers now undertake more than one million toll trips a day, raising more than \$2 billion in toll revenue every year.'

Mr Graham moved: That the following new finding be inserted:

'Finding X

That the Government has failed to provide information to this inquiry about the total toll burden that drivers will be forced to pay under existing toll contracts despite estimates that it is more than \$100 billion in today's dollars.'

The committee divided.

Ayes: Ms Boyd, Mr Graham, Mr Mookhey

Noes: Mr Barrett, Mr Mallard, Mr Rath

There being an equality of votes, question resolved in the affirmative on the casting vote of the Chair.

Mr Graham moved: That the following new finding be inserted:

'Finding X

That the decision by Treasury to withhold from public release contract details and traffic relating to WestConnex until 2060, and possibly longer, is an abuse of executive power'.

The committee divided.

Ayes: Ms Boyd, Mr Graham, Mr Mookhey

Noes: Mr Barrett, Mr Mallard, Mr Rath

There being an equality of votes, question resolved in the affirmative on the casting vote of the Chair.

Resolved, on the motion of Mr Graham: That the following new recommendation be inserted:

'Recommendation X

That the NSW Government immediately release the traffic network performance review for the M8 and M5 toll roads, given its release was promised one year ago.'

Resolved, on the motion of Mr Graham: That Recommendation 1 be omitted:

That the NSW Government as part of its Toll Road Pricing and Relief Reform Review commit to:

- genuine and meaningful reform of road tolling with all options on the table
- consulting with affected stakeholders in government, industry and the community as part of this reform process
- not further limiting its flexibility and control over toll road pricing with new or revised contractual arrangements with private tolling operators.

And the following new recommendation be inserted instead:

'Recommendation 1

That the NSW Government as part of its Toll Road Pricing and Relief reform Review commit to:

- genuine and meaningful reform of road tolling
- consulting with affected stakeholders in government, industry and the community
- no new or revised tolls or new or revised toll road contracts being issued prior to consideration of such reform, in order to not further limit the Government's flexibility and control over toll road pricing.

Resolved, on the motion of Mr Graham:

- a) That Recommendation 2 be omitted: 'That the NSW Government move to realign toll pricing to ensure trucks can feasibly use toll roads instead of suburban streets where possible'
- b) That Recommendation 3 be omitted: 'That, in the interim, the NSW Government extend its current toll relief schemes to provide immediate and targeted toll relief to the road freight industry'; and
- c) The following new recommendation be inserted instead:

'Recommendation 2

That the NSW Government move to realign toll pricing in corridors where trucks are on suburban streets to ensure trucks can feasibly use toll roads where possible, including the option of the extension of current toll relief schemes to the road freight industry.'

Resolved, on the motion of Mr Graham: That Recommendation 5 be amended by inserting ', relating to transparency for tolling contracts,' after 'That the NSW Government implement Recommendation 5'.

Resolved, on the motion of Mr Graham: That Recommendation 6 be omitted:

That, in rationalising the current patchwork of inconsistent pricing, the NSW Government adopt a network approach to toll road pricing and:

- consider the introduction of daily caps
- review the automatic application of toll escalation rates to take account of real wages growth instead of inflation

- review toll relief and cashback schemes to ensure that toll relief is going to the people who most need it based on their ability to pay as well as the existence of public transport alternatives.

And the following new recommendation be inserted instead:

'Recommendation 6

That when a network approach to toll road pricing is considered by the review it should:

- consider the introduction of toll caps and appropriate flag falls, rather than just distance based tolling
- review the application of toll escalation rates which often include both a minimum 4% toll increase or inflation, whichever is higher, rather than take account of real wages growth
- review toll relief and cashback schemes to ensure that toll relief is going to the people who most need it based on their ability to pay as well as the existence of public transport alternatives.'

Mr Graham moved: That the table on page 5 be amended by the committee secretariat to include information regarding each of the WestConnex stages.

The committee divided.

Ayes: Ms Boyd, Mr Graham, Mr Mookhey

Noes: Mr Barrett, Mr Mallard, Mr Rath

There being an equality of votes, question resolved in the affirmative on the casting vote of the Chair.

Resolved, on the motion of Mr Graham: That paragraph 1.49 be amended by the secretariat to include update information relating to the most recent State Infrastructure Strategy.

Resolved, on the motion of Mr Graham: That paragraph 1.67 be amended by omitting 'With 11 tolling regimes in place, and a further three toll roads in the infrastructure pipeline' and inserting instead 'With 11 tolling regimes in place, and a further four toll roads in the infrastructure pipeline'.

Mr Mookhey moved: That the draft report as amended be the report of the committee and that the committee present the report to the House.

The committee divided.

Ayes: Ms Boyd, Mr Graham, Mr Mookhey

Noes: Mr Barrett, Mr Mallard, Mr Rath

There being an equality of votes, question resolved in the affirmative on the casting vote of the Chair.

Resolved, on the motion of Mr Graham: That:

- The transcripts of evidence, submissions, tabled documents, answers to questions on notice, responses to the online questionnaire, summary report of the online questionnaire and correspondence relating to the inquiry be tabled in the House with the report;
- Upon tabling, all unpublished attachments to submissions and individual responses to the online questionnaire be kept confidential by the committee;
- Upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- Dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting;
- The secretariat is tabling the report on Monday 1 August 2022;

- The Chair intends to hold a press conference on Monday 1 August 2022 at a time to be confirmed.

7. Adjournment

The committee adjourned at 11.25 pm until 9.30 am, Tuesday 2 August 2022 in Room 1043.

Madeleine Foley
Committee Clerk

Appendix 4 Dissenting Statement

The Hon Shayne Mallard MLC

The Government members indicated below and comprising a minority of the membership of Portfolio Committee 6 – Transport, which is dominated by a Labor and Green Opposition majority, lodge the following dissenting statement for the Inquiry ‘Road Tolling Regimes’.

The Inquiry, whilst taking important evidence and making various sensible reform recommendations supported by the Government members, is nonetheless a clearly highly partisan document designed for Labor and the Greens’ political agenda in the lead-up to the New South Wales State election.

The NSW Government is proud of its history of infrastructure delivery across the State, this report fails to recognise how the Government's fiscal management and policies have been able to deliver road, rail, education and health infrastructure across metropolitan and regional New South Wales decades ahead of time and in stark contrast to other Labor states.

The report fails to acknowledge the benefits of private investment in City shaping infrastructure that benefits New South Wales citizens, as such, the Opposition must now clearly define how they intend to deliver infrastructure in a fiscally responsible way without raising taxes, when Cost of Living relief remains a significant focus of the NSW Government.

The report fails to properly account for the ongoing NSW Tolling Review, led by Treasury and supported by Transport for NSW that has already delivered meaningful cost of living relief that will benefit thousands of families across Greater Sydney.

Whilst the Opposition will use this document to prosecute a media strategy, they are still yet to offer up a tolling policy for the people of New South Wales.

While the NSW Government has a \$110bn Infrastructure program that will benefit New South Wales Taxpayers, the ALP has not committed to nor supported a single road infrastructure project.

The report is a political document aimed at attacking the Government without offering any real solutions or concrete policy reform for toll reform in Greater Sydney.

The Hon Shayne Mallard MLC, Liberal Party

The Hon Wes Fang MLC, The Nationals

The Hon Chris Rath MLC, Liberal Party

