

Inquiry into Road Tolling Regimes

TREASURY

Monday, 14 February 2022

QUESTIONS ON NOTICE

Response due: 14 March 2022

Questions on notice - Treasury

QoN #	Responsible Person	Transcript Page	QUESTION	RESPONSE
1	Philip Gardner	4	<p>The Hon. JOHN GRAHAM: Thank you for those answers. Can I ask that you table the terms of reference for that review with the Committee on notice?</p> <p>PHILIP GARDNER: I will take that on notice.</p>	<p>The terms of reference for the review are provided to the Committee with individual names redacted. See Attachment A.</p>
2	Philip Gardner, Jacqui Christie	4	<p>The Hon. JOHN GRAHAM: Mr Gardner, they are not that uncertain. The prices are set under these contracts. They are very clear. They could be higher. But I am asking about the minimums here. Inflation you have to make assumptions about for the budget. There is an inflation assumption of—I think it is 2.5 per cent—that you made for the WestConnex business model. Is that correct?</p> <p>PHILIP GARDNER: I do not have that off the top of my head. Ms Christie might be able to answer that question.</p> <p>JACQUI CHRISTIE: No I do not know what assumption was made in relation to CPI in terms of WestConnex.</p> <p>The Hon. JOHN GRAHAM: I invite you to take that on notice. That is the assumption that sits behind the WestConnex business model.</p>	<p>The Base Case Financial Models (BCFM) for each concession of WestConnex (WCX) contain an assumption for CPI from 2022 onwards of 2.5%.</p>
3	Philip Gardner	6	<p>The CHAIR: Your time has expired unfortunately Mr Mookhey. We will come back to you. On this</p>	<p>NSW Treasury and Transport for NSW began preparation for the tolling review in late December 2021.</p>

			<p>points of the review, when did the review begin? What date did it commence?</p> <p>PHILIP GARDNER: I will take that on notice. I do not have a specific date. Obviously we are still in the process of review</p>	
4	Philip Gardner	7	<p>The CHAIR: Has Transurban ever put a bid in, or expressed interest in participating in a motorway project or purchasing one of Sydney's motorways, with a consideration of tolling reform as part of that bid?</p> <p>PHILIP GARDNER: I am not aware of that. The</p> <p>CHAIR: Is that something that you could take on notice?</p> <p>PHILIP GARDNER: Absolutely I will take it on notice.</p>	As far as Treasury is aware, no.
5	Philip Gardner	8	<p>The CHAIR: Do you see a problem—let me rephrase that. Is Treasury actively considering ways to increase future competition for the potential sale of the Western Harbour Tunnel, in light of the tension with that being a toll road versus the single-way tolling on the—sorry, what am I trying to say? Let me start again. Are the current tolling arrangements with the Sydney Harbour Tunnel and the Sydney Harbour Bridge an obstacle to the potential sale of the Western Harbour Tunnel?</p> <p>PHILIP GARDNER: That is a very interesting but hypothetical question, Ms Boyd. It is a difficult one and we would have to probably give some deeper consideration to it.</p>	Any consideration of potential asset sales, if they were ever to be progressed in the future, would be a matter for the Cabinet of the day. In the meantime, comments on the potential implications of current tolling arrangements would require speculation around a hypothetical policy scenario.

