



CONNECTEAST'S SUBMISSION ON INDEPENDENT PRICE REGULATION OF HEAVY VEHICLE CHARGES

14 July 2017

INTRODUCTION

ConnectEast Pty Ltd (**ConnectEast**) as the concessionaire of the EastLink tollway until 2043 appreciates the opportunity to make a submission in respect of the Australian Government, Department of Infrastructure and Regional Development, Land Transport Market Reform: *Independent price regulation of heavy vehicle charges* (May 2017) (**the Paper**).

ABOUT CONNECTEAST AND EASTLINK

ConnectEast financed, developed and now operates the EastLink tollway and Ringwood Bypass. With a combined length of 40km, this is Victoria's largest privately operated road network. EastLink is Australia's second busiest tollway, carrying 250,000 vehicles per day on average.

EastLink is the major transport artery that connects the Eastern, Monash, Frankston and Peninsula Link Freeways. EastLink also has interchanges with the major east-west arterials throughout Melbourne's east.

EastLink is 25km east of the Melbourne CBD in a growing residential, commercial and industrial region. Running predominantly north-south, EastLink connects Melbourne's eastern and south-eastern suburbs, which have only limited public transport options. These eastern and south-eastern areas contain 1.8 million residents, 40% of Melbourne's population and provide 800,000 full time equivalent jobs, 34% of Melbourne's workforce¹.

EastLink connects five of Plan Melbourne's nine designated Metropolitan Activity Centres: Box Hill, Ringwood, Dandenong, Fountain Gate-Narre Warren and Frankston.

The EastLink corridor contains two of the three National Employment Clusters identified in the Victorian Metropolitan Planning Strategy, produces Gross Regional Product of \$63 billion (19% of Victoria Gross State Product)², and has Wholesale Trade, Financial and Professional Services, Education and Health Care as leading growth sectors.

The Victorian Government has now started the planning for North East Link, which will complete Melbourne's orbital freeway by connecting the Metropolitan Ring Road at Greensborough with the

¹ SGS economics ConnectEast Land Use projections, November 2016

² GHD report for MDE, RDA Southern Melbourne & RDA Gippsland - Port of Hastings Economic impact analysis

Eastern Freeway or EastLink. Whichever corridor is chosen for North East Link, this project will make EastLink a major part of Melbourne's completed orbital freeway.

CONNECTEAST'S SUBMISSION

ConnectEast is making this submission in response to the Paper because:

- > Independent price regulation of heavy vehicle charges is the first step in a process that will lead to road use pricing initially for heavy vehicles, subsequently extending to all vehicles. This process must consider the existing tollway concessions. How will existing toll charges for heavy vehicles, and subsequently all vehicles, fit within road use pricing? Will the public policy outcomes of road use pricing be constrained by existing concession agreements?
- > Our significant experience as the operator of one of Australia's busiest tollways, which is a form of road pricing, provides practical insight into the questions posed by the Paper.

FUEL EXCISE REVENUES WILL DECLINE SUBSTANTIALLY

Vehicles are becoming more fuel efficient, and new production vehicles will increasingly be hybrid electric/combustion drivetrain vehicles or pure battery-powered electric vehicles (**BEVs**). In May 2017, Morgan Stanley forecast that more BEVs will be sold than vehicles with combustion engines from 2040. In July 2017, Volvo announced plans to phase out the conventional internal combustion engine and transition its entire product line to either electric/combustion drivetrain vehicles or BEVs by 2019. Also in July 2017, the newly elected Macron Government of France announced plans to ban sales of petrol and diesel powered vehicles by 2040.

If the current structure and pricing model for fuel excise taxation is left unchanged, then a significant and growing Commonwealth tax revenue shortfall will result.

Therefore, we agree that it is appropriate for the Australian Government to address this material issue.

ROAD PRICING IS A SUSTAINABLE ROAD FUNDING SOLUTION

After considerable and detailed analysis by infrastructure bodies, road pricing for all vehicles has now been recommended by peak infrastructure strategy bodies and others, including in the following key documents:

- > *Australian Infrastructure Plan*³
- > *Victoria's 30 Year Infrastructure Strategy*⁴
- > *The Road Ahead - How an efficient, fair and sustainable pricing regime can help tackle congestion*⁵

³ Published by Infrastructure Australia, February 2016

⁴ Published by Infrastructure Victoria, December 2016

⁵ Published by Infrastructure Victoria, November 2016

Road pricing was also highlighted as the key transport infrastructure reform to enhance productivity in the *Intergovernmental Agreement on Competition and Productivity-Enhancing Reforms*, agreed between the Commonwealth and five States and Territories on 9 December 2016.

