

Additional Comments by the Australian Greens

1.1 We support the very thorough and insightful report and the recommendations. We have the following additional comments.

The need for objective and transparent transport planning

1.2 We believe that it is critical that any proposals for Commonwealth contribution to toll road projects need to be assessed in the context of an integrated transport plan which has been developed through a transparent and accountable process.

1.3 In particular we reiterate the important observation made in the report that only governments have an incentive to think in terms of the network.

1.4 We believe that it is critical that all details of transport modelling and any reviews of this modelling for toll road projects are publicly available. There is no case for ‘commercial in confidence’ and ‘cabinet in confidence’ provisions being brought to bear to preclude this information being made available to the community and indeed to Infrastructure Australia. This is the case for the Westgate Tunnel project currently planned for Melbourne, where independent peer reviews of the transport modelling have not been publicly released, nor made available to Infrastructure Australia.

1.5 The Greens agree with the submission from the Grattan Institute that:

A lack of transparency gives rise to suspicion that the deal may not be in the best interests of the public. The strongest argument for secrecy – that secrecy leads to lower costs to the public – has not been made. On the contrary, there are indications that the secret deal may not offer the best value deal to the public.¹

1.6 We accept that in the case of economic modelling there is an argument that some of this information may be legitimately ‘commercial in confidence’. However we believe that all information related to the economic modelling should be made available to Infrastructure Australia and the default should be for it to be publicly available.

Market led proposals

1.7 Market led proposals pose particular difficulties with regard to open, objective and transparent planning

1.8 The adoption of a major proposal by the government without its inviting tenders or expressions of interest, or even announcing a timeframe for an infrastructure outcome, suggests that the private sector, and not the government, is setting priorities; and these priorities will be set with profitability rather than the public interest in mind. In the case of the Westgate Tunnel, the Grattan Institute observes:

1 Grattan Institute, *Submission 23*, [p. 5].

The government only made the case for a much smaller road project, the \$500 million West Gate Distributor; it did not identify the underlying problem warranting a \$5.5 [billion] mega-project linking a number of freeways and arterial roads.²

1.9 Further, the consideration in isolation of a proposal means that there is no comparison with competitors. Since competition is generally supposed to be one of the major drivers of superior efficiency in the private sector, this way of operating seems perverse.

Recommendation 1

1.10 That Infrastructure Australia require projects to be assessed as part of integrated transparent and objective transport planning processes which have strong community involvement.

Recommendation 2

1.11 Assessment processes should include assessing how individual projects contribute to the meeting of overall objectives for the transport system in the region.

Recommendation 3

1.12 That there be a moratorium on Commonwealth funding of toll road projects until such planning processes have been undertaken for particular regions.

Recommendation 4

1.13 That the Commonwealth not make any financial contributions to any projects worth over \$100 million unless all details of the transport modelling underpinning these projects is public, and all information related to the business case and economic modelling is made available to Infrastructure Australia.

The distinction between infrastructure funding and financing

1.14 As is noted in the report, regardless of the method of funding a road, whether through direct funding from government or through private sector financing the community will pay for the road. The question is whether it is to be financed through taxes or tolls or some other method.

1.15 The Greens are not opposed per se to private sector financing in infrastructure. Indeed, given the level of resources available in private superannuation funds there is a strong case that this money should be invested in productive infrastructure.

1.16 There are assumptions that the private sector is forced by competition to be efficient in building infrastructure, and because it is directly involved it will be more likely to deliver on time and on budget. However most major projects are one-offs, and anyway the toll road industry in Australia is virtually monopolistic, in that it is

2 Grattan Institute, *Submission 23*, [p. 5].

almost completely run by one company, Transurban. Most of the actual building is outsourced to other firms. So is highly likely that these assumptions do not hold.

1.17 We do not believe that acceptance of private sector funding means that we should accept tollroad developments, financing arrangements, and setting of tolls that have perverse consequences and are not aligned with agreed economic, environmental and social outcomes

1.18 The initial logic of toll roads was that a company would be engaged to build a toll road, and would be paid for it by way of a right to collect tolls until the capital cost with interest and the maintenance costs for the period were recovered.

1.19 The report outlines that there is no necessary connection between building and paying for a road. In particular, Transurban, the dominant toll road operator in Australia, operates a number of roads which it did not build, and has negotiated extensions to existing contracts to pay for different roads.

1.20 Transurban has been a highly profitable company. This is partly due to skilful bargaining; it is partly attributable to windfall gains from increased population in the major cities where it operates; and it partly suggests that tolling is, in fact, a profitable business. The former New South Wales Auditor-General, Mr Tony Harris, suggests that 'super profits...are a common outcome for Sydney toll road owners'.³

Toll contracts

1.21 The specificity of toll contracts frequently seems to operate only in the interests of the tolling company. The contracts have often proved flexible enough, or governments have been amenable to changing them, to allow for extensions or further increases.

