



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

ECONOMICS REFERENCES COMMITTEE

Operations of existing and proposed toll roads in Australia

THURSDAY, 3 AUGUST 2017

MELBOURNE

BY AUTHORITY OF THE SENATE

INTERNET

Hansard transcripts of public hearings are made available on the internet when authorised by the committee.

To search the parliamentary database, go to:

<http://parlinfo.aph.gov.au>

SENATE

ECONOMICS REFERENCES COMMITTEE

Thursday, 3 August 2017

Members in attendance: Senators Hume, Ketter, Rice.

Terms of Reference for the Inquiry:

To inquire into and report on:

Operations of existing and proposed toll roads in Australia, including:

- a. financial arrangements of existing and proposed private toll roads, and transparency, accountability and equity aspects of these arrangements;
- b. interaction of commercial considerations of private toll road operators with federal and state transport and infrastructure policy; and
- c. any other related matters.

WITNESSES

BOLT, Mr Richard, Secretary, Department of Economic Development, Jobs, Transport and Resources	62
BOYD, Mr Brian, Executive Director, Performance Audit Services Group, Australian National Audit Office	5
BYRNE, Mr Henry, Group General Manager, Corporate Affairs, Transurban.....	40
CALVERT, Ms Fiona, Director, Transport Analysis and Assessment, Transport for Victoria, Department of Economic Development, Jobs, Transport and Resources	62
CHARLTON, Mr Scott, Chief Executive Officer, Transurban.....	40
FRASER, Mr Michael, Director, Toll Redress.....	55
GRIPLAS, Charles, Managing Director, ConnectEast	50
HALL, Ms Jessica, Acting Executive Director, Infrastructure Investment Division, Department of Infrastructure and Regional Development	27
HERBST, Tami, General Counsel and Company Secretary, ConnectEast.....	50
HUDSON, Mr Nicholas, Director, Economics and Policy, Infrastructure Partnerships Australia Ltd.....	32
JOHNSTONE, Ms Maddison, Director, Toll Redress.....	55
LYON, Mr Brendan, Chief Executive Officer, Infrastructure Partnerships Australia Ltd	32
McDOUGALL, Mr William, Private capacity	16
NELTHORPE, Mr Denis, Chief Executive Officer, WESTjustice	55
PITTAR, Mr Roland, General Manager, Major Infrastructure Projects Office, Department of Infrastructure and Regional Development.....	27
SPENCER, Ms Nicole, General Manager, Land Transport Market Reform Branch, Department of Infrastructure and Regional Development	27
TERRILL, Ms Marion, Transport Program Director, Grattan Institute	1
THOMPSON, Associate Professor Russell, Private capacity.....	10
WEBSTER, Mr David, Deputy Secretary, Commercial Division, Department of Treasury and Finance.....	62

TERRILL, Ms Marion, Transport Program Director, Grattan Institute**Committee met at 09:32**

CHAIR (Senator Ketter): I declare open this hearing of the Senate Economics References Committee for the inquiry into the operations of existing and proposed toll roads in Australia. The Senate referred this inquiry to the committee on 15 June 2017 for report by 10 August 2017. The committee has received 36 submissions so far, which are available on the committee's website.

This is a public hearing, and a *Hansard* transcript of the proceedings is being made, although the committee may determine or agree to a request to have evidence heard in camera. I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may also be made at any other time.

I now welcome Ms Marion Terrill from the Grattan Institute. Thank you very much for appearing before us today. I invite you to make a brief opening statement, should you wish to do so, and then we'll open up for questions.

Ms Terrill: There are a lot of issues that I could talk about in relation to toll roads, but the issue that I've focused on in my submission is transparency. In particular, the three points that I've made are: that private finance generally costs more than general government borrowing; secondly, that the risk of cost overruns, particularly on very large projects, is understated; and, thirdly, that deals that are not revealed transparently may not be in the public interest. In my view the only reason for the details of a deal not to be made public is that it is cheaper for the public if they are not revealed; and that does not seem to be the justification for what is going on. I am happy to talk to any of these points in more detail or take your other questions.

CHAIR: Thank you, Ms Terrill. In relation to financing, you make the point that it is preferable for governments to borrow entirely for the toll road project. But you do also make the exclusion that it might be preferable for private investors to share some of the risk. In what cases would this be preferable?

Ms Terrill: There are some risks that may be better borne by the private sector. Typically, people think the risks associated with construction may well be better borne by the private sector. In that case, it does make sense for the private sector to allocate those risks; it is more efficient and should lead to a lower cost outcome overall. I guess the job for government is to weigh up the fact that private sector finance is more expensive than general government borrowing, against the efficiency gains from having the risks allocated in a better way.

CHAIR: You say a private investor who puts her own money at risk will put in extra effort to make sure the toll pricing and vehicle volume projections are accurate.

Ms Terrill: That is one of the situations in which the incentives might work in favour of the public. For example, that should lead to a more efficient allocation of risk than where a very politicised decision was made. Having private sector money at risk can bring a commercial discipline that contains the costs. But it is contingent on the risk actually being allocated effectively to the private party. When there isn't much transparency around those arrangements it is very hard for the public to form a view as to whether that is actually the case.

CHAIR: You say the construction phase is really the only part of the project—

Ms Terrill: No, the operational phase as well.

CHAIR: where there is some argument that private investors might have a role to play.

Ms Terrill: There is no reason they shouldn't if it is a more efficient allocation of risks and the overall cost to the public is not higher.

CHAIR: What is the history of governments assuming patronage risk on new toll roads in Australia?

Ms Terrill: I am probably not the best person to give you the detail on that.

CHAIR: Your submission refers to the P50 and P90 cost estimates in the West Gate Tunnel business case and talks about taxpayers bearing the brunt of those contract overruns. If the Transurban market led proposal to deliver this project is successful then it would essentially be a PPP delivered by Transurban. How does the risk allocation in a PPP compare to other ways to deliver infrastructure projects?

Ms Terrill: PPP is a broad term. It is really about relationships where governments involve private sector partners in a variety of ways. The point I was making in relation to P50 and P90 costs is that, looking at all of the

transport infrastructure projects built in the last 15 years, there is a systematic underestimation of P90 costs. That is in terms of projects that have been completed. History has shown us that there is an underestimation of the P90 costs for many projects, and for larger projects the risk is higher that not only will there be a cost overrun but it will be larger. In a number of projects that are underway at the moment—not completed—the P90 cost does not seem to be high enough. I will give you a couple of examples. For the WestConnex project, it appears that the difference is six per cent. On the West Gate Tunnel it is 6.2 per cent. And on some smaller projects it is also of that order. But history shows that something in the order of 26 per cent higher would be a realistic estimate of the P90 cost.

CHAIR: What would you like to see in terms of making that information publicly available? Who should supply the data?

Ms Terrill: The project proponent is typically the state government, so I think they should make the deals publicly available if there is public money going in. Clearly, public money is always going into these public infrastructure projects; the funding source is tolls, tax revenue or some combination of the two. So I think it would be better to publish the details before there is any government commitment to proceed with the project. Typically, the business cases are heavily redacted so that all the important assumptions are not visible. Learning from history, it would be very useful to publish post-completion data on how these projects perform against the cost and benefit assumptions on which the decision to invest was made. It would be useful also to have an independent assessment of the business case's level of reliability. Certainly a lot of people inside the industry are quick to say that the quality of business cases is very poor, and that includes senior government officials. So we need to try to improve the quality of business cases and be more transparent about the basis on which decisions to spend public money are made.

There is an international literature that shows—and I have shown it in my own research—that larger projects are at greater risk of cost overruns, and larger cost overruns. I think it would be better to have stand-alone legislation for projects with over \$1 billion of public money so that we could avoid having political parties getting excessively attached to iconic projects even in the face of evidence coming to light that a better option might be worth considering. I think governments should not be able to commit public money to transport infrastructure projects until they have been rigorously evaluated and a business case tabled in parliament.

CHAIR: What is your view on governments state and federal tying payments to project milestones?

Ms Terrill: When there is Commonwealth money there is a milestone payment to the state. Is that what you mean, or do you mean milestone payments to the private provider?

CHAIR: To the private provider.

Ms Terrill: I think with all contract management you should have milestone payments.

CHAIR: Do you have any views on how compliance in this area is going at a state and federal level?

Ms Terrill: I am probably not the best person to ask.

Senator HUME: You mentioned the secret deals that have been done with regard to the West Gate Tunnel. He said the West Gate Tunnel has been characterised by secrecy. Why do you think that is?

Ms Terrill: I am not inclined to speculate about the reasons; I just look at what happens, and think we could do this a better way.

Senator HUME: The fact that it came from an unsolicited bid and was done with the opposition prior to a state election is highly unusual, is it not? Do you have any evidence or examples of that being done with previous projects?

Ms Terrill: I do not have examples to hand. I am aware that when a party is in opposition it is more difficult for that party to have the resources to come up with viable projects. I think the responsible reaction to that situation is to caveat any commitments that you have to make subject to coming into office and having better information about them. I do not know how unusual it is. I have noticed that at the Commonwealth level there is a greater willingness to say 'subject to a favourable assessment by Infrastructure Australia'. I see that as a very positive direction but it is one of the constraints of this quite politicised way of doing business.

Senator HUME: You mentioned that the government was committed to the proposal before Infrastructure Victoria was in a position to assess its merits. Do you think Infrastructure Victoria, as opposed to Infrastructure Australia, is the appropriate body when we are looking at state toll roads?

Ms Terrill: If there is both Commonwealth and state money involved then I think both bodies should be involved. They have slightly different briefs, really. It was a commitment of the incoming Labor government to

establish Infrastructure Victoria—and they did. It took a little while for the agency to be up and running. That is the sequence of events. I would certainly hope that, in future, Infrastructure Victoria did assess such a proposal.

Senator HUME: Is the heavy redacting of the publicly released business case standard practice?

Ms Terrill: Yes, it is.

Senator HUME: So that it avoids all scrutiny?

Ms Terrill: The business case is in the public domain but a lot of the information in it is protected on the grounds that it is commercial in confidence.

Senator HUME: Is it unusual for one project like the West Gate Tunnel to be funded from the revenue from another entirely separate project like CityLink?

Ms Terrill: As far as I am aware, that is unusual—the user charges on one project paying for another project. We do not have that many toll roads in Australia, as I am sure you know.

Senator HUME: Do you think the internal rate of return on the West Gate Tunnel, if it stood alone without the revenue that came from CityLink, would stack up?

Ms Terrill: I am not in a position to answer that.

Senator HUME: Do you think that the rate of increase in tolls on the CityLink project, at 4½ per cent or CPI—whichever is the greater—sounds excessive?

Ms Terrill: I am probably not the best person to comment on that.

Senator HUME: Does Grattan do any study into the effect of excessive tolls on traffic flows, particularly with heavy vehicles?

Ms Terrill: I am currently doing research on congestion but not for heavy vehicles. I am interested in the impact of a toll road system that is very partial. I hope to be able to release findings on that soon.

Senator RICE: Thanks, Ms Terrill, for joining us today. I want to mostly focus my questions on the second two of your three points. The first one, that it's cheaper for governments to borrow than the private sector, is well known. As you say, it's a matter of judging why to outsource it to the private sector. On risks, you state in your submission that the Victorian public bears the risk of a cost overrun on the construction and operating cost of the West Gate Tunnel Project. Could you expand on that a bit as to why it's the public that ends up bearing that risk.

Ms Terrill: In the period between where we are now and the financial close on the project, the first point I would make is that the public must infer from the publicly available documents, like the redacted business case, what the arrangements are. Piecing together this limited information as best as I can, what I understand is that, prior to financial close, construction cost risk sits with the public and any cost overrun during this period would be passed to Victorians through an extension of the tolls on CityLink. After financial close is a different phase of the project. But in this period I see there is reason to be doubtful that the government has given the public reliable information about the likely time period of the tolling extension because of this business of the history of P50 and P90 cost estimates compared to actual cost outcomes. We are in this situation of not knowing what the nature of the deal is. I am piecing it together as best as I can from what's available. That is my understanding.

Senator RICE: With regard to your point about the P90 estimates being underestimates and the fact that it's the P50 costs that are often used in the business case, what impact does that have on the business case?

Ms Terrill: The business case has both the P50 and the P90 cost estimates. I think, because they're quite similar numbers, it suggests either that the P50 cost is too high or the P90 is too low. I find it unlikely that the P50 is too high. That's not typically how these things go. I think it's more likely that the P90 is too low. The estimate that I put in the submission was that the P90 estimates could more accurately be described as P81 estimates. That's based on looking at 836 projects in Australia. This is a very large project. It's extremely expensive. It's one of the biggest projects that we've had in this country, and so it is a very risky project on those characteristics. I suppose I think that in this period before the deal gets signed, which I understand is expected to be by the end of this year, there is a good chance that we will end up with different cost estimates that could be higher.

Senator RICE: The consequence of underestimating what the cost of the project is going to be in effect makes the benefit-cost ratio higher. If you then add that together, the other way to make that benefit-cost ratio higher is if the traffic model is overestimating the traffic that's going to be travelling on that road. Do you have any comments about what you understand, particularly with the West Gate Tunnel Project, about whether that is also occurring?

Ms Terrill: I don't know in relation to that particular project.

Senator RICE: Has that been the history in Australian toll road projects in your research?

Ms Terrill: Yes, there have been some prominent examples of patronage forecasts that were very optimistic. My understanding is that practice has changed in light of some spectacular estimates.

Senator RICE: But, at the very least, based on your assessment that the P90s are being underestimated, it would mean that they're underestimating the costs and that would make the business case look better than is likely to be the case.

Ms Terrill: Yes. I can't predict the course of any individual project, but, on average, that does seem to be the case.

Senator RICE: Your third point is secrecy. Again, part of the reason we are just left to speculate is that the evidence is being redacted from business cases. Do you think that this is an appropriate way to plan such important infrastructure for our cities, in positions where so much information is being kept secret? Can we do good, transparent, accountable planning for our transport infrastructure with that information being kept secret?

Ms Terrill: I'm certainly a big advocate for transparency—why any project is a higher priority project than another, because, in the end, they're always competing for the same dollars, and how it fits into a citywide plan. Since this project has been committed to in principle by the Victorian government, Infrastructure Victoria has published its 30-year plan, and the other states are increasingly moving in this direction. It would be great if that determined which problems were addressed as higher priorities, which ones were left to be longer term priorities and which ones were not priorities at all.

Senator RICE: In terms of individual projects, in Transurban's submission they make the case that the information that is commercial-in-confidence has to stay commercial-in-confidence. I think their argument was that it would undermine their competitiveness. Do you accept that is the case—that the level of information that's commercial-in-confidence and redacted from business cases is necessary?

Ms Terrill: I don't accept that it's necessary. It's a point that the Productivity Commission also made in its public infrastructure inquiry. The argument of commercial-in-confidence is, in my view, overstated.

CHAIR: I have a follow-on question. Where a state government is involved actively in negotiations with a proponent, such is the case here, do you think there's an argument that any of the information should be redacted in the public interest?

Ms Terrill: The only argument for not making this information available would be that it is cheaper to the public if it were not made available. I can't see any other argument for it, and I don't think that is the argument that's being made.

Senator RICE: In particular, we are now entering an era of market-led proposals, and we've been given assurances in various submissions that market-led proposals are fine and they're being managed well. Do you have any views that you'd like to share with us on the way that market-led proposals are being assessed?

Ms Terrill: It's not an area I've investigated in detail.

Senator RICE: Do you have particular concerns, though, that, if market-led proposals haven't come out of an overall strategic transport planning process, there should be greater levels of transparency to really make sure that they're in the public interest?

Ms Terrill: Yes, I do agree with that.

CHAIR: As there are no further questions, thank you very much, Ms Terrill, for appearing before us today.

BOYD, Mr Brian, Executive Director, Performance Audit Services Group, Australian National Audit Office

Evidence taken via teleconference—

[09:59]

CHAIR: Welcome. I remind officials that the Senate has resolved that an officer of a department of the Commonwealth or of a state or territory shall not be asked to give opinions on matters of policy and should be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted.

Mr Boyd, good morning. Thank you for appearing before the committee today. I invite you to make a brief opening statement, should you wish to do so, and then we'll open it up for questions.

Mr Boyd: I'm happy to let our submission speak for itself.

CHAIR: I want you to take us through some of your summary of report 38, Commonwealth funding of WestConnex. Firstly, the major problem in the report was that the Commonwealth advanced funding at a time it wasn't needed. That's the case?

Mr Boyd: That is one of the things. I think the committee may be more interested in the concessional loan arrangements rather than the direct grant payments. The direct grant payments is where the payments were made in advance of need. The Commonwealth has for many years funded land transport infrastructure projects through grant arrangements. What the Commonwealth has now started moving into is using concessional loans to help fund infrastructure projects delivered by the states and territories. That's where the tolling arrangements were of particular interest to that audit report because the repayment of the concessional loan depends to a large extent on the tolling arrangements.

CHAIR: If I could first talk about the fact that there was funding advanced by the Commonwealth in advance of the milestone. I know you point out other areas, but if we can talk about this issue for the moment. Your conclusion was it did not accelerate the project by the two years claimed. Is that correct?

Mr Boyd: That is correct. Similar to the findings we had in the East West Link audit report as well. This sort of finding has come up a number of times in our audits involving Commonwealth funding of land transport projects where payments are being made in advance of the need of the project, which exposes the Commonwealth to some risk. When you look at the East West Link the risk really has become realised there. Also it's not a sensible use of the Commonwealth's finances to be paying money to people before it is needed because essentially the Commonwealth is paying the financing costs on the advanced payments and gaining no benefit for that.

CHAIR: In your view are the processes in place at the department of infrastructure clear?

Mr Boyd: The principles are clearly espoused. The problem that we keep drawing attention to is the fact that the practices do not accord very well with the principles. So there is a recognition that payments should be linked to milestones and the milestones be linked to project progress, but as you can see with the audit report on WestConnex the problem was when the project started lagging, rather than delaying the payments until the project proceeded to the point where the milestone could be met, what was happening was the milestones were being adjusted so that less work needed to be done to still receive a milestone payment.

CHAIR: So there's not much point in having a milestone if it's capable of being adjusted on an arbitrary basis.

Mr Boyd: Correct. It's a milestone in name only. That is what has turned out to be the case because essentially, because the department wants to make the payments in accordance with the timing it is scheduled to make them, they look at where the project is up to at that point in time and adjust the milestone wording to reflect that so that they can still make the payment when they wanted to make the payment.

CHAIR: Do you have any evidence that the government took a decision against departmental advice in relation to the advance payments?

Mr Boyd: With the initial payments for both WestConnex and East West Link, the department provided advice as to whether those payments were needed at that point in time, and the advice was that they were not, but it's fully a matter within the department in terms of then the later milestone payments being adjusted, because you could make the payments even when the milestones hadn't been met, as they were originally worded.

CHAIR: On this issue, do you have any updates on how the department is going in implementing the recommendations that you've made to make its processes more robust?

Mr Boyd: No. The department reports to its audit committee on its progress with implementing audit recommendations, but we don't have any direct experience as to whether the recommendations have now actually been implemented, because we haven't done another audit of a similar project in that department since we tabled the WestConnex audit report.

CHAIR: Two stages of the WestConnex project are referred to in your report. Just tell us what the two stages were.

Mr Boyd: WestConnex is probably a bit difficult to break down into stages, because what exactly WestConnex comprises and how the stages are described varies a fair bit over time. Table 2.2 in the audit report, which is on page 31, tries to explain to people what the stages comprise at different points in time. It's pretty hard to say, 'This is WestConnex stage 1,' or stage 2, given it varies over time as to what exactly is included in that.

CHAIR: In your submission, you say that the department provided clear advice that the \$1.5 billion was being paid in advance of the project needs.

Mr Boyd: That was the initial payment, yes.

CHAIR: What were the details of this advice?

Mr Boyd: The department provides written briefings to its ministers. The way the system is intended to operate by design is that, firstly, Infrastructure Australia has an assessment role in terms of projects being put in their infrastructure pipeline. When we looked at East West Link, that project frequently bypassed the Infrastructure Australia process. The WestConnex one actually went through it and was put on Infrastructure Australia's priority list. Just because you are on Infrastructure Australia's priority list doesn't mean the Commonwealth has yet committed to fund those projects. They are simply a pipeline of potential projects that may receive support. The Department of Infrastructure and Regional Development then has a role under the national land transport legislation to assess individual project proposals, through what's called a project proposal report process, in terms of various things, including their economic merit. As part of that process, it is for the department to advise its minister whether the candidate projects meet the criteria in the legislation.

One of the findings in both East West Link and WestConnex was that the department didn't provide advice as to whether those projects met the criteria or it was advising the minister that it was appropriate for the minister to sign and approve the project approval instruments. As part of that process, the department also indicates what money and what time frame are being requested by the proponent—in this case, state government—and also what the department's advice is in terms of when the payment should be released. As part of that process, they provide advice to ministers, which is an input to ministers then making a decision, as ministers are entitled to. They make a decision, and the thing we've observed here in both cases was that the department advised that the initial payment was not yet required but the ministers made a decision, as they are entitled to, to not follow that advice and make the payment earlier than the department was recommending.

CHAIR: It was concerning to note in the last paragraph of your report that no recommendations were made apart from one to Treasury that the processes were there but they were just ignored.

Mr Boyd: From our perspective, if you've got the processes there, the thing is about following them. We shouldn't need to make recommendations that you follow processes which are documented when we think the processes are perfectly sound. With WestConnex there is a recommendation in terms of how the department should improve its advice on loans because the WestConnex one is the first time they've said, 'Let's make a land transport infrastructure project where the Commonwealth provides financial support to the project not just through a grant but also through a concessional loan.' We even felt that the department's advice to ministers covered off enough of the things that it should have covered off in advising ministers. They should enter into a loan on the conditions they entered into. It seems to be that concessional lending is an area where the Commonwealth is looking to do more of this. So we think there are certainly some lessons that can be learnt from the WestConnex experience to feed into any future instances where the Commonwealth is going to offer concessional loans to support infrastructure programs. For example, we are aware there has already been another one, the Sunshine Coast Airport. There may be others that are either under consideration or are in place until we can finish the audit work. At that stage they are WestConnex and an airport proposal, and there were discussions about there being more of this sort of assistance.

Senator HUME: Mr Boyd, you have to forgive me; I have a terrible cold and my hearing is affected, and the reception on the teleconference is pretty poor. So I might be repeating some questions. Forgive me if you've already answered these.

Mr Boyd: No problem.

Senator HUME: Can you please just specify the steps. You mentioned in the first paragraph of page 2 of the submission what steps were made by the Department of Infrastructure and Regional Development to protect the Commonwealth's financial interests in WestConnex.

Mr Boyd: A lot of that came down to them obtaining advice that would help them understand the nature of the contractual arrangements being put in place. If you look at WestConnex, a good way to understand—there is a chart on page 48 of our audit report which looks at the commercial structure for WestConnex because this isn't a case where the Commonwealth is providing a loan to the New South Wales government. There's a very complex thing called a stapled trust structure which exists throughout WestConnex. That chart, as complicated as that may be—it's actually a simplified chart; it doesn't show all the inter-relationships—shows there are a lot of companies formed by the state government under its auspices to actually deliver various aspects of the project. So it becomes quite important for the Commonwealth, when it's lending money, to understand exactly which of these various legal entities the Commonwealth is lending the money to and what rights it will have in terms of repayment to the extent to which that entity it's actually lending the money to actually has contractual relationships between it and the other corporate entities formed by the state government as part of this stapled trust structure.

Essentially—forgive me if I'm tell you what you already know—a stapled trust structure basically means there are different trust companies established and the rights and obligations between them are all formed in the contract signed between those parties. The Commonwealth has a fair job to do to properly understand this too make sure it knows which are the entities involved in this structure and what are the contractual arrangements between those. For example, a key factor that we looked at here was to make sure that the entity the Commonwealth was granting its money to was an appropriate entity within that structure, because you don't want a risk where you're lending your money to what is effectively a shell company, and that shell company has whittled away either assets or rights to income streams so that it's going to be unable to repay that.

There was some initial talk that the Commonwealth would be lending its money to a different commercial entity in that structure than the senior lender was going to lend to. One of the things we look at in all this is that the Commonwealth is new to this area. It's not our core business, whereas for the senior lenders—being major banks and the like—this is part of their core business. As a general rule, you can expect that they will be far more attuned to looking after their interests than the Commonwealth is, given our relative lack of experience in this space. That was something the department and its advice at least identified. In fact, they were going to be proposing that the Commonwealth would lend its money to a different entity than the senior lenders and that got changed. So it's through those sort of things that we're actually making sure the Commonwealth was performing adequate due diligence and not just agreeing to whatever the state government was proposing.

Senator HUME: I get the impression that we haven't actually had a gold standard toll road project that we can use as a case study or a standard bearer project so that we can say, 'This is how a successful toll road investment can look.' With WestConnex, we're talking about concessional loans. I know that concessional loans from government can actually be highly cost effective because they use the government's AAA credit rating rather than a potential toll road providers' BBB rating to borrow funds. From the National Audit Office's perspective, has there been a project out there that has been the standard-bearer project that we should use as a case study for future toll road projects?

Mr Boyd: Unfortunately, we're probably not the people to ask. There's somewhere between 16 and 20 toll roads in Australia, and most of those have been delivered in a way where the National Audit Office has not had any examination of the toll roads. WestConnex is different and the East West Link is different—it would've been one—but most of the major toll roads—to the extent to which the Commonwealth has contributed to them—have been grant funded. The Commonwealth hasn't actually needed to, and therefore hasn't been, be involved in tolling arrangements and their development, so, unfortunately, it's not something where we actually have the experience where they'll then do it, work through all that and say, 'Here's what we think is the best'—

Senator HUME: Is that something that concerns you—that there is a lack of postimplementation review, for want of a better expression, from the Commonwealth's perspective?

Mr Boyd: It's something we observed upon at the time with the land transport program in respect of how we provided our funding and to what extent there was actually postdelivery and postimplementation work done to assess what's worth what in what's being put forward. We did an audit in 2008 looking at what was then called the National Highway Update Program. One of the findings there was that we contributed the up-front funds, generally through grant collection, to get projects delivered, but that really wasn't followed through by the department—they didn't actually do much. With regard to the Labor Party's implementation, we said to people, 'How has that worked out? These are the expectations when we agree to contribute funding to something. Have they been met? If not, why not, and what can we learn from it?'

Senator HUME: Do you have a sense of how Australia's toll road projects might stack up on the basis of international comparison?

Mr Boyd: No. We simply haven't looked at many of them because the Commonwealth's role, to the extent it's had a role in their delivery, has generally been limited to providing grant funding. The difference starts coming now because we don't provide concessional loans. That's because, now, we expect the money to be repaid over a period of time. Inherently, repayment of the loan depends, to a large extent, on the tolling arrangements. WestConnex was one of the first ones where we needed to have greater exposure. There, the Commonwealth had greater exposure to fully understand tolling arrangements. The Commonwealth identified that having their loans repaid relied upon those tolling arrangements.

Senator HUME: Do you think the fact that Transurban has such an extraordinarily large market share of toll roads in Australia has a distortive effect on either potential projects or current projects for Commonwealth funding?

Mr Boyd: That's probably not something we could express a view on. I'm sorry for being cautious. As auditors, we generally, until we obtain evidence and do an analysis of it, don't really express views. We haven't examined the market for toll roads where many of those have been delivered. We haven't talked too much about that. What we can talk to is those where we have done all the work, and WestConnex is the most recent one. There were going to be tolling arrangements in the East West Link. One of the other things with tolling is that it's an important input in understanding the VCR and other aspects of an economic appraisal for a candidate project. The states and territories are always very careful about the extent to which they want to share their tolling arrangements with the Commonwealth. For example, Infrastructure Australia tried a number of times, with the East West Link, to obtain information from the Victorian government on what the proposed tolling arrangements for the East West Link would be. It couldn't get that information out of the Victorian government.

Senator HUME: Thank you, Mr Boyd.

Senator RICE: Thanks, Mr Boyd. I want to take off from where you've just left off in terms of the lack of information and the risk that that then puts the Commonwealth at. You have done these two reviews of East West Link and WestConnex and they have both shown substantial problems with the practice. Can you see that, given that information isn't readily shared, you could have a gold standard, really high-quality process without having that information?

Mr Boyd: It's pretty hard to understand how you could if you don't actually have visibility of key aspects of a road project that relies upon tolling. That is essentially why Infrastructure Australia kept pushing to try to obtain that information out of Victoria, because, as I was saying, it's hard for us to assess whether this project has merits if we're not being provided with key information around the project's delivery and its ongoing operation and maintenance.

Senator RICE: Could you generalise then that it is going to be intrinsically risky for the Commonwealth to be loaning or even granting money to these private tollway operations unless the Commonwealth has access to that information?

Mr Boyd: That's precisely right. The Commonwealth needs access to relevant and sufficient information to properly assess the project, firstly, in terms of whether the Commonwealth thinks it has enough merit to commit to helping fund a project and, secondly, particularly if some of that funding or all of that funding is going to come through a concessional loan, to make sure that the Commonwealth is satisfied that the loan will be repaid.

Senator RICE: In Transurban's submission to this inquiry they make a case as to why that sort of information needs to stay commercial-in-confidence. Does the Audit Office have a view about how much information does in fact need to be commercial-in-confidence or whether it is possible to reasonably share a greater proportion of this information in order to reduce the Commonwealth's risk?