We believe that road pricing for all vehicles is a sustainable road funding solution:

- > The user pays model is fair and equitable. Users who make more use of road resources should pay more. Users of vehicles that directly cause more damage to road resources should also pay more towards maintenance.
- > The pricing model could be structured to incentivise a range of public policy outcomes, including travel time shift from peak to shoulder periods, adoption of more environmentally friendly vehicles such as BEVs, safer vehicles with advanced automated vehicle technologies, or services such as ride-sharing, vehicle-sharing and mobility-as-a-service (**MAAS**).
- > Timings and adoption rates for new technologies and services are very difficult to forecast reliably. Unlike fuel excise taxation, which is tied to a single technology (internal combustion engines), road pricing can function effectively irrespective of actual market adoption rates for BEVs, automated vehicle technologies, or services such as ride-sharing, vehicle-sharing and MAAS.

AUSTRALIA IS WELL PLACED TO IMPLEMENT ROAD PRICING

Australia already has a substantial (and growing) network of tollways, which is a form of road pricing, in Sydney, Melbourne and Brisbane.

This network means Australia is well placed to implement road pricing:

- > Australia was the second country to implement multi-lane free-flow fully electronic tolling, with the commencement of tolling in 2000. (The first was Canada's 407 ETR in Toronto.)
- > Australia is one of the only countries to have achieved the complete elimination of toll plazas and total replacement by multi-lane free-flow fully electronic tolling at freeway speeds.
- > Australia is a global leader in tolling interoperability i.e. the ability for the user of a tag issued by one tollway to be able to use every other tollway, and without a price disadvantage compared to local users.
- > Major tollways are critical to the functioning of the road transport network in each of Australia's three largest cities. Combined, these cities represent 49% of the nation's population and 45% of the nation's registered motor vehicles⁶. This means a significant proportion of Australia's population is already familiar with, and utilizing, the form of road pricing that applies to tollways.

⁶ Australian Bureau of Statistics

ROAD PRICING SHOULD COMMENCE WITH HEAVY VEHICLES

Introducing heavy vehicle road pricing will be simpler than road pricing for all vehicles:

- > Heavy vehicle users already pay a Road User Charge, which applies to each litre of diesel used by heavy vehicles on public roads during the financial year.
- > Heavy vehicle users are largely private operators, for whom variable costs are often preferable to fixed costs, especially when the same costs apply equally to all operators.
- > Heavy vehicles have a higher usage rate than private vehicles, so technology costs such as the installation of GPS/GSM On Board Units (**OBUs**) to record and transmit road usage are able to be amortised over many more vehicle kilometres, keeping down the cost of collecting a road user charge.

Therefore, we agree that road pricing should commence with heavy vehicles.

ROAD PRICING FOR HEAVY VEHICLES – ALREADY PROVEN

Road pricing for heavy vehicles has already been implemented and proven in countries as diverse as Austria, Belgium, Germany, Hungary, New Zealand, Poland, Russia, Slovakia and Switzerland.

ROAD PRICING FOR LIGHT VEHICLES – GERMANY WILL BE THE PROVING GROUND

Germany has been seeking to extend its road pricing scheme to include all passenger cars.

Since June 2015, implementation in Germany has been delayed by legal action initiated by the European Commission, because the Commission:

- > Has been concerned about potential discrimination based on nationality
- > Wishes to incentivise the use of more environmentally friendly cars.

In December 2016, the European Commission and Germany reached an agreement, under which:

- > Prices to be paid by foreign drivers will be lower than originally planned
- > Five categories of vehicles (instead of the original three) will allow for differentiation of the road price on the basis of environmental criteria.

We therefore expect that Germany will now proceed rapidly with the nationwide implementation of road pricing for all light vehicles.

Australia will be able to use Germany as a reference example, and leverage any relevant learnings from the German experience.

INDEPENDENT PRICE REGULATION OF HEAVY VEHICLE CHARGES

We now provide our responses to the specific questions for discussion outlined in the Paper.

Q.1 Do you have any comments, concerns or observations in relation to the transition from the current process to independent price regulation?

While the initial focus is on implementing independent price regulation and then road pricing for heavy vehicles, the much bigger challenge – politically, socially, economically, legally and technically – will be extending road pricing to include all vehicles.