6	Philip Gardner	9	<p>The CHAIR: That payment for concessions and cashbacks and things, is that considered in the cost benefit analysis when you are selling a new motorway?</p> <p>PHILIP GARDNER: Look, it is part of the—I mean, understanding the traffic volumes under those different concessions and rebates is, I actually do not recall whether that was sort of modelled in it. I might need to take that on notice, Ms Boyd.</p>	<p>A Cost Benefit Analysis is an economic appraisal of a project which is submitted by the delivery agency when requesting funding for that project, i.e. it is one of the Government’s investment decision considerations.</p> <p>The M5 Cashback Scheme was introduced after the investment decision was made by Government for the M5 project, and therefore was not considered in the project’s Cost Benefit Analysis.</p> <p>A Cost Benefit Analysis is typically not required for consideration when performing a scoping study for a potential sale. Rather, in a scoping study, the Government will estimate the potential proceeds from sale of an asset and consider whether the proceeds exceed the Government’s retention value.</p> <p>Whether or not specific cashbacks or rebates are taken into consideration in the analysis undertaken to support a decision to undertake the ‘selling a new motorway’ would depend of the specifics of the asset, the nature of the contractual arrangements, and the specific characteristics of the cashbacks and rebates in place at the time.</p>
7	Philip Gardner	10	<p>The CHAIR: Which consultants have you engaged for the review?</p> <p>PHILIP GARDNER: Sorry, I cannot disclose that because we have not finalised signing of some of the contracts with the consultants so they will obviously be disclosed, as required.</p> <p>The Hon. JOHN GRAHAM: Could you take that on notice then, once you have signed those contracts and let the Committee know? I think that the</p>	<p>The consultants engaged by the State for the tolling review are:</p> <ul style="list-style-type: none"> • L.E.K Consulting as the Strategy Adviser • PwC as the Traffic Adviser • Alex Ijgin as the Road Traffic Consultant

			<p>Committee has a right to know which consultants you have engaged, at the appropriate time.</p> <p>PHILIP GARDNER: I will take that on notice, yes.</p>	
8	Philip Gardner	10	<p>The Hon. JOHN GRAHAM: Just to be clear about your position—and you have put this on the public record before under some detailed questioning from my colleague, Mr Mookhey—you believe that base case financial model for WestConnex should not be released until after 2060? That is still your view?</p> <p>PHILIP GARDNER: That is still our view. And again like I probably elaborated today more fully on the reasons for those, but it continues to be our position.</p> <p>The Hon. JOHN GRAHAM: Would you release it in 2060 or would it still be a State secret then?</p> <p>PHILIP GARDNER: That is too far in the future and too hypothetical, Mr Graham, to think about.</p> <p>The Hon. JOHN GRAHAM: No, it is not, Mr Gardner. I am asking you, in principle, does Treasury support the release of the base case financial model after 2060 or not?</p> <p>PHILIP GARDNER: I will have to take that one on notice.</p>	<p>The question as to whether or not Treasury would support the release of the Westconnex BCFM after 2060 cannot be categorically answered at this time, and would depend on an assessment of whether or not any of the information contained in the model continued to be commercial in confidence at the time.</p> <p>To the extent that there was no longer any commercial in confidence aspects remaining after the end of the concession, then Treasury would support its disclosure.</p>
9	Philip Gardner	12	<p>The Hon. JOHN GRAHAM: Again I want to ask you this, in principle, because we rely on Treasury to defend these important public principles about public money. In principle, why don't we know something, anything, about the very, very significant compensation that might have to be handed out of the</p>	<p>The compensation arrangements for the WCX concessions are described in the summaries available on the TfNSW website. There are no further compensation arrangements in place.</p>

			<p>Treasury vault and rolled down the road to the headquarters of a private business? Why can't you tell us anything about that, in principle? Surely some of this is in the public interest that it should be known.</p> <p>PHILIP GARDNER: There are quite a lot of details if you actually look on our website. There is actually like a 60-page summary of the WestConnex concession. There is quite lot of information embedded in those.</p> <p>The Hon. JOHN GRAHAM: I am familiar with it.</p> <p>PHILIP GARDNER: I would need to take advice on what details we could or could not provide beyond what is in that.</p>	<p>Relevantly, there is no mandated process or compensation which would apply if the State wished to vary the tolling arrangements on a WestConnex concession. Any such change (and any compensation) would need to be negotiated with the concessionaire.</p>
<p>10</p>	<p>Philip Gardner</p>	<p>13</p>	<p>The Hon. DANIEL MOOKHEY: My colleague was asking you about whether or not Treasury was going to release the base case financial review after 2060. I am troubled by your lack of confidence in your own immortality, Mr Gardner, when it comes to that first point. The second point is that we are in this absurd position where the Cabinet submission will become public decades before the actual base case financial model under the Public Records Act. Cabinet confidentiality only applies for 30 years, but the base case financial year is going to be secret until 2060. Surely that has got to have some factor on Treasury's attitude as to whether you are going to release the information. It would be absurd that we see the Cabinet's submission but not the actual financial model. We have to wait a decade for it. It is the worst cliffhanger I can imagine, Mr Gardner, when it comes to public release.</p>	<p>As information in the BCFM may change in the future to incorporate approved changes in the concession, which may occur from time to time during the life of the concession, information contained in the BCFM will remain Commercial in Confidence throughout the life of the concession. As such, the BCFM cannot be disclosed by Treasury.</p>