Mr Boyd: Commercial-in-confidence I guess is two things. Disclosure of that to an entity that is being asked to contribute to funding delivery of a project is not public disclosure of that information. We have not yet seen a department that does not take very seriously the need to properly protect commercial-in-confidence material that is provided and the Commonwealth gets commercial-in-confidence material all of the time from private sector providers, be it people tendering for a major Defence procurement or any other type of procurement. There is nothing that I would suggest that is particularly unique about commercial-in-confidence material to support a road project. If the Commonwealth can't understand the economics of the project that is being proposed, it's pretty hard for us to say that we think this thing has economic merit and we are happy to support it and that we are confident that our loan will get repaid if we lend you money. The second aspect of course is the extent to which that commercial-in-confidence material is publicly disclosed.

Senator RICE: Yes, and so you would argue very strongly then, summarising what you have just said, that the required information should be made available to the Commonwealth in order to be making wise decisions on where it spends its money.

Mr Boyd: Absolutely. I'm not aware that the Commonwealth has ever not adequately protected that material so that there are reasonable grounds to say that, by releasing to the Commonwealth as part of its internal processes, there is a significant risk that that material will then not be adequately protected, because the Commonwealth looks after those things pretty well in our experience.

Senator RICE: Great. Thanks, Mr Boyd.

CHAIR: Thank you very much, Mr Boyd.

THOMPSON, Associate Professor Russell, Private capacity

[10:24]

CHAIR: Associate Professor Thompson, thank you very much for appearing before the committee today. Do you have any comments to make on the capacity in which you appear before the committee today?

Prof. Thompson: I'm employed by the University of Melbourne.

CHAIR: I invite you to make a brief opening statement should you wish to do so. Then we'll open it up to questions.

Prof. Thompson: Thanks very much. I've just distributed a copy of a statement that I'd like to follow, and then I am very happy to receive questions relating to this or my submission earlier on. Thank you very much for the opportunity to present to the toll roads inquiry. Currently, there seems to be little basis for determining toll levels of freight vehicles apart from maximising revenue. I'd like to summarise my concerns that relate to three points. The first point is toll avoidance. The second point is the extra cost incurred by carriers that leads to higher prices for our goods. The third is the inflexibility of current toll structures.

On the first point, toll avoidance, rising toll levels are leading to a large number of freight vehicles avoiding tolled facilities, which is creating significant externalities. These are costs borne by non-road-users, including social problems such as safety and noise and environmental problems, especially emissions, that are impacting communities in urban areas.

On the second point, extra costs for carriers and higher prices for our goods, most carriers cannot pass toll costs onto shippers or third-party brokers. Tolls increase the company's overall transport costs. Many carriers have limited ability to absorb these additional costs, so they pass the toll costs on to the shipper or receivers. This adds to the price of goods and affects the competitiveness of our exports.

On the third point, inflexible tolls, current toll levels are largely determined by distance and not travel time, and there is little discrimination on the type of freight vehicle and the utilisation of the weight and volume capacity of these vehicles. Incorporating these factors would make a stronger link between the tolls charged, road maintenance costs and efficiency. There is also a reluctance to explore discounts during off-hours that would encourage more large trucks to use urban tolled freeways at night.

In summary, considering the above issues, the government should support optimal toll levels for freight vehicles in urban areas that consider the objectives of all the key stakeholders—these include carriers, shippers, receivers, residents and toll companies—to maximise the economic benefits and minimise the social and environmental impacts.

CHAIR: Thank you very much. Could you firstly take us through what your department is, your position and your areas of research.

Prof. Thompson: I'm an associate professor in the Department of Infrastructure Engineering. I am also leader of the Volvo Center of Excellence for Sustainable Urban Freight Systems. I conduct research mainly on urban freight in cities around the world. I'm in a number of international panels and networks and I have been active in this area for about 20 years.

CHAIR: You naturally concentrate on freight vehicles in your submission. Can you take us through the nature of the research that's led you to the comments that truck drivers have a very low willingness to pay tolls.

Prof. Thompson: This is observed internationally from studies. We're doing our own studies at the moment, but this is building on international studies which have shown that truck drivers or freight carriers are quite reluctant to pay tolls. This can lead to significant diversion, which incurs significant social and environmental impacts that we're quite concerned about. We are concerned that, with the modelling at the moment, there doesn't seem to be sufficient basis for tolls. We're conducting ongoing research. We've already done research analysing the current patterns in our cities and the current toll structures, and we believe that the current ones that we observe are leading to lots of pain and health problems for our communities in our inner urban areas, particularly. This is really my motivation for presenting these ideas and thoughts.

CHAIR: Why do you say that freight carriers or truck drivers have a low willingness to pay?

Prof. Thompson: A lot of the freight industry is a complex industry. It's not just the hire and award transport operators. In fact, a significant majority of the operators of the road freight vehicles are actually owner operated and they are distributing their own goods. They are not actually transport companies. They have a very low willingness to pay, typically, because they can't transfer any travel time savings into direct money, so they're distributing their stuff and their goods around to receivers. They're being quite sensitive to their operating costs. Tolls add directly to their operating costs and they are not able to convert any travel time savings where they are

actually achieved. And this is another point: we have peaks spreading in a lot of our cities now and the peaks are not being extended so that travel time advantages are not that real or significant anyway. But a lot of carriers have small fleets that are basically very sensitive to road costs and road pricing. They already pay significant registration fees, taxes and charges. They see this as an extra that they cannot convert to an actual meaningful benefit so, of course, they divert. This is also very interesting because we analysed toll roads as a whole complete corridor and there is a lot of potential for freight vehicles to lose small segments to actually get the benefits of being on a high-standard road, but they are avoiding this because they cannot convert the quite small travel time savings. This is causing diversions in areas that are quite sensitive. It is not just corridor movements from outer urban to inner urban or around through a city; it is small legs they are avoiding. There are some bridges which are priced typically and this is creating a lot of social and environmental problems. Potentially they could be using this infrastructure and be on roads that are better designed for them, but, in fact, they are very sensitive to paying extra costs. Some of these minor legs are priced in a way which is very, very unattractive and very much a concern for drivers and carriers of small fleets.

CHAIR: Do you think there is any way that we could change compensation or remuneration arrangements for freight carriers to assist them in making what, presumably, you would consider a more rational decision to use toll roads more frequently?

Prof. Thompson: I think there is a lot of work to be done to try and understand. There is cost recovery in terms of significantly higher maintenance costs associated with heavy freight vehicles using infrastructure. I think there is a direct link between those costs and the types of vehicles, and even the utilisation of vehicles, because we would get a far more rational model to price infrastructure and to price access and usage of it. At the moment, we do not seem to have that. The toll companies seem to be maximising revenue and aiming their toll levels at the transport industry which may be able to pay for some of this, but, as I said, the small operators, the carriers that are transporting their own goods, are very sensitive and they cannot see a direct link between the benefits and the use. When they see huge price increases adding to their costs, of course they are concerned. We are also experiencing lots of social noise about health issues through emissions and air quality problems from the effects of these pricing decisions.

CHAIR: Are the behaviours of the freight carriers in any way influenced by factors such as whether they are owner operators, hire and reward persons or employees?

Prof. Thompson: We believe they are. We believe there are significant attitudes and different perceptions and behaviours realised with the different segments of freight vehicles and their transport patterns that we have observed. The small operators are very sensitive. They are not able to convert travel time savings or any benefits directly to their financial position. The larger transport companies are in a far better position to efficiently utilise their fleets to convert small travel time savings to direct benefits for their companies, but the smaller operators are very reluctant to pay and they are avoiding. As I said, the industry is very complex. A very substantial proportion of the industry are small operators in cities on contracts that are not necessarily going to increase or change in terms of their value based on small travel time savings that may be realised from using toll facilities.

CHAIR: Your argument is that these externalities associated with toll roads are not being properly considered in toll pricing. Do you think there is a case for more research to be done on these other effects?

Prof. Thompson: I think there are significant benefits—social and environmental benefits—from trying to make it attractive for the road freight industry to use the toll facilities which are designed largely to accommodate freight vehicles, and that we should really be trying to build that in. We should be saying that maybe the government should be subsidising with shadow tolls to encapsulate the social and environmental cost of toll avoidance or diversion from toll facilities. There is a lot of work that needs to be done to understand this. There has been a lot of work done recently to value the health affects associated with air quality and noise levels directly attributable to freight vehicles. They should be built into these costs. Governments, I believe, should be working with toll operators to minimise the total cost of freight within cities. That certainly includes a lot of the significant and substantial cost that we have associate with noise levels. A lot of the freeways that are tolled have noise barriers; they are amenable to large vehicles; the impacts are less in terms of noise and air quality. The government should be working to understand that and make the toll levels attractive for the road freight industry to use the toll roads more. That is very much ongoing research in our group to try and understand those forces and also to rationally quantify the benefits. The optimal toll levels should not be about maximising revenue for toll road operators. They should get cost recovery in terms of their maintenance costs. They should also get return on investment. But they should not see this as a cash cow for the freight industry—a cash cow that is creating a lot of disbenefits for society.

CHAIR: Is there any accepted method of calculation for quantifying those disbenefits—in particular, the cost of freight carriers diverting from toll roads?

Prof. Thompson: There has been a lot of work done to try and understand, quantify and value the health impacts on communities of noise and emissions from road freight vehicles. We are currently doing research to understand the impact on communities of reducing the number of freight vehicles on arterial roads and local streets and transferring that traffic onto tolled facilities, which have a far lesser impact. These roads also have significant safety benefits. Typically, they are built to a higher standard to accommodate large freight vehicles. So there are substantial safety benefits from vehicles being enticed to use toll roads more. Basically, this is the economics of a social cost-benefit analysis. There has been a lot of work done in Europe recently to try and quantify and value this and to show that it should really be built into the economic analysis of projects—in this case, how we manage and price infrastructure. The diversions are creating significant disbenefits for our communities, particularly in the inner suburban areas. The toll road operators should be concerned that communities are suffering because of the current toll levels.

Senator HUME: Being a Melbourne girl myself, as I know Senator Rice is, I am interested in the particular roads that are carrying traffic now because CityLink tolls might be too high. Where are those heavy vehicles diverting into?

Prof. Thompson: Being from Melbourne, we are aware of some of the significant problems that exist in our inner western areas. Typically, there is diversion away from the Bolte Bridge because of the toll on that facility. That is creating a lot of trauma for communities in our inner west—Yarraville in particular but also other communities. We are also seeing it right through the metropolitan area. As I said, it is not always corridors; freight does not always go from outer suburbs to inner suburbs or vice versa; it is cross-town. So even on a lot of our highways at night we are experiencing a significant level of trucks which could be on our freeways. In the outer suburbs, with East Link for example, there are small links that could be used for freight vehicles to avoid residential areas and sensitive land uses such as schools and hospitals. But they see this as a large extra cost with marginal benefits in terms of travel time. So they are avoiding using these facilities—the small links—which is creating a lot of concerns. We have a very broad spectrum of land use. We do not just have major freight flows; we have certain corridors which are important. Certainly, right through our metropolitan area, we are seeing a lot of trucks avoiding certain links because it is unattractive for them within the current pricing regime.

Senator HUME: Is there an international best practice model that better applies tolls to encourage heavy vehicles onto tolled roads?

Prof. Thompson: This is a concern. In North America, to try and understand the sensitivities of freight, there have been some studies to do with pricing levels, behaviour and reaction. There have not been a lot of studies that look at optimal toll levels. There is one study I am aware of that looks = closely at the relationship between the differences in the costs and benefits of using freeways at night and the discounts that receives. That is a very important one. At the moment, we are seeing a lot of toll avoidance at night because the travel savings at night are marginal. There has been work done to try and understand the attractiveness of that. The freight operators get significant benefits in terms of operating costs by shifting at night. To do that, it has to be appealing to do it. But we have very little discount for night road operation—and that, of course, is when communities are very sensitive to noise. Studies have been done showing that, where incentives are given to provide assistance for making the night periods cheaper in terms of toll cost, the road freight industry will often adjust their movements and their operations to utilise the facilities. They get better operational costs. Also, with a discount in the toll cost, this can lead to a lesser impact from them using main or arterial roads in urban areas.

Senator HUME: I am very concerned at the extent of the projected increase in tolls on CityLink, particularly with the additional 12 years that Transurban has been given as part of the West Gate Tunnel project deal. The toll increases there seem excessive—4.5 per cent or CPI, whichever is the greater. What do you think will be the effect on heavy vehicle behaviour in the face of those dramatic toll increases?

Prof. Thompson: I think we will see increased diversion because the freight industry will be very reluctant to utilise that facility because they see it as an extra cost. That is a shame, because there is capacity within these links and they provide benefits not just for carriers but for communities. I have been concerned for some time about trucks avoiding premium assets such as freeways. To me, that is very hard to accept. We hear about all the pain and concerns—the health problems and air quality and safety concerns of inner urban areas. We really need to start to work in partnership with government, industry and toll road operators to come to optimal levels to try and balance all these to make sure the level of diversions is not maintained. I think there should be reasonable return on investment for toll road operators. I think the maintenance cost should be covered. But the sorts of increases you are talking about are not based on any rational argument in terms of the overall holistic benefits

associated with toll roads; they are looking at maximising revenue. To me, that does not stack up. I think the government should be more actively involved in negotiating and trying to understand these types of behaviour. We are undertaking studies in this area at the moment because we can see it is a concern. But I think government should be very concerned that these increases have no rational basis. We should really be looking at trying to understand the impact and disbenefits associated with price increases.

Senator HUME: You said you think there should be a reasonable return for toll operators. What do you think is a reasonable return?

Prof. Thompson: I think we've got to be concerned with some of the excessive returns that toll road companies experience. That's, as I said, exploiting certain industries, but also creating lots of disbenefits. For a reasonable rate of return, we'd have to look at areas where this would be applicable, but I think the returns we're seeing for toll road operators at the moment are excessive and at the cost of communities, which is a very big concern. I think whatever a reasonable rate of return is should be the starting place for negotiation. Then we'd start to understand that, even if the government is seen as an investor, to try and lower toll costs and lower these impacts, externalities and impacts on communities, is really where we should start. But, a reasonable level of return that is accepted in the market—you know, we all invest—wouldn't take long for us to work out. It wouldn't take long for us to work out what would be a reasonable return level within markets.

As I said, these roads can become monopolies within certain areas and corridors, and I think they shouldn't be priced to maximise revenue; they should be looking at the wider set of impacts. The government should be acknowledging a reasonable return on investment to cover maintenance costs. But the excessive benefits, revenue and profits that are actually received by these toll companies should be a very big concern, because a lot of superannuation companies are investing in these types of facilities because they know they almost have a licence to print money. To me, that, when it is exploiting communities and causing significant impacts on communities, should be a concern for government. It's certainly a concern for me as a researcher in this area.

Senator HUME: This might not necessarily be your area of expertise, but one of my concerns about having this additional 12-year deal with CityLink and those excessive tolls on CityLink to pay for the West Gate Tunnel is that, essentially, those using CityLink and travelling south to north are subsidising those travelling from the West on the West Gate. Is that an unusual situation from your experience, and is it fair and reasonable to cross subsidise projects that way?

Prof. Thompson: I think, unfortunately, our financing and funding models for infrastructure, particularly road infrastructure, need a lot of work and a lot more rationality. I can see how they're accepted, because we need new infrastructure and we need to move forward, but it is certainly a concern. I am not, as I said, a finance expert, but I think, and what we're seeing, is that if there is an escalation in or excessive tolls and this is causing diversion and disruption to communities then we should be trying to look at that and look at the trade-offs that we can actually make—and, as researchers and communities, try and understand the trade-offs to make it a lot more rational and a lot more out there. What is concerning is that the users, freight operators and the carriers, see sudden jumps, which they don't understand. They're expecting some return, in terms of the service, but with disruption due to construction and maintenance, we're seeing that the road freight industry is incurring lots of extra costs but maybe not receiving the direct benefits. Increasing those costs leads to more diversion and less utilisation of these important assets, and we should be trying to look at how to maximise the overall benefits of these facilities.

Senator HUME: Thank you, Professor Thompson.

Senator RICE: Professor Thompson, you largely talk about the smaller operators rather than the large companies. What proportion of the freight being shifted around Melbourne, for example, are we talking about that is then likely to be avoiding tolls?

Prof. Thompson: It's not widely accepted that most of the vehicles that are moving around are not from hire and reward transport companies; they are, in fact, owner business companies transporting their own goods. We don't have a lot of information, unfortunately, on the actual current patterns. That's one of our big difficulties in the research community, but also for planning and understanding. We don't have a lot of good data. There are very limited data sources for trying to understand these behaviours. What we can do is do limited surveys to try and understand the imperatives that they have, but they're very limited and they're limited to certain studies that may have been undertaken.

Certainly one of our big concerns is that we don't have good data in the freight industry. It's a very competitive industry. It's an industry which actually doesn't readily divulge a lot of their activity, so it's very difficult to get detailed information about movements and patterns. From our limited studies and from international work, we

know that the companies are avoiding toll facilities and that this is common practice. We know that transport companies at night, for example, are avoiding these facilities.

In working with industry, we get to know what their policies are and what their behaviours are. Unfortunately, we don't have a lot of information to be able to confidently say, in a systematic way, that there are certain levels. It's a very fragmented industry, so it's a hard to understand the dynamics of the industry. There are so many different sectors and different types of goods and vehicles moving around our cities, so unfortunately it's not that easy. We are quite convinced that there is some significant diversion and significant reluctance to pay these tolls, enough to also be aware of the health and safety problems within communities.

Senator RICE: We have been thinking about the planning for tollways. Do you think the proponents of the West Gate tunnel that is being planned at the moment have a good understanding of the potential amount of freight movements that are likely to use their road? They are presuming that all these trucks are going to use their road because it's going to be a fantastic experience for them. Do you think they have a good understanding and a good handle on the level of avoidance that is likely to occur?

Prof. Thompson: This area is not well researched and at the moment there are not a lot of good tools to predict that. Based on international best practice, there are some models that would provide some basis for forecasting truck volumes, but I believe the confidence associated with those would not be very high. It's very difficult to model and predict the behaviour of the smaller operators, and I think they would be assuming there would be certain proportions of the larger ones that would find it attractive. But there are very broad origin and destination patterns and flows. It's not like personal travel where there has been a lot of ongoing research over decades where there is high confidence in terms of the way that we understand the movements.

With commercial freight operations, it's very challenging and very complex. I don't think there would be a high degree of confidence in any forecasts, typically. Their current facilities give them some idea, but certainly we're not seeing a large engagement with government between the toll operators and the freight industry and the freight carriers. I am very concerned that there would be very high levels of confidence in the forecasts.

Senator RICE: With the business forecasts that the West Gate tunnel is based on, there would be a lack of confidence built into that. As a freight expert, are you concerned about that in looking at appropriate freight planning in our city? Are you concerned that we have this major bit of infrastructure that is being planned on the basis of what sounds like quite dodgy assumptions?

Prof. Thompson: The state of the art in terms of data collection and modelling is very poor, so I am certainly concerned. That is why this research centre at Melbourne university is very important. We are working with governments and industry to try and address those concerns. The confidence in some of the submissions is of concern. I looked at the Transurban submission, for example, and they use average travel time savings. They can't always be transferred, but they are averages and those averages are not very meaningful. They are usually over large corridors. As I said, most freight movements actually would not be experiencing trips from one end of a facility to another; they would be looking at opportunities to use smaller links when they can. So I think there are a lot of assumptions in those models which really have not been tested. They are very dubious and of concern to me as an academic in this area. Sometimes these averages and these estimates are accepted with high confidence and as very sophisticated. Unfortunately, the state of the art in this area is very low. This is a cause of concern to me and why we are undertaking research in this area at the moment.

Senator RICE: In general, that lack of certainty about the data would lead to the proponents of these roads overestimating the amount of freight that is likely to use their roads with the proposed tolling regimes, given what your research is showing?

Prof. Thompson: I think that would be the case. The trouble is we're not seeing any real partnership models being implemented, which allows the interaction between toll companies, governments and the research community to really have confidence in that. I think there would be some assumptions there which try and look at potential benefits. But it is whether they would be realised. It is also understanding the overall movements—the diversion movements, the ones that won't be attracted. I think there is a lot of work to be done there to try to understand why companies wouldn't use these facilities and wouldn't pay these toll levels and to understand those costs and disbenefits associated with their behaviour and activities. Certainly I think there are some approaches, but there is a very low level of knowledge, and associated with that would be a very low level of confidence.

Senator RICE: If they are overestimating the amount of freight that is likely to use their roads, that would mean that the business case being prepared for that road is overly optimistic as well, because the volumes on the roads are unlikely to be at the levels that they are estimating. Do you agree with that?

Prof. Thompson: I think the supply chain and logistics benefits that are associated with marginal travel time savings that typically focus on the toll road demand levels are very complex and really, again, probably are not as widely accepted—even their interpretation—in economic studies. So there is a lot of work to be done. Any estimate of benefits associated with freight vehicles—as I said, the ability to monetarise, the ability of industry to utilise small savings in travel times particularly and how that flows through to wider economic benefits—is again an area where there has been very little work. So I think we have to be very concerned about some of these aggregate ones based on averages, based on assumptions that all this travel time, all this efficiency, can be utilised and converted into economic benefits. If these are the basis of benefit-cost analyses or outcomes here that are justifying these projects, I think we certainly need a lot more understanding of how the assumptions are derived and whether they are going to be realised.

Senator RICE: Thanks, Professor.

CHAIR: Thank you. The committee will now take a short break.

Proceedings suspended from 10:57 to 11:16

McDOUGALL, Mr William, Private capacity

CHAIR: Welcome. Thank you very much for appearing before the committee today. Your credentials tell us that you are a person with some knowledge of this industry. Can you tell us about that?

Mr McDougall: Certainly. I've been involved as a transport planner in modelling, forecasting and cost-benefit analysis that is specialised and particular to transport—it's a particular form of appraisal and cost-benefit analysis—since the 1970s in the UK. Back then I was working fairly closely with people who were some of the first to write four-step transport models on computers, so I've had a very early and long involvement. There was the Standing Advisory Committee on Trunk Road Assessment in the UK which came up with a framework approach which included cost-benefit analysis. A software program called COBA, Cost Benefit Analysis, was prepared by the Department for Transport in those days. I was very familiar with that and its operation, and then I came to Australia in 1985 and applied a lot of what I knew and learnt from my earlier years in the UK, and I continue to learn and gain more experience on projects of all types in transport.

CHAIR: The committee has an interest in your involvement with the West Gate Tunnel Project, particularly whether you were a peer reviewer for strategic transport demand modelling or economic appraisal.

Mr McDougall: Yes. I was employed under a contract and worked within the department. At that stage, I was working on several projects. I was doing what was called audit assurance work on business case development, particularly the transport modelling and economic appraisal, cost-benefit analysis, of a few projects which were going through that process at the time, back in 2015. One of those was the Western Distributor—as it was called then—my involvement was to support the independent peer reviewer. We worked together very closely on reviewing the outputs of the work as it was becoming available and providing feedback to the team preparing that data.

CHAIR: The time frame of your involvement was between June and September 2015?

Mr McDougall: Yes, that is correct. It was in September 2015, as I think I mentioned in my submission, that I was unexpectedly, to me, taken off the project and put onto something else in the department.

Senator RICE: It was 'audit assurance' supporting the independent peer reviewer. Was there just one peer reviewer? What was the process? How was the peer review process set up?

Mr McDougall: There was an administrative committee within the department, which was reviewing, and was really required to sign off internally, the work being done on the business cases, primarily the transport modelling and the economic appraisal. That committee was responsible for appointing peer reviewers. The projects themselves would pay for any external costs associated with those. The external reviewer on the Western Distributor project was John Allard. He is from New Zealand and is a quite well-known transport planner and economist who has done this kind of work for a long time. I was involved earlier in his appointment, internally within the department, and then was helping him on the West Gate project and also on the Melbourne Metro project, which he was peer reviewing at the same time. He and I worked very closely together on those things. On the Mernda Rail Extension Project I was an internal peer reviewer. It was regarded as smaller and not needing an external, independent, peer reviewer in quite the same way. But on the Melbourne Metro and West Gate we shared the roles, particularly on West Gate. I would have to check back on my terms of reference specifically, but, when I last looked, my memory was that I was peer reviewing the economics, John Allard was peer reviewing the modelling and we were providing support to each other because those two things were very closely linked.

Senator RICE: You say that you were taken off the project at the end of September 2015.

Mr McDougall: Yes.

Senator RICE: At the end of that time, were those peer reviews of the business case completed?

Mr McDougall: They were still underway and the business case hadn't been released. But we understood that the first cut of the business case at that last point, more or less at the end of September 2015, was complete and was being sent up internally, although it was not released publicly until some months after that, in 2016.

Senator RICE: The peer review wasn't actually of the business case. You were doing the peer review of the economic modelling and John Allard was doing the peer review of the transport modelling.

Mr McDougall: Essentially, yes.

Senator RICE: I know that in questions that I've asked at Senate estimates about those peer reviews—we've had the Victorian government acknowledge that those peer reviews do exist, but they've never been made public—

Mr McDougall: Yes.

Senator RICE: Do you have any sense of whether they were completed? Was it standard practice then to complete peer reviews to make them public?

Mr McDougall: I wouldn't say it was standard practice. The internal committee that I mentioned was striving to make that the case, was striving to improve the process and ensure that peer reviews were done. The important thing to me about peer reviews is not that they're just done and there's a report released but that there is evidence that the comments the peer reviewers make during the process are taken on board and any issues that they raise or have concerns with are amended or reworked, or whatever is required, so that the ultimate result and answer of the work is as good as it can be. The peer reviewers may still have some reservations on the work that's been done, but at that point they would also, I think, be required to make some sort of statement about the reliability of the estimates that have gone into the work.

Senator RICE: At the stage that you finished up on the project the peer reviewers had made comments back to the proponents?

Mr McDougall: Yes.

Senator RICE: And had those comments been taken on board?

Mr McDougall: That was the point at which I was taken off the project. We were both extremely concerned and exchanging emails between each other to that end. We were very concerned about the issues that I've mentioned in my submission primarily, and a few other things, but the ones that I've mentioned were the key points that we had concerns with. I know that a number of those issues haven't been changed, because of the information that has been put out more recently in the EES documentation, but I don't know how much some of the other issues were amended or changed.

Senator RICE: I understand that there are concerns about that being made public at the moment, so we will talk to you some more in camera, but I just wanted to outline that process. So, you had concerns that hadn't been taken on board?

Mr McDougall: Yes.

Senator RICE: Can you outline what happened? Did your contract end at the end of September?

Mr McDougall: No.

Senator RICE: What was the process by which you were then taken off the project?

Mr McDougall: As I mentioned in my submission, I had raised some concerns after considerable frustration between myself and the peer reviewer and those we were working for in the department—concern recognising the concerns that we had with the work. Everyone was wondering how we could get these issues resolved, because nothing was happening. I did raise my concerns at a higher level, and it was about a week or so after that that I was taken off the project. I was still under contract. In fact, my budget was still under the same contract—the unused budget of my time—so the project was still paying for me, but I was working on different work within the department.

Senator RICE: On other duties.

Mr McDougall: Yes.

Senator RICE: You say you raised your concerns at a higher level. Who did you raise those concerns with?

Mr McDougall: It was a direct conversation with the Victorian Treasurer, Tim Pallas, who I knew professionally from previous work.

Senator RICE: And then after that you were taken off the project?

Mr McDougall: Yes.

Senator RICE: Thank you.

CHAIR: No further questions? Thank you very much for that, Mr McDougall.

The following evidence was taken in camera but at the request of the committee was made public—

CHAIR (Senator Ketter): I must advise the witness that it is not the intention of the committee to publish or present to parliament all or part of the evidence you are about to give. However, you need to know that it is within the power of the committee to do so and that parliament has the authority to order the production and publication of undisclosed evidence. You should also note that an individual committee member may refer to in camera evidence in a dissenting report to the extent necessary to support the reasoning of the dissent. However, we would try to seek your view on such proposed disclosure. The committee has had a brief meeting this morning, so what you've seen happen this morning is the result of the committee's deliberation. I think it's the will of the committee

that we review the *Hansard* of what comes out of the in camera session, and then we'll make a further decision sometime early next week on what part of your submission or the evidence is made public.

I know Senator Rice has a number of questions. I'll just kick it off. You told us about your work history. I'm just interested in understanding the single distribution method and the loop-through method in simple terms. What are the benefits and risks of each method?

Mr McDougall: The diagram on page 2 is probably the simplest way to explain it. The modelling process that's used for these projects—the strategic transport modelling process—involves four steps. It starts from land use information, population and employment distribution around an area that's being modelled. The first step in the process is trip generation, where the number of trips produced by, for example, residential areas and the number of trips attracted by employment areas are estimated. There are well-known estimates of trip generation per household and other numbers which are used in that process. The next step is—

CHAIR: Would that be informed by traffic counting?

Mr McDougall: Yes, and particularly, in that case, by the household travel surveys, which are done in Victoria—the VISTA surveys, as they're called. I've forgotten what the acronym stands for now. Anyway, they are the travel surveys that are done on a regular basis.

The next step is trip distribution, which uses varying forms of mathematical techniques and algorithms to pair off the trip ends, so you have trips being produced in some areas and attracted by other areas, and there are various methods to develop from that a pattern of trips between all the origins and destinations so you have what's called a trip matrix of demand in and through an area. Usually these models are done on time periods, so there are morning peak, afternoon peak, between the peaks and the rest of the day. There are typically four time periods that they estimate these trips for, and they're aggregated to give an annual average day or a typical weekday, usually.

CHAIR: But there would be a seasonal component to that trip distribution.

Mr McDougall: Yes, there is, and all the numbers are estimated, as I said, on an annual average weekday, usually, although I would also describe it, in the case of these models, as an annual average term-time weekday, because school travel is included in the estimates. So they represent a typical day, and there is a lot of evidence about how seasonal variation takes place, particularly in relation to school holidays but also through the year in general. These represent a typical annual average, so the sum of the total travel on all those particular days in the year divided by the number of days of that type, if you see what I mean. The models represent an annual average situation. One of the keys to that is that the data is grossed up to a year in the cost-benefit analysis process that follows, so that that annual average weekday traffic scenario leads to the use of what they call annualisation factors to factor it all up to a typical year and, therefore, to start the process of doing the discounted cashflow analysis that forms the cost-benefit analysis.

