

# Discussion Paper

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## 2023 Independent Toll Review

June 2023

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# 1 Preface

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Dear Stakeholder,

Tolls have become more pervasive in recent years following the construction of major new motorway developments in Sydney. At a time of relatively high inflation this is causing concerns to motorists about the affordability and fairness of tolls.

Tolls help to finance new motorways which have been built by the private sector concessionaires under agreements with the Government. These arrangements have not been fully transparent to the public, which adds to concerns about the appropriateness of the tolling arrangements.

Cost recovery is not the only role tolls have. They also have an important role in ensuring optimum traffic flows on these motorways. The level and structure of tolls influences both their efficiency in doing this as well as their fairness.

Because the motorway network has developed over time under a large number of concession agreements, there are many different tolling arrangements which make up the entire network. This complexity is said to cause confusion and undue complexity. There is a need to see if the tolling system can be simplified.

Motorists need to have good information when they are making decisions about the use of tolled motorways. This information should be clear and comprehensive, and it should also highlight the alternatives available to motorists.

The recently elected Minns NSW Government has appointed us to lead a major review of tolling arrangements on Sydney's motorways. Issues concerning the efficiency, fairness, simplicity and transparency of tolls are central to this review. If sensible improvements can be made, we will not hesitate to recommend them.

We are independent but working with the Government agencies on this project. Much work has already been done by an internal review commissioned by the previous Government and we will be building on this work as appropriate.

The new Government has emphasised the importance of the public nature of this new Independent Toll Review. Therefore, we will be consulting widely. This discussion paper provides more details about our review to assist the motorists, the freight industry, tolling operators and others to engage with us.

An early step in this process is the public hearings we are going to hold in July. We also look forward to receiving written submissions from interested persons and organisations.

**Professor Allan Fels AO**  
Review Chair

**Dr David Cousins AM**  
Review Deputy Chair

## 2 Introduction

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### 2.1 What is the discussion paper about?

This discussion paper has been prepared to provide background information and assistance for members of the public and organisations wishing to participate in the Independent Toll Review being led by Prof Allan Fels AO and Dr David Cousins AM.

The Independent Toll Review was announced by the Premier, the Hon Chris Minns MP; the Treasurer, the Hon Daniel Mookhey MLC; and the Minister for Roads, the Hon John Graham MLC, on 5 April 2023.<sup>1</sup> It was part of a major Minns Government election commitment to inquire long-term reform of the toll network.

In the short-to-medium term, the new Government announced there would be increased toll relief for motorists through the introduction of a \$60 weekly cap on tolls paid and for trucks using the M5 East and M8 a reduction in tolls.

Terms of reference for the Independent Toll Review were tabled in the first sitting week of the new Parliament on 11 May 2023 (which can be found on the [Treasury website](https://www.treasury.nsw.gov.au/toll-review), <https://www.treasury.nsw.gov.au/toll-review>, and in Appendix A). It was further confirmed that the Independent Toll Review would be led by Prof Allan Fels AO and Dr David Cousins AM, both of whom have had extensive experience in price and competition regulation and policy.

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### 2.2 Terms of Reference of the review

The Independent Toll Review has been asked to examine:

- the structure and level of tolls in New South Wales in the future, looking at their efficiency, fairness, simplicity and transparency, existing agreements with providers and the impact on all forms of transport
- the extent to which tolls should reflect the capital and operating costs of roads, the impact different users have on road sustainability and the use of roads throughout the day
- the appropriate targeting of relief to provide fairness for the whole community and how to ensure the community, rather than toll road owners, benefit from toll relief
- whether tolls are understandable, simple for motorists to pay and administratively efficient to collect
- the scope for competition and regulation to influence road tolls and the efficiency of service performance by provider.

The Independent Toll Review will have regard to the shorter-term toll relief measures the Government will be implementing, which will apply for two years, and assess what longer-term toll relief measures should apply.

The review will also be mindful of the policy positions of the new Government.

The Independent Toll Review will publicly release its final report next year with the government to consider its recommendations.

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<sup>1</sup> Media release by Premier, Treasurer and Minister for Roads, *Professor Fels starts work on Toll Review*, 5 April 2023

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## 2.3 An open, public review

The Government committed to the review and its recommendations being made public. It indicated that the review would be open to submissions and would consult with the transport sector and the toll-paying public.

Accordingly, the review will be seeking submissions from interested people and organisations and holding public hearings in July. Further details of the submissions and public hearing parts of the review are provided sections 5 and 6.

The review has also provided below a list of questions to indicate the sort of issues the review will be considering and to help participants frame their responses.