			<p>PHILIP GARDNER: It is a matter I had not taken into account previously, Mr Mookhey. I will have to take some advice on that one.</p> <p>The Hon. DANIEL MOOKHEY: Could you, on notice, tell us how Treasury intends to reconcile the Government's obligation to release, under the Public Records Act, the Cabinet's submission and Treasury's desire not to release the base case financial model until 2060?</p> <p>PHILIP GARDNER: I will take that on notice.</p>	
11	Philip Gardner	16	<p>The Hon. DANIEL MOOKHEY: Mr Gardner, I just wanted to ask you a bit about RRIPL—Roads Retained Interest Pty Ltd—and its fate, if you do not mind, or what happened with it when we had it. Firstly, it was the case, was it not, that the State was earning income from its residual 49 per cent interest prior to sale.</p> <p>PHILIP GARDNER: It got some returns from WestConnex entities prior to the sale of the 49 per cent—correct.</p> <p>The Hon. DANIEL MOOKHEY: Those returns constituted both—for want of a better term— included dividends, did it not?</p> <p>PHILIP GARDNER: Principally capital, Mr Mookhey.</p> <p>The Hon. DANIEL MOOKHEY: Yes. But also dividends, yes?</p> <p>PHILIP GARDNER: I am not certain. Because the WestConnex business was not planned to be</p>	<p>The State received a cash distribution from Roads Retained Interest Pty Ltd (RRIPL) of \$680.5m in FY22, \$95m in FY21 and \$117.79m in FY20. The distributions were in the nature of capital returns, not dividends. This is why it is recorded in the “other distributions and returns” line of the State’s accounts rather than the “dividends” line.</p> <p>The majority of the FY22 cash distribution arose from RRIPL’s share of a capital release from WestConnex following a refinancing event.</p>

			profitable for quite some period of time, I will have to take it on notice—the mix—but it may well have only been capital.	
12	Philip Gardner	16	<p>The Hon. DANIEL MOOKHEY: And whether or not you characterise that on profit or not is, I guess, a separate question. But it was earning income from the WestConnex, was it not?</p> <p>PHILIP GARDNER: It did have some returns from WestConnex, and my recollection is the majority of that being capital.</p> <p>The Hon. DANIEL MOOKHEY: Okay, sure. That is not reflected in the dividends line under the budget. That is reflected in the other distributions and returns, was it not?</p> <p>PHILIP GARDNER: I would have to confirm that, but definitely not in the dividends because of the nature of the return being capital.</p>	Refer to Q11
13	Philip Gardner, Cassandra Wilkinson, Jacqui Christie	16	<p>The Hon. DANIEL MOOKHEY: On notice, can you clarify where precisely the capital returns from RRIPL would have turned up?</p> <p>PHILIP GARDNER: I might check with Ms Wilkinson to see if she is aware of that, but otherwise we will take it on notice.</p> <p>The Hon. DANIEL MOOKHEY: Yes, if Ms Wilkinson knows, that would be helpful.</p> <p>CASSANDRA WILKINSON: I think we will take that on notice and get back to you.</p>	Refer to Q11