The next step, which is the mode-choice step, is, given what trips are available, to then use an assembled representation of the transport network itself—the services and the roads and the infrastructure that exist—to estimate which transport people will choose. The models typically start with a knowledge of what the car availability is in given households, how many cars are available to people living there and so on, and the proximity of other modes of transport, public transport in particular. Walking and cycling are not usually explicitly modelled in these four-step models—not at this stage. Some of them are getting closer to doing that now, but primarily in the past they have modelled motorised modes of transport only, or walking as access to and from those modes—the last link in the chain from your front door or your place of work to the point where you access the transport itself.

Having worked out how many of those trips are going to go by different modes, those trips are assigned to the network, so that you have a demand of trips from point A to point B and which route they are going to take through the network on the mode that is chosen. Again, there are algorithms that spread them out. They do not just put everything all on the same route or use an all-or-nothing approach; they are often allocated in a way that puts the proportion of the traffic on the shortest route and then spreads it out over other routes as well. That whole four-step process—typically in this modelling and in the standard way of doing this kind of modelling, I should say—what is called the loop-through distribution in that box, is where the model is iterated back through to step 2 again. The trip generation always stays the same, if your land use patterns stay the same in the model, and the trip assignment results in volumes of traffic on the roads and numbers of passengers on trains, trams and buses. That then results in some re-estimation of the travel times, because roads will get different travel times and different levels of traffic on them, and those new travel times are fed back through into the trip distribution and mode-choice processes again. The model is then iterated round and round through those last three steps.

CHAIR: I am not quite sure I understand what each iteration represents.

Mr McDougall: Each iteration is a process of reloading the trips onto the network, recalculating the travel times and so on and then using those recalculated travel times to recalculate the trip distribution and mode of choice. That is done several times—typically, in these models, I would say maybe between 15 and 20 times—iteratively until the last two iterations are close enough to each other to be satisfactory in the eyes of the modellers. Usually that closeness is judged to ensure that the noise, if you like, the differences, between one iteration and the next are small enough not to be of concern when you are using that model to predict changes due to a particular project or initiative, if you see what I mean.

Senator RICE: So you have basically bedded down the behaviour?

Mr McDougall: Yes. The model is iterated round and round until it has reached a stable result.

CHAIR: And you are adjusting parameters within the model in order to reduce that modulation?

Mr McDougall: Yes, that's right.

Senator HUME: What you're suggesting here is that, with the two different types of distribution models, if you have constant reiterations through the two, the final result will be very different between the two?

Mr McDougall: That's right. And going to the single distribution method, which VLC use and have used on the Western Distributor—incidentally, the discussion about that process is documented in the EES, and one of the transport reports or technical appendices does confirm that they use that single distribution method—as I say in my submission, as far as I am aware, they are the only people who do that. Their justification for doing it seems to me to be primarily that it produces more traffic—and the EES documentation spells that out. This is what we had concerns about at the time. When we discovered that they were doing this, we had to quiz them before they actually revealed this process to us. Once we did, they produced a report which showed why they did it. And their assertion was that the main reason they did it was that it produced more traffic and that was the right thing to do despite the fact that the trends were going in the other direction in Melbourne. But the key differences—

Senator HUME: What are the implications of producing more traffic?

Mr McDougall: In the case of this particular project, this meant the model was quite a long way adrift from the government's own forecasting model; the forecasts diverged into the future quite significantly. Our concern as peer reviewers was that the whole process of doing this modelling and reviewing it is to establish that your modelling process produces an answer for the present day using this process. And the convergence of the model—as I explained during these iterations to a good answer—is one of the things you look for as a peer reviewer of these models. In the process that VLC used, they would only do the mode choice and trip assignment steps; they would not go back through the trip distribution step. That meant the trip distribution was not changing. But there is plenty of evidence to show that it does and should change, and that is why these models were built this way in the first place.

Once we had dug into the numbers—they provided us with figures for both models, which I have given in the table that I put into my submission—we could see clearly that the single distribution method was producing more traffic. I guess the implication was that it obviously may have resulted in more traffic and longer individual trips by car than you might expect from using the full model process which is the usual procedure. It is difficult to explain what difference it might make to the results for the toll road, but it meant our confidence in its use in forecasting the traffic on the Western Distributor was under question. We were not confident that it was going to produce reliable, predictable results when they were changing the method in future years from the method they had used to calibrate and demonstrate the model's validity in the current year, the calibration year.

CHAIR: The outputs you have here are travel times and costs. You are saying the number of trips is also one of the outputs?

Mr McDougall: Yes. The number of trips is output at the first step in the trip generation stage—that is, the total number of trips in the area that is being modelled. And that stays constant provided that, in any particular modelling problem, you are not changing the land use. The assumption there is that trip generation, the number of trips wanting to be made if you like, is constant; it is just that their distribution around the network changes as the network changes.

CHAIR: If the number of trips being generated is constant, how does it end up leading to more traffic if you use the single distribution method?

Mr McDougall: The concerns were twofold. If you look at the table on page 3, the problems we could see with the model were that, first of all, at the trip generation stage the number of car trips produced by Zenith was somewhat more than that being produced in 2011 by VITM. More importantly, as shown in the third row down,

the average car trip length was 14.4 with Zenith but it was only 10.1 in the government's model, the VITM model. If you go to the far right hand side of that table, the actual surveyed number of 10.2 is very close to the VITM figure. So we already had concerns that, for some reason, the Zenith model was resulting in car trips that were a lot longer. Most of that would probably be in the trip distribution stage, because that is the point at which the calculation is done to generate the travel that occurs between origins and destinations. The first step is simply the production and attractions of trips if you like—where they start and finish—and the second part of the loop is the part which results in distribution. Do you see what I'm saying?

CHAIR: The car trips row shows 8.9 versus 7.9 for 2011. Can you explain how those two are different?

Mr McDougall: That is simply the number of car trips that the model has estimated around the area as a whole in 2011.

CHAIR: I presume we are comparing apples with apples so that we have the same number of trips generated.

Mr McDougall: As I have noted in the bullet points below, on the population and the number of trips, there is another difference between the two models: the Zenith model covers a somewhat wider area than the government's model does. So it does encompass a larger population, as you can see from the population figures for 2011. It is 4.89 for Zenith and 4.11 for VITM.

CHAIR: Wouldn't it naturally follow that—

Mr McDougall: Yes. That does result in more car trips because it is covering a larger area. But I do not think the longer car trips are explainable by the change in area because the difference in the area is not so great overall.

CHAIR: That is factored out by the fact that it is—

Mr McDougall: Yes.

Senator RICE: You have 13 per cent more car trips because it is a bigger area, but the number of car kilometres is massively more—58 per cent more—and the number of car kilometres travelled is 79 per cent more. So it is a much greater proportion of extra trips than just through the bigger area.

Mr McDougall: Yes, absolutely.

Senator HUME: And because the population is being counted from a wider geographical area, that increased length of car trip doesn't match up to that?

Mr McDougall: I don't think that would explain it. And that was our concern: if it's covering a wider area, it doesn't necessarily mean the trips are going to be longer overall. The added population in that wider area is much smaller than the increase in length. And a lot of those trips would be local anyway, as they are in all areas. So there would be a lot more short trips, as well as long trips, occurring in that added area.

Senator HUME: So it would average out?

Mr McDougall: Yes. Our concern with the mix of all these figures was that Zenith had a starting point in terms of car kilometres per capita, which is the second last line in the table. In Zenith, it was 26.2 in 2011 and in VITM it was 19.6. So it was a starting point that was considerably higher. It grew over time. In fact, using the single distribution method—the second column of the table, where it goes up to 27—car kilometres per capita actually increases whereas in the VITM model it goes down from 19.6 to 17.9. Now, that's actually consistent, although that's over 20 years, from 2011 to 2031. That's the forecast. That is consistent with trends over the last 10 years, which have shown clearly, as in the graph on page 4, that the car kilometres per capita—although this is an annual figure, not a daily figure—have been going down in all Australian capital cities for the last 10 years at least. Again, one of our concerns was that this result—and, in particular, the single distribution method, which they were pushing and using on the Western Distributor—was producing growth in car kilometres per capita when all the other sources were telling us there's actually a reduction in car kilometres per capita.

CHAIR: Before I hand over to Senator Rice, could you take us through your concerns about the cost-benefit analysis?

Mr McDougall: Yes, of course. There were a number of concerns. I think the ones I've mentioned here were the primary concerns. The first one is about additional congestion relief benefits. The economic appraisal was done by PricewaterhouseCoopers using the outputs from the traffic modelling done by Veitch Lister using the Zenith model. Once they had calculated the time differences and the overall time savings that the project produces on the network, one of the things they did was to add an additional congestion benefit. This was taken from this New Zealand methodology and, at that stage, added quite a significant additional value to the economic benefits. I think, in the final numbers published in the business case later on, those figures were a little smaller, but they were still there; the principle was still there.

Their rationale for including this additional congestion relief benefit was the evidence that drivers in congested traffic will assign a higher value to their time—in other words, their lost time—than in free-flowing conditions, and the New Zealand agency's manual outlines a methodology to do that, and that they've just lifted that methodology and added it onto the benefits they were calculating from the transport model. We had some concerns. Our main concern with that was that, apart from the fact that there was no or very little research demonstrating that the same effect was observed in Australia, the base against which this additional time was assessed in New Zealand was very difficult to understand.

The other concern was that the traffic modelling doesn't and can't allow for that additional perceived time. If it were able to, that would mean that people who were driving on more congested links would have higher and higher values of time the more congested that road link became. In the transport model, that would perhaps tend to divert more traffic away from those links and onto other less congested routes as it reaches equilibrium, so we felt that having this additional congestion benefit just added into the economics without including it in the modelling was flawed in the first place. We were also very clear that this hasn't been done in any other Australian cost-benefit analysis; it was newly added in. And when the peer reviewer—who was from New Zealand, and he didn't know about it either—did some research with some of his colleagues and peers back in New Zealand, they said, 'Well, we don't use that particular clause very much, if at all. And when we do it produces very, very small changes in the results.' So we felt that just to lift that piece of methodology, rather conveniently, in our view, from somewhere else and add it into the benefits without demonstrating that it was valid and clear—to our satisfaction, at any rate—was really a flawed part of the process. So that was the additional congestion relief benefits.

The other thing that was done was producing two different benefit-cost ratios by applying their interpretation of the Victorian and Infrastructure Australia guidelines as they stood at the time. Now, guidelines are really only guidelines; they are not rules. Our issue with that was primarily around the inclusion of induced traffic. When you change the transport provision through adding new infrastructure or services that will induce changes in travel patterns and more traffic, meaning many people will shift from one mode to another.

There has been quite a lot of work done to classify different types of induced traffic. The main and longer term effect is when the land use changes as a result of a project, and it does happen. You cannot assess that with a four-step model because the land use is held constant. You need a more sophisticated model, which is really hard to build and operate—a LUTI model, a land use and transport integration model. There are a number around, but there has not been one built and running effectively in Australia.

They had fixed and variable matrix approaches. The fixed matrix approach was without allowing for induced traffic—in other words, the amount of travel demand was held constant—and the variable matrix approach was one in which the model was used to its full extent and included the types of induced traffic which are not related to land use changes but only to changes in those last three steps of the process—in the distribution, in the mode choice and so on. People might change their mode. If you build a road, you might attract people off public transport onto that road, and that is regarded as one of the types of induced traffic.

Anyway, they read the IA guidance as saying that it did not require the inclusion of induced traffic at all in their assessments. When I read the guidance it was mentioned in the appendices and it was required that the treatment of induced traffic should be noted and described in the modelling process, but the main text did not mention it at all. At the time there were some draft replacement IA guidelines—and I think they are probably several iterations older now—and that revised guidance did include explicit mention throughout of a requirement to include induced traffic.

To us it was rather misleading to say that you could just stick to the guidelines and produce two different answers without any advice on which one might be the best one to use. There is complete acceptance that induced traffic is a recognised phenomenon, it does happen, and there are ways of calculating it. All the guidance in place does require you to do it. So there were two different cost-benefit ratios. The point there being that, if you don't include induced traffic, you generally get a better benefit-cost ratio because you are just moving traffic around rather than changing the amount of traffic in the model. As soon as you build some new infrastructure that attracts more people onto that mode of transport, that would tend to reduce the benefits over time of the project because it is the victim of its own success in a way. That is all extremely well known and understood. Our concern was that just presenting two different cost-benefit ratios without giving some advice as to which might be more reliable, better or whatever, or that the guidance did actually include a requirement to put the induced traffic in, was rather misleading.

Senator HUME: Do you have any idea of how significant the effect of induced traffic would be on those cost-benefit ratios?

Mr McDougall: Those two numbers were published. The actual numbers that were published I can't remember, I'm sorry, but there were significant differences. The one under the IA guidance, as interpreted by them, was significantly higher than—I'm afraid without the numbers in front of me, I can't remember what they were.

Senator RICE: Is that still being quoted as the benefit-cost ratio?

Mr McDougall: It's still in the business case when it was released, yes, and a significantly higher benefit-cost ratio for federal eyes, I suppose you could say, as opposed to Victoria eyes perhaps.

In regard to the third point about streaming of benefits in future years, having had all of this discussion about induced traffic and the use of variable and fixed matrix approaches, we were also rather concerned to discover that PwC actually blended the results from fixed matrix runs. Even under the Victorian guidelines, they used fixed matrix runs from day one and then blended those into the results from variable matrix runs over a period of 10 years, on their assertion that it takes 10 years or so for people to amend their travel habits and changes and so on. Remember: because all of this modelling was done with fixed land use that component of induced traffic wasn't included anyway, and that's the part of induced traffic that probably could take up to 10 years, as people relocate homes and jobs over time and so on.

The other types of induced traffic, which the modelling did allow for, were phased in over 10 years when in fact all evidence and standard modelling practice using a full three-step approach or a three-step iteration rather than a single-loop distribution shows that people do amend their travel habits and patterns quickly when a new project is added into the mix, partly because they know it's coming and also because they can see the changes almost immediately and make their travel patterns change. If they're not changing houses and jobs, they're changing their travel patterns quickly—it doesn't take 10 years for it to happen.

The problem with that is that the first 10 years of the benefit stream is the one that has the biggest effect under the discounting process of cash flows. In a cost-benefit analysis, there is a seven per cent discount rate applied in every future year. It seemed to us to be another device to increase the benefits in early years where they have the most impact on the benefit-cost ratio—to in fact ignore induced traffic and phase it in over 10 years rather than have it starting from day one, year one or two or over an excessive time, in our view.

This is something which is not normally done and was a particular technique that PwC used and we had never seen it done anyway before. We had to dig it out of the depths of the reports that we were given and look at it for a while to understand what they were doing and then quiz them about it, all in very short time frames as they were busy pulling all the numbers together. That was another thing that was left in the air when I finished. I don't know whether that was resolved or changed in any way. It was hard to estimate, but there was a significant impact on the benefit stream of doing that particular thing in the benefit-cost analysis.

Senator RICE: And as far as you know the benefit-cost ratio that is still being touted today is the same as was being touted at the time you were on the project?

Mr McDougall: Yes, it has all those things.

Senator RICE: They haven't reduced it.

Mr McDougall: I don't know whether they've reduced it or not. Some of the figures may have been reduced but the process is still in there. They are still using variable and fixed matrices results and mixing them together to produce, in my view, a more favourable benefit stream.

Senator HUME: Are these anomalies or unusual methodologies highly uncommon? Is this the first time that you have seen these methodologies being used in various infrastructure projects, specifically toll road projects, in other states or other projects?

Mr McDougall: Yes, definitely—the first and the last, in particular. The congestion relief benefits, as I say, are really, to our view, imported in from another jurisdiction. As far as I know, New Zealand is the only jurisdiction that has that kind of guidance. As I said before, it's seldom used there and produces very small numbers when it is, perhaps because there is a lot less congestion in New Zealand. But importing it in and using it—I've never seen that done before without a lot of research and collective agreement by the industry and through, for example, the ongoing process of updating the national guidelines of transport appraisal.

Senator HUME: So it couldn't be seen as a sort of natural evolution of the way these projects are assessed and the guidelines haven't quite caught up with that evolution?

Mr McDougall: I was reflecting on that this morning actually, because some of these things are being looked at—and particularly that one about congestion relief, I gather. But the guidance says that, until better research is done and a better way of modelling and incorporating it in the process is available, it should only be estimated as

a sort of below-the-line or an add-on, not as part of a core appraisal—as an additional sensitivity test or something like that. But I'd never seen it used that way before, and it was really presented to us as a *fait accompli*. It was a body of evidence that was questionable, and so we questioned it.

Senator HUME: When you say, 'We questioned it,' who was 'we' and who did you question about it?

Mr McDougall: 'We' meaning myself and the peer reviewer, John Allard, and we questioned the project team, the PWC and the department's project team that were actually preparing all of this work.

Senator HUME: When you say, 'We questioned it,' did you do it in writing?

Mr McDougall: Yes.

Senator HUME: Was there an assessment that you presented them with, in writing, and did they respond in writing? Did you get a response?

Mr McDougall: Yes, that was in writing and also in meetings. But we did have an exchange of views by email as well. And not so much on the economics but on the modelling side—and John Allard's peer review report was primarily concerned with the modelling only, not the economics; my concern was more centred on the economics. But we were working together, as I said. His report does document a lot of concerns. Earlier versions of his report at the time did document all of his concerns with the modelling that I outlined earlier on.

To finish answering your question: the other item which I've never seen done before is this blending of benefits from fixed and variable matrices to produce more benefits in the early years. I've never seen that done before in a cost-benefit analysis, and I've seen plenty.

Senator HUME: Sorry; can you explain that one a little bit further?

Mr McDougall: That is the last one of my points, where they took results from a fixed matrix approach, meaning no induced traffic, for the early years, and then blended that in over a period of about 10 years, as I recall, in the cost-benefit streaming of benefits so that induced traffic effectively was coming in over a period of 10 years rather than happening much more quickly. That particular process or tweak has never been done on any other projects, to my knowledge. It may have been done by the same team on the East West Link, but that detail isn't available, as far as I know, and I wasn't involved in that particular project so I don't know from personal experience there.

Senator RICE: All of these tweaks and factors served to increase the economic case for the road?

Mr McDougall: Yes.

Senator RICE: So, in summary, your evidence is that there were quite unusual and unjustified mechanisms that were used which ended up increasing the case for building the road?

Mr McDougall: That's right. It's difficult—until you've got a more conventional or, in our view, correct way of doing it at the time—to know the overall effects of all the combined add-ons and adjustments. It was also our concern that there was one set of numbers being produced with all of the add-ons and no more conventional assessment for us to compare it with to know how big the differences would be. That was also a significant concern. You can't really judge the reliability and the accuracy of a process unless you've got a few sensitivity tests and different methods incorporating more usual things.

Senator RICE: The Victorian government, in their response to your submission, said that they've got guidelines in place for transport and economic modelling and that they followed the guidelines and therefore everything is fine. Can you respond to that? Are you familiar with those guidelines? Are these sorts of unusual ways of dealing with things covered by the guidelines?

Mr McDougall: I was involved in helping to prepare those guidelines while I was at the department earlier on. So I've seen earlier versions. I haven't tracked how they've developed over time. I'm not sure how publicly available they are. Senator Hume asked about this. To some extent, the guidance adapts itself over time. The problem we had with these approaches is that they seem to be methodologically flawed. If the guidance incorporated these sorts of ideas, I would question the guidance until it was corrected. This has been true over many years—for example, wider economic benefits. That has been a subject area of great debate over many years in transport projects. It is now becoming more and more accepted, but still with caution, that they are included in cost-benefit analysis and in benefit-cost ratios. It takes a long time for these things to be bedded down, properly researched and applied to the Australian situation. Our concern was that they were lifting things from elsewhere and plonking them into this appraisal with very little substantive justification that we could agree with as reviewers.

CHAIR: To follow on, I understand the governance and oversight audit of the Victorian Auditor-General's office may have involvement in particularly the high-value, high-risk infrastructure projects.

Mr McDougall: Yes.

CHAIR: Do you have any knowledge of the involvement of the Auditor-General's office?

Mr McDougall: Not at the time. They produced a report on the East West Link business case work and project development work, which included quite a lot of comments about induced traffic and how to deal with it and the different types and so on, and that was being used as a bit of gospel. It was important to make sure that the work was agreeing with the view of the Auditor-General's report. Their reviews are usually looking backwards in time rather than actively at the time that a project is being assessed or developed. At the time we were doing the work, there was no involvement from the Auditor-General's office, if that's what you're asking.

Senator RICE: Looking at those guidelines—they sent us a link to them so I looked at them last night—a critical part is the role of independent peer reviewers to pick up on things. When you left, the independent peer reviews hadn't been completed. What happened to John Allard's work?

Mr McDougall: I don't know. I had no more communication with John after that point. I really don't know what happened. I perhaps should have asked somebody, but with the situation as it was and because of the way that I had raised my concerns I didn't want to create any more waves at that particular point. Looking back on it maybe I should have done, but that was how I dealt with it at the time. Anyway, I really don't know what happened, whether his report went any further than the last draft I saw at the end of September 2015, and, if so, whether his concerns were dealt with or allayed in any way I really don't know.

All the evidence suggests they haven't changed very much. The sorts of issues we had concerns with are still there. Whether they are contributing to the benefits of the project to the magnitude that we saw at that time, in those earlier figures, I just don't know. My hunch is that some of them are still making a big difference, like this issue of using fixed and variable matrices to stream the benefits and so on, but it's difficult to judge.

Senator RICE: And the single-step distribution which results in increased kilometres?

Mr McDougall: Yes, definitely. That is still being used, and I would say still producing the same differences in figures that we see in this table.

Senator RICE: I have pursued the issue of these independent peer reviews through Senate estimates and questioned Infrastructure Australia. The Victorian government have refused, despite requests from Infrastructure Australia, to forward those peer reviews to Infrastructure Australia, which, at the last estimates, they expressed their frustration about but said there was nothing they can do. The evidence seems to be that it is not as if there were other peer reviews that they did after you left or that they ever completed them. There is no evidence of them.

Mr McDougall: No, I gather.

Senator RICE: In the Victorian government's response they have proposed that your submission shouldn't be made public because it contains commercial-in-confidence and cabinet-in-confidence information. Do you have any views as to whether, indeed, there are confidentiality issues with the information you have put in your submission?

Mr McDougall: In terms of the arrangements under which I was doing the work—under a confidentiality agreement—I would say that whilst it would be possible to dig into various other reports and other uses of these models over time on other projects and find some of these numbers or confirm some of these numbers through other sources, the figures, perhaps, in the table on page 3 are directly from the models as being used at the time we were reviewing them on the Zenith model on the Western Distributor and the VITM model in its base forecasting form, supposedly with all the same input data for 2031 that was being put into Zenith as well. That all comes from the numbers which were valid at the time that work was being done on the Western Distributor. Perhaps that table and the numbers in it and the comments relating to it would be closer to confidential. They were produced from data provided confidentially to me in my role at that stage. However, from my point of view, none of the data in that table would actually, as I think the department's letter implied, enable anyone to work out any traffic volumes on the project or toll revenues or anything like that. These are just general figures around Melbourne as a whole. The critical issue to me is that they draw out differences between two models and between two techniques. There is single and loop-through distribution on the Zenith model, and that is what I am questioning and concerned about, as we were at the time.

The other issue for me is that I wonder whether terms of confidentiality under my obligation and views as a professional engineer and planner—I feel concerned that what is being done is inconsistent with accepted practice. I feel quite passionately about that, and I wonder about the issues of confidentiality, when you are actually put in a position of feeling compromised professionally. So, from my point of view, I would have no problems with these numbers being released publicly, if that was the committee's decision.

Senator RICE: Basically, the reason you are here today is that you felt it was your responsibility as a professional to share this information with us?

Mr McDougall: Yes, and to share it in a way which, hopefully, you can put to good use. So if there are any restrictions on what you may be able to do with the information, as a committee, due to the public nature or otherwise, that I guess is something to raise concerns. Another point to make, if I may. I talked very briefly in my submission about other project experiences, and a couple in particular. I worked for one of the bidding teams on CityLink and then I worked briefly on another team bidding for EastLink, on modelling and forecasting processes. And that was on the other side of the fence, if you like, working for private sector teams bidding to win a contract to build these projects. And in those processes there was a lot of concern that we had about the way the modelling and forecasting was being made to look as optimistic as possible. I think that sort of issue is well known, but I had never really come across it before, on this side of the fence in particular. On the government side of the fence, where this was supposed to be an independent assessment by the government of a proposal presented to them by Transurban, the private sector, it seemed to me to be geared up as a process really of seeking ways to get the project up rather than doing a properly independent and impassioned assessment of the project's benefits. The way I was taken off the work when we did raise those concerns confirmed, for me anyway, that there was more interest in getting the project through than on doing the work properly.

Senator RICE: Do you reject the Victorian government's assertion that release of this information, as they say, may assist Transurban to back-solve the state's revenue benchmarks or that it would directly compromise the state's negotiation position and ability to achieve a value for money outcome from Transurban's proposal?

Mr McDougall: I can't see how the figures in this table or my comments on them would enable that sort of back-casting or reverse engineering of the figures like that. I would be interested to know how one might do that from the data in this table. I don't really understand how that could happen.

Senator RICE: I want to go to the timing of this Western Distributor project and its relationship with the scrapping of the East West Link. The East West Link was scrapped when the Victorian government came to power in November 2014. When you joined this team in June 2015, did you get any sense of how long this project had been germinating for and how long the negotiations had been going on? Did it relate back prior to the state election, do you believe?

Mr McDougall: I don't know and I couldn't say. I was in the department earlier. My contract with the department, working on other projects started early June. I was only involved in the Western Distributor from June to September that year, but I started working with them earlier in 2015. At that stage the Western Distributor was mentioned, and I think it was actually made public quite early in the piece as a proposal by Transurban, but the process started only really a matter of days or weeks before I got involved in June 2015. As I said in my submission, it seemed to me that a lot of the people on the team were people who had been on the Linking Melbourne Authority team working on the business case for East-West Link beforehand, and a lot of their attitude seemed to be: 'Well, we didn't manage to get that one through. We've got to try and get this one through.' It was a mystery to me why it was set up that way, because that to me wasn't an impassioned, independent assessment to make sure that the government was making a good decision to go with this project or not; it seemed to me a process of demonstrating that the project was a good idea, sort of at all costs, in some ways. That was at the root of our concerns throughout.

Senator HUME: You said you had a personal relationship with Minister Pallas—

Mr McDougall: Yes.

Senator HUME: and that you approached him about these particular issues. Did you outline these issues in the same way you've outlined them to us?

Mr McDougall: Not in full detail; in a fairly short telephone conversation. I had been involved with Treasurer Pallas in the lead up to the election when he pulled together a bit of a brains trust of people to help with transport, land use planning and strategies and so on in the election campaign. Afterwards, I went to a meeting that he held as Treasurer with leaders of the engineering and construction industry. I think I was the only person there representing myself.

Senator HUME: So you were part of Treasurer Pallas's inner coterie before the election that was looking at infrastructure projects.

Mr McDougall: Yes. We were providing advice, anyway. There were a number of people who were providing advice to the team at that stage.

Senator HUME: Yet after the election, once you saw potentially the flaws of the modelling that had gone into this project and you spoke to Treasurer Pallas about those potential flaws, was when you found your services were no longer required.

Mr McDougall: Yes. I phoned him and left a message. He got back to me a couple of days later—I think he was on holiday, and he called me on his way home. I outlined that I felt that there were significant concerns with transport modelling and the economic appraisal. I think I told him—in fact, I know I told him that I felt that the work being done was as bad as, if not worse than, the work that had been done on the East-West Link that had been so widely criticised at the time. He expressed a lot of concern about that and said, 'Well, we don't want to get ourselves in a situation. I'll get someone to contact you as soon as we can to talk through all this and see what can be done.' That was the last I heard from him, and then no contact from him or his office after that, and it was within a week that I was taken off the work, with no explanation.

CHAIR: You were reassigned to other duties.

Mr McDougall: Yes.

CHAIR: Did it result in the termination or shortening of your contract?

Mr McDougall: No. There was remaining budget that was allocated to my time from the Western Distributor project, and that remaining budget was used for me to be reassigned onto a team—the Network Development Strategy; a broader look at long-range futures for Melbourne and transport in Melbourne—looking at things like the advent of autonomous vehicles and other changes in transport. It was a much more strategic piece of work that I was assigned to do.

Senator HUME: How long was it between speaking to Treasurer Pallas and finding out that you were being transferred?

Mr McDougall: From memory, it was about a week. I was told that I wouldn't be needed on the Western Distributor anymore.

Senator HUME: Who told you that?

Mr McDougall: That was the leader of the team I was working with. Fiona Calvert is her name. She was the executive director of the transport modelling team at that stage.

Senator HUME: Thank you.

CHAIR: Thank you very much, Mr McDougall, for appearing before us.

Mr McDougall: Sorry, I've created some extra work for you, by the looks of it. I've certainly had a lot of concerns about the process.

CHAIR: We'll be in contact with you in relation to how we proceed with the matter.

HALL, Ms Jessica, Acting Executive Director, Infrastructure Investment Division, Department of Infrastructure and Regional Development

PITTAR, Mr Roland, General Manager, Major Infrastructure Projects Office, Department of Infrastructure and Regional Development

SPENCER, Ms Nicole, General Manager, Land Transport Market Reform Branch, Department of Infrastructure and Regional Development

Evidence was taken via teleconference—

[12:32]

CHAIR: Welcome. I remind officials that the Senate has resolved that an officer of a department of the Commonwealth or of a state or territory shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policy or factual questions about when and how policies were adopted. Thank you for appearing before the committee today.