# 3 Motorways and the use of tolls in NSW

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All new public infrastructure built in New South Wales is funded either via government or private sector capital contributions.

There is a long history of the use of tolls to help fund significant transport infrastructure works. Tolls mean that users of the infrastructure contribute directly to the costs of the infrastructure rather than governments having to meet this cost directly from general taxation, other revenues and borrowings, which come from the broader community, whether they use the infrastructure or not.

Tolls were used on Sydney roads and bridges in the very early 1800s. Tolls also operated on the publicly owned Sydney Harbour Bridge from its commencement in 1932. However, it is in more recent times that the use of tolls has expanded greatly, facilitating the growth of Sydney's major motorway network.

Agreements have been signed by governments with private companies to take on the costs associated with building and operating motorway services. They recoup their costs and a return on capital by levying tolls over the concessionaire period.

The toll agreements determine the base level of tolls and the escalation mechanism to apply over the concession period.

For contracts signed after 2009, the toll regimes are published in the redacted contracts released on the Transport for NSW website.<sup>2 and 3</sup>

Confidentiality obligations vary across each toll road contract, although the release of commercially sensitive information will generally require the consent of each concessionaire (see Table 1 below).

The review recognises that contracts negotiated in good faith by parties in the past need to be honoured. Implementation of recommendations coming from the review may depend then on these contracts being re-negotiated. The costs of any changes to tolling arrangements for the whole community is also an important factor. Changes should be possible if proposed reforms are in the public interest. Win-win outcomes may be achievable. Beyond this, it is important for private companies to recognise that continuation of their operations ultimately require the support of the broader community. Some refer to this as the social licence that companies have to operate.

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## 3.1 The NSW motorway network

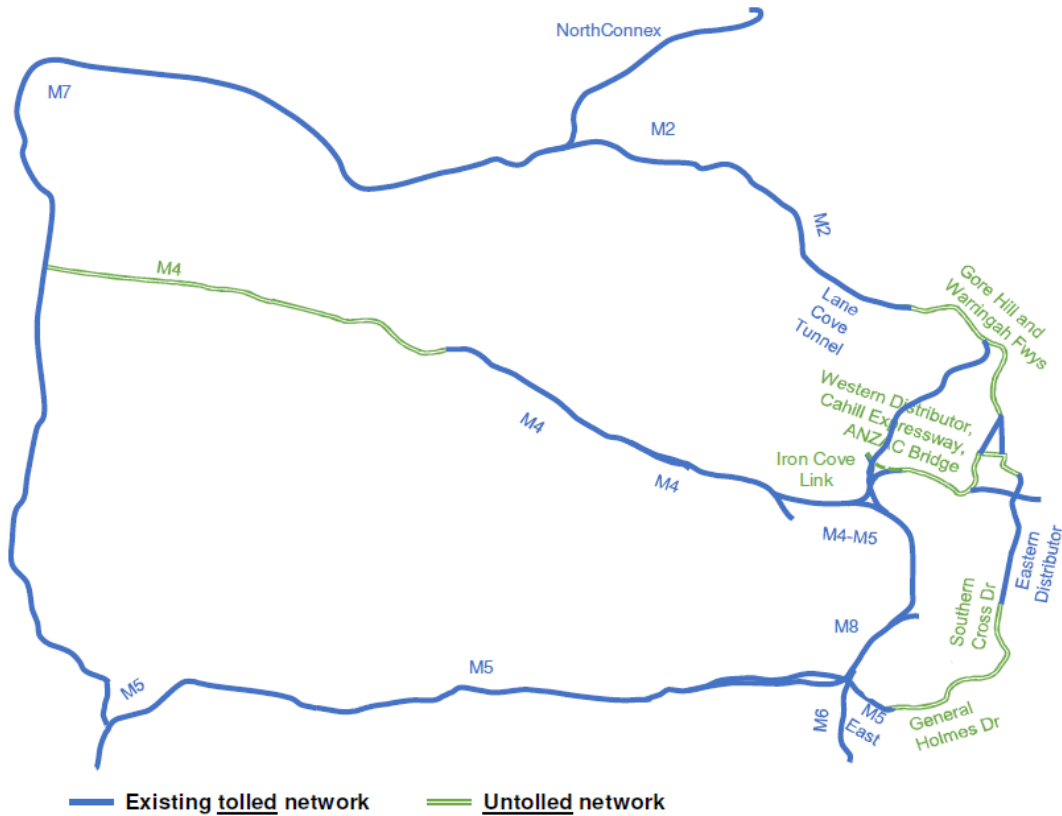
Sydney's 'motorway network' comprises about 179 km of motorway roads and is made up of tolled and untolled roads. Figure 1 outlines the network of existing tolled motorways (in blue) and untolled motorways (in green).

