

QUESTION ON NOTICE 1

Question:

The CHAIR: Does Transurban run the Logan Motorway in Queensland?

Mr HEAD: Yes.

The CHAIR: Does it own 100 per cent?

Mr HEAD: We own 62.5 per cent. We are in that road with a couple of other investors, including Australian Super, which goes back to the point about—

The CHAIR: Is that concession contract available in the public domain?

Mr HEAD: I assume so. I am much more familiar with what is on and off the public record in New South Wales due to my responsibilities, but I am happy to take that question on notice to provide an accurate answer.

Response:

Information on the concession arrangement for the Logan Motorway is publicly available on the Department of Transport and Main Road's website: <http://www.tmr.qld.gov.au/business-industry/Transport-sectors/Toll-roads.aspx>

QUESTION ON NOTICE 2

Question:

Dr MEHREEN FARUQI: When you negotiate non-competition clauses such as those you just referred to, do you offset that against toll concession extensions on another road? Is it offset in some way? Otherwise it would still be a risk.

Mr HEAD: That is a very good question. Hopefully the message you took out of the right-hand side of the handout is that governments have difficult decisions to make about finite resources. The community and customers have an equal difficulty with regard to their household budget and how they choose to spend their money on groceries, public transport or wherever it may be. The same goes for Transurban. We are very willing and open to having a discussion with government about how we can get the best result for the community, for the Government and for our customers. However, we also have another consideration in our mix, that is, the people who have given us their money. That is the money that people around this table have in their superannuation fund accounts. We enter those discussions with an open mind and a willingness to find a solution, but we need to cater for all the stakeholders. If we eliminate one of them from the equation, we no longer have a sustainable business.

Dr MEHREEN FARUQI: You might offset that through other negotiations?

Mr HEAD: Yes.

Dr MEHREEN FARUQI: Would these non-competition clauses be in every contract you have on toll concessions with the Government?

Mr HEAD: They are definitely in the older ones. Contracts like the M2, the Eastern Distributor and the M7 immediately come to mind. The Westlink M7 has a form of it. I would need take the question on notice with regard to the others to be 100 per cent sure. As a broad answer for today to aid the discussion, I would say yes. However, I would appreciate being able to take the question on notice so that I can provide an accurate answer.

Response:

All concession agreements for toll roads operated by Transurban and our partners in NSW contain undertakings in regards to future events or decisions by RMS or the Government which have a material adverse effect on the operation of that toll road. For example, a Government decision which resulted in the construction of another road with similar start and end points, or the removal of a significant connecting road. In such cases, the parties may need to negotiate changes to the project parameters. This provides some level of assurance to potential investors as to how future Government decisions or external events may impact their investment.

The concession agreements for the Eastern Distributor and the M2 Motorway, being two of the older agreements, also contain specific "non-competition" clauses that relate to the Government's ability to build competing road infrastructure.

The M2 Motorway concession agreement previously contained a non-competition clause relating to public transport. This clause was amended when the M2 Upgrade project was agreed so as to facilitate the construction of the North-West Rail Link. This concession agreement retains a "material adverse effect" provision relating to other transport options for the North-West regions of Sydney.

Information on the concession arrangements for roads owned and operated by Transurban and our partners in NSW, including relevant non-competition clauses, is publicly available on the NSW Treasury website:
<https://www.treasury.nsw.gov.au/projects-initiatives/public-private-partnerships/awarded-projects>

QUESTION ON NOTICE 3

Question:

Dr MEHREEN FARUQI: You did not really answer my question. Apart from having non-competition for public transport are there other areas that they cover?

Mr HEAD: As far as I am aware it is transport, so it is roads, rail, other forms of transport.

Dr MEHREEN FARUQI: That might be competing with the toll road?

Mr HEAD: Yes.

Mr BYRNE: Certainly I am aware of other forms, in fact I think roads are probably the primary form of contemplation in a number of the clauses.

Mr HEAD: It is a good point. The Westlink M7 has a wide central median and it is prescribed in the concession deed that a light rail can be put there if it is needed or wanted. So as the contracts modernize and people become more aware of how they all fit together and how cities operate, they have taken different forms. That is probably a really good example. We would be happy to provide some detail on the public-transport-enabling capacity in the central median of the M7.

Response:

The WestlinkM7 concession agreement includes specific arrangements for public transport (such as light rail or a busway) to occupy the central median – between the carriageways of the motorway – should this be required or desired in the future.