Ms Spencer: I will just mention to the committee that the audio is quite difficult at this end, so that may be a factor.

CHAIR: Thank you very much. I invite you to make a brief opening statement, should you wish to do so, and then we'll open it up for questions.

Ms Spencer: Thank you. Toll roads in Australia have generally been delivered via a public-private partnership, whereby the private sector is paid to deliver the road infrastructure and the road related services on behalf of state and territory governments. Toll charges are applied to specific parts of the road network, such as particular routes or corridors, as part of a cost recovery or financing arrangement. Motorists can, in most cases, choose to pay a toll—an immediate cost—based on the benefits of using the road or elect to take an alternative route. The toll charges paid by road users are generally reflective of the cost of delivering and operating an individual section of road infrastructure and a commercial rate of return based on the risk profile of the infrastructure assets.

There will always be more projects than can be funded through traditional grant funding. The government is looking to partner with private sector investors where possible to encourage private sector investment through innovative funding and financing approaches and to drive efficiencies in project development and delivery. The 2017-18 budget reflected the government's deliberate shift in the way it is funding and financing major infrastructure, with a greater use of equity and loans. Through the budget the government established a 10-year allocation for funding road and rail investments, recognising that many transformational projects are planned and built over many years. This is expected to deliver over \$75 billion in infrastructure funding and financing from 2017-18 to 2026-27.

It's important to note that the Australian government has no role in setting toll road costs and is not a party in toll road contracts or concessions. All levels of government are aware, however, that the costs of funding roads are increasing at the same time as demand for road services is growing and road-related revenue is forecast to decline. Looking ahead, governments will need alternative ways of providing the road services Australia needs into the future.

The department plays a key role in two relevant streams of work, including exploring medium- and long-term charging, funding and investment reforms for road transport services, beginning with heavy vehicle road reform; and investigating the potential benefits and impacts of cost-reflective road pricing for light vehicles. Both areas of reform are being progressed jointly by the Commonwealth with states and territories, given the split of functions between levels of government in providing land transport services. The Australian Local Government Association is also involved in this work. Both streams of work share similar objectives focused on creating sustainable, transparent and fair arrangements for funding Australia's roads into the future.

The end point of both reforms, depending upon government decision making, would see a market for roads with users charged for the services they use, as is the case in other utilities. No decision has been taken to pursue network-wide road pricing for all vehicles. Whilst we are many steps away from any introduction of market-based road services, work can progress now on no-regrets reform elements which improve the efficiency of current funding arrangements, such as: forward-looking expenditure and investment plans; a forward-looking cost base to inform heavy vehicles charges; asset registers and data on levels of services for roads; common asset and financial metadata standards; and independent price regulation.

There are a range of other reforms that are already underway to improve the way infrastructure projects are identified, assessed and funded, including the release of Principles for Innovative Financing in February 2016, through which the Australian government is seeking to optimise the level of private investment in transport infrastructure through public-private partnerships which can be supported by user-pay arrangements on road corridors and prudent use of innovative financing. The department is also becoming involved in infrastructure projects earlier to help deliver not only the best long-term economic return but the desired outcomes for users and the wider community. We welcome questions from the committee.

CHAIR: Thank you very much, Ms Spencer. Firstly, in terms of the evidence we have heard from the ANAO and in relation to some of the criticisms in connection with WestConnex and the East West Link project, can you give us an update on how compliance is going currently for the projects you have talked about in your submission and particularly in relation to tying the federal grants or payments to milestones on those projects.

Mr Pittar: I would open by saying that the department has responded to the ANAO's audit of both the WestConnex project and the East West Link project, as well as responding to the JCPAA hearing on both of those projects. We understand that JCPAA report was finalised in June and the department is in the process of preparing its response to that latest report.

A key element in the department's response to the WestConnex was that it agreed with the broad findings and would continue a process of continual improvement in the administration of new concessional loans, and that process is ongoing with new concessional loans. The administration of the WestConnex concessional loan is also an important element of all of that. We maintain strict arrangements around the administration of that loan through our arrangements with the Sydney Motorway Corporation. But the key thing from the ANAO audit of the WestConnex loan was to ensure that lessons were learned in the workshops that the department ran and that it is implementing findings from that on future concessional loans.

CHAIR: What we heard from Mr Boyd was that, where there were milestones established, discussions subsequently took place and there were arbitrary changes to the nature of the milestones in order to facilitate payments being made earlier than what would otherwise have been envisaged. I take it that sort of thing is not happening now?

Mr Pittar: The department's view in relation to milestones was that it would always ensure that appropriate physical completion of work occurred and that sufficient expenditure had occurred in order to result in a milestone payment. The nature of the actual milestone may change, and the department has previously, in its advice to the JCPAA and also to the ANAO, explained that the physical nature of a milestone may need to change as a project matures. But the key point is the payment will be tied to actual physical progress of the project and be tied to the amount of expenditure that the project has consumed.

CHAIR: What about the recommendation in the WestConnex report to make the processes more robust in the administration framework and advising ministers of options when considering financing arrangements?

Mr Pittar: We have also continued to improve those processes to ensure that in making those payments or in recommending payment that that information is provided clearly. In responses to questions on notice that we provided to the JCPAA, we outlined steps that we have taken in another concessional loan where we have ensured that we have implemented a number of the recommendations that came from the ANAO in the administration of concessional loans.

CHAIR: So can you tell us in what way you have made those processes more robust in line with that recommendation.

Mr Pittar: Firstly, concessional loans go to ensuring that in providing advice to the government that it should make only in-principle commitments to concessional loans, with approval to only follow once due diligence outcomes have been completed. Secondly, the creation of concessional loan term sheet should only be done in conjunction with legal advice. Thirdly, we want to ensure that proponents are sufficiently prepared for due diligence activities to commence so that they are prepared earlier in the process for that.

CHAIR: What was the advice given to the minister about the \$500 million advance payment in regard to WestConnex?

Mr Pittar: I don't have that information at my fingertips, but I think that's all a matter of public record in the ANAO report. I just don't happen to have that at my fingertips. We can come back to you on notice if you like.

CHAIR: Yes, could you take that on notice. Thank you very much. Your submission talks about the very long history of toll roads in Australia. Can you tell us about how they've been managed, typically, at state level and federal level, with federal involvement and that sort of thing?

Mr Pittar: I think Ms Spencer's opening statement touched on that, and our submission goes to that. Essentially, they've been handled in different ways depending on the nature of the road. There's generally a fairly bespoke, merit based approach, depending on the road and the problem that the project's trying to solve.

CHAIR: When did federal involvement start occurring?

Mr Pittar: That will depend on the project, but in many cases that will commence around the preparation of business cases and consultations between a state government and the federal government as those business cases are prepared, recognising that projects seeking \$100 million or more in federal government funding need to be considered by Infrastructure Australia.

CHAIR: In your submission, there's a table that refers to the fact that volumes on toll roads seem much lower than expected. Can you tell us what's been happening there? Do you have an explanation or a view about that?

Ms Spencer: That comes from the report by the Bureau of Infrastructure, Transport and Regional Economics. It's a well-documented matter of record that, in the early stages of toll roads in Australia, some of the patronage forecasts were optimistic, and there were some issues around that. The bureau itself actually has quite a substantial paper that it's published separately on patronage forecasts, and it's since become involved in influencing some of that around the world. We can certainly provide that to you, but this is to do with demand forecasts simply being too optimistic at the time, and this is something that governments have sought to ensure proposals have a much better focus on.

CHAIR: Does the department have a view as to whether toll roads have had a net overall benefit to Australia?

Ms Spencer: Certainly toll roads have assisted in bringing many projects to market earlier than they would have been if they were fully reliant upon government grant based funding. They've certainly dealt with some of the congestion issues in our cities and provided more infrastructure much quicker than would have been the case previously. There's work that's been done by other consultants that's referenced in the bureau paper, by KPMG and, I think, by Ernst & Young, which talks about the net benefits. I guess the key message is that it's about bringing those road services to the community much quicker than would have otherwise happened.

CHAIR: Finally from me, what are the implications for the operation of a road network of removing a toll on a previously tolled road?

Ms Hall: I think it would really depend on what the agreement is with the concessionaire. Unfortunately, as Ms Spencer said in her opening statement, we're not party to those agreements. It might be something that you may wish to ask some of the other attendees later this afternoon.

Senator HUME: I have a couple of questions under the heading 'Future challenges'. I'm wondering whether you can specify the reservations that the private sector has towards creating more toll roads. You cite a study by Magner in 2016 and you specifically mention the structure of public-private partnerships being under pressure. Can you elaborate on that please.

Ms Spencer: This goes back to the previous issue around demand forecasting. The history of demand forecasting resulted in a lot of attention from both the bureau and many other consultants. There were many studies done into some of the mistakes and lessons to be learned in Australia from demand forecasting, with some particularly high-profile projects that had occurred in the early days. What the study there is referring to is the private sector being much more careful in that regard, in the way they allocate risk against the structure of tolling arrangements, especially taking into account the reliability of demand forecasting.

Senator HUME: PPPs are obviously only useful if they either reduce the cost to the taxpayer or mitigate the risk. Is that natural reluctance now on behalf of the private operators making PPPs a less relevant structure?

Mr Pittar: We would say that each project needs to be considered on its merits and that a public-private partnership will need to address the particular characteristics of the project. There will be certain projects where a PPP may well be unlikely to be the appropriate model. In other circumstances, we would expect that a PPP would be explored as part of a suite of options for the delivery of a project, which would take into account a range of factors such as the appropriate allocation of risk and management of that risk, such as driving innovation in the delivery of the project, particularly where there are high levels of engineering complexity that you would want to draw into the design and delivery of a project, and so on. In bigger, more complex projects you might have a combination of different procurement methods within a project. So it is something that needs to be considered on a case-by-case basis.

Senator HUME: One of the things you've also mentioned is the lack of competition in the toll road operators. Certainly Transurban is by far the gorilla in the room there. What can be done to improve the competitive position of toll road operators?

Mr Pittar: That is a question which the paper that was attached to our submission touches on. There is a section there on industry ownership and operation, which does point to some of the consideration that the Australian Competition and Consumer Commission has given to this issue in recent years. That is one of the areas to consider. I think the other area goes to the nature of procurement for projects and having the ability to have open, competitive tendering processes around the delivery of projects so that there is the opportunity for competition in the bidding for and consideration of tenders for the design and delivery of projects.

Senator HUME: I'm interested in this study that was announced in November 2016 to be led by an eminent Australian into the potential benefits and impacts of road user charging for light vehicles. It doesn't seem like much progress has been made on that study.

Ms Spencer: Government is still settling on the terms of reference for that study. We are working our way through that very carefully. Where we have turned some attention is to reforming the way the current charging structure works for the heavy vehicle industry. Although it may seem like little progress is being made, there is a lot of progress being made between the Commonwealth and the states and territories in a very collaborative way, looking at the way the existing heavy vehicle charging structure works and trying to move towards a more sustainable and transparent model.

We have recently released a discussion paper on independent price regulation of heavy vehicle charges. We're currently reviewing the submissions to that process before providing advice to government, but one of the key themes to take out of that process today is a view from amongst a wide range of stakeholders that the price setting process needs to be more transparent. This is specific to the heavy vehicle charging arrangement, which is separate to toll charges, but some proponents have made the link to toll road charges in that process. Some of the things that proponents are looking for are much greater transparency around charge setting, greater quality control around the input and credibility of whoever it is that is set up as the pricing regulator to be able to take on those types of functions, with an appropriate review process also built in. That is part of the work that is happening now on heavy vehicle road reform. That may well have implications for the broader study in the future.

Senator HUME: When do you think that study will become operational?

Ms Spencer: The minister committed to that study commencing in 2017. In terms of settling on the details and standing up the eminent person study, that's a matter for the government at the moment.

Senator RICE: We had a discussion with the ANAO this morning about the inherent risk to the Commonwealth where either grants or loans are being made to projects where there is not full transparency of the analysis of the viability of the project. I'm interested in any comments you have on how much information you feel needs to be made available to the Commonwealth before it should agree to contribute funding towards projects.

Mr Pittar: We will look to assure ourselves through various due diligence processes in order to appropriately quantify and manage risks to the Commonwealth. As we've mentioned previously in this hearing, we need to recognise that state governments are generally the entities which directly contract with the toll road operators, the concessionaires, but if I can use the WestConnex project as an example—and I would use that because the Commonwealth had a greater level of involvement with that project due to it providing the concessional loan—I think it provides a useful example of the sorts of things that we would look to do to satisfy ourselves around the sorts of risks. In addition to business cases that we would scrutinise and scrub that come from the state entity itself we engage consultants to satisfy ourselves around patronage, traffic forecasts and that sort of thing, around cost estimations and around engineering aspects so that we are able to position ourselves with advice independent to that that is coming to us from the jurisdiction in order to manage those sorts of risks.

Senator RICE: But do you think that it's appropriate to require full transparency of the analysis that's being done by the proponents before Commonwealth money gets put into a project?

Mr Pittar: Can I just clarify my understanding of what you're asking there? I assume you're asking about transparency from the proponents to the Commonwealth.

Senator RICE: Yes. It is another issue again as to how much information should be made available to the public, but just transparency to the Commonwealth.

Mr Pittar: We would expect to get sufficient transparency from the state proponents, for the sake of argument, in order for us to be able to make the necessary decisions around the nature of funding and risks associated with that. We would expect to get transparency from the states in order to make those sorts of decisions.

Senator RICE: I suppose the distinction I'm trying to make is between what's sufficient and whether it's full transparency, because the position of the ANAO this morning was that there is a strong case that you should have

full transparency—that there should not be any information about the project that is being withheld from the Commonwealth—if the Commonwealth is going to put resources into a project.

Mr Pittar: Again we would expect the proponent to provide all the information that it has got, but we would go above and beyond that and seek further information from our own consultants to satisfy our own due diligence process for an additional sort of check-and-balance analysis, as I outlined a little earlier.

Senator RICE: One final thing: in your statement and, indeed, in the opening statement this morning you said:

The toll charges paid by road users are generally reflective of the cost of delivering and operating an individual section of road infrastructure and a commercial rate of return based on the risk profile of the infrastructure assets.

The toll charges that are going to be imposed upon CityLink do not seem to be reflective of that rate of return. They seem to be reflective of the need to finance the West Gate tunnel. That doesn't seem to be consistent with your statement.

Mr Pittar: That project is not a project that the Commonwealth government is involved with. That is a project that is the direct responsibility of the Victorian government, so I'm afraid we're not in a position to be able to comment or add any detail on that.

Senator RICE: But do you think that that sort of model is appropriate—the toll on CityLink for how many years is going to be determined by the needs of funding another project rather than the costs of delivering and operating the individual section of road infrastructure and a commercial rate of return?

Mr Pittar: Senator, I can't add anything more than what I have said. I'm afraid we don't have information on how the structure of those tolls has been put together.

Senator RICE: Thank you.

CHAIR: Thank you very much. Thank you, Ms Spencer, Ms Hall and Mr Pittar, for appearing before us.

Proceedings suspended from 13:04 to 13:37

HUDSON, Mr Nicholas, Director, Economics and Policy, Infrastructure Partnerships Australia Ltd

LYON, Mr Brendan, Chief Executive Officer, Infrastructure Partnerships Australia Ltd

Evidence was taken via teleconference—

CHAIR: I welcome Mr Brendan Lyon from Infrastructure Partnerships Australia who is appearing today via teleconference.

Mr Lyon: I'm also joined by my colleague and head of transport policy, Nicholas Hudson.

CHAIR: I invite you to make a brief opening statement, should you wish to do so, and then we will open it up for questions.

Mr Lyon: I wish to thank the committee at the outset for the invitation to appear today and also for allowing me and my colleague to appear by phone. Tolling is an important issue, as is the wider funding of public infrastructure, so we really welcome this opportunity to contribute to your deliberations. We hope that the Senate committee's work will make a useful contribution to the national debate about how we can make transport fairer and better for users, the economy and the community the transport network serves.

Noting the extremely short time frame provided, our submission includes the backbone of policy work we have done on network tolling and wider road user charging over the past decade. Noting the reducing pool of funding being provided by the federal parliament for transport; noting the very limited role that the federal government plays in infrastructure funding versus the states; noting the federal government's scheme to deploy infrastructure allocations as taxpayer equity or loans, so-called innovative finance; noting the already staggering national cost of urban congestion, the lack of effective metro rail, the absence of demand-management tools on the road system, like variable pricing; noting that most states, other than those who have privatised or leased assets to reset their budgets, have slashed their own transport funding program—victims of the obviously uncomfortable fiscal constipation they are suffering from high debt and ongoing structural deficit—and noting particularly the lack of a refined political understanding of the difference between infrastructure funding and the role served by private project finance, I have also included our two relevant prebudget submissions raising our concerns that federal innovative financing solves a problem we do not have and brings risks we do not need. Our second submission outlines the principles of a good national government policy for infrastructure and wider reform, because the economy, the community and taxpayers badly need the national fiscal and economic debates to move from cosmetic changes to actual reform and progress.

We hope that our submission will help the committee to further demystify tolling, and we hope that your work will advance the discussion about positive options on how we can fix Australia's transport system and road-funding mechanism. It is appropriate for the Senate to consider the use of tolling in Australia, given that where we have tolled roads in Queensland, New South Wales and Victoria, the tolling concessions have organically grown into tolled motorway networks—networks where the terms and levels of tolls were set in concrete when each road was built, based on covering the operating and construction costs of each road. This has been a very important and valid way of bringing forward major city-shaping road projects. But the reality is that there are also drawbacks from the road-by-road facility based tolling model, because it can create inequity and also because it neglects a wider opportunity to develop network pricing options to better share the costs and benefits for users and to allow transport policymakers to use price to shape demand and fund urban road, rail and other projects.

In contemplating good reforms to tolling, we have done the most work on Sydney's tollways, noting that the orbital tolling system is the largest and is also a mess. It is not integrated, and it sees unfairness in the way different segments of the network are priced and radically different costs are based on where you live. This is because Sydney's road network was developed as a series of incremental concessions, not as an integrated network. This is just the reality and just how it is. New South Wales was learning on the job about how to structure private investment in public infrastructure. It also reflects that New South Wales and, indeed, Victoria were global leaders in the development and refinement of public-private partnerships. However, this organic growth sees, for example, the Westlink in Sydney tolled both ways on a distance basis, while Sydney's earlier M2 is a flat rate and the publicly-owned Harbour Bridge and the privately-held Harbour Tunnel see a low, medium and high toll that varies on the time of day but only in one direction. People in Sydney's north-west pay a lot to come to the CBD, while people in the south-west can pay nothing because of Cashback, which was and is a poor public policy.

Our 2009 paper on Sydney's toll road network forms part of our substantive submission and outlines a reasonable process where we move from tolls set on the cost of constructing and operating a particular asset towards a tolling model where the price is based on the capacity of the orbital road network in Sydney, plus its operating costs. It also reflects the costs of an individual's use on the wider network. In effect, we put forward a

model that was about using a network toll as a demand-side curve as a way to ease congestion, to fund operating costs and, potentially, to fund the wider rebuild and modernisation of Sydney's roads and railways.

Because we don't need to be elected or re-elected, we also considered that this price should be fully dynamic—that is, it would float according to how many vehicles were on the network. Imagine if we could price in a way where we made it cheaper for commercial deliveries and freight to use motorways in the early morning when the roads are empty so that commuters don't sit behind a truck in gridlock at 8 am on a major motorway. However, this type of reform would not be easy either in concept or commission. Experience across the globe shows that these types of changes are more likely to be politically sustainable when people understand the problem and where any upsides in revenue collected from road users are protected and reinvested in road and rail projects. But it is in everybody's interests—taxpayers, road users and concession holders. It is in the interests of the environment through lower emissions. It is in the interests of the national economy through lower costs from congestion, better maintenance and efficient expansion of the transport network. Fixing transport road and rail is ultimately in the direct interests of the national parliament and of the cabinet that represents our interests. But, as I have said repeatedly, it could only occur on the basis that existing commercial interests are maintained and that these property rights are respected and protected within any changed model, particularly given the very high levels of political and sovereign risk that have been introduced into Australia's infrastructure at a state and national level in recent years.

Our model has a lot of hairs on it, a lot of challenges. It was a concept, not a recommendation. It is complex to do because of the existing owners and tolling agreements and because dynamic pricing would serve to price a lot of people off the roads and could have unintended consequences, quite conceivably driving traffic off motorways and onto suburban streets—the so-called 'rat runs'. It is also evident that a lot more public transport capacity and corridors would be needed to cater for the growth in public transport journeys and that they would have to be in place first to give people options and choices rather than just a higher charge. Rather, we would recommend a much wider reform that would see the fuel excise and rego taxes axed and replaced with an on-vehicle, time, mass, distance and location based road user taxation system—something that is being quietly considered in Canberra for further study and is achieving a degree of cross-party interest and support as a concept, if not yet as an actual reform. No doubt, to some degree this committee will be tempted to beat up on tolls, and there has been some flavour of that in some of the submissions before you. I get that tolling is not popular, and we all love free things. And when households and businesses are already heavily exposed to massively increasing energy costs, where there is a broader narrative about higher taxation and interest rates and where households have been squeezed by stagnant wages and higher costs, this is not an easy time to have easy discussions about hard reforms, ones where there will be winners but also losers. Indeed, I point the committee to a letter by Glebe resident John Pendrill writing on 10 January in *The Sydney Morning Herald*. He complains, in part, in that letter: 'I can remember the time when I could go from Glebe to Sydney for no toll.' This is a very good point, one that was just as true when he made it on 10 January 1863 as it is now, as the M4 toll comes back on.

In closing the opening remarks, we thank the committee for your interest in transport funding and tolling mechanisms, and I sincerely hope your work will avoid the easy attraction of beating up on tolls or other user-funding models and instead that this cross-party committee will make a serious contribution about how user-pays principles can be more widely applied to ensure we extract more value from the transport infrastructure we have and that we can finally break the back of Australia's transport funding impasse. I thank the committee for your interest in this issue and I look forward to your questions.

CHAIR: Thank you very much. You say that Australia has been pretty innovative when it comes to funding arrangements for this type of infrastructure. Can you tell us how we compare to other comparable jurisdictions around the world.

Mr Lyon: Certainly. In the areas where Australia has undertaken major reforms, and that is largely around the structure of the transportation and utilities markets, Australia is widely recognised as one of the most sophisticated modern infrastructure markets in the world, whether that is the development of the modern PPP model, starting with the Sydney Harbour Tunnel and running through the early New South Wales motorways—the M2 and the M5—onto the CityLink, we've seen an ongoing development and refinement. Those models have been picked up and applied in other jurisdictions around the world. It should be a matter of great pride to us that in almost every developed market on almost every major financed infrastructure project around the world you will hear Australian accents at the project delivery table, because of the level of respect, the level of depth and the level of appetite that people have for the reforms we have made here, starting with road PPPs and ultimately rolling out to utilities and other infrastructure sectors.

CHAIR: I think you said that the recent federal budget has brought infrastructure investment to either a 'record low' or a 'decade low'?

Mr Lyon: According to our analysis of the budget, which we published on budget night, the reduction in forward funding brings it to a decade low.

CHAIR: What is the estimated backlog of infrastructure in Australia?

Mr Lyon: There are a range of estimates around the nominal or the dollar scale of the backlog. They're relatively rubbery and variable in the methodology that goes into them, and, to some degree, there is no such thing as an infrastructure backlog; you either have efficient capacity and supply or you do not. If you do not, like any capacity constraint, you can have either demand-side or supply-side responses. Irrespective of that, on every indicator of urban congestion of transport network performance and energy prices—of all of the core inputs that go into the production of goods and services and the movement of people and materials across the economy—Australia is clearly falling short of what is needed.

We've begun to measure congestion in partnership with Uber. That has certainly shown and confirmed an ongoing decline in journey-time reliability in the four major cities. I note that we don't yet measure the performance of road transport or rail transport in terms of the productive output, but, nonetheless, on all the measures we do have, and based on the daily experience of commuters in capital cities and the daily experience of businesses, you have to say that it is demonstrably the case that Australia is falling short and that we are not as competitive as we were. The World Economic Forum and a range of others, including us, cite that back to the cost, quality and capacity of the core economic infrastructure markets—utilities and transport.

CHAIR: If you say that we are falling significantly behind in relation to infrastructure, whether it's a backlog or not, what proportion of that is roads related?

Mr Lyon: A very significant degree. If you think about the input costs to the economy and the cost of living pressures to the community, they are in fact both subsets of the wider debate and requirement for efficient and effective infrastructure markets in transport and utilities. These form the core input costs into the production of goods and services. That means they go on the bottom line of the production costs to businesses, and on the bottom line of households. We have seen a very substantial increase in the level of congestion and we've seen ongoing updates in terms of the federal government's own estimates of the economic and social costs. And when you look at things like corridor journey times measured by state road agencies you can again see the same decline. These are costly; they are not just an annoyance. Time delays have a cost, and when you think about it, road transport, and to some degree suburban and freight rail, are all components and all part of that input cost in terms of moving people and skills and materials across the economy.

CHAIR: In terms of toll road pricing, can you just tell us what your view of the process is? How have toll road prices developed, and is it done at the same time as contracts are being developed?

Mr Lyon: That's correct. The overwhelming majority of the toll road corridors we have are privately held and are the subject of either a sovereign contract or a sovereign concession deed. That means the price to motorists was set at the time those roads tended and is set in the contract. They are not able to be varied by the owners. They are set in the concession deeds or in the legislation, depending on the jurisdiction. And they are based around the competition that was held over the construction and operating costs of each of those individual road networks. It is called facility-based tolling. They were set at the time, but that's not to say that they couldn't be varied or altered. As we have said, in the Sydney tolling paper we provided to the committee, it could be done, but it would have to be done on the basis of agreement, noting that there are binding sovereign concessions and contracts in place.

CHAIR: I take it that these contracts can't be amended very easily. Is that correct?

Mr Lyon: Everything can be done very easily if there is agreement. But it would fundamentally require agreement between the state and the concessionaires.

CHAIR: Given that investors require long-term certainty in relation to pricing decisions, what sort of factors do we need to be concerned about there?

Mr Lyon: I think if we were looking to vary the pricing model on any of the three tolled capital city networks, there would have to be a separation between the concepts of the price that is charged and the revenue that is provided to the concessionaires. At the moment, those things are linked. You could delink those and the pricing model could be set separately. The revenue model that was expected by the investors could be agreed. But, again, it would be complex to do and it would require good faith on both sides of the table.

Nonetheless, in 2008, when we were in the midst of preparing that Sydney roads paper, we hosted a meeting in our office which had not only the operators of the Sydney road concessions but all of the equity owners that were in those concessions at that time. We also had the New South Wales roads and traffic authority, which is now RMS, as well Infrastructure Australia's then coordinator-general. The meeting was very interesting because there was a developed agreement between all the parties that a reform pricing model that makes better use of the motorway network was in everybody's interest, whether you are the equity investor, the operator or the state road agency who is trying to drive up the efficiency of the road network and ensure the fundability of the expansion and maintenance of the network. However, the general discussion was that it would need a very serious degree of political commitment and a very high degree of good faith to reach agreement. As I said, it would be very complex to do. That's why the more developed recommendations that we've made and the more developed papers that we've submitted to the committee are looking at a much wider reform based around mass-times-distance location-based charging across the entirety of the vehicle fleet. That means that you avoid some of those distortionary aspects, like forcing traffic onto rat runs. There's also the absolutely fundamental decline of the Commonwealth's fuel excise, which has already halved as a proportion of Commonwealth receipts.

CHAIR: There are a couple more questions from me. There have been some calls for some of the information—perhaps in relation to the business cases of toll roads—to be made available publicly to aid in transparency. The Grattan Institute was talking to us earlier today about that. What do you say about the release of that type of material? Some of it is sensitive. How much can be made public?

Mr Lyon: The saying that I always use is: monsters only live in the dark. The default position should be full transparency, particularly around infrastructure markets, which are, effectively, public markets irrespective of who owns individual notes. They're publicly-regulated public service markets. Nonetheless, I was very surprised at the structure of and discussion in the Grattan Institute's submission. It was either astonishingly honest in showing that they're learning about these issues or breathtakingly naive to the realities of major projects. The simple fact with that particular submission—and I note that that submission limited itself to one current project that's underway—is that it seemed to misunderstand many of the fundamental aspects, not least of all that the key issues they're saying are not transparent will be made transparent on the table of the Victorian parliament once the deal is done. I don't understand how it would serve anybody's interest, other than, potentially, the BITRE, to make available core commercial aspects before the price has been resolved.

Because of Victoria's legislation and because it is a deed of the parliament, all of those aspects that were raised will become explicit and apparent because they'll be tabled in the parliament, just as the structure of the contracts themselves in Victoria are put up on a website—either full contracts with a very, very small amount of data redacted where it is commercial in confidence or, otherwise, detailed summaries that deal with these issues. I respect the overall tone of what the Grattan Institute is thrusting at, but I think that they just got it wrong on this submission, and quite obviously so.

CHAIR: Finally, from me, there are some other recommendations that we've had in relation to processes around federal funding—for example, linking to project milestones. The ANAO has had something to say about that. Do you have any comments or recommendations?

Mr Lyon: As you'd know from the annexures to the submission around the proposed financing unit in Canberra and other things, we have very substantial hesitations and share the concerns of the National Audit Office around the use of structured financial instruments and taxpayer equity as opposed to funding. We made a second relevant submission on the prebudget process, which very much deals with the reality that the federal government, by constitutional design and by practical effect, is, in fact, very far removed from the realities of major project delivery. Although, they're the ultimate beneficiary where infrastructure markets are efficient in terms of the fiscal return and economic performance of the country.