			<p>The Hon. DANIEL MOOKHEY: Thank you. How much in capital returns did we get last year?</p> <p>PHILIP GARDNER: I do not have that information. I might check with Ms Christie if she has that information.</p> <p>JACQUI CHRISTIE: No, sorry, we will have to take that on notice.</p> <p>The Hon. DANIEL MOOKHEY: Was it, in the last year, above \$600 million?</p> <p>PHILIP GARDNER: Sorry, I have to—sorry, Jacqui?</p> <p>JACQUI CHRISTIE: I will take that on notice.</p> <p>The Hon. DANIEL MOOKHEY: Was it specifically around \$622 million?</p> <p>PHILIP GARDNER: We would have to take it on notice, I think.</p>	
14	Philip Gardner	18	<p>The Hon. DANIEL MOOKHEY: My colleague was asking you about how much revenue that toll payers will be forsaking until 2060, but I am asking you how much dividend income have we forgone as taxpayers that we could otherwise be using to build more roads or pay for hospitals and schools. Can you at least tell us how much foregone revenue taxpayers have lost between now and 2060—well, not lost, how much revenue we have forgone by selling the State's residual interest in WestConnex?</p> <p>PHILIP GARDNER: I, for the reasons we have talked about, cannot put a specific number on it. What I can do is to take it on notice to determine—</p>	<p>For the four years to 2024-25, the State was forecast to receive \$1.2 billion in RRIPL distributions. None of these were expected to be paid as dividends [Source FY22 Half Yearly Review].</p> <p>The forecast is now zero as the 49% interest in WCX has been sold.</p> <p>Treasury does not publish a 10 year forecast in the Budget.</p>

			<p>like, we will have mechanically changed, sort of, the budget and so there may be some element of what you actually see in the budget papers that I can take on notice to come back and give you a specific answer on that.</p> <p>The Hon. DANIEL MOOKHEY: Thank you. My last question is, is there any information you can provide us about how the budget has changed in the forward estimates and, equally, can we get that data broken out over the next 10 years? Because, as I understand it, Treasury forecast it as a 10-year profile. That would be helpful too.</p> <p>PHILIP GARDNER: I will take that on notice.</p>	
15	Cassandra Wilkinson	21	<p>The Hon. JOHN GRAHAM: What advice has been given as millions of dollars have been foregone on the Harbour Bridge while drivers in western Sydney have their tolls put up 4 percent every year?</p> <p>CASSANDRA WILKINSON: I think you are aware, Mr Graham, that our advice to Cabinet is confidential, but we are happy to take these questions on notice and consult with our general counsel as to what we can share.</p> <p>The Hon. JOHN GRAHAM: This is not a Cabinet process. Has Treasury provided any advice outside the Cabinet process about this fiscal giveaway as Ministers have kept Harbour Bridge tolls stable but put up western Sydney tolls 4 per cent a year?</p> <p>CASSANDRA WILKINSON: As I have said, I will see if there is advice we have given outside of that confidentiality and we will take it on notice.</p>	<p>Advice provided to Cabinet for its deliberation is prepared on a Cabinet in Confidence basis and therefore cannot be disclosed by Treasury.</p> <p>Treasury has not provided any advice on this issue outside the Cabinet process.</p>

			The Hon. JOHN GRAHAM: Thank you.	
16	Philip Gardner, Cassandra Wilkinson	22	<p>The Hon. DANIEL MOOKHEY: Indeed. You said earlier that the tunnel concession reverts back to Transport, I think, in August this year?</p> <p>PHILIP GARDNER: That is correct.</p> <p>The Hon. DANIEL MOOKHEY: What happens the day after it reverts back?</p> <p>PHILIP GARDNER: I do not know. You should ask Transport for NSW that question.</p> <p>The Hon. DANIEL MOOKHEY: But surely, from a revenue perspective, Treasury would have to have an idea as to what it expects to happen on the Harbour Tunnel, does it not?</p> <p>PHILIP GARDNER: That is correct, but I think you will see in the budget the tolling does step up. So I would imagine that that would reflect the reversion of the tolls to the State's coffers.</p> <p>The Hon. DANIEL MOOKHEY: So we are at least forecasting, for budget purposes, that the toll will be paid to the Treasury and into consolidated revenue after [disorder]?</p> <p>PHILIP GARDNER: Unless Ms Wilkinson can categorically confirm that, otherwise I would take it on notice.</p> <p>CASSANDRA WILKINSON: [Disorder].</p> <p>The Hon. DANIEL MOOKHEY: I am just asking you to confirm the budget papers, really. The budget</p>	<p>Toll revenue for the Sydney Harbour Tunnel (SHT) and Sydney Harbour Bridge (SHB) for FY21 was \$134.2m. Expected toll revenue for FY22 and FY23 is \$163m and \$164m respectively (BP1 June 21). This assumes that the toll levels on the SHT do not change and remain at the current level.</p> <p>For the current SHT concession, the State receives the toll revenue and makes an availability payment to the concession holder.</p> <p>No decision has been made by Government regarding the tolls on the SHT at the end of the concession.</p>