These arrangements specify that RMS (or another Government entity) can build, operate and maintain this infrastructure and any connections required to it. The arrangements also specify that any effects this potential light rail or busway may have on M7 traffic usage is excluded from any claim of material adverse effect by Transurban or our partners.

Further detail is publicly available on pages 28-32 and 38-39 of the contract summary available here: https://www.treasury.nsw.gov.au/sites/default/files/2017-02/Westlink_M7_contr.pdf

QUESTION ON NOTICE 4

Question:

The Hon. Dr PETER PHELPS: I want to look at things raised in other submissions that deserve a response in advance to them being raised. First, in your submission on page 30 you talk about tolling arrangements for freight vehicles. It is generally accepted that the tolling arrangements on Sydney roads have freight vehicles paying three times as much as cars. You do not cite any evidence. The Transport Workers Union submission raises this imbalance between freight vehicles, cars and bikes and the like. Do you have any evidence from here or overseas in relation to the construction costs or road wear and tear caused by trucks and whether that is in fact three times the cost of ordinary passenger vehicles?

Mr HEAD: Yes, we do. This debate is best considered through the lens of NorthConnex and the M7, which is a major freight corridor and a bypass of Western Sydney and delivers enormous benefits to the freight community. To answer your first question about construction costs: when designing NorthConnex, the grade or flatness in the tunnel is very flat. It means the tunnel needs to be designed in a different way and it may need to be longer. It is different to other tunnels in Sydney where you find trucks climbing a higher grade. The ventilation systems are designed to cater for trucks. Truck emissions are greater and the ventilation systems need to be different. The pavement depth needs to be different because trucks actually do 6,000 times more wear and tear than a car. The pavement depth needs to be greater and the breakdown bays in a tunnel like the NorthConnex need to be bigger to accommodate trucks. There is, frankly, a lot of additional capital cost that goes into a new project like NorthConnex to cater for the trucking community.

The Hon. Dr PETER PHELPS: Would you be able to provide studies or evidence that quantifies that?

Mr HEAD: We would be happy to.

The Hon. Dr PETER PHELPS: We know the differential exists, the question is whether there is evidentiary proof that there is a physical requirement for that differential to exist.

Response:

Page 30 of Transurban's submission to the inquiry (submission no. 100) references analysis articulated by the Mid-North Weight of Loads Group - a group of several Northern NSW councils whose purpose it was to liaise with operators and Roads & Maritime Services (then Roads & Traffic Authority) to ensure compliance with heavy vehicle mass limits. This analysis indicated that the wear-and-tear to road infrastructure caused by one articulated truck was estimated to equal that of 6,000 cars.

This information is available at:

[http://www.nambucca.nsw.gov.au/cp_content/resources/Presentation_V_Updated_Aug_11_\(Gil_Modified\).pdf](http://www.nambucca.nsw.gov.au/cp_content/resources/Presentation_V_Updated_Aug_11_(Gil_Modified).pdf)

Other data sources that quantify the relative impacts of different sized vehicles on roads include:

PV2 Road Parameter Values, Australian Transport Assessment and Planning Guidelines, 2016.

The guidelines that are agreed to by all State, Territory and Commonwealth transport agencies provide standard values and models for use in cost-benefit analysis (CBA). Table 24, (page 38) indicates the damage that different types of vehicles will do to pavement when carrying different loads using "Equivalent Standard Axles" (ESAs) as the unit of measurement.

For example, a small car loaded to 75% capacity would be equal to 0.0002 ESAs whilst a 100% loaded B-double truck would be equal to 6.35 ESAs, that is, the B-double truck (at 100% payload) would impact the pavement around 32,000 times more than the small car (at 75% payload).

These guidelines are available at https://atap.gov.au/parameter-values/road-transport/files/pv2_road_parameter_values.pdf

Technical Paper 09 - Evolution of Road Tunnels in Sydney, Roads and Maritime Services, 2014

In addition to their impact on pavement, modified engineering solutions are often required to cater to heavy vehicles.

A technical paper, prepared by RMS for the NSW Government's Advisory Committee on Tunnel Air Quality, provides an overview of the evolution of design requirements for tunnels in NSW.

The paper indicates the M5 East (which opened in 2001) has a gradient of eight percent at the exit of the westbound tunnel, as a consequence heavy vehicles reduce speed near the exit contributing to congestion throughout the west bound tunnel and increasing vehicle emissions (as compared to free flowing traffic). As a result of this learning, tunnels built in Sydney since the M5 East are required to minimise grades resulting in longer tunnel alignments than would be necessary if any given tunnel only needed to service cars and motorcycles.