We share the National Audit Office's concerns around the drive to structure federal allocations as taxpayer equity, investment or loans to individual projects. We'd certainly draw the committee's attention to the demonstrated experience we've had of these at a national level—the Australian Industry Development Corporation, going back some time, or the contemporary example of the National Broadband Network—where all of the operational construction technology and delivery risks are, ultimately, sitting on the consumer and will be recovered from the economy. We're certainly seeing that now in terms of this discussion around lower levels of service for higher fees.

The reality is that, where government funding interventions are then structured as some kind of financial asset on the balance sheet, what that requires is the prospect of a financial return to the Treasury to allow that to be structured on the balance sheet and hidden, in effect, from the budget. The experience of this has been that we pick winners and bank losers, more particularly, given infrastructure projects—others and the inland rail and the

airport—sit within the purview of the state. They haven't identified financing as an issue that they need help with, particularly given the extreme liquidity in debt markets. Rather, it's the fundability. It's the ability to pay or repay the cost of infrastructure that's the major problem. That's why we've been quite concerned about the focus and the tone. We understand that it's fiscally convenient in terms of the ways those allocations are reported. But, as we've submitted, we believe that's an illusory benefit. If the projects were sitting there with good commercially adjusted risk and return profiles, we wouldn't be debating whether or not to structure taxpayer dollars to go in. Instead, we'd be at the opening because those projects would've already happened.

CHAIR: I take it you'd be supportive of post-completion data on projects being available?

Mr Lyon: Absolutely. We've submitted to every government—or certainly all of the major procuring ones over time—that things like ex post and ex ante analysis should be a routine exercise, and that it should then be published and made available on the internet so that the issue of cost, time and value performance becomes a statistical issue rather than a 'gotcha' moment in the press when freedom of information requests go through. One of the best ways to drive accountability in the public sector and in the private sector around the delivery of these things is to ensure that you have a routine measurement of how it actually performed compared to the business case. So we're able to analyse where we've done better and where we've done worse and make sure that we're sharing those lessons, and adjust the public sector's procurement and project inception processes to make sure that we're continually learning and getting better, particularly as we move through increasingly complex social and economic infrastructure procurements.

CHAIR: Thank you.

Senator HUME: Mr Lyon, I note that your deputy chairman is in fact Scott Charlton, the CEO of Transurban, who's our next witness to appear.

Mr Lyon: Yes.

Senator HUME: It's not surprising that you don't want us to beat up on tolls—I don't think that is the objective of this committee! I would imagine that a user-funding model is something that most of the members of this committee would be very interested in. It's more the issue of potential price gouging and transparency and political expediency that we are interested in. It's certainly not a beat-up on tolls per se. Can I please ask you whether you believe that there is a gold standard road infrastructure project in Australia?

Mr Lyon: Let me answer your question in two parts. The first was the correct assertion that Scott Charlton, the chief executive from Transurban, is the deputy chairman on the board. I think it's important that I do let the committee know, however, that in the secretariat, we have a structural independence from the board in terms of what we publish and what we submit. That's a reflection of the fact that we are in fact structured equally between the government sector and the private sector, as you'd note from the rest of the composition of the board. Senior officials from across the major governments, federal and state, serve on the board of directors. Noting the position we play as a public policy think tank, we were designed to have structural independence so that it doesn't cause the type of conflict to which you infer. So the submissions we're making today are in no way on behalf of either of the two toll road companies that are in our membership, nor have they been influenced by state road agencies, who are also all members, or by any of the national bodies. The submission we're making to you is as an independent public sector think tank. I think that's an important matter to get on the record.

Senator HUME: Can I ask you, then, before you go on: did you show the board your submission before you gave it to the Senate committee?

Mr Lyon: No. In fact, that has never been done. They're not approved by the board. As I say, we have full referral and structural independence from the board in terms of the contributions that we make. The board will see the submission at the same time they read our testimony that's being given today, which will go out for noting in the board papers later in the year.

Senator HUME: Thank you. Can you answer the question about whether there is a gold standard road infrastructure project in Australia?

Mr Lyon: I guess it depends what you mean by gold standard. You would have to say that Melbourne's CityLink—Transurban is in fact an SPV that got off the leash and went feral, and began as the delivery model for the Kennett government's CityLink—is a gold standard, because what that project showed is that you can actually buy outcomes that don't exist when you deploy private finance into a competition to meet a public outcome. By that I mean the output requirement that that road had a free-flow tolling system. That technology did not exist anywhere in the world at the time the contract was signed. Again, if you look at projects like the NBN that are technology heavy, it is quite easy to imagine that the cost and time performance of value return may not have been met if VicRoads—or the Metropolitan Board of Works, as it was at the time—had been trying to take that

technology risk, that development risk. So I'd say that CityLink was a gold standard because it showed not only that you could get operational and capital efficiency into the construction of the project but that you could actually ask for core outcomes that are quite different to what had been done in the past and you could retire the risk against the public sector.

More recently, we have seen again some very interesting innovations, particularly in New Zealand, around a PPP motorway they have done called Transmission Gully, which is in Wellington, where we were yesterday. That road is again a further development and expansion and demonstration of the power and the incentives when you deploy competed private finance into public contracts and public outcomes. On that particular motorway, one of the revenue items at risk sees the equity owners receive a half-a-million-dollar fine, which is indexed over the life of the concession—for each death that occurs on that motorway. As you can imagine, that creates a very significant up-front incentive to make sure that the design and operation of the motorway is as safe as possible and really changes around to the first principles what the government sector was trying to buy. They are wanting to reduce the road trauma and they are wanting to experiment to see not only competition based around the capital and operational efficiency of the road segment but also whether you can buy things like safer outcomes—just as New Zealand has trialled in social infrastructure, which is beyond the scope of this inquiry. With the prison they have procured in Wiri in South Auckland, there is revenue at risk for the operator based around reducing the reoffending rate of the prisoners, of the convicts, by 11 per cent compared to the average of the public sector in prisons across New Zealand.

I think these are all gold standards because they show the innovation and competition and they show the very strong alignment of incentives that are created when private equity and private debt compete against one another to win the right to build, operate and own major pieces of public infrastructure. I think it really does show the power. It also shows the future as we start to look at how we get greater efficiency into the operating side of budgets, into health systems, into corrections and other things. I think these are really exciting signals that there are jurisdictions around the world that are looking to change the mix and are willing to experiment to drive better outcomes for the community at better value to the taxpayer.

Senator HUME: Can I bring you back to the beginning of that—I was going to say 'sentence', but I think there are a few sentences in there, Mr Lyon. When we were talking about gold standards, you were talking about CityLink and you said that it was the gold standard before it went off the leash and went feral. What did you mean by that?

Mr Lyon: No, no. I said Transurban originally started as a single asset SPV until it became supersized. It was the special purpose vehicle that was created to deliver the CityLink. It's grown since then through acquisition of other projects.

Senator HUME: Okay. I'll interpret 'off the leash and went feral' as exactly that.

Mr Lyon: I should then correct the assertion—it was more of a joking reference to the change, that the SPV has actually become a trading company.

Senator HUME: That's all right—apparently I had a sense of humour before I had this job!

Mr Lyon: Very good!

Senator HUME: Can I also ask you about the interesting model for collection of unpaid tolls that exists in Victoria. Obviously the Victorian government is the collection agency for unpaid tolls on CityLink. Are you aware of whether that is something that is replicated in other states or other jurisdictions?

Mr Lyon: Because we are an economic policy and market think tank, we don't have visibility. On the plane last night, I briefly scanned some of the submissions—I think WEstjustice was one that I read. I am just not familiar with the enforcement aspects. We look at these not in that depth and don't have the expertise. I think you'd be better off relying on Transurban, the Victorian government or the WEstjustice people.

Senator HUME: Can you explain the direct user pricing system and how that provides a greater level of transparency?

Mr Lyon: In terms of the universal road user charge type approach?

Senator HUME: Yes.

Mr Lyon: The fundamental challenges that we have in road transportation and in the broader transport network are multiple. We certainly have productive efficiency issues, and you only need to look out of your windscreen in the morning in any of the four major capital cities, and we certainly have a revenue issue that underpins it. To a very great degree, that has been the halving and the ongoing decay of the federal government's fuel excise. That's been driven initially by the de-indexation of the fuel excise in 2001 and more recently by the

shift towards fuel efficient and electric vehicles. What it's done is debase one half of the two-part tariff that we have used since the Second World War as the basis of the pricing model across the road transport system.

Whichever way you cut it, there is too little money being collected to pay for the construction of what we need and the maintenance of what we have. The other problem is that we allocate capacity on what we have in a way that is less than efficient. So it sees very high levels of utilisation during peak periods in key geographies and very low levels of utilisation at other points of the day.

We developed the model with the motoring clubs—and you'll note that the four major motoring clubs have badged that report that we annexed attached. At its fundamental core, the model is about making it a closed loop in terms of protecting, conserving and hypothecating the road related fees and charges, and changing the pricing model so that we send efficient signals for good use, that we are able to spread the load and that we are able to keep the road system working as the major metropolitan areas grow.

Ultimately, it's about getting rid of the fuel excise and it's about getting rid of licensing and registration charges—the two-part tariff—and it's about replacing that with a much fairer and more equitable system that is based around the time, distance and location of use, and also the vehicle mass—so you are accounting for wear and tear. Ultimately, it's about making the entirety of the road network properly structured and properly priced, and making sure that we extract much greater value from what we have and that we have the funding available to deliver what we need, be it road or rail.

Senator RICE: Listening to your contribution, you seem to be a significant supporter of private sector involvement in funding and operating infrastructure. Given the lower cost of borrowings that governments can achieve compared with the private sector, are there some infrastructure projects that you think are more appropriately funded by government? I say this in the context of a small increase in the appetite of governments to be taking on extra debt when it's debt that is being put towards productive infrastructure.

Mr Lyon: We are very supportive. It would be an error to characterise us as a cheer squad for private sector involvement as an outcome in itself. Ultimately, what we are about is how to make economic and social infrastructure service markets efficient to the economy, efficient for the taxpayers and efficient for the consumers that use them. I think there is often a misunderstanding about the cost of capital argument. Certainly that came through again in the Grattan Institute's submission. The reality is that the cost of capital is an opportunity cost. The cost of capital reflects the actual risk of the investment or the risk of the cash flows that are generated by an asset. When government takes on those risks directly in terms of the direct provision of major, complex projects—again, you can look at the NBN as a good example—it's probably not reflective of the actual risk of the undertaking when we are injecting government finance into it.

At the same time, government borrowings are an incredibly important way of funding the infrastructure capital program as opposed to financing the individual assets. The major problem we have in public infrastructure markets across the country is that governments—as I said rather indelicately in my opening remarks—are fiscally constipated by very high levels of debt and structural deficits. That is the reason we're not seeing a flow of projects out to the markets. Private finance very rarely pays for the actual cost of the infrastructure. It is not usually a funding mechanism but it is, to some degree, in a number of the toll roads. Historically, it was able to play a role in funding some or all of the projects.

But we are now facing a situation where, due to the failure to protect corridors or to plan, we are forced to look largely at tunnelling type projects where the costs are much greater than you could collect directly from users. What that means is that the injection of private finance into these projects is actually a way of apportioning risk and protecting the taxpayers from the very complex risks of the construction, delivery and operation of major projects.

Undoubtedly, private sector financing and delivery of infrastructure will never be more than 10 or 15 per cent of the capital task, in my view, and that means that the other 90 or 85 per cent will be funded and delivered by the government sector through some sort of mechanism. Where does it make sense to have the private sector and private investment? It makes sense on the very large, very risky or very service heavy type things so major clinical hospitals, major motorways and those types of projects, where you are wanting to apportion the risk and you are wanting to give the discipline that is created and where you have two or three consortiums of equity who have a drive to win stapled to private debt, which has a really strong incentive not to lose the money it lends. What that does is create a very substantial and powerful set of incentives to identify the risks and mitigate them because it is private, not taxpayer, money that will be lost.

Senator RICE: Is sharing the risk critical so it has got to be the private sector that, at the end of the day, is actually carrying that risk rather than it being sheeted home to taxpayers?

Mr Lyon: It is not that the humans are different but that the incentives are different and the accountabilities are different. The public sector has rarely shown itself to be able to manage the very complex risks of new projects. It often does not have the signals to be innovative in the design or the structuring or the financing. For the very big, very risky, very complex tunnelling projects, technology projects, NBN-type projects, there is a very strong argument for the government sector to use its borrowings to fund the cost but then to inject the discipline and accountability of private capital competing against private capital to win the competition based on the best value and the lowest cost.

Senator RICE: As Senator Hume said, there is probably broad support across this committee for shifting to a more holistic form of road pricing that gets rid of all the problematic issues of just funding some sections of the network. Do you think with any new tollway projects there should be conditions in those contracts to facilitate a shift if that occurs in the future? As you were saying earlier, at the moment, with all of the tolling regimes in place, it is going to be up to reaching mutually agreeable outcomes. What sort of conditions should there be in contracts to more easily shift to broader road pricing when and if it occurs?

Mr Lyon: It is a very sensible question but it is also a very complex one to answer. It cuts across the grain of the certainty that the government sector is usually trying to inject into a tender procurement. The other point I'd make is that the tolled road corridors are less than half a per cent of state motorway networks and would be a much smaller proportion of the total road sector once you include the local government road networks. When government is setting up the competitions for these types of assets, they can put anything they want into the contract. The thing that it will alter is the cost. That would really be a question for state treasuries and state road agencies to take on when they're going out for a market sounding. It would not be difficult if we got to the happy situation where we were able to get a degree of bipartisan support, community understanding and user engagement around the issue of a broader structural change to the way we price and fund the road system. We could deal by agreement, in all likelihood, with the very small sections of the broader motorway and highway networks that currently have concessions or property rights over them. It's really a question for the level of government that procures these projects to test, but I certainly wouldn't want to see it as a firm rule, because it would probably have some degree of value impact for the states when they're procuring these projects.

Senator RICE: Thank you.

CHAIR: Thank you very much, Mr Lyon.

BYRNE, Mr Henry, Group General Manager, Corporate Affairs, Transurban

CHARLTON, Mr Scott, Chief Executive Officer, Transurban

[14:21]

CHAIR: I welcome representatives from Transurban. Thank you for appearing before the committee today. I invite you to make a brief opening statement, should you wish to do so, and then we'll go to questions.

Mr Charlton: Thank you, Chair and committee members. Thank you for the opportunity to be here today to discuss the infrastructure sector and the important contribution it makes to the Australian economy and the liveability of our cities. I'd like to give you a quick overview of our company. Transurban is an Australian ASX listed company, headquartered here in Melbourne. We began in 1996 with the creation of CityLink and have since grown to either wholly or partially own and operate 13 toll roads here in Australia, in Sydney, Melbourne and Brisbane, along with two in the United States. We believe we're an Australian success story, with 70 per cent of our security holders being Australian superannuation funds and individual security holders. Our largest shareholder is UniSuper and they manage the retirement savings of 400,000 workers in the education and research sectors. These people, like all of our stakeholders, share in our success. We have over 20 years of experience in delivering and operating world-class road projects. We have approximately 2,000 direct employees and 5,000 contractors across four locations contributing to a current development pipeline worth over \$9 billion.

However, we're more than just a road company. We work to be a valued partner for governments in delivering and supporting key infrastructure projects which provide value to all communities. We use our technology and operational expertise to make our roads safer and more efficient. As a company, we are very excited about the transport opportunities that technology is bringing to this market, such as autonomous vehicles, and we're working in partnership with governments to best prepare for this. Transurban believes in a multimodal transport system. We support all transport modes, including public and active transport. As a business, it is not in our customers' or our shareholders' interest to have congested roads. We are not a car park company. Commuters and communities we operate in need a fully functioning network which allows them to move around the cities in the most effective and efficient way.

I believe there is an acceptance and an understanding that governments alone cannot fund the growing infrastructure demands of our major cities. The public-private partnerships on road projects where the private sector takes the risk and provides the majority of the funding have become vital tools for governments to deliver their wider integrated transport agendas. These partnerships have seen a number of major road projects brought forward by decades, such as the \$3 billion NorthConnex tunnel in Sydney, which we are currently delivering. The private sector has contributed more than \$34 billion to major road, bridge and tunnel projects during the past three decades and these projects would not otherwise have been built. Partnerships with the private sector free up the government balance sheet. This means there is more money for other priority areas such as the current \$40 billion of public transport projects currently underway across the east coast of Australia.

To support their infrastructure agendas, governments in recent years have introduced what they call market-led proposal processes, which actively encourage the private sector to bring forward ideas. They also provide a clear and transparent set of guidelines for assessing these proposals. These guidelines, along with the procurement guidelines of all the states as well as the PPP guidelines, provide transparency to the community and to the industry on the governance arrangements for each engagement, including rigorous value-for-money evaluation requirements. Transurban and others have used these market-led proposals to bring options to governments. Any of these projects that we bring to the government have their origins in transport master plans and align with existing government policy.

In closing, I will make a couple of points. Both governments and the private sector need to continue to work together to ensure that the current infrastructure development and delivery processes are robust and the current market-led proposal guidelines are a powerful tool for incentivising the private sector to achieve the best outcomes for government, communities, customers and investors. By working with the private sector, as demonstrated through our projects in things like NorthConnex, the CityLink Tulla Widening, the Logan Enhancement Project and other network enhancements, governments can deliver on their long-term transport plans earlier and more efficiently.

CHAIR: I note your submission says that the debate needs to shift from road versus rail to a debate where both modes are embraced. Can you elaborate on that.

Mr Charlton: If we look at the current population plans particularly for Sydney and Melbourne, there are issues going forward in the next two decades with the obviously very strong growth, and we need both road and rail as well as active transport to deal with these big growth numbers, including technology as well. As I stated in

our submission, we are not a car park company so congestion is not good for either us or the communities we operate and live in. We need a coordinated approach. We have seen in the past, and I think Mike Mrdak has made comment on this from the point of view of the federal government, that it is very difficult for the federal government to recoup on a user pays basis the full cost of public transport, so this is where the private sector can work with the government in providing user pays more around road infrastructure, which has been more aligned to user pays, and free up the government balance sheet to provide rail. I think the issue of how much in percentage terms the different transport modes are utilised, because Australia is at the lower end of the OECD developed countries, comes back more to long-term development planning. So to have the kind of transport systems you want in Hong Kong or Tokyo or New York or London, you really need to look at the density of planning. In the current Australian environment we see more public transport going forward but we need a combination of both to deal with these congestion issues.

CHAIR: Can you give us a very high-level overview of the market-led proposal process, not necessarily the specifics state-by-state. Can you tell us how it works and what are the decision points involved.

Mr Charlton: You can often think of the market-led proposal process as a subset of the PPP guideline processes that the Vic government and the New South Wales government have, or indeed the national guidelines. It is a way for the market to bring forward ideas. The first is usually an opportunity for a pre-meeting with the government sponsor, whether it be Treasury or VicRoads or whatever the government sponsor or right authority is, and then there is usually a process where the government will assess whether it meets the political objectives that the government is trying to achieve in a high-level policy area, and also does it meet at a high level the value for money equation and what the government and transport plans are trying to achieve overall, and what procurement methodology the government should look at—whether it should be competitive, whether it should be negotiated and how they might take it forward.

If they get through that stage and say that yes, it is something they want to take forward and they decide on which procurement methodology they take forward, then there is usually a very detailed assessment where they go and talk to the various stakeholders, usually being the various departments, whether it is the department of the environment, transport, planning or whatever it may be, to get the stakeholder input, and do a detailed assessment. That usually ends up in some sort of government business case so they can assess the value for money against the private sector doing the job or against the government doing the job.

If they then get past that stage, and it is called different stages in different states, then the next stage is where they do the commercial negotiations, or the detailed negotiations, with the private sector, and also they do the procurement process as well, for construction procurement, to put in the final inputs. If they get to the end of that stage, then they sign a contract and contracts and other things are made public at that point in time.

CHAIR: At that point then, there is a discussion about toll pricing? Whereabouts does that come into it?

Mr Charlton: It depends on the individual transaction and the prices that government sets. Usually, the toll pricing is discussed, as it was on NorthConnex or the West Gate Tunnel, at the very beginning. This is roughly where the tolling arrangements are set to be. The West Gate Tunnel was announced in April 2015. The tolling arrangements were discussed at a high level. Those have essentially stayed the same over time, but the final determination of the tolling arrangements will come out of the EES process, because obviously the tolls themselves can have some impact on traffic and the final tolling arrangements will come out of the environmental assessment process.

CHAIR: I take it there are a range of factors that need to be forecast in order to arrive at a price. Can you tell us some of those factors.

Mr Charlton: Yes. It is quite a complex process. A tremendous number of things are taken into account. Obviously, there is the construction price and risk associated with that. There is the ongoing operations risk, traffic, tolling, the environment, economy and land use planning, so it is quite a complex, expensive and tedious process for the private sector.

CHAIR: In terms of the escalation of the toll over time, how is that developed?

Mr Charlton: The government will have specific objectives, as will the private sector, to make sure that we can earn a fair return for our shareholders' money. But when you are looking at the tolling arrangements, you want to look at the time savings versus the value of the toll. Essentially, what happens over time is that, as the economy grows, the ability for people to increase payments grows, whether that's CPI or AWE, and as the time savings grow, normally there is some sort of escalation attached to the toll. That is really up to the government, because the government at the time has to play with the issues of how long they want to provide a concession to the private sector—and that's value for money—versus the starting toll and versus the escalation. Those are things

that have to be balanced out to make sure that there is value for money for the users so that they use the toll roads, and that long term that stays in line with the value being provided by the road and also that the government is not burdened by having to put too much of a grant in or vice versa. In some instances, New South Wales, last decade, was receiving payments from the private sector, which actually could have meant that the toll was lower.

CHAIR: Once the road is operational, do those toll charges deviate from the initial contract or does that type of thing ever occur and, if so, under what circumstances?

Mr Charlton: We, unlike most other industries, would be the most regulated in that area. Once the concession is signed, the toll arrangements are set for the life of the concession. There is nothing that we as a company can do to change those pricing arrangements. They may have escalations in them or they may have adjustments to CPI, but the regulations of the toll are set at that time, unlike other industries that have five-year resets or can set their own pricing. We actually have no pricing control. The only way we can change the pricing is in agreement with the government. If we take an option to the government that says, 'We would like to do something that might add value and we would like to change this arrangement,' the government is in a position to consider that and whether they want to adjust the tolls or not. The only time we can change them is with agreement with the government.

CHAIR: I have a couple of more questions. I know time is short. Your submission talks about how commercially sensitive information should be treated. What do you say the committee should be mindful of when considering those issues?

Mr Charlton: I think there are two issues in relation to that. We have seen a lot of submissions and they refer to the West Gate Tunnel as some sort of special case. If you look at the Victorian PPP guidelines, the national guidelines on PPP, the Australian transport guidelines on PPP and the hundreds of PPPs that have been done in this country for the last three decades, it's the normal process that when you are negotiating with a party that information is commercial-in-confidence. Once the transactions are closed, all of our concessions are online or summaries of all the agreements are online. The Auditor-Generals do assessments of each of the projects either at financial close, shortly thereafter or at the opening of the road. We just had the Auditor-General in New South Wales determine that NorthConnex was value for money after its original financial close.

From a commercial point of view as well, you wouldn't want to disadvantage the state because if the private sector is putting forward a proposal, if you say the state thinks a project's worth NPV \$100 and publish that number and then tell the private sector they have to beat that number, the private sector is going to do \$101; they're not going to go out. What you need is that commercial tension. We have that in the current proposal. All we know is that our transaction is more value for money than the state's assessment. How much more, we do not know, but it is more. If the number were published it would be pretty easy for the private sector to go to the lowest common denominator just to beat the state. So I think it's also in the state's interest as well as in the private sector's interest, given there is a lot of IP and commercial in confidence, particularly when you are still negotiating.

CHAIR: There have been a number of submissions about concerns in relation to the treatment of unpaid tolls. What are Transurban's policies around that and what is the responsibility of state governments?

Mr Charlton: First of all, in the case of CityLink, 99.4 per cent of our customers have arrangement around travel, so it is a small proportion of those who don't. In relation to that, for people that find themselves in situations where there are hardships or other things, we have a first-time forgiveness program and a hardship policy program. We have thousands of people in those programs, on different payment plans or other arrangements.

The way that the structures have been set up in all the states—the question from one of the senators was, 'Why is Victoria different? But Victoria is not different. Queensland, New South Wales, Victoria, Washington DC—they are all criminal processes and they go through in the criminal system. They have different steps toward the end about how you get there, but they all end up in the same place. That is because, at the end of the day, unlike a telecommunications company, an energy company or some other party that is providing a service, we cannot shut the road and pull the car off the road. Similar to a traffic infringement or a parking fine; it goes through the state.

What we have been doing is working with the state of Queensland and others, and we have been talking to West Justice. We are happy to do more to try and reform the system. At the end of the day, once our customers fall into that system it's not good for our customers and it's not good for Transurban. So we're more than happy to continue to look at how we reform that system, but it is a very small percentage of our actual customers who fall into those arrangements. Unfortunately, there are some recidivist people out there that just continue to use a road without paying and without reasons of hardship or other issues.

Senator HUME: Just on that, it is the Victorian government that does the collection of unpaid fines or fines for not paying for the tolls in Victoria, is that correct?

Mr Charlton: Same as in Queensland, New South Wales and Washington.

Senator HUME: It's the same everywhere else. Is that a global thing or are there are other companies you would know of that would use normal debt collection services, like any other utility?

Mr Charlton: The other utilities, like an energy company or a telecom company, can turn the service off. They use civil debt recovery because if you don't pay your bill for a year a telecom company is not going to let you keep using the service. With us, if you just keep travelling along the road, we can't pull you off the road.

Senator HUME: The Victorian government give you \$10 for every fine they collect, is that correct? Something like that.

Mr Charlton: Potentially. I'll have to go back and see that last number. We don't make any money out of the fine system and certainly it's not in our interest—

Senator HUME: But you don't lose any money?

Mr Charlton: We do lose money because the Victorian government never recovers those fines. As you know, it sits on a balance sheet and they never recover it.

Senator HUME: Whose balance sheet does it sit on? Does it sit on the government's balance sheet or yours?

Mr Charlton: Once it falls into the infringement system it sits on the state's balance sheet.

Senator HUME: When is the West Gate Tunnel operational?

Mr Charlton: Subject to the EES arrangements, the government's announced it would like to reach financial close by the end of this year, and then it will become operational based on the current forecast in 2022.

Senator HUME: And the cost of the West Gate Tunnel, from my understanding, is \$3.8 billion for you and \$1.7 billion from the state government, and that excludes the East West Link \$1 billion cancellation. Is that correct?

Mr Charlton: The East West Link cancellation obviously has nothing to do with our project.

Senator HUME: Sorry, that's a state government issue. But \$3.8 billion for Transurban and \$1.7 billion for state government—does that sound right?

Mr Charlton: The final commercial arrangements will be known when we reach financial close. What we have done to try and inform the market is give a rough estimate of where we would end up or close there about. What we said is that it is roughly a third, a third, a third: a third to the CityLink concession, a third to the West Gate Tunnel and a third from a contribution from the Victorian government, so roughly enough, but it is yet to be finalised.

Senator HUME: So it is true to say the economics of the West Gate Tunnel is really an extension of the CityLink concession. The West Gate Tunnel economics do not stack up without the CityLink concession, is that correct?

Mr Charlton: The West Gate Tunnel is a project as part of the network. As a lot of other projects, whether they are NorthConnex or the Logan Enhancement Project in Queensland or other projects, have required, overtime, government grants. If you wanted to raise the toll to a level that projects could pay for themselves, it's the same as public transport. If you try to recover the exact total cost of public transport, the cost would be 200, 300 or 400 per cent higher. What we are trying to balance is the amenity use and the benefit to the whole network and using those different sources to fund the West Gate Tunnel Project, including the widening of the West Gate Freeway.

Senator HUME: So, as a stand-alone project, the West Gate Tunnel Project would have an internal rate of return. If you removed the CityLink extended concessions the West Gate Tunnel Project would have an internal rate of return that would be negligible?

Mr Charlton: There are three funding sources for the project, so I'm trying to understand the context of your question. If you had to spend \$3.8 billion or if you remove one of the revenue sources and still built the same project, yes, it would severely impact the returns.

Senator HUME: I am basing these questions on brokers reports from places like UBS and Credit Suisse, because there is such a difficulty in getting data on this. The suggestion from those brokers reports is that the project internal rate of return for West Gate Tunnel with the CityLink concessions is around 13 per cent or so, but without the CityLink extended concessions it is hardly anything—it is actually not a viable project.

Mr Charlton: Our proposal is a packet. Our proposal is not pick one and we are there.

Senator HUME: How much more CityLink traffic comes from the West Gate Tunnel?

Mr Charlton: It depends on where you are talking about, because CityLink is both the Western Link and the Burnley Tunnel as well. You have to remember you are not necessarily bringing additional traffic to CityLink. What you are trying to do is bypass the Bolte Bridge. We actually lose revenue off the Bolte Bridge, because it is fairly congested, as we all know, as part of the network. What you're doing is essentially you're taking 30,000 vehicles that would have been going across the West Gate Freeway and you're taking those vehicles and you're putting them into the West Gate Tunnel. It is not a significant material number additionally on CityLink, you are just removing them from the West Gate Bridge and you are taking them to where they want to go, which is either north of the city or onto CityLink, or, for trucks, into the port.

Senator HUME: CityLink tolls are increasing 4.5 per cent per year or CPI, which is the—

Mr Charlton: It is CPI now.

Senator HUME: But it is going to be 4.5 per cent or CPI, whichever is the greater?

Mr Charlton: It is CPI now.

Senator HUME: It is just the CPI, there is no 4.5 per cent?