Every decision taken on the journey towards heavy vehicle road pricing should be considered in the context of how that decision will impact on, or assist with, extending road pricing to include all vehicles in the future.

Existing tollways should not be ignored.

For example:

- > Tollways are a form of road pricing. The experience of Australian tollways should be considered as it provides practical insight into the questions posed by the Paper.
- > How will existing toll charges for heavy vehicles, and subsequently all vehicles, fit within road use pricing?
- > Will the public policy outcomes of road use pricing be constrained by existing concession agreements?
- > Could a perverse economic impact occur if traffic and road usage behaviour is fundamentally altered by road pricing in a way that is detrimental to tollway operators?
- > The possibility of a double charge occurring (in the event that a road pricing charge and a toll charge both apply to the same road) should be considered in any price modelling and impact assessment to maintain the intent and ensure the sanctity of contract for existing tollway concession agreements.

Q.2 What do you understand independent to mean? Do the options presented in the Paper accord with that understanding?

We understand independent to mean a national body with characteristics including:

- > In the case of price development: independent of each State but with well-defined obligations to treat each State fairly.
- > In the case of price regulation: with well-defined obligations to protect the interests of businesses and consumers in a monopoly supply model.
- > Independent of Commonwealth and State bodies that set budgets for the maintenance of existing roads and the construction of new roads.
- > Independent of Commonwealth and State bodies engaged in setting road safety, public transport and environmental public policy outcomes.
- > Independent of Commonwealth and State bodies that provide advice to Governments on infrastructure strategy.
- > Independent of road service providers (i.e. State road authorities, local councils, private operators).
- > Independent of road user categories (e.g. heavy vehicle operators).

Of the three examples provided in the Paper, the only option that accords with this understanding is *Option 1: The Australian Competition and Consumer Commission (ACCC) would undertake independent price regulation of heavy vehicle charges.*

Q.3 In the short term, while the price regulator would only be regulating prices for heavy vehicle charges, could user concerns be adequately addressed through regulatory rules or is an appeal process needed?

Our experience from building and operating the EastLink tollway is that provided reasonable toll prices are set and reasonable rules are applied to govern changes in pricing, then an appeals process is not necessary for prices.

Almost every vehicle operator would want lower prices, and could potentially create an argument about why their specific case is special. An appeals process is likely to be administratively intensive and would be unlikely to provide a positive outcome to the appellant in most cases, so we feel would add little value.

Instead of an appeals process after the fact of setting prices, we recommend a strong and highly respected economic regulator, one of whose principal objectives is to protect the interests of businesses and consumers in a monopoly supply model.

We also recommend extensive consultation and research on proposed pricing options prior to the setting of prices. In this regard, we note that IPART in NSW appears to have a process for price determination, which involves extensive consultation and review, which may provide guidance.

Q.4 How important is a nationally consistent approach to the regulation of heavy vehicle charges?

A nationally consistent approach is essential.

This stems from our experience in the tollway sector, which has had a State-based rather than nationally consistent approach. We believe this demonstrates that a State-based approach is more likely to lead to problematic inconsistencies that affect users as well as service providers.

Tolling vehicle classifications are different in each State

Vehicle classifications are defined differently in each State (NSW, Victoria and Queensland). Different vehicle classifications mean that the same make and model of vehicle could be considered to be a different tolling class in each State, and charged at different pricing levels. Furthermore, the light commercial vehicle class does not exist in NSW.

These inconsistencies have led to problems including:

- > Potential for a vehicle user to have a tolling account in one State for use in another State to unfairly gain access to lower prices.
- > Toll multipliers for heavy vehicles (the multiple of the car toll) varies between States and can even vary between tollways within the same State.
- > Motorcycles are treated differently: in Victoria and Queensland at half the car price; while in NSW at the same as the car price.
- > Buses are treated differently: in Victoria the vehicle class for a bus depends on the number of seats; while in NSW and Queensland the number of seats is irrelevant.
- > Trailers are treated differently: in Victoria and Queensland a car with a trailer is always priced as a car; while in NSW it may be priced as a car or heavy commercial vehicle depending on the axle count or height of the trailer.

Tag accounts can be used on interstate tollways, while non-tag accounts cannot

While a tag account can be used on all tollways in Australia, non-tag accounts are limited to the State in which they were issued, even though there is not a particular technical impediment.