Other examples of evolving design requirements cited in the technical paper include:

- The design of the Lane Cove Tunnel catered to trucks slowing on the uphill grade to the exit by having two lanes entry and three lane exit to facilitate smooth traffic flow; and
- The design of the NorthConnex project includes increasing the clearance height of the tunnel to mitigate the impacts of lane or tunnel closures caused by over-height trucks.

These necessary design adjustments to accommodate freight vehicles referred to in the paper can have an impact on initial construction costs.

This paper is available at: http://www.chiefscientist.nsw.gov.au/__data/assets/pdf_file/0011/52994/Road-Tunnels_TP09_Evolution_Of_Road_Tunnels.pdf

NCHRP Synthesis 378 – State Highway Cost Allocation Studies - A Synthesis of Highway Practice, Transportation Research Board, 2008

This report analysed a range of historical cost allocation studies from state road authorities around the USA. It reported that the majority of the studies allocated between 30% and 50% of costs to the heavy-truck class.

This paper is available at: <http://nap.edu/14178>

QUESTION ON NOTICE 5

Question:

The Hon. Dr PETER PHELPS: My final question relates to the noncompetition clauses that you mentioned. Lest it be portrayed that you are seeking to remove all competition, is it not the case that the majority of the noncompetition clauses relate specifically to the provision of additional new road infrastructure on a parallel route and every one of them, after the eastern distributor contract, has been done on the basis that there is no noncompetition clause in relation to public transport?

Mr HEAD: I believe that to be the case, but I would like to check. You are probably more familiar with this than I am. For that I apologise. We will take that on notice and provide further detail.

Response:

All concession agreements for toll roads operated by Transurban and our partners in NSW contain undertakings in regards to future events or decisions by RMS or the Government which have a material adverse effect on the operation of that toll road. For example, if a Government decision resulted in the construction of another road with similar start and end points or the removal of a significant connecting road. In such cases, the parties may need to negotiate changes to the project parameters. This provides some level of assurance to potential investors as to how future Government decisions or external events may impact their investment.

The concession agreements for the Eastern Distributor and the M2 Motorway, being two of the older agreements, also contain specific “non-competition” clauses that relate to the Government’s ability to build competing road infrastructure.

In so far as competing public transport infrastructure is concerned, the M2 Motorway concession agreement previously contained a non-competition clause relating to public transport. This clause was amended when the M2 Upgrade project was agreed so as to facilitate the construction of the North-West Rail Link. This concession agreement retains a “material adverse effect” provision relating to other transport options (including potential public transport infrastructure) for the North-West regions of Sydney.

Information on the concession arrangements for roads owned and operated by Transurban and our partners in NSW, including relevant non-competition clauses, is publicly available on the NSW Treasury website:
<https://www.treasury.nsw.gov.au/projects-initiatives/public-private-partnerships/awarded-projects>

QUESTION ON NOTICE 6

Question:

The Hon. JOHN GRAHAM: Mr Head, thank you for your evidence on the non-compete clauses. It was very useful, and if you could forward that answer to my question on notice then that would be useful. Is there a non-competition clause on the NorthConnex project?

Mr HEAD: I will have to take that on notice. But what I would say is that if it was a big point of the negotiation then it would have sprung to mind immediately. So I think that in itself is a reflection of how important or otherwise we see those things.

The Hon. JOHN GRAHAM: If you are happy to take it notice, that would be useful—and, in particular, does any non-compete clause for NorthConnex relate to public transport? If you could take those two issues on notice, I would appreciate it.

Mr HEAD: I am 90 per cent sure that the answer to that is no. But I will take it on notice.

Response:

The NorthConnex arrangements, like all contracts for toll roads that Transurban and our partners operate in NSW, contain undertakings in regards to future events or decisions by RMS or the Government which have a material adverse effect on the operation of NorthConnex. For instance, if certain connections to NorthConnex are closed or a new high capacity motorway is opened which connects the M1 to the M7 Motorway. In such cases, the parties may need to negotiate changes to the project parameters. This provides some level of assurance to Transurban and our partners in NorthConnex as to how future Government decisions or external events may impact their investment.

The concession agreement for NorthConnex does not otherwise contain any specific “non-competition” clauses that relate to the Government’s ability to build competing infrastructure, including public transport.

Information on the concession arrangements for NorthConnex, including the relevant undertakings of all parties, is publicly available on the NSW Treasury website: <https://www.treasury.nsw.gov.au/projects-initiatives/public-private-partnerships/awarded-projects>