Mr Charlton: No. That ended in January 2017.

Senator HUME: And that won't be part of the new agreement for West Gate Tunnel?

Mr Charlton: We don't talk about any of the commercial arrangements. On that there are still negotiations.

Senator HUME: Is that one of the things that you would be looking to negotiate though: anything beyond a CBA increase in tolling?

Mr Charlton: I'm not going to comment on commercial negotiations.

Senator HUME: It's very difficult for the public to assess whether they are getting value for their taxpayer dollar from this decision if these commercial arrangements are not made public. You're the gorilla in this industry for Australia. You're the dominant market position. Of the commercial in confidence stuff, what risks are you looking at if those numbers were made public?

Mr Charlton: I do not necessarily agree. We have a market share of revenue, but, as we set out in our Senate submission, there are 23 other investors who are some of the largest investors in the world. We're potentially in competition against all of those parties on a regular basis. In fact, of the last three private toll roads in Victoria, EastLink, Peninsula Link and the East West Link, we either lost or were not involved in. To put out there either our return hurdles that we are achieving, which we have made not public, but are in the realm of those that are being received in the industry, or to put out financial forecasting and our intellectual property—how could that be in our interest when we are competing against those same parties in the market?

Senator HUME: When did you first start speaking to the Victorian government, or potentially opposition at the time, about the West Gate Tunnel?

Mr Charlton: We put in our submission for a market-led proposal in March 2015. It is very disappointing that the Grattan Institute put some statement in there that we submitted it prior to the election without any reference or note or even contacting someone to say why that statement could possibly be true. I have been on the public record to the Victorian parliament and others that we submitted the market-led proposal in March 2015. As far as talking to people is concerned, whether it's Matthew Guy or Michael O'Brien or Denis Napthine or Luke Foley or Anthony Albanese or Paul Fletcher or Darren Chester or anyone who is involved in infrastructure in any of the governments or in opposition, I am the CEO of a large infrastructure company which is involved in policy, so I speak to parties all the time, but the market-led proposal for the West Gate Tunnel project—or, as it was known at the time, the Western Distributor—was only put forward in March.

Senator HUME: Transurban's S&P credit rating is triple-B-plus. Will you be borrowing for the West Gate Tunnel project? Will you be using debt financing?

Mr Charlton: We don't give to the market exactly what we're doing. We've said in relation to the West Gate Tunnel project, which we've done for all of our projects in the past, that it will be provided by a combination of debt and equity. The exact timing and mixture of those instruments is not something that, as an ASX listed company, you broadcast, but it will be a combination of debt and equity.

Senator HUME: I was just interested because obviously a state government with a reasonably strong balance sheet would have a greater capacity to borrow at lower rates than a private enterprise. This is why the

transparency issue is so important. We want to make sure that the infrastructure projects that we undertake stack up financially for the taxpayer as well as the road user.

Mr Charlton: I think it comes back to Brendan's point. I couldn't agree with you more. There are a lot of projects that the government is borrowing for, including the Melbourne Metro and the level crossing removals and everything else that's being done, but the government can't borrow ad infinitum to do these things. If Transurban ended up putting \$3.8 billion of capital into this project and the government borrowed that today and the other capital they would have to put in, that would probably jeopardise their triple A rating. There is a point where it's not a limitless bucket of money if you want to bring infrastructure forward. The other side of that transaction is the risk. If you look at how the private sector has delivered construction outcomes and operation outcomes, our roads are at a higher standard than the network, our safety is at a higher standard than the network and our technologies are at a higher standard than the network. There is a lot of risk transfer and other things in these transactions.

Senator HUME: Let's talk about the 17.5 per cent trigger. Can you explain that to the committee?

Mr Charlton: Sure. I'm sure this comes from a gentleman who has his unique and own assessment of the CityLink concession and has a very questionable agenda, because I've been answering these questions for 18 months in the Victorian parliament and elsewhere. There is a trigger in the concession agreement—and the concession agreement is public—that, if we hit a 17½ per cent specific hurdle at some point in time, and the first test is in 2026, the government can terminate the concession early. As I have said for 18 months to the Victorian public and the media and at our AGM, we have not hit the hurdle. We don't forecast hitting the hurdle. It wouldn't matter if we did the West Gate Tunnel; we don't see hitting the hurdle.

Senator HUME: What about the Tulla-widening project? If you hadn't done the Tulla-widening project, would you have hit the hurdle?

Mr Charlton: Whether we had done the Tulla-widening project or not, we wouldn't have hit the hurdle.

Senator HUME: So there is no chance that you're going to hit the 17.5 per cent hurdle?

Mr Charlton: You have to test it in 2026. There's no chance on what we can see today. If our revenue goes up by 1,000 per cent over the next few years, or something—I don't know—the revenue could go down. It's not tested in 2026, and it's tested on historical numbers. I know people like to speculate and put out their own conspiracy theories, but we've made it very, very clear multiple times.

Senator HUME: I promise you I'm not trying to live my life on the grassy knoll. This is an old agreement. This is an agreement from 1995, and it seems to just go on and on, becoming more and more profitable for Transurban. It's a river of gold.

Mr Charlton: Let's come back to that. I would hope that the revenue would increase over time, because we invested \$2 billion back in 1995 for the project and since then we've invested, through the different network enhancements, quite a few billion—close to \$2 billion has gone back in the network. On top of that, we've had close to \$2 billion in operating and maintenance costs. That is the whole point we just talked about, why the tolls are lower and the traffic is lower in the early years. We've invested all this money and now we're starting to earn returns on that money. It is in line with the original forecasts, except that the GFC and other things happened that actually brought the original forecast down. Again, a popular myth around the rivers of gold or the profitability. We have made substantial investments—and, I should say, those returns go back to superannuation funds here in Australia—and now we're in a more mature cycle on CityLink. You can see that in the different roads, where you are at the M5 or you are in a more mature phase of growth, where you are starting to get returns on your investments, versus something like we just did in the US, where we invested \$3 billion and we have very low cash flow because we are in the early years of a 50-year-plus concession.

Senator HUME: Can you see a point in time at which you might renegotiate that agreement entirely? Knowing now that that agreement is 22 years old—does that sound right?—that maybe with innovations that have been made, with the changes to the system, with the massively increased population and with the increased tolls that have happened over that period of time, do you not see that, potentially, it is time to renegotiate with each one of these projects rather than just extending the same contract?

Mr Charlton: We are one of the biggest advocates of road usage. We are the only ones that have actually gone out and done a road usage study—I don't know if the committee's had a chance; I'm happy to submit that—here in Melbourne. There are two issues there. You can do road usage and keep the toll roads, because in a road usage sense you are replacing fuel excise, registration and those kinds of charges, and so toll roads still offer benefits over the rest of the network. If governments want to look at changing arrangements, we are more than happy to look at changing arrangements. Again, we think some of the operations of the network aren't nearly as

efficient as they should be. The tolling arrangements a lot of the time are historical, the way they have been set up, particularly when you look at Sydney and a lot of the historical tolling arrangements for the individual roads. When you now look at Sydney more as a network, it could make more sense to renegotiate that or look at it on a network basis. We're happy to have those discussions because, again, the more efficient the network is, the better it is for our customers, the better it is for communities and, then, the better it is for our security holders.

Senator HUME: Do you think it would be that Victorians would be potentially in a better-off position if those original concessions were renegotiated?

Mr Charlton: That's an open-ended question. That is too open-ended a question, sorry. It is hard to answer.

Senator RICE: I will start by focusing on the western distributor, the West Gate Tunnel. I have a few things I want to cover. I know we haven't got much time, but I will see what I can get through. I want to get the structure of the western distributor and the overall process. Basically, it was a market-led proposal. You came to the state government with it, saying, 'Here's an idea.' That was its genesis. You say its genesis was put to the state government in March 2015, but when did you first have discussions with members of the state government in particular about the project?

Mr Charlton: We only put forward the project in March 2015. We never discussed a project with anyone. We discussed, as we do all the time now, with the government—and we meet with all of the different parties—about the issues around the west, the West Gate Bridge and other issues. At the time prior to the election, the east-west tunnel was being done—as far as we were concerned, it was being done—and we could see that the issue was that the government was then looking to move to the west to look at the western section of the East West Link. We thought that was, from a BCR and productivity sense, something that was probably going to be not needed at this time—we could probably do something much better. So we started looking at, probably in the last year or two years when east west was going, what all of the options in the west were. We started looking at that. We started talking to both the opposition and the government about: 'What do you think about the West Gate Bridge? What are you doing?' I think the opposition were talking about their ramps at the time. We never put forward a proposal or a discussion about a tunnel or what we proposed until we went to the market-led proposal. But, as I said before, I talk to bureaucrats and politicians all the time about all the transport issues in all the cities.

Senator RICE: In the lead-up to the November 2014 state election, where we had the Labor Party commit to scrap the East West Link, you were, regardless of the status of the East West Link, looking at what could happen in the western part of Melbourne?

Mr Charlton: Yes.

Senator RICE: So you're saying that you did have conversations about some ideas with the then opposition at that stage?

Mr Charlton: No. We were asking both the then opposition and the government of the day, including Terry Mulder and others, 'What are you going to do in the west, once East West is done?' We were trying to get their ideas so we could understand their policies, because, as I said before, we were trying to fit our ideas and proposals into both the long-term transport masterplan and the government's policies or objectives of the day.

Senator RICE: Did you have discussions with Tim Pallas at that stage about the West Gate Tunnel or the Western Distributor?

Mr Charlton: Not the Western Distributor. Well, we had a discussion about his ramps, because he was proposing ramps. So he was giving us his view on his ramps, which were done at different forums and which were done at—

Senator RICE: That was their key road project that they took into the election.

Mr Charlton: We were trying to understand the policy of both governments to see what we could come up with.

Senator RICE: Essentially, it was a surprise for us residents of the western suburbs. The opposition had the west gate ramps as their key road policy platform for the election, but months went by and we didn't hear anything about the ramps, and then the next thing we hear is that there is suddenly this market led proposal from Transurban. But you're saying that you didn't have discussions prior to that.

Mr Charlton: No, we did not—not about our market-led proposal and the West Gate Tunnel Project.

Senator RICE: But you were having discussions about the ramps with Tim Pallas and others prior to the election and post the election. Were you having discussions about the west gate ramps and how they would work with the state government post the election?

Mr Charlton: I can't remember if we had discussions. Post the election, we were certainly having discussions with the roads minister on a regular basis because he's the roads minister that administers our roads. I'm sure we would have been talking about what their plans were and what their policies were at the time. Also, as part of the East West Link, we had an interface arrangement and had to do a ton of work with the state government at the time so they could integrate the East West Link into CityLink. So we were, again, trying to understand from both the Napthine government and the opposition at the time, 'What are your plans,' because we were trying to figure out how, once the election was over, all of this was going to fit into long-term transport planning and the effect on our assets and what we could do.

Senator RICE: So you put this proposal to government, and then the government essentially set up the Western Distributor Authority or the agency that is then doing an assessment of your proposal?

Mr Charlton: Yes, all under DEDJTR.

Senator RICE: Yes. We've had some discussions about this this morning, in particular that, as part of that assessment, there were independent peer reviews done of their assessment of the Western Distributor. Do you know anything about those independent peer reviews?

Mr Charlton: The only thing we know is that they were done. There were a couple of eminent Australians who did a review of the project in that very first stage that I talked about before. Melbourne metro and Level Crossing were all being reviewed by the government before they set up Infrastructure Victoria, so we understood that the government had a couple of eminent Australians review the projects, like a mini-IV. We don't have access to any of the government's peer review processes. I don't know if they've done a peer review or not; we don't have any access to that. We submitted our proposal—our business plan. The first thing we saw of the government's business plan was when they published it on their website. We don't see the government's analysis of what they do on our project. Again coming back to commercial negotiations, it wouldn't be in the government's interests to say, 'This is what we think the project's worth, or not.' The government just tells us, 'Yes, you're value for money compared to if we delivered it ourselves.' We've never see any peer reviews.

Senator RICE: So you have had no information about those peer reviews?

Mr Charlton: No.

Senator RICE: Do you think it is appropriate, in terms of transparency, for those peer reviews, if they were done, to be public documents? It goes to the issue of transparency and what information is available to the public to make our own assessments as to whether they are value for money.

Mr Charlton: I don't know what's in the peer review, so I don't know what they were asked to do. I don't know if they are financial information or other things, so—

Senator RICE: It is the transport modelling and the economic modelling that was done.

Mr Charlton: I guess the transport modelling is all out in the EES, so I think it's a question—

Senator RICE: It is redacted—

Mr Charlton: Not the EES transport modelling.

Senator RICE: Well, in terms of the transport modelling that is in both the EES and in the business case, it is significantly redacted.

Mr Charlton: I haven't seen redacted transport modelling in the EES, but I will go back and have a look. I think that is a question for government. We don't run the peer review process.

Senator RICE: Do you think it is appropriate that transport modelling, whether it is transport modelling that you do or whether it is the government's business case assessment of that transport modelling, should be confidential? Are there grounds for the transport modelling to be confidential, along with the methodologies that are used in that modelling?

Mr Charlton: I thought the methodologies were made public in the EES, at least on the traffic modelling. I've got it here where it discusses how the transport modelling is set up and the assumptions that are used. So as far as the traffic transport modelling, as far as I'm aware, that's all been made public in the EES.

Senator RICE: So you don't think there are grounds in general for tollway projects? If there is transport modelling done, that obviously feeds into the economic assessment and the business case as to how much traffic is likely to use the road. Do you think the outputs of that transport modelling should be public information?

Mr Charlton: I'm saying that it is public in the EES.

Senator RICE: You are saying that it is public, but, in general, do you accept that it should be public?

Mr Charlton: I'm saying that the information, as far as West Gate, is in the EES. What the government wants to do when it does its assessment around the project—you would have to ask the government how they want to treat their own information. I don't know what is in there, so I don't know for them if it's something that is commercial-in-confidence or something that they are running a process on or something that they are about to do another project on. I don't know what's in there.

Senator RICE: In your submission, you talk about the case for increasing tolls over time, because there are greater time-savings, essentially, and greater benefits to users of those roads. So there is a justification to have higher tolls at later stages of the project. Does that stack up?

Mr Charlton: It's a culmination of two things. It is a culmination of more congestion over time, so a greater value. But also the ability for the individual customers or the economy to pay for it obviously increases over time, as the economy and the productivity of the economy grows. If we look at our current arrangements, our toll roads are saving about 310,000 hours a day in Sydney and Melbourne and Brisbane, compared to the alternatives. We have arrangements which we think are quite unique in the US, where we do dynamic pricing and have a toll road right next to a free road. And you can price that capacity and guarantee time-savings, in effect, because you guarantee a speed. But here in Australia, the way the arrangements have been set up, there is a flat toll fee. But what we see is the outcomes, and I think there was a recent article in Sydney, just last week, about a gentleman on the Central Coast who uses toll roads, who said it can cost him up to 120 hours per week. We look at that arrangement, and, on the average time savings, he would be saving about six hours a week. And at his EBA rate of about \$50 an hour he would be making an extra \$180 a week. So what we see is that they still offer value, even as the rates grow, because of those very reasons, compared to the alternative.

Senator RICE: You have the experience of CityLink, now over a long period of time, and you forecast travel time savings and there was the overall assumption that your travel time savings are going to increase in the later stage of the project. Have you done the analysis in terms of whether that is actually what has eventuated?

Mr Charlton: Certainly, the travel time savings are there, because of the congestion in the rest of the network and other issues. Certainly, the value equation is there, because it is not just the travel time savings. Again, as the economy grows, the cost of congestion to an individual or a trucking or freight company is growing as well.

Senator RICE: So, have you done that analysis to see whether your projections at the beginning of the project haven't played out, to see whether that justification for having increasing tolls over time is justifiable?

Mr Charlton: I think what we are saying is that the value of time and the outcome—

Senator RICE: Yes, but have you done the analysis? I know the theory that you are proposing but have you done the analysis of whether it actually played out in practice?

Mr Charlton: We have looked at the value of time analysis and, yes, that has played out. I am not sure exactly how you would want to see the analysis. I'm trying to get back to the original forecasts.

Senator RICE: Would you be able to share that analysis with us?

Mr Charlton: We can give you some data and some information on that, yes. We are happy to show you the value of time savings.

Senator RICE: If you could take that on notice, that would be good. We have not got time now to go into the issues raised by Toll Redress and West Justice and their recommendations as to the characteristics of tolling systems they would like to see. Could you take on notice to respond to the proposals that are in those two submissions?

Mr Charlton: Our team meets with West Justice and we talk to West Justice.

Senator RICE: But there are specific proposals in the submission of Toll Redress and West Justice as to how they would like to see changes to tolling infringements and administration fees.

Mr Charlton: We are happy to respond to West Justice. We have had issues in the past about Toll Redress trying to step between us and our customers and cause other issues.

Senator RICE: All I would like you to do is to take on notice to respond to the recommendations that Toll Redress made in their submission. It would be helpful to us as a committee to see what your response to those is.

Mr Charlton: I thought we had already put in a letter in response to Toll Redress but I will take that on notice.

Senator RICE: In addition to taking that on notice, one of their key points was the excessive fees and that you could be sending out multiple toll notices in one envelope with massive administration fees that clearly do not reflect the cost of the administration. What is your response to that?

Mr Charlton: It does reflect the cost of the administration and of the systems that we have to put in place, which are the whole tolling systems, the back office and everything to do with the enforcement and infringement side. We have been working with the Queensland government for a long time and, hopefully, we are close to getting what we call the aggregation so we're not having to do that. We are regulated by the processes that are set up by the government and the concession arrangements. Again, it is not in our interest to send out multiple invoices in the same envelope. As we said earlier, we are happy to work with the state governments and others to change that. In fact, we are the ones in the US that led changing the arrangements for the US enforcement and others. It is not in our interest to put our customers into the infringement system.

Senator RICE: But you say that your administration fees are reflective of the actual cost of the administration.

Mr Charlton: Yes, and they are regulated by the various authorities as well.

CHAIR: Thank you very much for appearing before us today.

GRIPLAS, Charles, Managing Director, ConnectEast

HERBST, Tami, General Counsel and Company Secretary, ConnectEast

[15:07]

CHAIR: I invite you to make a brief opening statement should you wish to do so, and then we will open it up for questions.

Charles Griplas: We appreciate the opportunity to attend this hearing. ConnectEast is the concessionaire of the EastLink tollway until 2043. In April 2003, the Victorian government announced that EastLink would need to be delivered as a tollway. Following a competitive tender process in October 2004, ConnectEast was awarded the concession to construct, operate and maintain EastLink and the untolled Ringwood bypass as well as to construct the untolled Dandenong bypass.

ConnectEast opened Dandenong bypass in December 2007 and then opened EastLink and Ringwood bypass in June 2008. Construction was on budget and completed five months earlier than contracted. This new infrastructure benefited communities and businesses much earlier than otherwise would have been possible had EastLink not been constructed as a tollway. ConnectEast privately funded the construction costs of \$2.5 billion. There was no government funding contribution to these costs. The tolls agreed under the concession are relatively low with annual changes limited to CPI. Alternative routes such as Springvale Road and Stud Road have not been restricted. There was no guarantee of traffic volumes on EastLink so this has been a high-value, high-risk and commercially challenging undertaking for ConnectEast.

However, the results speak for themselves. EastLink is a vital part of the Melbourne freeway network as it is the only freeway connection between the Eastern, Monash, Frankston and Peninsula Link freeways. EastLink is the quickest and safest freeway in Melbourne. Traffic on EastLink has increased from 135,000 vehicles per day in 2008 to 250,000 vehicles per day, making it Australia's second busiest tollway. Each business day EastLink carries more than 20,000 heavy commercial vehicles, increasing efficiencies for vehicle operators, and taking these large vehicles off local roads and away from schools and residential areas.

EastLink has made possible a range of economic developments, including 265 hectares of new industrial parks adjacent to EastLink and the Dandenong Bypass, and the \$655 million redevelopment of Eastland Shopping Centre adjacent to EastLink and Ringwood Bypass. In fact, it was good to hear that Amazon are going to be basing their new headquarters out in our corridor as well. Property values have been boosted throughout the EastLink corridor. EastLink contributes to the region's identity through tunnels that protect the Mullum Mullum valley, 480 hectares of landscaping, 4 million native trees, shrubs and plants, 60 wetlands, 35 kilometres of the EastLink Trail, distinctive public architecture and a dozen public artworks. The high quality of EastLink, its design features, operations and maintenance would not have been achieved had EastLink been an untolled freeway.

Looking to the future, we anticipate hands-free driving will become possible on EastLink and other freeways in the next few years, subject to legislative changes and using vehicles with the latest automated vehicle technologies. These technologies will improve road safety and, over time, will increase the capacity of existing freeways. To prepare for this, ConnectEast has partnered with VicRoads, the Australian Road Research Board, La Trobe University and RACV to trial the latest vehicle technologies on EastLink and other VicRoads freeways. One of the objectives of this program is to identify opportunities to improve compatibility between the latest technologies and our freeways so they can be addressed by vehicle manufacturers and freeway operators. Vehicles have already been provided by seven major vehicle manufacturers, and other manufacturers will be providing vehicles shortly. It is envisaged that freeway operators will need to communicate directly to autonomous vehicles—for example, to communicate a change in conditions or operating environment such as an emergency incident, congestion event or a lane closure. Connected vehicle transceivers are being installed at three of EastLink's tolling gantries to create a section of EastLink for trialling vehicle-to-infrastructure communications. This demonstrates that EastLink is likely to introduce the necessary infrastructure changes to assist with the introduction of hands-free driving earlier than untolled freeways.

CHAIR: Thank you very much for that. What is some of the expertise that your company brings to the EastLink project?

Charles Griplas: There are three core competencies that we bring to the project. One is around traffic management and network management. Also, an integral part of that is safety management of roads. We are one of the safest roads in the country in terms of casualty and fatality rates. In terms of core competency, we also bring the technology that is utilised on the road from our automatic toll points all the way through to the back-end office, which looks at all the billing and credit processes. Virtually, we bring to the toll road a seamless operation

from account setting and toll collection all the way through to account management. In terms of those three core competencies, that's where we strongly feature.

CHAIR: And you're involved in design and construction at that point as well.

Charles Griplas: Correct, yes.

CHAIR: I take it this was a market led proposal.

Charles Griplas: No, this wasn't. I know there was a lot of commentary earlier today in terms of the status of toll roads. In terms of our project, it's probably a very typical project, in that you see that its first phase of life was really high risk, to the point that the company was then delisted and taken over by a private consortium so that it turned into second-hand owners. When you look at toll roads, the greenfield risk that they present is very high. It's really at the second end, where you look at brownfield projects, that it converts over to where you get predictability of traffic, construction risk is out of the way et cetera. So it evolves and transforms itself over a period of time. It's not a risk-free type of project.

Senator RICE: Could I just clarify, then. The initial company that built EastLink wasn't ConnectEast, so you took it over.

Charles Griplas: Correct. Horizon Roads took over ConnectEast. Not to be inflammatory, it was a perilous financial proposition at that stage. It was publicly listed, and then it was taken over by a group of eight superannuation funds. Since 2011, it has been reset in terms of its debt.

Senator RICE: So the initial investors in Horizon were the ones that bore that risk, then, so they lost out badly? So there would have been some people that got severely burnt?

Charles Griplas: I wouldn't say they lost out badly, but it wasn't a financial success, I suppose, if I could put it that way. They probably broke even.

CHAIR: So you wouldn't be in a position to tell us what sort of reviews and consultation took place at the beginning of the project?

Charles Griplas: No, I couldn't. That was well and truly before my time.

CHAIR: You say in your submission that the concession deed is a public document. Do you consider that your involvement in the project has been transparent?

Charles Griplas: Yes, our engagement absolutely has been transparent.

CHAIR: What kinds of key performance indicators are in the concession deed?

Charles Griplas: We currently have 28 key performance indicators, and they range from wetland management and portal emissions to train and lane management, all the way through to graffiti removal, incident response and billing—invoicing and times. There are customer contact KPIs as well. So they range across the full operation, from R&M through to customer management.

CHAIR: What types of outcomes does ConnectEast need to achieve?

Charles Griplas: The outcomes we achieve are very clearly aligned to our customers. We want to ensure that we have a free-flowing road. Most people, when they pay the toll to get on the road, want to make sure they get from point A to point B safely, and they want to get there quickly and be travelling at speed. It's a 100-kilometre-per-hour speed limit on our road, and that's what we aim for. That doesn't come easily. We invest quite heavily in incident response and debris removal to ensure that it's a safe road. We ensure that the hard infrastructure around a road—collapsible light poles, wire rope et cetera—really works to the end of ensuring that they get there safely and, if there is an accident, there are no hard surfaces to hit. So our outcome is to ensure that our travellers' journeys are seamless. Through our surveys that we undertake on an annual basis, our customers tell us, quite frankly, 'When we open up an account, that's the first and last time we actually want to talk to you.' That's pretty sad to say; I'd kind of like to have an engagement, but people very clearly just want to make sure that it's seamless as long as the traffic flows well.

Senator HUME: Is that part of the 28 KPIs that you mentioned in your submission?

Charles Griplas: The KPIs, when it comes to traffic, would refer to how quickly we clear up an incident and to account management. But we see very clearly that, because there are other alternatives to our toll road, we have to compete very strongly in that space, on the travel time and safe space, to ensure that, when people come on our road, we get them there quickly. So that has become more of a commercial, competitive objective of ours than something that's specifically tied into a KPI regime.

Senator HUME: The 28 KPIs, then, relate to something different?

Charles Griplas: No, they're more like response rates. For instance, to give you an example about traffic, there's nothing in the KPI that says that you need traffic to be moving at speed. What it does say is that, when there's a traffic incident, you need to be able to approach that incident within a certain time frame.

Senator HUME: So your concession deed isn't related to the KPIs directly?

Charles Griplas: Yes.

Senator HUME: It is related to the KPIs directly?

Charles Griplas: Yes, it is.

Senator HUME: All right.

CHAIR: What about KPI penalty points?

Charles Griplas: Once we reach 500 penalty points a year, the penalties start at around \$2.7 million and escalate from there.

CHAIR: Is that publicly available information?

Tami Herbst: The concession deed is publicly available.

CHAIR: In terms of how many penalty points you accumulate?

Tami Herbst: In terms of on a regular basis or what the thresholds are in the concession deed?

CHAIR: What you have incurred.

Charles Griplas: We have never incurred penalty points. Certainly in terms of penalties, yes.

Senator HUME: Is your KPI performance publicly available information too?

Tami Herbst: I don't believe so. We report quarterly to the state and then it is also audited annually. That is again provided to the state.

CHAIR: You say that you haven't incurred any penalties.

Charles Griplas: Correct.

CHAIR: But, in terms of penalty points, does that mean that you haven't hit certain thresholds?

Charles Griplas: That is right.

CHAIR: In terms of the penalty points that you incurred last year, is that publicly available information?

Charles Griplas: No, it's not.

CHAIR: Can you take us through the process involved in this project to develop the toll price schedule? Are you able to tell us about that?

Charles Griplas: I don't have any knowledge of that part. I only joined the organisation about three years ago. I'm not sure how that price was set around the concession term. The toll price is linked to CPI, so if the CPI moves down the tolls move down and if it moves up they move up.

Senator RICE: Were they renegotiated when the new company took over?

Charles Griplas: No, they weren't.

CHAIR: In your submission you say that the EastLink toll is the lowest in the country. Is that correct? Can you elaborate on that?

Charles Griplas: We have provided that information in our submission. We have based that on publicly available information in comparison to ours and we have done that as a per kilometre cost. Yes, we are. In fact, we once enjoyed the headline—I think it appeared in the Fairfax press—that we were the fastest, cheapest and safest road in the country. That just doesn't happen by default. We actively work in terms of building our competence in the operations and maintenance space and in terms of traffic management. As I said previously, our three core competencies relate to that. In terms of the technology space, undertaking automatic vehicle trials we believe will do several things: one, improve safety yet again; two, allow us to better manage congestion; and, three, increase the capacity of the road. It is those sorts of core competencies that we focus on.

CHAIR: In terms of your policy around unpaid tolls, can you tell us how you deal with those?

Charles Griplas: It's not so much different to what you heard from the previous speaker, Scott Charlton. Just to give you an idea, half a per cent of trips on our road will result in an infringement. But, in terms of the process, Tami, did you want to talk about the state government side?

Tami Herbst: The process is, as Charles said, not dissimilar to that adopted by Transurban. We have a number of invoices. If they have no account arrangement with us or another toll road operator and if that is then

not responded to we are then able to refer the matter to the department of justice or civic compliance and they will issue an infringement. Once it is referred to civic compliance it is largely out of the concessionaire's control in terms of both the fees that are charged on the infringement and the escalation of fees. That is a state driven process.

CHAIR: Are there any other parties involved in the process?

Tami Herbst: State parties in terms of department of justice, the sheriff's department, Victoria Police and then, if it gets to court, the Magistrates Court obviously.

CHAIR: Thank you very much.

Senator RICE: In your opening statement you talked about the increase in traffic. It has increased from 135,000 vehicles in 2008 to 250,000 vehicles a day, this year I presume. How does that line up with the traffic forecast at the beginning of the project or when ConnectEast took over?

Charles Griplas: Let me give you an idea in terms of when the road first opened. The owners at that stage offered a free month of travel and that achieved about 270,000 vehicles per day. Then when it started to toll—albeit during the GFC—it dropped to 135,000 per day, and, subsequently, over a period of time, has built up. In terms of any risk that a toll road undertakes, the first is the building construction risks—cost blowouts et cetera—and the second is traffic forecasts and, really, the optimism bias that comes around the commercial bid process.

Senator RICE: At that level of growth, 250,000 vehicles a day, is your financial viability reliant on that continuing to grow?

