



**Submission to the Australian Competition and Consumer  
Commission**

**Sydney Transport Partners – proposed acquisition of a  
majority interest in WestConnex**

**31 May 2018**

## Introduction

1. The National Road Transport Association (NatRoad) is pleased to make a submission to the Australian Competition and Consumer Commission (ACCC) on the proposed acquisition of a majority interest in WestConnex.
2. NatRoad is Australia's largest national representative road freight transport operators' association. NatRoad represents road freight operators, from owner-drivers to large fleet operators, general freight, road trains, livestock, tippers, express car carriers, as well as tankers and refrigerated freight operators.
3. Toll roads have a direct impact on the cost of transporting freight. NatRoad members continue to raise concerns relating to operation of toll roads and we believe that many of these concerns are due to a lack of competition in private toll road operation.
4. In July 2017, NatRoad raised the lack of competition in [our submission](#) to the Senate Economics References Committee inquiry on the operations of existing and proposed toll roads in Australia.<sup>1</sup> Our submission included concerns about:
  - the lack of transparency and fairness in setting toll fees for heavy vehicles
  - the inconsistent use of tolling methods across the road network
  - governments forcing heavy vehicles to use tolled roads by banning them from alternative routes, and
  - heavy vehicle operators paying for road network improvements through increases in tolls without experiencing the promised efficiencies.

## Current tolling arrangements

5. NatRoad is concerned about the dominance of Transurban in operating Australia's toll roads and their consequential market power.<sup>2</sup> We believe the proposed acquisition will substantially reduce competition by strengthening Transurban's incumbency and its ability to acquire further toll road concessions in NSW and nationally.
6. NatRoad acknowledges that private sector investment in road infrastructure can help governments deliver infrastructure improvements more quickly than they otherwise could. However, roads are a connected network and what happens on one section of a road can have an impact on another.
7. Handing over a specific section of the road network to a private tolling operator means that governments are less able to optimise the efficiency of the network as a whole. Transurban has a good understanding of this issue which puts them in a strong position to negotiate the control of more and more of our road network. In a supplementary submission to the NSW Inquiry on Road Tolling Transurban states:<sup>3</sup>

*Transurban and our partners have continual discussions with Government regarding roads we operate, roads that interface or connect with these roads and the broader Sydney road network,*

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<sup>1</sup> [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Economics/TollRoads](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/TollRoads)

<sup>2</sup> Article by Royce Millar and Ben Schneider on Transurban published in The Age 14 May 2016:  
<http://www.theage.com.au/victoria/transurban-the-making-of-a-monster-20160512-gotjm9.html>

<sup>3</sup> See [Transurban's response to supplementary questions](#)

*including planned future roads identified by Government. Transurban and our partners consider this an important part of our role as long term partners to Government.*

*These discussions can include our consideration or contemplation of ideas to improve the operation of roads that Transurban operates as well as other areas of the Sydney road network.*

8. This response confirms that Transurban leverages its existing toll road assets and its access to traffic data in submitting unsolicited proposals to governments.
9. It is difficult to find publicly available information on how tolling arrangements are initiated, entered into and varied over time. We are particularly concerned about the extent to which the unsolicited proposal process is used by Transurban and the lack of transparency surrounding these proposals.
10. The ACCC Statement of Issues notes that Transurban is the only entity since 1987 that has been awarded a toll road concession following an unsolicited proposal in NSW and elsewhere in Australia.

### **Setting tolls for heavy vehicles**

11. NatRoad is concerned about Transurban's behaviour and the impact this has on heavy vehicle operators using toll roads.
12. Transurban applies a 'large vehicle multiplier' of two to three times the car toll, stating that the higher toll for heavy vehicles reflects the greater value they derive from the time savings provided by the tolled network and the greater impact they have on the road infrastructure.<sup>4</sup>
13. In April 2017 Transurban increased the toll for heavy vehicles using CityLink in Melbourne by up to 125 per cent to fund the CityLink-Tullamarine widening project not due for completion until 2018. In comparison, tolls for light vehicles were increased by only 5 per cent.
14. There was no transparency surrounding the cost recovery required for the CityLink-Tullamarine upgrade. There has also been little justification from Transurban or the Victorian Government for such a large increase for heavy vehicles other than stating the rates were being brought into line with other states and territories.
15. At the same time Transurban announced toll increases on an existing tolled road in Brisbane to fund upgrades to the un-tolled Inner City Bypass.
16. In both these cases, heavy vehicle operators are paying for road network improvements without experiencing the promised efficiencies. In fact, NatRoad members have noted that speeds on CityLink have diminished over time and the roadworks have further reduced traffic flow and road amenity leading to higher operational costs.
17. The \$400 million project to widen the M5 West Motorway included a concession extension of an additional 3.3 years to 2026, and increasing the truck toll multiplier from 2.2 times to 3 times incrementally over two years. There was no change to the toll charge for cars.
18. It is clear that Transurban's approach to unsolicited proposals is to partly fund new toll road concessions by increasing the heavy vehicle multiplier elsewhere on the Transurban network.