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<sup>2</sup> The concession agreements are defined as Class 3 contracts under the *Government Information (Public Access) Act 2009* (GIPA) and must be published. <https://www.transport.nsw.gov.au/operations/roads-and-waterways/business-and-industry/partners-and-suppliers/tenders-and-contracts-2>

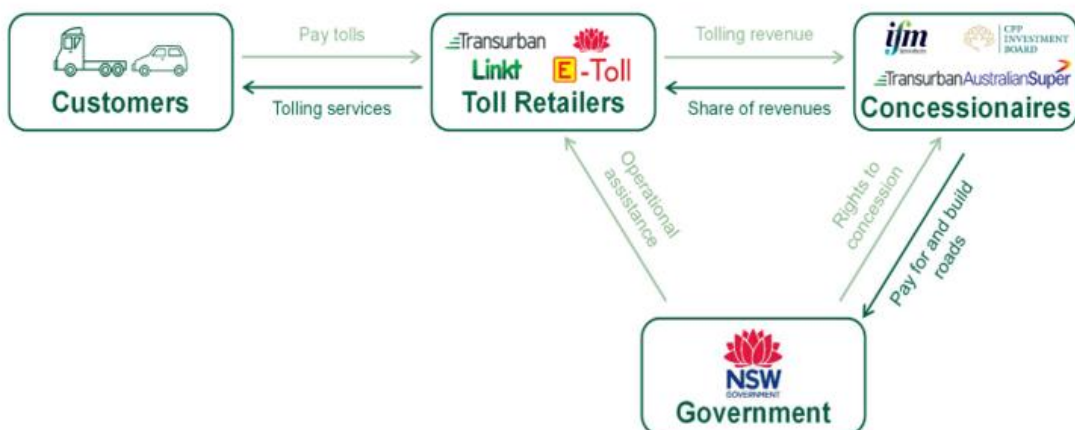
<sup>3</sup> A summary of toll road projects is also published on NSW Treasury website, which is a requirement under the NSW Public Private Partnerships Guidelines. <https://www.treasury.nsw.gov.au/projects-initiatives/public-private-partnerships/awarded-projects>

Figure 1: Sydney's motorway network



The motorway network is a complex ecosystem. Across the motorway network there are a range of parties – drivers who pay the tolls, the retailers who collect the tolls on behalf of the concessionaires (asset owners) and the NSW Government which enters into agreements with the privately owned concessionaires over the tolling arrangements. The NSW Government also owns and operates some tolled roads. Figure 2 describes these elements.

Figure 2: NSW toll ecosystem



The motorway network comprises several individual toll road assets owned by a range of shareholders. Table 1 below outlines the toll roads and their concessionaire shareholdings.

Table 1: List of NSW toll roads (as at 1 June 2023)

Toll Road	Description	Concession end	Concessionaire
Sydney Harbour Bridge	1.1 km bridge across Sydney Harbour from the Sydney CBD to North Sydney	N/A	<ul style="list-style-type: none"> <li>NSW Government: 100%</li> </ul>
Sydney Harbour Tunnel	2.7 km tunnel beneath Sydney Harbour from the Sydney CBD to North Sydney	N/A	<ul style="list-style-type: none"> <li>NSW Government: 100%</li> </ul>
M4	M4 widening –7.5 km motorway from Parramatta (Church Street) to Homebush (Homebush Bay Drive)	December 2060	<ul style="list-style-type: none"> <li>Sydney Transport Partners (STP) Consortium<sup>4</sup>:               <ul style="list-style-type: none"> <li>Transurban: 50%</li> <li>AusSuper: 20.5%</li> <li>CPPIB<sup>5</sup>: 10.5%</li> <li>CDPQ<sup>6</sup>: 10%</li> <li>Tawreed<sup>7</sup>: 9%</li> </ul> </li> <li>STP will own 100% of the underlying WCX Project and Asset Trusts (Interlink Roads<sup>8</sup> holds the concessions for the M5 South West until 11 December 2026)</li> </ul>
	M4 East – Homebush (Homebush Bay Drive) to Haberfield (Parramatta Road and City West Link)	December 2060	
M5 South West <sup>9</sup>	22 km motorway linking the M5 East to Westlink M7 and the Hume Highway (subject to an existing concession until 11 December 2026)	December 2060	
M5 East	The existing M5 East motorway between King Georges Rd and General Holmes Drive. This road is an established route with a long traffic history	December 2060	
M8	9 km twin tunnels between Kingsgrove and SPI	December 2060	
M4-M8 Link	7.5 km twin tube tunnels from the M8 to M4 East at Wattle Street	December 2060	

<sup>4</sup> STP is a consortium which consists of Transurban, AusSuper, CPPIB, CDPQ and Tawreed (<https://www.transurban.com/content/dam/investor-centre/06/WestConnex-Acquisition-Equity-Raise.pdf>)

<sup>5</sup> Canada Pension Plan Investment Board

<sup>6</sup> Caisse de dépôt et placement du Québec

<sup>7</sup> Tawreed is a wholly owned subsidiary of Abu Dhabi Investment Authority (ADIA).

