

Chapter 6

Committee view and recommendations

The need for objective and transparent transport planning

6.1 The committee notes that transport and urban planning are primarily state issues. However, the Commonwealth has an interest in these matters by virtue of the importance of cities to the economic and social wellbeing of Australians, the Commonwealth's role in funding some infrastructure, and its responsibilities for the environment, health and general living standards (through social security and taxation), supervision of corporations and consumer protection.

6.2 The committee also notes the need to separate decisions to build certain kinds of infrastructure from decisions about how they are to be financed. In particular, some opposition to toll roads is primarily opposition to the building of motorways.

6.3 A wealth of material was provided to the inquiry demonstrating the importance of transport to the efficient functioning of cities. While scrutiny of individual projects is necessary, transport has to be analysed in terms of networks. Only governments have an incentive to think in terms of the network.

6.4 Toll roads have been a useful response to budget constraints and unwillingness to borrow in the past, and toll road projects such as CityLink have contributed markedly to the efficiency and amenity of cities. However there was a good deal of concern expressed about the benefits and costs of some current proposals, and particularly about the lack of transparency in the development of those proposals.

6.5 The moves by some governments, including Victoria's, to publish the business cases for competing alternatives are welcome. Evidence presented to the inquiry suggests that there could be further and earlier transparency regarding the consideration and modelling of proposed projects.

6.6 As the committee understands the role and functioning of Infrastructure Australia, it appears that there may be scope for more comparative consideration of projects. The organisation conducts audits of Australia's infrastructure needs, the latest one being 2015.¹ However, its priority list is in terms of specific projects, and in updating the priority list Infrastructure Australia invites specific proposals.²

1 Infrastructure Australia, *Australian Infrastructure Audit*, May 2015, <http://infrastructureaustralia.gov.au/policy-publications/publications/Australian-Infrastructure-Audit.aspx> (accessed 12 September 2017).

2 Infrastructure Australia, *Infrastructure Australia Priority List – Call for submissions*, <http://infrastructureaustralia.gov.au/projects/IPL-call-for-submissions.aspx> (accessed 1 September 2017).

Recommendation 1

6.7 That Infrastructure Australia take a system-wide, mode-neutral approach in its consideration of any project and consider alternative ways of solving the problem being addressed.

Recommendation 2

6.8 That the government reaffirm that Commonwealth funding (by way of grants or loans) will not be applied to any project which is not high on Infrastructure Australia's priority list.

The distinction between funding infrastructure and financing it

6.9 Many submissions noted the difference between funding of infrastructure—which will always be by the community, from tolls or other user charges or from taxes—and the method used to finance it. Several pointed out that even in PPPs the government is still likely to bear the risk of the project not being completed on time and on budget, and also the patronage risk, which is considerable given the extensive literature on optimism bias and strategic misrepresentation. Others submitted that governments can borrow more cheaply than the private sector, so that it makes sense for government rather than the private sector to finance and own infrastructure.

6.10 Several submissions suggested that, if governments do want to call on private capital, there are various ways to do it, including simple borrowing or specific infrastructure bonds. The committee notes a suggestion by Mr Tony Harris that governments could allow the private sector to fund, maintain and develop an infrastructure project, which it would lease to the government for a payment which might reflect wear and tear. The government could then retain control as to whether tolls or other user fees were levied.³

Impact of tolls

Impact on individual drivers

6.11 Tolls can form a substantial item in a household budget. They have equity effects, in that some people travel free on the roads they use while others pay tolls. This is exacerbated by the fact that many of the roads that are tolled are in effect the only feasible form of transport for people living in outer suburbs to get to work. In general, these people are not in the highest income brackets. So some tolls are highly regressive.

Unsustainable toll infringement debts

6.12 Arrangements for recovering unpaid tolls are clearly unsustainable. Evidence was heard of total debts of \$1 billion arising from state pursuit of tolls plus penalties. These are debts to state governments for penalties in the criminal justice system, arising from enforcement activities that are provided for in toll concession contracts.

3 New South Wales Parliament, Health and Community Services Committee, Inquiry into Road Tolling, Submission 111, Mr Tony Harris, 22 March 2017, [p. 4–5].

In the last resort they can end in a custodial sentence. In many cases the debts are disproportionate to the means of the offender and the severity of the offence.

6.13 The arrangements vary from state to state, such that in New South Wales most enforcement is in the civil system through debt collection agencies. In Victoria and Queensland, unpaid tolls are within a matter of months caught up in the criminal system—as can a limited number of cases in New South Wales.

6.14 It is likely that much of this debt will remain unpaid.⁴ However, the accumulation of cases is such that it is adversely affecting the work of the Magistrates' Court in Victoria, and presumably imposing considerable cost on the taxpayer. Even worse, in the committee's view, is the cost to households in terms of anxiety and stress of having those debts hanging over them.

Recommendation 3

6.15 That the Commonwealth make it a condition of any further infrastructure funding that states ensure that the systems for pursuing unpaid tolls and related charges are consistent with the treatment of comparable offences, if necessary by insisting on variation of the toll concession contracts.

Interaction of toll roads with other policy issues

6.16 The commercial nature of past toll road projects has created a case for commercial confidentiality which, in the committee's view, makes it difficult to ensure that the process is as transparent as possible and to maintain public trust.

6.17 Toll road projects can interact with environmental and health policies, as well as with the transport plans of city councils. Any costs in these areas should be taken into account in a sophisticated benefit-cost analysis of a project.

6.18 The most egregious constraint on other policy areas is through the inclusion of 'non-compete' clauses and undertakings to compensate for loss of traffic through government actions.

6.19 The long time frames of toll concession contracts create the possibility that they will inhibit long term policy development. For example, the current interest in road user charging being pursued by the Council of Australian Governments and also separately by the Commonwealth will have to take account of sections of road which are separately, and generally not efficiently, already charged for. The difficulty of reforming the arrangements for pursuing unpaid tolls and associated charges is also a function of the concession contracts.

6.20 The Australian National Audit Office's submission draws attention to serious irregularities in the making of Commonwealth payments to New South Wales and Victoria for the WestConnex and East-West Link projects respectively. It notes that the Department of Infrastructure and Regional Development gave proper advice which was not followed.

4 Mr Scott Charlton, Chief Executive Officer, Transurban, *Committee Hansard*, 3 August 2017, p. 43: 'It sits on a balance sheet and they never recover it.'

Recommendation 4

6.21 That the Commonwealth reiterate the processes for making payments to the states for infrastructure projects, especially the necessity for milestones to have been met.

Recommendation 5

6.22 That the Commonwealth take account, in any funding decision, of the degree to which an infrastructure project might constrain future government action, either by the building of the project itself or by clauses in the project contract.

Recommendation 6

6.23 That the Commonwealth lift the amount of infrastructure grant funding to an extent that takes pressure off the states to seek private financing of public infrastructure.

Senator Chris Ketter

Chair