			<p>papers currently are based on the assumption that the tolls will come into the public domain, barring any further future policy decision of the Government.</p> <p>CASSANDRA WILKINSON: I think my senior colleague has agreed to take it on notice, so that is what we will do.</p> <p>The Hon. DANIEL MOOKHEY: Sure, but it is a separate question now. The budget forecasts reflect the fact that we will be obtaining that revenue barring any—It is assuming the current forecasts have the assumption that the toll continues unless there is any further government decision.</p> <p>PHILIP GARDNER: I am not intimately familiar with the mechanism that determines that, Mr Mookhey. I will, unfortunately, have to take it on notice.</p>	
17	Philip Gardner	23	<p>The Hon. DANIEL MOOKHEY: I am not asking you what the bids were. Are you telling me whether or not we got more than one bidder in an auction has to remain a State secret indefinitely?</p> <p>PHILIP GARDNER: Again, I will take the "indefinitely" under advice. I will determine what that is.</p>	<p>This information cannot be disclosed by Treasury as it would reveal Commercial in Confidence information.</p> <p>The Government does not reveal information about the names or number of bidders in sale transaction processes, or other commercial procurements. Release of that information would reveal information about the competitive dynamics of the bidding field and could prejudice the Government's ability to undertake future similar processes.</p>
18	Jacqui Christie	24	<p>The CHAIR: To clarify, the document I was reading from was in relation to a market sounding in relation to the Western Harbour Tunnel. In it, there are a number of statements unrelated. One of them is in relation to whether or not there needs to be more than</p>	<p>The meeting date stated in the document is 21 November 2019 which was 4 months prior to the State commencing a scoping study into the sale of the State's 49% stake in WestConnex.</p>

			<p>one bid should the Western Harbour Tunnel proceed to sale. In that context, Transurban is recorded as arguing that the reason that "other parties withdrew from WestConnex" was not because Transurban was involved but because they could not arrange the capital. Does that not very clearly imply that there were no other bids that made it to the point of actually being up for [disorder].</p> <p>JACQUI CHRISTIE: I think the date of that document, if it is the one I am thinking of, occurred before the WestConnex 49 per cent sale. It is probably referring to the 51 per cent sale.</p> <p>The CHAIR: Perhaps, if you could take that on notice, that would be very useful.</p>	Transurban's comments are about the sale of the 51% stake in WestConnex.
19	Philip Gardner	24	<p>The Hon. JOHN GRAHAM: Mr Gardner, I do not want to misquote you. I think this is your position. You cannot tell us the number of bidders on the WestConnex sale, you cannot show us the scoping study, you believe the base case financial model should be kept a secret until 2060 even though they have been released to Parliament in the past and you might want to keep it a secret after 2060—</p> <p>PHILIP GARDNER: Mischaracterisation.</p> <p>The Hon. JOHN GRAHAM: I will give you the opportunity to respond. As a result, we do not know how much in compensation might be owed. We know the framework but, without that base case financial model, we do not know the compensation. You cannot tell us the public revenue that was flowing under these deals over the timeframe. You certainly will not tell us how much drivers are on the</p>	Refer Q10.

			<p>hook in total in tolls under the life of contracts you recommended and the Government signed, even though it is more than \$100 billion. Is that a fair characterisation or would you like to correct the record on any of those matters?</p> <p>PHILIP GARDNER: Certainly on the matter of the 2060 versus the disclosure environment for Cabinet documents, I will need to take advice on that.</p>	
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