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<sup>4</sup> [Transurban Submission](#) p. 30

19. It is difficult for heavy vehicle operators, particularly small businesses, to recover the costs associated with large toll increases. A NatRoad member who is an owner driver made the following comment:

*In one example where we don't have a choice but to travel on a toll road in a heavy vehicle to access our destination, tolls for our trip in December 2016 were \$23.40. They are now \$58.08 [in April 2017]. This expense has risen from 2.5% to 6% of the income on this trip.*

20. In its submission to the NSW Inquiry into Road Tolling, Transurban claims that it has 'no pricing power' and that beyond the initial agreement there is no pricing flexibility in the concession.<sup>5</sup> NatRoad is not convinced by this statement given recent toll increases. It appears concessions are easily renegotiated.
21. Allowing Transurban to purchase WestConnex will further entrench their dominant market position for new toll road concessions and their ability to use the highest heavy vehicle multiplier on their own assets as a justification for increases elsewhere.

### **Forcing heavy vehicles to use toll roads**

22. We are concerned about the lack of transparency regarding the negotiations that occur between Transurban and government, resulting in governments banning heavy vehicles from using alternative routes. It is argued that this is a tactic to quickly increase traffic flows and hence revenue for Transurban.
23. For example, the Victorian government has announced that trucks will be banned from detouring through main suburban streets in Yarraville and Footscray in Melbourne once the Western Distributor project is completed in 2022. Trucks will instead have to pay a toll to travel to the Port of Melbourne through the new West Gate Tunnel.
24. In delivering NorthConnex in Sydney, another Transurban project, the NSW government has promised to remove around 5000 trucks daily from Pennant Hills Road by introducing regulatory requirements to ensure heavy vehicles use the tolled tunnels if they do not have a local destination.
25. Toll roads and fees should be designed to provide sufficient incentive for heavy vehicle operators to use the toll, and hence there should be no need for governments to impose truck bans on alternative un-tolled routes. Governments could introduce rebates and multi-user discounts for heavy vehicles where further incentives to use toll roads are needed.

### **Conclusion**

26. Transurban has developed significant technical and tactical expertise, which will make it difficult for other companies to compete in bidding for new projects. We are concerned that Transurban's increasing market power will result in:
- Unjustified and inequitable toll increases for heavy vehicles
  - Reduced service levels
  - Increased risk to government
27. We have no evidence that state governments are using their powers to constrain Transurban. They are more focussed on minimising upfront costs. Transurban's bargaining

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<sup>5</sup> <https://www.parliament.nsw.gov.au/committees/DBAssets/InquirySubmission/Body/57330/0100%20Transurban.pdf>

power will only strengthen with further acquisitions, providing less incentive for governments to impose restrictions on their operation.

28. In our submission to the Senate Economics References Committee NatRoad recommended that an independent pricing regulator be responsible for monitoring tolling arrangements to protect the public interest against any pricing abuses, under-maintenance of assets or unfair profits at public expense.
29. We also recommended that the Australian Government introduce a national tolling policy to ensure road tolling arrangements are fair and transparent.<sup>6</sup> The policy should include the following principles:
  - Tolling arrangements will be subject to competitive tender processes and public consultation will occur in all cases where new tolls are considered.
  - Tolls will be applied only once a project is complete when users are able to benefit from enhanced traffic flow and safety improvements.
  - Tolls will be implemented only if a reasonable un-tolled alternative is available.
  - Toll charges should be considered in conjunction with other road user charges and reflect the cost of building and maintaining a road.
30. We submit that the time has come for the ACCC to intervene by prohibiting the proposed acquisition and allowing an alternative bidder to acquire WestConnex.

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<sup>6</sup> See for example: [British Columbia's Guidelines for Tolling](#)