1.22 While Transurban proposes to fully fund NorthConnex in Sydney, according to one submission:

...the contract for this also allows Transurban to be bailed out, if NorthConnex fails to generate the expected level of traffic.⁴

1.23 Clauses like this raise doubts about the logic of PPPs. It would make sense for a government to negotiate all stages of a build-own-operate (and charge tolls) contract before the beginning of a project if it was a way of transferring the business risk to the private operator.

Tolls as taxes

1.24 Given that there is clearly a disconnection between the cost of building and operating a road and the toll paid, the Greens support the observation made by many submitters to the inquiry that is valuable to view tolls as taxes. Viewing them as taxes also underlines that it is responsible and appropriate to set and manage them with issues of equity uppermost, and from a holistic and network wide perspective.

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

4 EcoTransit Sydney, *Submission 13*, p. 4.

1.25 Viewing tolls as taxes also leads to the observation that agreeing to a tolling arrangement is similar to handing a taxing power and future revenue stream to a private operator - which has significant and ongoing repercussions.

1.26 We note the submission of the Alexandria Residents Action Group:

The way tolls are administered leads to a failure to properly account for moneys collected on behalf of the State, and a failure to properly account for money disbursed by the State.

Where the state grants a concession to collect a toll, the money collected should be considered, for accounting purposes, to have been collected by the State, and any money not handed over to the State should be considered, for accounting purposes, to have been a payment by the State.⁵

1.27 That tolls are effectively operating as taxes is also supported by the actions of the New South Wales government which gives a rebate to residents for tolls on the M5 motorway.⁶ According to one report, the subsidy to motorists through the scheme is over \$1 billion a year.⁷ On the face of it a better scheme would involve a simple payment by the state from general (tax based) revenue for maintenance of the road, and any residual capital cost. It would be more transparent, cheaper to operate, and possibly involve a smaller subsidy to the road operator.

1.28 There is no obvious reason why, if tolls are to be collected, the tolling should not be done by government. On the face of it, it might seem to be more efficient than to have a private operator involved. Tolls on Sydney Harbour crossings are already administered by the New South Wales government. Mr Jeff Kennett, the former Premier of Victoria who negotiated the CityLink deal, is quoted as saying:

Money, instead of going to government, is going to the private sector; that is a total waste.⁸

1.29 It would make sense to hand over the tolling power if the private sector were bearing considerable risk. But it has been argued above that most of the risk is transferred to government.

1.30 The rebating of tolls on the M5 at the rate of \$1 billion a year by the New South Wales government suggests that the whole system has come full circle and it

5 Alexandria Residents Action Group, *Submission 10*, p. 1.

6 New South Wales Government, Roads and Maritime Services, *M5 Cashback Scheme*, <http://www.rms.nsw.gov.au/roads/using-roads/motorways-tolling/paying-tolls/m5-cash-scheme.html> (accessed 28 July 2017).

7 M O'Sullivan and J Robertson, 'Taxpayer bill for cashback scheme on Sydney toll roads hits \$1.5 billion - and climbing', *Sydney Morning Herald*, 19 December 2016, <http://www.smh.com.au/nsw/taxpayer-bill-for-cashback-scheme-on-sydney-toll-roads-hits-15-billion--and-climbing-20161207-gt6hiq.html> (accessed 28 July 2017).

8 R Millar and B Schneiders, 'Transurban, the making of a monster', *The Age*, 14 May 2016, <http://www.theage.com.au/victoria/transurban-the-making-of-a-monster-20160512-gotjm9.html> (accessed 30 August 2017).

might simply have been better for the government to pay for the road from tax revenue.

Monopoly

1.31 A further concern about toll roads and the appropriateness of private sector provision of these roads is the concern of monopoly.

1.32 Clearly, there is a constraint on supply. There is almost never a new alternative route available in urban areas. By definition, a new motorway is a monopoly. Monopolists will always charge more and supply less than the socially efficient quantity of a service.

1.33 As several companies developing toll roads have failed, there has been an increase in concentration of ownership. Today Transurban operates, and has at least a majority ownership of, 13 of the 16 toll roads.

1.34 This level of concentration may reduce the usefulness of PPPs as a future method of financing roads. Having few alternative private sector partners would increase the risk to state governments. It may strengthen the case for governments to finance and build under contract rather than engage in PPPs.

1.35 Inflexibility in government policy is introduced by the dominance of one company in the toll roads business. Transurban have built such expertise, both technical and tactical, that it would be difficult for other companies to compete in bidding for new projects. In effect, it creates a barrier to entry in the market for toll road projects.

Recommendation 5

1.36 That the issue of competition in the toll road operation and toll road financing market be referred to the ACCC for review.

Recommendation 6

1.37 That the Government leverage record low interest rates for Commonwealth debt to increase overall direct financial contributions to productivity enhancing infrastructure.

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