<sup>8</sup> Interlink Roads Pty Ltd is a wholly owned subsidiary of Transurban.

<sup>9</sup> Transurban currently owns 100 per cent of M5 South West (Interlink Roads concession). When this concession expires on 11 Dec 2026 the M5 South West will form part of the WCX M5 concession through to December 2060.



Toll Road	Description	Concession end	Concessionaire
Cross City Tunnel	2.1 km tunnel linking Sydney's Darling Harbour with Rushcutters Bay	December 2035	<ul style="list-style-type: none"> <li>• Transurban (100%)</li> </ul>
Eastern Distributor	6 km road linking Sydney city centre, Harbour Tunnel and Harbour Bridge with the southern suburbs and KSA	July 2048	<ul style="list-style-type: none"> <li>• Transurban: 75.1%</li> <li>• IFM: 14.4%</li> <li>• UniSuper: 10.5%</li> </ul>
Hills M2	21 km road linking Sydney's lower north shore and northwest regions, connecting the Westlink M7 and Lane Cove Tunnel	June 2048	<ul style="list-style-type: none"> <li>• Transurban: 100%</li> </ul>
Lane Cove Tunnel	3.6 km twin tunnel serving Sydney's northwest corridor, connecting to Hills M2 Including the Military Road E-Ramps	June 2048	<ul style="list-style-type: none"> <li>• Transurban: 100%</li> </ul>
NorthConnex	Twin 9km dual-lane tunnel which links the M1 Pacific Motorway to the Hills M2 Motorway	June 2048	<ul style="list-style-type: none"> <li>• Transurban: 50%</li> <li>• QIC: 25%</li> <li>• CPPIB: 25%</li> </ul>
Westlink M7	40 km road in Sydney linking the Hills M2, M4 and M5 South West	September 2051	<ul style="list-style-type: none"> <li>• Transurban: 50%</li> <li>• QIC: 25%</li> <li>• CPPIB: 25%</li> </ul>

Table 2 below outlines the toll roads, tolling regimes, and current prices as at May 2023. The table highlights the variation in tolls (defined below) and toll escalation rates which exist across the whole network.

Table 2: Toll charges, prices and escalations of NSW Toll Roads (as at May 2023, source: Linkt)

Toll road	Direction Charges/ Tolling Method	Class A Toll (Effective June 2023)	Class B Toll (Effective June 2023) (Truck multiplier)	Escalation rate
Sydney Harbour Bridge	Southbound/time of day	Variable, \$4.00 in peak period	Variable, \$4.00 in peak period (1x)	Determined by the State (no escalation today)
Sydney Harbour Tunnel	Southbound/time of day	Variable, \$4.00 in peak period	Variable, \$4.00 in peak period (1x)	Aligned with Sydney Harbour Bridge
M4 (WestConnex)	Each direction/ flagfall plus distance based	\$1.57 flagfall, \$0.58/km \$11.11 cap	\$4.71 flagfall, \$1.74km (3x) \$33.32 cap	Greater of CPI and 4% p.a. until 2040, after which, CPI applies
M5 South West (WestConnex)	Each direction/ fixed	\$1.57 flagfall, \$0.58/km \$11.11 cap	\$4.71 flagfall, \$1.74km (3x) \$33.32 cap	CPI per quarter (no change following 2026 handover)
M5 East (WestConnex)	Each direction/ flagfall plus distance	\$1.57 flagfall, \$0.58/km \$11.11 cap	\$4.71 flagfall, \$1.74km (3x) \$33.32 cap	Greater of CPI and 4% p.a. until 2040, after which, CPI applies
M8 (WestConnex)	Each direction/ flagfall plus distance	\$1.57 flagfall, \$0.58/km \$11.11 cap	\$4.71 flagfall, \$1.74km (3x) \$33.32 cap	Greater of CPI and 4% p.a. until 2040, after which, CPI applies
M4-M8 Link (WestConnex)	Each direction/ flagfall plus distance based	\$1.57 flagfall, \$0.58/km \$11.11 cap	\$4.71 flagfall, \$1.74km (3x) \$33.32 cap	Greater of CPI and 4% p.a. until 2040, after which, CPI applies
Cross City Tunnel	Each direction/ fixed	\$3.12-\$6.62	\$6.24-\$13.24 (2x)	CPI per quarter
Eastern Distributor*	Northbound/fixed	\$9.09	\$18.17 (2x)	Greater of (37.5% x CPI + 63.5% x AWE) and 1% per quarter