Charles Griplas: In terms of the growth in our corridor, the sad reality is that I would like to be able to say that we can control traffic volumes on our road but what we can control are people travelling on our road at speed and ensuring that there is effective traffic management. The old adage that if you build it they will come is not the case—that if you build it in the right corridor then you can feed into it and it will work in well with other arterial roads and grow. We find that growth in our corridor meets growth in the South-East region so that it meets the residential growth, the light industrial growth and the storehouses and warehouses et cetera, and the commercial elements of the road. That is where the growth comes from. We cannot in any way manufacture that growth. It is certainly providing people with a faster alternative to the other roads.

Senator RICE: You are saying that growth is basically a function of the natural background of population growth and economic activity in the region. Is the growth that is coming with that sufficient for the ongoing financial viability of the company?

Charles Griplas: With these propositions, there is a lot of debt on the books that depends on a whole series of financing arrangements around the proposal or project. At the end of the day, growth is something that we look forward to in terms of ensuring viability. As you can see, we went through two phases of owners, or two sets of owners, so it is a critical element of our success.

Senator RICE: My question is that if the growth is only at the level of growth you have been experiencing in recent years because of the background population growth, is that going to be sufficient in the long term for the ongoing sustainability of the company, or would you need to refinance some of that debt that is still hanging around?

Charles Griplas: We are not anticipating any major change in that regard.

Senator RICE: Similarly, are there any measures in your concession that might in fact decrease the amount of traffic on the road. For example, if the state government decided to seriously improve public transport links along that corridor, as was originally planned in the initial Scoresby corridor planning, and there was a substantial decrease in traffic, how would that impact on your financial viability?

Charles Griplas: There is a process in play within the concession deed that that would then open up discussions with the state government.

Senator RICE: Can you share with us any more information about that?

Charles Griplas: It is not a very simple process. It looks at the entire network: the road and the network, the positives and the negatives. For instance, in terms of our road, it looks at Peninsula Link, Thompsons Road, the Monash widening and a few other enhancements. These are the certain things that come in roundabouts. At the end of the day, it is not an acquittal process that you reconcile per month for instance. It is something that you see over time or over the duration of the concession deed. It is not a clearly set out articulated process, but it is something that has a discussion with the government.

Senator RICE: But say the government decided, as was one of the original proposals, to put in a light-rail link that connected up Ringwood, Dandenong and Frankston—

Charles Griplas: Actually, we support the light rail—

Senator RICE: yes—which could potentially have a significant impact on the traffic on your road.

Charles Griplas: We actually don't think it will. What we find is that it's complementary.

Senator RICE: Okay. But, if that occurred, are you saying that would trigger, then, a reassessment?

Charles Griplas: It won't trigger a renegotiation of the concession deed, but what it'll trigger is an element for a discussion to occur between the concessionaires and the government around the positives and the negatives across the road network, and there'll be a discussion point around that.

Senator RICE: What's the point of that discussion? What's the outcome of it?

Charles Griplas: It's never been tested, so it's very hard to tell you, Senator Rice. It hasn't been tested as yet, so, when that occurs, I'm sure we'll go—

Senator RICE: So all you've got is a commitment to having a discussion—

Charles Griplas: Correct.

Senator RICE: and you don't know what the outcomes of that discussion would be?

Charles Griplas: Correct. No.

Senator RICE: Okay. On the issue of tolling infringements, have you looked at the recommendations that were made by Westjustice and Toll Redress in their submissions as to what they would like to see in terms of changes to the way that tolling infringements are issued and pursued? Do you have any comments on those recommendations?

Charles Griplas: Yes. Certainly, that's something that we'll take on notice—and very similar to what Scott Charlton had said earlier. We're happy to respond to that. We're not in the business of infringements and enforcements et cetera, so we'll certainly work in very closely with that. We also do have a hardship allowance and we do have mechanisms there to look at payment plans et cetera. We certainly don't want to see anyone in distress and we're happy to work with any viable recommendation.

Senator RICE: Okay. Can you tell me what involvement you have with the Tolling Customer Ombudsman?

Charles Griplas: What our involvement is?

Senator RICE: Yes.

Charles Griplas: Well, they review complaints! I'm not sure what you mean.

Senator RICE: My understanding is that they are a largely Transurban controlled office.

Charles Griplas: No, I wouldn't say they're Transurban controlled. That's a question for Michael Arnold, the ombudsman. We contribute to the upkeep of that office, and we think that they do an exceptional job in terms of reviewing complaints that get to that stage. In fact, of the 50 complaints to the ombudsman over the six months of the ombudsman's last reporting period that related to us, 22 complaints related to account management; 27, to billing and tolling; and one complaint, to vehicle classification. So we see that as a very good outlet, when it comes to an impasse, for an independent to review that and for actually improving our performance in that area.

Senator RICE: Do you know of the criticism of the ombudsman service for not being a member of the Australia and New Zealand Ombudsman Association, because it doesn't conform to the accepted model of that association?

Charles Griplas: I could only refer to Michael Arnold's response or his submission to the committee. I have nothing further to add than that.

Senator RICE: So as ConnectEast you're not concerned that, as I've been told, the TCO is not responsible to an independent board of industry and consumer representatives, and actually operates as a for-profit organisation?

Charles Griplas: All I can say is that they have shown independence in terms of the handling of our complaints. They certainly show no bias. They treat them as fairly and as openly as they do. But, in terms of defending the office, that's a question for Michael Arnold.

Senator RICE: Okay. Thank you.

CHAIR: Thank you very much for appearing before us.

Charles Griplas: Thank you.

CHAIR: The committee will take a short break.

Proceedings suspended from 15:34 to 15:48

FRASER, Mr Michael, Director, Toll Redress

JOHNSTONE, Ms Maddison, Director, Toll Redress

NELTHORPE, Mr Denis, Chief Executive Officer, WEStjustice

CHAIR: Welcome. I invite you to make a brief opening statement, should you wish to do so, then we will open it up to questions.

Mr Nelthorpe: WEStjustice have put forward a submission, but I want to address some issues in a slightly different way this afternoon. Our work has concentrated thus far on the toll impacts on low-income and disadvantaged people and on the lack of proportionality in the findings, to the point where, effectively, if you steal a car and drive it on the road for six months, you get fined, say, \$500 to \$1,500 for the car and \$20,000 for the road use. But the real issue I want to address today is the lack of economic and regulatory oversight of toll company activities and projects. The first aspect of that is to ask the question whether in public-private partnerships the true cost of government activity is included in the agreements. If you look at the impact and cost to the department of justice in Victoria over the last five to 10 years, it's unlikely that that cost was ever factored into the cost of that public-private partnership. The impact of toll fines and tolling prosecutions on the Magistrates' Court and the justice infrastructure is extraordinary. It's overwhelming the court process, and it's unlikely that any of the reforms that the state government's introduced for infringements generally could possibly provide a solution.

When the Transurban agreement was negotiated, Transurban negotiated the right to use the criminal process for enforcement rather than the civil process. The impact of the tolling activities on the civil process would have been negligible. The impact on the criminal process is such that the royal commission on family violence two years ago said we need to move fines out of the court. What they really meant was: we need to move tolling fines out of the court. To give you an example: toll prosecutions are now the number one offence in the Victorian Magistrates' Court. Number two is theft. But in Wyndham the second major theft offence is theft of numberplates, which is clearly to avoid tolls. If you look at the way in which infringements are dealt with within the Victorian system, 24 per cent of non-tolling infringements proceed to hearings in the court and 73 per cent of tolling infringements proceed to court. There are whole days in courts now set aside for tolling infringements, and they are competing with family violence matters to be heard.

The first point I want to make is that there is a need to ensure economic oversight. My observation so far is that the public-private partnerships for these tolling arrangements are simply negotiated between a government and a private company. There is not the sort of oversight from the state economic regulator or the ACCC. I want to diverge for a moment to say I heard questions asked about the tolling ombudsman. I've been on the boards of most of the national industry ombudsmen. There is a simple answer to why the tolling ombudsman won't work: it's got a jurisdiction that would fit on a postage stamp. You have to get to the tolling ombudsman within 90 days, but you don't get notified that you need him for about the first 40 days. The window of opportunity is exceedingly narrow.

The second economic cost is to communities in outer urban areas, which hasn't been taken into account. If you look at—and I have copies of these documents, which I'm happy to provide—the most recent statistics on fines across Victoria, all of the major areas with all the major municipalities are outer urban municipalities: Casey City Council, \$123 million; Hume City Council, \$96 million; Frankston, \$75 million; Dandenong, \$71 million; Wyndham, \$70 million. Fifty per cent or more of those infringements are tolling. People often say those individual drivers should pay their toll fees. What's overlooked is that whilst a lot of those fines are never paid because the recipients can't possibly pay—they're now up in the amounts of \$20,000 to \$200,000—the money, where they are paid, is being sucked out of local economies. Instead of that money being paid into the local stores, it's actually going into these fines. There's not enough oversight of the impact of these systems on local communities.

The second area of lack of economic oversight is price review. As a consumer advocate, you have to be careful about regulation because it will interfere with innovation within an industry or a company. So my question is: where's the innovation in the road tolling industry?

We have had a flat fee for 20 years, and despite the fact in that 20 years we have had whole, enormous outer urban suburbs built, there is still a flat fee. As far as I am aware, there is no concession arrangement anywhere in Australia for pensioners or Centrelink recipients. There is no bulk rate for businesses that are frequent users that I am aware of. There is a flat fee between inner and outer urban. I live inner urban and, until I recently started working in Wyndham/Werribee, I would use a toll as a luxury on a weekend to go to a party or go on a holiday.

Someone who uses it every day for work is paying the same price. I have never seen a single argument or review looking to see whether those pricing mechanisms are fair.

At a recent discussion, we asked why there is no concession for Centrelink recipients and one of the tolling companies said, 'It's too hard'—after 20 years. That has to be the classic answer of a monopoly provider. But given they are monopoly providers, my question would be: why is it, after more than 20 years of tolling operations, that we have a flat fee with not one other alternative? You'd have to say that suggests that there isn't a lot of innovation. That's probably concludes it. I haven't covered a lot of what was in our submission around those other matters because I think they've been fairly well ventilated.

Ms Johnstone: Thank you for inviting us to appear as witnesses today. Along with exposing wage fraud at 7-Eleven and visa and wage fraud at Domino's Pizza over the last one to two years, we've also been advocating for consumers in toll road issues and recently established Toll Redress. We have been contacted by thousands of people who have been affected by the arrangements of and practices enabled by the existing toll road system. These people come from all walks of life and are not necessarily wilfully noncompliant with the tolling system. We have heard from people who are being pursued for unpaid toll debt despite never using the toll road. We have helped people who have had malfunctioning e-tags who have tried for years to resolve the problem but end up with thousands of dollars in administration fees and infringements.

Given this, we have concerns around the administration charge arrangements. Our research has questioned the legitimacy of the administration fees charged. The system treats all toll nonpayers as though they have intentionally and wilfully avoided paying tolls, fees and infringements. The current fee structure benefits both Transurban and the state governments, but consumers do not benefit from a fee structure that bundles thousands of dollars of fees in one envelope. Transurban compares itself to utility services companies such as telcos. While we know that there are fundamental differences between the two, Transurban can't cut service to its customers. The way in which they charge administration fees is unlike a telco. For comparison, if you missed your phone bill for whatever reason—maybe you were disputing some of the charges, maybe you didn't receive it, maybe you forgot; these are all common missed toll payment reasons—and the telco then charged you a \$20 administration charge for every phone call you had made, running into the thousands of dollars, would this be accepted by the public?

As we wrote in our submission, we believe toll road deals are currently enshrined in secrecy. We note Transurban disagrees with this and we are happy to talk further on this if the committee is interested. Transurban is a partner in a public-private partnership and this should be a privileged and trusted position. This fee-bundling structure is being abused and the consumers are the ones facing the consequences of this abuse. Further, Transurban's submission would almost have you believe that motorists have great attitudes towards toll roads. I don't need to tell you that this isn't the case, instead I'll repeat the words used by Transurban's own chairman at last year's AGM, 'No-one likes paying the tolls, obviously.'

CHAIR: Mr Nelthorpe, you mentioned that you are aware of outstanding fines of between \$20,000 and \$200,000.

Mr Nelthorpe: It is frequent now every day in the western suburbs, where there are two magistrates courts. Every day, we would see someone with \$20,000 to \$200,000. The most recent case I can quote is an ageing Indian grandmother who had brought up her grandson after the mother had died. He had, unbeknownst to her, registered his car in her name and driven up and down. She was carted off to court for \$200,000. Sums like that are becoming common. Of course, it is important to state that the actual toll fee will be somewhere between \$600 and maybe a few thousand dollars, and the vast majority of those amounts are the administrative fees.

But to come to something that Senator Rice was saying earlier: the problem is that there is at least a strong suggestion that if the state government reforms the enforcement system the concessions agreement will say, 'If that reduces compliance, the state government has to pay the difference.' We are currently talking to the state government about changing that law, but it has been consistently said—and with all due respect to one of the previous speakers—that if the state government does anything that reduces road usage or compliance then it is suggested that there are clauses in the concessions agreements that would allow clawback by the toll companies.

CHAIR: We heard from the toll companies today. They would suggest that if a customer is in a hardship situation then access to some sort of concessional arrangement is readily available. What would you say to that?

Mr Nelthorpe: First of all, up until about 18 months ago, the hardship proposals were almost impossible to find. But the real issue is: the tolling companies only have control of hardship for 60 days. Once you send it to Justice there is no clawback. I can give you an example. If someone in hardship has a problem with a bank, even after judgement in the Supreme Court the bank will say, under their hardship rules, 'We can bring that back in;

we'll take it out of the court system and we'll deal with you.' There is no such capacity—and this was part of the problem in giving a private company or private companies access to the criminal justice system: they do not have the power that, for instance, government agencies, including councils, have to claw back those amounts.

But the real issue is: you can work as hard as you like on hardship arrangements, but if you only have 60 days—and bear in mind it may take 30 days for a letter to reach you—in reality you are often left with as little as two weeks. I might add the same applies to making a complaint to the ombudsman. You have 90 days, but you may not find out about it until 60 days have passed. So when the companies say, 'We've got hardship agreements', they need to acknowledge that the vast majority of cases will actually be in the criminal justice system, often before the person has even realised.

CHAIR: That is another point I think Mr Charlton from Transurban made. He was disappointed to see commentary that the Victorian enforcement system is different to the other two states that have toll roads. He said that the enforcement arrangements in all three states end up in the same place.

Mr Nelthorpe: No, that's not correct. The difference is this: in Victoria the fines apply per day, and every single day is prosecuted. So, if you use the road 60 days in a row, you will be prosecuted for 60 days and get 60 offences and 60 lots of \$350 in the end. I won't speak for Queensland. I am not as aware of it, but I know the system is different. In New South Wales there is a limit to the number of prosecutions that can be made in a given month, so that you actually get a very small percentage of the people who are in breach. Essentially they're told, 'You can pursue them all civilly, but you can pursue a percentage of them as a criminal prosecution.' That is fairly random, but it means that in Victoria we will have hundreds of thousands of people prosecuted. In New South Wales you will have a fraction of that number.

Frankly, it is disingenuous of the CEO to pretend there's no difference between the systems. You can tell that, because let me tell you: if they had people turning up in the New South Wales courts who have never been to court for anything in their life owing \$200,000, I think you'd hear about it. It is why it has been in the media constantly in Melbourne over the last three weeks.

CHAIR: Can you tell me as a non-Victorian: how on earth do you have a toll debt that escalates to \$200,000?

Mr Nelthorpe: I had the figures here. The way it works is that it's a system that goes through a series of processes. It starts off at, let's say, \$6 for the toll fee. You don't pay it. They add \$15 when they send you a letter. There's then a second process that might turn it to \$35. Then they hand it over to Justice, which adds another fee. If you go from \$6, by the time you get to the end of the process you get to \$350. But the point is that, if you had used the road 60 times in two months, it is possible that all of these letters will come in one go. You may actually open the letterbox, get 60 letters, open the first two that say you owe \$350 and realise the other 58 say the same. The head of the Infringements Court, at a meeting in Victoria recently, said they've estimated that, by the time someone has five to seven fines, they will give up and say, 'Well, what's the point?' Of course, the other way to look at it is that, if you couldn't pay the first one, there's not much point worrying about No. 60.

I think the problem in Victoria has been, firstly, that the numbers escalated really rapidly when EastLink was opened as well. It took about two years for these matters to flow through the system. We now have these massive numbers. As I said, if you look at the Casey City Council, residents in that area owe \$123 million, of which a minimum of 50 per cent is toll fines.

CHAIR: How long would it take to get to a debt of \$200,000?

Mr Nelthorpe: I should say that in \$200,000 you will probably have a small number of traffic infringements or whatever, so of the \$200,000 \$196,000 is probably tolls. It usually means someone is doing a job like courier, taxi driver or truck driver. Also, we are frequently seeing cases, for instance, of people who have a dying relative in a hospital. It takes three months for the person to die. They go in and out of the city for three months, and at the end of it they get 90 times \$360.

The sort of processes that the courts have—we represent people, or did until we pulled out because it got too difficult, in Werribee, where there's a whole day put aside for toll fines. The courts say they don't have the tools to deal with it, so they adjourn and adjourn and adjourn the cases. The other thing they can do is that the better magistrates will say, 'We have the power to revoke two-thirds.' Two-thirds of \$100,000 leaves you owing \$33,000. They say, 'Well, if you fall into arrears, you can come back in front of me again, and revoking two-thirds of \$33,000 means it will become \$11,000.' But recently a legal centre in Moonee Valley had a client who ended up in hospital with serious illness because he'd worked night and day and paid \$95,000 out of \$160,000, because he was too scared to try to get the fines altered in some other way. They were recently revoked because of the effect on his mental health, but my question is this: however recalcitrant that driver is, what would you have to do to get \$95,000 in fines? I can tell you that the average cost of stealing a vehicle, in terms of a fine, is \$500 to

\$1,500. Serious assault is slightly higher; it might be \$1,000 to \$3,000. Think of the corporate villains who get fined. Not many of them get fined \$95,000 for doing their job.

Senator HUME: I think that's what Senator Ketter was asking: what does it take to get \$200,000 worth of fines or \$95,000 worth of fines? Surely a lot of these people are entirely aware that they're using the road without paying the tolls. There are signs all over the road saying, 'This is a toll road.'

Mr Nelthorpe: Some are and some aren't, but also a lot of them have mental health issues. I'll give an example. We run a clinic in an inpatient unit at the Werribee Mercy Hospital. Recently there was a former taxi driver who rode up and down the road and never paid. He obviously knew that he was not paying. At the time we represented him, we could not prove that he had a mental health problem, but I would argue that it is not normal behaviour for someone with no convictions to simply keep doing something unless there is a problem. That client has ended up as an inpatient at the mental health inpatient unit. One of the questions where there isn't enough research being done on it is: why do people respond in that way? There have been no studies done on it. That's because, from Transurban's and EastLink's perspective, it doesn't matter. It's not costing them anything. It's the state that's bearing the cost.

CHAIR: In the case of those people, providing some concessional arrangements for fees is not going to lead to a problem of revenue, is it, because those people are unaware of the—

Mr Nelthorpe: There are two solutions. The first thing we can do is: these should be civil debts. We don't help telcos or energy companies and say, 'You can use the criminal law system.' God help us if we did—everyone would end up in jail. But the first thing we could do is say, 'This has to be a civil collection.' That's what every other business does. We've also already given these businesses a hand up by saying, 'We'll help get compliance rates up by using the enforcement system.' The second thing we can do, which is probably more likely and which we are discussing with the Victorian government, is limit it. Let's get some proportionality. For example, after there are, at least, five breaches, you can only issue after a three-month period. If you took the same number of breaches—let's say it's really large; \$5,000 in road usage—and said, 'Yes, but you can only prosecute once every three months,' the administrative charges on four would probably add up to about \$1,600.

The question is: what are we actually punishing people for? Is it the road use, which is a minor amount? It's not much more than an energy bill. Can I just give an example of something that people don't always know. There are a significant number of women whose partners, when they realise the relationship is over, take the vehicle and drive up and down the Geelong highway the whole weekend at 160 kilometres an hour. That results in a really large number of excessive speed fines and thousands and thousands of dollars in toll fines. Some of the companies have said, 'It's not us.' EastLink and Transurban have said: 'It's not us. That's the state government.' My question is this: if there wasn't a toll road, would we have this problem? The answer is obviously not. We know that there's a problem—we see 75-year-old grandmothers being dragged into court for \$200,000 when they don't drive—but the response from the companies so far has been pretty unimpressive. A hardship agreement that says, 'We can deal with it if you get to it within the first 60 days,' isn't going to cut it.

CHAIR: Do you see any difference in behaviour between ConnectEast and Transurban in this regard?

Mr Nelthorpe: That's difficult for me to answer because my service is in the outer west. Essentially, both companies are relying on the same enforcement mechanism within the Victorian justice system. I suppose what's interesting about this is, if you look at the banks, telcos and energy companies over a 10- or 15-year-period, they have done remarkable work in providing mechanisms to deal with financial hardship. Saying that they will improve their systems for the first 60 days, when the evidence is that the vast majority of people with a problem don't deal with it in 60 days, is not very helpful. So, really, one of the things we need is for tolling companies to become good corporate citizens and accept that this sort of enforcement at the expense of state taxpayers is unacceptable.

Senator RICE: Mr Fraser and Ms Johnstone, have you got examples? You deal with a range of different tolling companies across different states—different companies that do things differently. Are there some that are better than others?

Mr Fraser: We really only hear from Transurban customers. We get a lot of complaints about the issues with Transurban. I suppose that's because that was the bigger issue. We weren't trying to find little operators and understand that because there was so much work with just Transurban.

I can add to the financial hardship and the Queensland infringement process. One thing about the financial hardship policy—and the way that Transurban talk concerns me because it is a very PR style approach to addressing the customer service issues—is that it does not allow financial hardship for business customers or commercial customers. That's a considerable number of people driving on the road and there are a lot of small

businesses. Small businesses run into trouble, especially courier businesses—little businesses like that which drive door-to-door—and mechanics. With infringements, in Queensland—and it's a little bit complicated; we had to find out through asking a lot of questions and putting things together—you essentially deal with the state. If you do a journey during the day and drive through three toll points one way and three toll points another way on a state road, you've gone through six tolls. If you don't pay, an administration fee is added. Now it's \$23.89 per toll. So you'll get six administration fees. After 30 days it goes to an infringement process. However, only one goes to infringement. They have a deal that is like a one-a-day or a one-a-journey infringement. It is a new thing. Transurban aren't allowed to collect the unpaid toll and the unpaid administration fee once it goes to infringement, so they said, 'Can we do this little deal'—which is not a secret deal; we're just not allowed to know about it—a one-a-day, and then we can collect on the other five unpaid tolls and administration fees?' So, for every day of driving, you will get more infringements. Brisbane City Council, we believe, issue infringements for every unpaid toll.

Mr Nelthorpe: Could I make one more comment about the tolling ombudsman. Although I don't have the document, I'm sure I can find it. The federal Attorney-General's Department did a document which set out guidelines or principles for industry complaint schemes. My understanding is that the reason the tolling ombudsman can't join ANZOA is that it falls short on the vast majority of the guidelines. I give you the example that all the other industry based schemes have a board made up of 50 per cent consumer reps and 50 per cent business reps. My understanding is that there is no board for the tolling ombudsman and there is no consumer input. I'm not even sure it's independent to the extent that I don't know that there's any mechanism between them. I'm not in any way being critical of Michael Arnold; I'm just saying that, if you look at that mechanism, what you would expect to guarantee the independence of an ombudsman isn't there. I also make the point that, if you have to get to an ombudsman within 60 days or 90 days—and you can think of the federal ombudsman, the state ombudsman or any of the other industry ombudsmen and apply that to their jurisdiction—they'd probably be able to get rid of 95 per cent of their staff. I think the industry needs to acknowledge that the tolling ombudsman is a pale shadow of the other schemes.

CHAIR: Given that, as you say, there is a very narrow window of opportunity for people to access an opportunity to deal with it through—

Mr Nelthorpe: Exactly. I'd like to give you an example of why there is a need to be able to claw matters back and give them to the ombudsman. On a radio program, a parent rang in and said that his daughter drove a car on behalf of her employer, and it was owned by the employer, as part of her duties. It didn't have an e-tag, so, when the employer received the notices, the employer very helpfully nominated the daughter, the employee, as the driver. By the time the woman finds out about this, the 60- and 90-day periods will be long gone. Even if she did know, sorting a problem like that is clearly going to take months and months. It's the sort of example that shows you that the mechanisms that are in place are somewhere between half-hearted and Mickey Mouse, really.

CHAIR: Mr Fraser, do you have any suggestions as to what can be improved in terms of communication, hardship policies and the escalation of unpaid tolls that might stop people from getting into the debt spirals?

Mr Fraser: I think financial hardship needs to be less complex to access. When you look at the criteria for it, it doesn't cover business or commercial, and then there's this big waiting period of assessment. It's very complex. And let me say, most of the people who end up in this situation aren't very good with paperwork to start with. But I think the big problem is people not being aware. I know there's that constant thing, 'How can someone not know?', but you get very innocent examples.

We had a guy who had a credit card transaction overseas even though he hadn't been overseas, so the bank cancelled his card, and he got a new one. He went onto the website and updated his credit card with Transurban, but, for some reason, it didn't stay in their system. We hear a lot of that—people having their credit card details lost. So he checks his statement every quarter. He's got four cars; he's got a business, and they drive through the tolls every day. The next thing he knows—the first thing he hears about it, despite them having all his contact details—he gets I think 183 notices in the mail. Our whistleblower tells us Transurban call this a 'tree' internally—a customer gets a tree in the mail because there's so many bits of paper—and they always say, 'I've got another guy. He's very angry; he's got a tree in the mail.' It's a common thing. So he had thousands of dollars in administration fees, and this was the first he had heard about it. He said, 'Why didn't you just contact me, and I would've paid the tolls, as simple as that?'

There's a lot of circumstances where someone just didn't realise, so I think it's very important that they use registered post. If they're charging \$23.89 for an admin fee, I think they can afford to let someone know. Then, if I'm a belligerent person who doesn't want to pay my tolls, at least I can't make the argument that I wasn't aware.

CHAIR: So you wouldn't advocate a text message or something like that?

Mr Fraser: The problem is they get that information from the state. Let's say I'm what they call an NAT account—No Arrangement Travel—and driving along from New South Wales. I don't have an account in Queensland and I drive through a toll. This is a very common thing. People will say, 'Three days to pay. Okay, I'll pull over at the servo and ring them up.' Oh, sorry—you have to wait up to 72 hours before it'll show in the system, and I'm pretty sure 72 hours is three days. So people go home. They fly home or drive home and they forget about it, and the next thing they're thinking is, 'Hang on, what have I got this infringement for?'

Transurban rely on the state to get information, and oftentimes people forget to update their information with the state. They move house or they move office; innocent things happen. Their details get lost and they don't hear about it. So often it's a man knocking on the door with something much more severe. Registered post is a way of mitigating that problem. I think that's something where you just can't say, 'I didn't know.' A text message would be good if there were some requirement that everyone in Australia had to have their phone number on a national database, everyone knew it, it never changed and you were guaranteed to get that message.

Mr Nelthorpe: Can I make the point that, if these were civil debts, it virtually wouldn't matter. As civil debts, these would be about the size of an energy bill. Even the most frequent user would run up no more than \$5,000 or \$6,000. If it were pursued as a civil debt, most of these issues simply wouldn't be problems.

Senator RICE: But Transurban said that they couldn't be civil debts, because they couldn't stop people driving on the road, unlike the utility bills. What's your response to that?

Mr Nelthorpe: I think that's nonsense. There's a couple of issues here. Firstly, what business necessarily expects to recover a hundred cents in the dollar? Should the state be trying to assist, through enforcement, with a hundred cents in the dollar? If you look at the energy industry, they are subject to far more regulation about how to deal with financial hardship. A water company cannot totally cut off water. It can restrict; it can't disconnect. The energy companies can be subject to pretty savage penalties if they are regarded as having unfairly disconnected, and in some instances—not all—an energy company will be required to continue to provide supply simply because they can't get anyone else to take on the task, so there will clearly be a proportion of low-income people who can't afford to pay for all of their energy bill.

If Transurban went out and had a good look at what is happening in the energy and telco areas, particularly energy, it would find that its real problem is that it's 10 or 20 years out of date. My comment would be: when I first started dealing mainly with Transurban two years ago, in terms of their understanding of financial hardship, it was like living in a Charles Dickens book. I don't say that unkindly or trying to be smart. But by comparison with the knowledge of significant industries like banking, energy and water, the tolling companies have been playing catch-up really over the last six months, and they are only playing catch-up because this issue has hit the papers.

CHAIR: Mr Nelthorpe, you talked about the fact that innovation isn't occurring in this area because of monopolies. Is it possible that the lack of innovation relates back to the contractual arrangements with the respective state governments?

Mr Nelthorpe: I suppose it's an interesting question. As a consumer advocate I've listened to different industries over the years tell me that we've got to be careful not to prevent innovation. I just find it fascinating that after 20 years of a monopoly service there is one price and one mechanism and the innovation is almost zero. There might be a tiny bit of innovation in allowing you to pay on a credit card or something. But, for instance, as I said, I have not seen a regulator or government question whether a flat fee for all users is a reasonable proposition. I also find it hard to understand why there has been the development of no concessional arrangements anywhere in the country—I'm pretty sure I'm right—for Centrelink recipients. I may be wrong, but I'm not aware—certainly in Victoria—of bulk arrangements or discounts for frequent users. Certainly, people who live in places like Melton and Wyndham and who have to use that tollway get no discount whatsoever. I would say it's very easy for industries to talk about avoiding regulation to encourage innovation. It would just sometimes be nice to see the innovation.