Vehicle look up fees set separately by each State

Vehicle licence plate number look up fees (for retrieving contact details for non-payers) are set separately by each State. On EastLink, which passes these fees through to the vehicle owner without any margin, this has resulted in Victorian vehicle owners being charged a \$2.71 look up fee, whereas vehicle owners from most other States are charged \$4.77. Vehicle owners from Tasmania and ACT are charged \$21.77. We do not believe that States should be charging such varying, high fees for what should be a fully automated look up service.

Tolling enforcement processes are different in each State

The legislation processes, fees and penalties used to detect and enforce non-payers are different in each State. This has resulted in very different rates of non-payment in each State.

Q.5 What do you consider more important for establishing an independent price regulator for heavy vehicle charges, organisational capacity in economic regulation or industry specific expertise?

Organisational capacity in economic regulation is more important than industry specific expertise.

Taking EastLink as an example, 79% of traffic is cars and motorcycles, 14% is light commercial vehicles, and only 7% is heavy commercial vehicles (data for the week 24 June to 30 June 2017).

Therefore, understanding of heavy vehicle usage is only a small part of the overall road pricing challenge, with the majority of the challenge being light vehicles including vans, cars and motorcycles.

That is also a much more complex mix of vehicle users compared to heavy vehicle users:

- > Consumers – everyone from high frequency commuters to occasional drivers
- > People experiencing hardship or disadvantage
- > Self-employed and small businesses
- > Small-medium enterprises (SMEs)
- > Operators of ancillary vehicle fleets
- > Fleet leasing and rental vehicle operators, which own the vehicles but have their customers driving
- > Taxi and limousine services
- > Transport services including ride sharing (e.g. Uber) and vehicle sharing (e.g. GoGet, Car Next Door)
- > Mobility-as-a-service (MAAS) across transport modes is expected to be important in the future.

Q.6 What would be your preferred option for establishing an independent price regulator for heavy vehicle charges?

Of the three examples provided in the Paper, our preferred option is *Option 1: The Australian Competition and Consumer Commission (ACCC) would undertake independent price regulation of heavy vehicle charges*. This is based on our belief that:

- > A nationally consistent approach is essential.
- > The regulator's responsibilities need to be able to extend to include light vehicle road pricing.
- > The regulator needs to protect the interests of businesses and consumers in a monopoly supply model.
- > The regulator needs to be experienced in regulating consumer markets.
- > The regulator needs to understand the nature of large infrastructure projects including construction, financing, delivery and operations and maintenance.
- > The regulator needs to be highly respected, including by Governments, service providers, commercial and consumer markets.

Q.7 Does there need to be a structural separation in the roles of price development and price regulation?

A meaningful separation between price development and regulation provides an appropriate check and balance in a road pricing charge.

There should be a structural separation in the roles of price development and regulator, as they are fundamentally different and require different skillsets and experience. In addition, the regulator will likely be responsible for regulating much more than just price.

Price development for road pricing will be an extremely complex economic exercise, requiring a highly technical skillset to balance road pricing revenues against road maintenance and infrastructure development costs across States and regions, as well as public policy outcomes. This is a huge challenge in itself, which should therefore be structurally separate from price regulation.

Public roads under a road pricing model will be a form of monopoly supply. Australians normally rely on the market economy to provide positive outcomes for their prosperity and welfare. With a road pricing monopoly the usual market economy outcomes will not apply. A strong price regulation body will therefore be required to protect the interests of businesses and consumers.

The regulator will require very different skillsets and experience compared to the price developer. For example: over-sight of pricing, regulatory frameworks, access terms and conditions, and enforcement processes for non-paying road users; monitoring and reporting on prices and quality of roads as well as charging services; enforcement of compliance by service providers; stakeholder and community consultation; social understanding to ensure equity and fairness; and reporting to Governments.

Q.8 Are the functions of the economic regulator, as discussed in the Paper at Table 1, appropriate in the heavy vehicle sector. What should/shouldn't an economic regulator do?

Broadly yes, but specifically the economic regulator should include these functions:

- > Protect the interests of businesses and consumers in a monopoly supply model.
- > Over-sight of pricing.
- > Over-sight of regulatory frameworks.
- > Over-sight of enforcement processes for non-paying road users.
- > Over-sight of access terms and conditions, including any service fees that may apply.
- > Enforcement of compliance by service providers.
- > Monitor and report on prices and quality of roads as well as charging services.

ENQUIRIES

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