Senator HUME: Just on the issue of people living in Melton and Wyndham receiving concessions, surely the whole thinking behind user pays is that those people that actually use the toll roads are the ones that pay for the toll roads. Potentially, people that live in Dandenong and work in Caulfield don't pay the tolls because they take the Monash only so far, but those people that live in Wyndham and work in Richmond do pay the tolls because they use the roads.

Mr Nelthorpe: I guess I would say two things to that. One is: in that case, when we build outer urban suburbs, should we be saying, 'By the way, you've chosen to live out there; you need to be aware that we're intending to penalise you for the usage it will take you using any service to get back into the city'? If you follow that

reasoning, you'd charge more for trains, more for buses, more for roads. The second thing I would say is that I know KPMG have done a paper looking at national road usage where they put precisely that argument: 'Let's have user pays.' The inevitable conclusion of that is that wealthy, well-educated people with good jobs will live in the inner city and pay nothing, and the hoi polloi will live out in the boondocks and will be charged for the privilege to come in. That would lead to the sort of South African slum you have beside a white township. Clearly, if we're going to have people living in outer urban areas—by the way, I'm not saying I'm absolutely convinced we should have step fees; all I'm saying is when Transurban was built Wyndham had a tiny population. It's slated to have a population of 240,000 in five or 10 years time. There is a primary school classroom being born in Werribee every week. I cannot accept that it's good public policy to say that we should make all those people pay more for everything because they use it more because they live further away.

Senator HUME: So you are suggesting it's like a regressive tax.

Mr Nelthorpe: Yes, it's a regressive tax.

Senator HUME: If the fines were managed in Victoria in the same way as they are in New South Wales, would that be a sufficient solution, do you think?

Mr Nelthorpe: Broadly. But the only problem with the New South Wales one, as I understand it, is that it's a bit like putting your hand into a hat and picking someone out. You might have picked out someone who's got a Lamborghini, but you might have picked out a little old lady. We also say that the tolling companies, if they are going to be using that system, need the same privilege that the government agencies have to withdraw a matter—so when they find out it's a little old lady who hasn't done anything wrong they can say, 'No, no, we want to bring that back out of the system.' There are a range of ways, but essentially the Victorian justice system would be millions of hours and hundreds of thousands of dollars, maybe millions of dollars, better off if they were able to adopt a version of the New South Wales system.

CHAIR: Thank you very much for appearing before us.

Mr Fraser: Back in the office I've got a little package of evidence that we didn't get time to do. Would we be able to send that through?

CHAIR: Yes, that's fine. Thank you Mr Fraser, Ms Johnstone and Mr Nelthorpe.

BOLT, Mr Richard, Secretary, Department of Economic Development, Jobs, Transport and Resources

CALVERT, Ms Fiona, Director, Transport Analysis and Assessment, Transport for Victoria, Department of Economic Development, Jobs, Transport and Resources

WEBSTER, Mr David, Deputy Secretary, Commercial Division, Department of Treasury and Finance

[16:30]

CHAIR: Welcome. I remind officials that the Senate has resolved that an officer of a department of the Commonwealth or of a state or territory shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. Thank you for appearing before the committee today. I invite you to make a brief opening statement, should you wish to do so, then we will open it up for questions.

Mr Bolt: When you say brief, Chair, do you have a time limit in mind?

CHAIR: Two or three minutes.

Mr Bolt: I have a presentation which I think has been circulated to senators.

Senator HUME: Is it your submission?

Mr Webster: No.

Mr Bolt: We were asked to bring it along. Why don't we just hand it to you and I'll be brief and make a few points. Those points are that it is well known that Melbourne is experiencing significant growth as a city.

CHAIR: Mr Bolt, just proceed, and we'll let you know when we've reached the end of our tether.

Mr Bolt: The transport system has to adapt to not only substantial growth in the outer south-east, the outer north and the outer west of Melbourne—significant growth, I would add, in regional cities—but also a mismatch, or, if you like, different locations of growth in jobs versus growth in housing. As a result, we have a very large growth in jobs in the centre of Melbourne and we have a lower growth of jobs relative to housing in those outer areas. The transport system therefore has to adapt not only to growth but also to the need to give access, particularly to the less advantaged areas of Melbourne, to those high-value jobs that are growing in and around the centre of Melbourne.

That requires us as a transport agency to put a lot of effort into using our assets more efficiently and reforming our regulation and our systems to make the best available service to the public but also to build new infrastructure. On slide 3 is a snapshot of the current list of major transport investments that are underway but also other reforms to service provision which are not infrastructure based. A large proportion of these investments revolves around the public transport system: the Metro tunnel, which seeks to free up capacity across the entire metropolitan network; the level crossing removals, which on the one hand free up the ability to use our roads but they also free up the ability to put more trains through our major lines; and on and on goes the list. It is a mixture, as I said, of public and road transport. Of course, the road transport investments also have a very large public transport utility. We have a large number of trips in various modes taking place on a road system.

As a department, and particularly through Transport for Victoria, we've prepared business cases to inform decisions on what proposals to adopt, and in order to increase transparency major cases are now published. We receive many transport and other market led proposals from the private sector, and these cover a wide range of potential investments. In all of those cases we prepare assessments and business cases and, where relevant, public sector comparators to ensure that value for money is the focus of any investments that proceed. Certainly, in disclosing information—and it's a theme I'm sure you may take up—the need to balance public transparency versus valid commercial-in-confidence considerations is weighed by the state in deciding how much to disclose.

Our business cases do include detailed assessments of the costs and benefits of proposals and key alternatives, and one of the reasons that Fiona Calvert is with me is to explain, should you be interested, the approach we take to ensure consistency, rigor and avoidance of bias in the development of our cost-benefit analyses. Rather than put all of the initiative and the formation of assumptions into the hands of proponents who may, by their nature, want things to proceed, we have it scrutinised by a process that Fiona supervises to ensure that it has input from agencies that have different perspectives and sometimes rival incentives. There is also then independent scrutiny of the peer review kind, and sometimes models are run against each other to seek to validate and correct for any apparent errors there may be in assumptions or in the operation of the model itself. All of that is, as I say, under a process that Ms Calvert can explain more.

The next slide says a little about the current concessions available in Victoria. I think you're probably well aware by now that we have two toll roads in operation. There is the CityLink Tulla Widening project, which is underway, the West Gate Tunnel, which is in the EES phase, and, of course, the North East Link, which is in the planning phase. I draw your attention to slide 8, where the principles that apply to tolling are set out. We have a mixture of modes.

I should have made a point about the business cases earlier. It's an important point, so I will go back to it. The process by which we seek to ensure consistency and remove bias and ensure model fidelity is one that encompasses all modes. It's not specific to roads. Public transport is judged by precisely the same process and evaluated by the same governance arrangement, which is quite important. We are attempting, and, indeed, the government has organised, to develop a multimodal approach to the transport system. We have created transport for Victoria with that explicit mission and we are setting up governance and processes that give effect to that objective.

We will move on to the tolling principles. Because tolling occurs in a network which has, in some cases, no pricing and, mostly, no pricing for roads and, in other cases, of course, different levels of pricing, relatively speaking, on the public transport system, there is an art form, to an extent, based on principles, in how you set a toll to optimise the use of assets. In some cases it has to be done in conjunction with regulation, such as curfews and bans on the use of trucks on particular roads, to ensure that perverse network consequences don't arise. But it's an optimisation exercise to optimise the revenues, optimise the use of assets and ensure the government is well positioned to develop the network as the tolling contract or concession continues. Again, we can explain more about that.

I would also make the point perhaps—this is in relation to slide 10—that, inevitably, business cases are a complex exercise of forecasting demand, travel patterns and responses on other modes. It requires a good deal of rigour and oversight, and a number of iterations are run in modelling of major projects to iron out difficulties with assumptions, or perverse outcomes from the model itself, to ensure that we get the best view of the future we can, accepting that any such a view is necessarily imperfect because the future is difficult to predict.

Moving to slide 12, I would just make the point—and this is the final point to make perhaps—that business cases are prepared at a point in time. They are the best view available at that time. They do get reviewed on the costs and the benefits side as projects proceed and are turned into actual financeable propositions. And, in the end, business cases are ultimately a guide to political judgement as to whether to proceed, rather than an answer in themselves as to whether an investment ought to be made. That's the point I'd leave my presentation on. I am happy to take questions.

CHAIR: Thank you very much. I would be interested in Ms Calvert explaining a bit about her group and what that involves.

Ms Calvert: Certainly. We have put in place an arrangement to govern the business case development, focusing particularly on the economics and the demand-forecasting aspects of preparing those business cases. The approach that we take is to bring together the parties across the transport portfolios who have a need to be involved in that type of work. So they can come from lots of different parts of the various organisations that make up Transport. That includes Public Transport Victoria, and VicRoads in particular, who are constantly working in this space. But it also includes a range of representatives from within the department.

CHAIR: Does this go to traffic modelling as well as the economic case?

Ms Calvert: Yes, it covers both aspects. The two are very closely intertwined. They sort of work side by side, so it's particularly important to cover them both through the same processes, and we find that that's a very valuable part of the discussions and interactions because people are talking about the two collectively, which is the way that they work in practice—because they do work that way. As you change some of your assumptions, it will change both the economics and the demand, and there can be iterations that people need to go through to understand those implications better.

The governance arrangements work through the processes of setting the assumptions that are used across all of the different projects that are under consideration at one time, and then will go on to oversee the scrutiny of that analysis as it's completed and as the various stages are undertaken. We use independent peer review as part of that for the more significant projects. For smaller, less significant ones, internal processes are used to provide that scrutiny. But all of that comes before that steering committee comprising people from across the portfolio to look at and to understand the issues that are coming up that have been revealed through the analysis of the peer reviewers. That can then be considered by all of the different people who are working in the space, and each of

them then has the value of building on that to improve their own processes. Of course, if there are any conflicting views that come through, then the steering committee process provides a mechanism to resolve those.

CHAIR: Okay. Thank you. In terms of the market led proposal process generally, can you tell us about the level of transparency and the communication of the project to the public throughout the process.

Mr Webster: Sure. The market-led proposal guidelines are very similar across the various jurisdictions. The Victorian market-led proposal guidelines require a certain amount of uniqueness, basically, to get over the first hurdles in the various stages—it's a five-stage process. Why we require uniqueness is that there's always a bias within government to go out to a competitive process where possible, and uniqueness is the determining factor around why a sole source negotiation is appropriate.

In terms of the level of disclosure, it's quite similar to what we do in our PPP-type world. In the market-led proposal itself, I think at stage 3 we publish that we've received this market-led proposal and a high-level summary of what the proposal actually is. During the negotiations, we obviously want to keep our competitive tension, so there's a certain limit to what's sensible to disclose when you're trying to get the best deal out of a sole-source negotiation. But, in line with our PPPs, within three months of contract close for a market-led proposal we would publish a contract summary which typically details some financial metrics and the value-for-money assessment.

In terms of the other transparency around this market-led proposal, the government published the business case early on in terms of the counterfactual of a government alternative delivery strategy. There's been quite extensive disclosure to the current EES process and, from this point on, as far as the negotiations go, again, we've got the contract summary, which will be published, as well as the process going through parliament, where various documents will be tabled through that process.

CHAIR: Back to slide 3 and the list of transport investments, I am interested in how the government is responding to the transport challenges associated with historically very high population growth. You've got a list of transport investments there. For the road projects, can you tell us how they break down as PPP or toll roads et cetera?

Mr Bolt: Yes, between David and me we can do that. The West Gate Tunnel Project—which is actually not listed there—is being done through the market-led proposal that David indicated. In fact, I might just throw to David. Why don't you tick them all off?

Mr Webster: West Gate is a PPP. Metro Tunnel is a rail project that's PPP. Level crossings are done through alliances. The Cranbourne-Pakenham rail upgrade is looking at alliances, D&C. None of the rest of them are PPPs apart from the rolling stock, which has been done through a PPP.

Mr Bolt: There are outer suburban arterial road packages that will also be PPPs. We're in PPPs to attempt to get both capacity increases and an ongoing maintenance commitment to outer suburban arterial roads, which is the first application of that concept to that road group.

CHAIR: Can you tell me how the existing road network in the west, particularly the West Gate Bridge, is coping with demand at the present time?

Mr Bolt: The West Gate Bridge is approaching capacity—at capacity at certain times—and vulnerable to any kind of closure because it is the only river crossing from that side of the city. The need for not only an upgrade in capacity but also a duplication of the river crossing has been recognised now for pretty well 10 years—since the Eddington review, from memory. It would've been the first time that was proposed as a formal investment commitment.

CHAIR: You've given us some figures in terms of population growth on slide 2, but how fast is the west of Melbourne growing relative to other parts of the city?

Mr Bolt: The west and the north are the loci of most of the growth of Melbourne, and the south-east is the other area. I don't actually have the figures in my head as to how the west and the north break down, but according to the last census, they're pushing towards 150,000 people per year to the state. Most of that is going to Melbourne and most of that is going to the west and the north.

CHAIR: How would you describe the quality of the existing transport links into the Port of Melbourne?

Mr Bolt: One of the purposes of the West Gate Tunnel Project is to remedy what the government sees as an overuse of the arterial road network to get traffic in and out of the port. Accompanying the West Gate Tunnel is a series of bans and curfews that will assist in ensuring that there is a displacement of traffic out of those arterial roads onto the tollway network. On top of that, there is a commitment the government has made to examine a port rail shuttle, which would particularly enable enhanced train services into the port. We would say that because the

growth of the port is considerable—David could talk more about this if you wish—and the growth potential of the port is very large, it is really only operating at perhaps one-third or less of its ultimate potential, the need to ensure an efficient process of getting containers in and out, and one which has a diminished impact on public amenity, is something the government treats as a very high priority. Quite a bit of work is underway, already courtesy of the West Gate Tunnel Project, and more will be in the planning. It will be a continued focus for the government to ensure that the port is enabled with road and rail connections to realise its full potential.

CHAIR: In the medium to longer term, to what extent will increased container throughput there lead to demand for road and rail links into the Port of Melbourne?

Mr Webster: On the demand for road and rail, obviously the containers have to get out somewhere so they will either come out by road or rail. As part of the port lease transaction there are various obligations on the new lessee to come to government with proposals for rail enhancements into the port, within given time frames, for government to consider funding.

CHAIR: Have you got any projections as to the increase in container throughput there?

Mr Webster: I don't, but what would be very helpful in that context is the Infrastructure Victoria report into the second port. It looked at a variety of container forecasts and scenarios in coming up with their views about the timing and potential location of a second port. As with any projections, there are a range of views out there, but Infrastructure Victoria did canvass quite a wide range and their report comprehensively covers that.

Mr Bolt: The department is also developing our views of the total needs of the transport network including the freight system and including ports: not only the Port of Melbourne but particularly the Port of Melbourne. That network development work will lead to further advice to government in time as to what other longer term connections into and out of the port might need to be at least reserved or developed or, in some cases, invested in in the near term. It's a constant focus and without being absolutely certain as to what that growth level will be, given the current growth of the city, it is reasonably certain that we will expect to see a lot more or continued growth of container traffic for the time being. We need to be capable of matching that with stateside investments, where that is actually in the public interest.

CHAIR: Can you tell us what needs to be improved or changed such that if a toll road project is developed we preserve options for other infrastructure such as rail to interact with that?

Mr Bolt: One of the reasons this network development work is going on under the banner of Transport for Victoria and with this multimodal focus is that in committing to anything we make room for other infrastructure which may have to follow, but which currently isn't committed to. That includes rail connections in and out of the port. That's been a particular focus in ensuring that the Westgate tunnel doesn't foreclose on those options.

CHAIR: Do you have any other recommendations for this committee?

Mr Bolt: No. We didn't come to give you advice on recommendations, Chair, but if I could take that on notice I would be grateful for the opportunity.

CHAIR: Certainly.

Senator HUME: The West Gate Tunnel's not in this, is it?

Mr Bolt: No. That's the Infrastructure Victoria 30-year report.

Senator HUME: Yes. It's Infrastructure Victoria's 30-year strategy, dated December 2016, and it doesn't mention the West Gate Tunnel.

Mr Bolt: I think the reason is simply that it was a given in their planning. They were not about to go back and say, 'Things you have already decided to do or have already been done, we will now second-guess.'

Senator HUME: But the deal has not been done yet, according to Mr Charlton.

Mr Bolt: Senator, I am giving you information as to why that isn't in there.

Senator HUME: Okay. That is very interesting. Considering it has nine short- to medium-term projects, four longer term projects of 15 to 30 years and then four longer term projects beyond that, I would have thought that that would be quite fundamental to Victoria's infrastructure plan. I am interested as to why that might be. Why didn't the West Gate Tunnel Project get offered up to tender?

Mr Bolt: David is best to explain that, because it relates to the uniqueness of the market-led proposal. David, is there any more you can add?

Mr Webster: Sure. As I said, the market-led proposal is very similar to other jurisdictions and the unsolicited proposal guidelines there and does require a certain amount of uniqueness. There are various things which we

would desire to change in some CityLink concessions. There are various things that Transurban are in position to deliver which are unique and which potentially add value.

Senator HUME: Is it largely because the economics of the project do not stack up without those CityLink concessions?

Mr Webster: The economics of the project were set out in the business case of the alternative state delivery. That is disclosed in terms of the BCR.

Senator HUME: So that business case is publicly available?

Mr Webster: Yes. I think it was published in 2015—Richard?

Mr Bolt: I think so.

Mr Webster: There is substantial information in the EES process that is going through.

Senator HUME: It was determined that it was an economically viable project as a standalone project.

Mr Webster: I think you will see the BCR business case demonstrate that it does have a positive BCR.

Senator HUME: Right. Then why did we need to do the CityLink concessions?

Mr Webster: Because they are different forms of value which Transurban can deliver and put on the table, which could be potentially value enhancing.

Senator HUME: If there was a business case that said it stacked up economically, why did we only go with a market-led proposal? Why couldn't we put it out to tender?

Mr Webster: Because there are unique elements to the Transurban proposal which we wish to explore in negotiations.

Senator HUME: But you cannot enlighten the Senate on that?

Mr Webster: It is commercial-in-confidence.

Senator HUME: It just sounds like a smokescreen. I can't understand why that might be. It is like you lead us down the garden path to a point and then say, 'Trust us.'

Mr Webster: The project summaries will be disclosed within 30 days, in line with all of our public-private partnerships. So the transparency around the business case, the EES process, what is tabled in parliament and when the legislation is required, plus the ex post disclosure is pretty comprehensive.

Senator HUME: If it is a market-led proposal then there are no competitors. So why is it commercial-in-confidence? What is the risk of that data being known?

Mr Webster: The commercial-in-confidence is Transurban knowing where the states walk-away points are. So we need to keep our competitive tension in terms of where the state's benchmark is, whether it is value for money or not, which will be fully disclosed in the project summaries within three months of contract close. So we will do a full analysis on disclosure of how we have analysed value for money.

Senator HUME: Then it is sort of done and dusted, isn't it?

Senator RICE: It is a bit late at that stage.

Mr Webster: Government giving its approval to signing the contract will have that information in front of it. So that is a matter for ministers to decide at the time, with the benefit of full information.

Mr Bolt: Can I just add to that: the point here is that there is a great deal of effort applied to negotiate vigorously with Transurban and to do so on the basis of the best evidence that could be summonsed to our side of that negotiation. So, no, it is not too late, I would argue. I think that the process is rigorous. You have heard an example of the traffic modelling, where we simply don't say, 'Well, we'll just accept what you tell us.' We do our own analysis and we do it with a good deal of rigour and with input from a variety of components of government to ensure that we have our arguments as good as they can be.

Senator HUME: Obviously, because Transurban is a listed company, a lot of brokers do plenty of analysis on the deals it does. When I read the brokers' report from UBS and Credit Suisse, they all said that the West Gate Tunnel Project on its own does not stack up, and without those CityLink concessions it would not be worth doing. But those CityLink concessions are liquid gold. Have you seen those reports? Do you see brokers' reports that would suggest that might be the case?

Mr Webster: I think you have to draw a distinction between the economic evaluation of the road and the financial evaluation of the road. The economic evaluation of a road looks at user benefits primarily, including time savings by the users but also congestion benefits, safety outcomes et cetera. Traditionally, a BCR on a road

is done purely on economic benefits. Toll revenue does not actually factor into the BCR analysis because roads can either be paid for by tolls or through general taxation.

Senator HUME: We were listening to the last witnesses telling us that the collection of the fines is very costly to the Victorian government. Does that get included? The department of justice spends an awful lot of money collecting fines.

Mr Webster: In terms of justice and bids back to central government for future funding, you would have to ask the department of justice.

Senator HUME: What's the economic rationale for extending the concession period to 34 years and six months? If the concession period can be shortened by eight years at the maximum, surely this would be a better deal? It seems that 34 years is a very long time.

Mr Webster: I'm not going to comment on advice to government. It's a matter of policy.

Senator HUME: Have the calculations been audited by the Victorian Auditor-General's Office?

Mr Webster: Firstly, the CityLink contractual documents are published on the parliamentary website, so they are generally available. The calculations are not enlivened until the actual calculation dates, which are many years out into the future, so there are no calculations to be done at present to see whether those tests have been met or not.

Senator HUME: On the issue of the Tulla Widening project, has the Victorian state government and Transurban agreed on a projection of whether the early termination provisions of the concession deed for the CityLink Tulla Widening is complete?

Mr Webster: I'm not going to comment on what advice we may have given to government.

Senator HUME: So the state Treasury hasn't clarified the equity return for the CityLink Tulla Widening project? You probably can't comment on that.

Mr Webster: I'm not going to comment on what advice we've given to government.

Senator HUME: Because there is a \$2 billion figure being thrown around—I would have thought that, as \$2 billion is a hell of a lot of money, the Victorian taxpayer would be interested in hearing about where that \$2 billion is going.

Mr Webster: The amendments to the concession deed were tabled in parliament. They've gone through parliamentary scrutiny, and their contractual documents are available on the web. The question you asked is a matter of policy.

Senator HUME: With the increase in traffic growth and revenue uplift and CityLink's capacity—does that bring it closer to that 17.5 per cent trigger? Mr Charlton said he doesn't think the 17.5 per cent trigger will ever be reached, but does it get close at the 34-year mark? Has anyone worked out when we might hit the 17.5 per cent magic trigger and what might cause it? We seem to keep changing the project and moving the goalposts further away so we never hit that trigger.

Mr Webster: The advice I gave to a Victorian PAEC hearing recently was along the lines of: the CityLink Tulla Widening did not change the commercial metrics of the ability for the state to early terminate if those tests were met.

Senator HUME: I do not feel as though I'm getting anywhere. Senator Rice, you can have a crack.

Senator RICE: Thank you. I also want to talk primarily about the Western Distributor. Ms Calvert, can you talk me through both the transport and the economic modelling that was done for the development of the Western Distributor project?

Ms Calvert: The economic analysis and the transport modelling that are done for this project, like many others, are very similar. They involve working from the reference case that we establish through the governance arrangements that I described earlier. That reference case includes assumptions about population growth. The Department of Environment, Land, Water and Planning participates in our processes as well because they have a primary responsibility for developing the population estimates. Employment estimates are also a critical part of it, as is an understanding of where people would need to access education placements. Alongside those very base assumptions, we have key assumptions about parameters, like the cost of fuel into the future and public transport fares—those sorts of things that might influence people's behaviour. All of those are set through that governance process that I described earlier and are used consistently across projects, including this one.

Having got those assumptions together, typically, for a project of this nature, you use a process called strategic transport modelling to prepare the demand forecasts. That process looks at what the likely generation of trips is

going to be based on the employment and population patterns and so on that have been described. It then calculates where the origins and destinations of those trips would be expected to be and goes through a process of understanding, using calculations of the generalised cost of travel which covers not only the financial costs but also the costs of time for people making trips. Those sorts of things help us to understand what the distribution of activities across modes is going to look like.

Finally, it goes through a step of assigning the mode choices to specific parts of the network. So, for the assigning of the roads part of it, we call it a highway assignment process. For public transport, it's called a public transport assignment process. Those operate in parallel, and the models iterate back around to test whether the choices of individual parts of the network or the assignment part makes it different to either the distribution or the mode choice steps within the model as well. That's all fairly typical. That would apply to whatever type of project it was—whether it was a toll road project, public transport project or road project. We use multimodal models for all of this type of work, so the models are able to cope with all of those things. They, in fact, need to trade them off against each other.

Senator RICE: So, within government, for the development of the business case for the Western Distributor, you use the in-house model—the VITM model—

Ms Calvert: In this case, we used, primarily, the Zenith model, which is a private sector model. But we were also in the process of developing some capability within the in-house model as well, so both were, in fact, used to understand how they were working and test whether we were confident in the results that we were obtaining.

Senator RICE: The link that you sent us—the guidelines for your transport modelling—basically says that the VITM model would be used as the primary model and, if two models were used, that the secondary model would not be used to provide direct alternative forecasts. Was that the case with the Western Distributor?

Ms Calvert: That's right. We end up with one set of forecasts that goes forward into the business case.

Senator RICE: With the VITM model being the primary model?

Ms Calvert: In this case, the Zenith model ended up being the primary model.

Senator RICE: Why was that?

Ms Calvert: That was because of the capability around tolling that applied within that model at that time.

Senator RICE: In some of the commentary there has been criticism of the fact that the output from the Zenith model results in higher amounts of travel on the road than the VITM model. How do you respond to that?

Ms Calvert: That is why we have a process of scrutiny and the governance arrangements that we talked about earlier.

Senator RICE: Can you talk me through what that process of scrutiny is and, in particular, the peer review process that was undertaken for the Western Distributor?

Ms Calvert: Because it's a relatively large process, we use an independent peer reviewer to look at both economics and modelling.

Senator RICE: Is it just one peer reviewer that was used?

Ms Calvert: Yes, that is right.

Senator RICE: Who was that peer reviewer?

Ms Calvert: It was a gentleman from New Zealand. I've forgotten the name of his firm. The individual concerned is Mr John Allard.

Senator RICE: So you had that independent peer reviewer. That was for both the transport and the economic modelling?

Ms Calvert: That is right.

Senator RICE: What was the relationship? He undertook that peer review. Did that get reported back? How did that work?

Ms Calvert: The part of my role in looking after the governance of this area of activity is to manage those independent peer reviews. People within my team were responsible for that. We also take the outcomes or the key issues that the peer reviewers raise with us into the governance steering committee that I described earlier.

Senator RICE: The issues that were raised in that peer review, how were they addressed?

Ms Calvert: They were addressed over a long period of time.

Senator RICE: Can you tell us what the issues that were raised in that were?

Ms Calvert: There are always a number of issues. It is an iterative process, so it is not giving a final report—'Go away and make comments on it.' It's not a review of that nature. It's a review process that works throughout the development of the analysis. The analysis itself goes through a number of different stages as well: preliminary work which gets refined, further assumptions about how other things might be impacted are developed and then it goes back through—refined modelling as well. As I said, it is an iterative process. The peer review process steps along with that. There are a couple of very important steps in there, which in particular for the demand modelling are important. One of those is to look at the validation reports that are developed. The other is to look at the forecasting reporting for the demand modelling side of it, both of which were done by this peer review process.

Senator RICE: So that peer review process was completed?

Ms Calvert: Yes, it was.

Senator RICE: Was there a final report of that peer review process?

Ms Calvert: Yes, there was.

Senator RICE: And that report hasn't been made public?

Mr Bolt: No, this process, ultimately, reports into cabinet and it is covered by cabinet confidentiality. I think you've been given a very good insight into the process. It does have corrections in it. The review process does lead to us refining the assumptions. As to the nature and the detail of those, we don't propose to disclose those here.

Senator RICE: As you undoubtedly know, I have been pursuing this independent peer review for quite some time, including at Senate estimates and asking questions of Infrastructure Australia. Infrastructure Australia have requested of the Victorian government to have a copy of that independent peer review. They have said that they have been stymied—that, essentially, it has not been forthcoming. Is there a reason why you haven't forwarded that peer review to Infrastructure Australia?

Mr Bolt: I'm not privy to every interaction that we have with Infrastructure Australia over its information requests. I would just say that we are continuing our discussions with them as to what information they may want and we can give them.

Senator RICE: Will you commit to us now that you could give that information to Infrastructure Australia?

Mr Bolt: No, I won't make that commitment.

Senator RICE: Why not?

Mr Bolt: I just explained to you that these are cabinet-in-confidence materials. I'm not at liberty to exempt them in the back and forth of a Senate inquiry.

Senator RICE: Given Infrastructure Australia are set up to provide independent assessment and analysis of transport infrastructure projects right across the country, don't you think it would be appropriate for Infrastructure Australia to have access to that independent peer review?

Mr Bolt: We respect the role of Infrastructure Australia. We have good dealings with them. We will continue to entertain their requests.

Senator RICE: But you won't give them what would be confidential, no?

Mr Bolt: I didn't say that. I want to be really clear: I said to you I'm not going to make any commitments in the back-and-forth of a Senate inquiry to give any particular documents that have cabinet confidence associated with them. What response we get, if such a request has been made, I'm not going to make a commitment to and I'm not going to decide here. It's not even necessarily for me to decide.

Senator RICE: When was the peer review process completed?

Mr Bolt: That would've been, one presumes, in 2015.

Ms Calvert: That seems appropriate, from my recollection.

Senator RICE: Do you know what time in 2015?

Ms Calvert: It's a long time ago. I would've said very late in 2015.

Mr Bolt: This is not an attempt to be rude or unhelpful, but Mr Webster is due to leave at 5.30, and we expected to be well and truly through by that time. If he could be given the grace of departure, I'd like to be pretty much wrapped up by then as well.

CHAIR: We are running half an hour over time.

Committee adjourned at 15:27