Toll road	Direction Charges/ Tolling Method	Class A Toll (Effective June 2023)	Class B Toll (Effective June 2023) (Truck multiplier)	Escalation rate
Hills M2	Each direction/ fixed	\$2.73-\$9.23	\$8.18-\$27.68 (3x)	Greater of CPI and 1% per quarter
Lane Cove Tunnel	Each direction/ fixed	\$1.92-\$3.84	\$6.24-\$13.24 (3.4x)	CPI per quarter
NorthConnex	Each direction/ fixed	\$9.23	\$27.68 (3x)	Greater of CPI and 1% per quarter
Westlink M7	Each direction/ distance based	\$0.63/km, capped at \$9.38	\$1.89/km, capped at \$28.14 (3x)	CPI per quarter

\* For the Eastern Distributor and M5 South West, Class A vehicles must also be either a 3-axle vehicle under 2.0m in height, or a 2-axle vehicle under 2.8m in height

#### Toll rate types:

- **Flat rate or fixed toll:** traditional tolling method where there is a fixed toll for use of the motorway, regardless of the distance or time travelled. Flat rate tolls are usually applied where there is a single entry and exit point.
- **Distance-based toll:** the toll is calculated based on the distance travelled on the motorway. Toll gantries are located at entry and exit points on the motorway and record a vehicle's electronic tag or number plate details to calculate the applicable toll.
- **Variable time-of-day toll:** the toll is calculated based on the time of travel. Vehicles travelling outside of peak periods pay a lower toll than vehicles travelling during the peak.

# 4 Background to the Toll Review

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As Sydney's motorways have expanded over time, tolls have become more prevalent and are a significant cost for many motorists. Also, with inflation at relatively high levels over the past two years, the cost-of-living burden of tolls has been keenly felt by many motorists, especially where they have few practical alternatives, including public transport, to the use of motorways.

In March 2021 opposition parties initiated a Parliamentary Inquiry to consider a number of aspects of road tolls causing concern in the community.<sup>10</sup> This followed an early inquiry held in 2017.<sup>11</sup>

During this inquiry the Government announced that it had also initiated a Treasury and Transport for NSW review of toll pricing. Preparation for this work commenced in December 2021 and ceased around November 2022 and no report on it was released.

A summary report on the prior work undertaken in 2022 by NSW Treasury and Transport for NSW is being released by the Minns government. The prior work acknowledges the investigation of a range of options to reform the NSW toll road network and that further work is required to appropriately assess these and any other options which may emerge.

The new Independent Toll Review, being led by Prof Fels and Dr Cousins, is being assisted by NSW Treasury, Transport for NSW and the Department of Premier and Cabinet. The analysis of options from the prior work alongside all other potential options will be carried forward as part of the new review. In this regard, this summary report on the prior work is an input to the Independent Toll Review and does not represent approved policy directions of the former or current NSW Government.

The terms of reference of the new Independent Toll Review are similar to the prior work, but there are some differences of emphasis. In particular, greater emphasis in the Independent Toll Review is placed on the efficiency of price setting to address congestion and make more efficient use of Sydney's road network, interface with public transport, in addition to the consistency of prices across the broad network of motorways in Sydney. Furthermore, this review is explicitly asked to consider the scope for competition and regulation to influence road tolls.

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## 4.1 Competition and regulation

The Independent Toll Review has been asked to examine the scope for competition and regulation to influence road tolls and the efficiency of service provision by providers. This section briefly considers how competition might impact on road tolls and what the scope for regulation might be.

Competition is a process where rivalry between firms drives market outcomes. The structure of an industry is a key driver of competition. Competition is generally weakened where there are less than three let alone two direct competitors. Competition may not be effective in driving good outcomes in all instances, but the general presumption in Australia is that where it can apply it should be allowed to do so. Government restrictions on competition may only be warranted if they are shown to be in the public interest.

Competition in tolled motorways occurs in a number of ways. The strongest way is competition for the right to deliver the motorway and provide tolled motorway services. Potential concessionaires

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<sup>10</sup> NSW Legislative Council, Portfolio Committee No.6 – Transport, Road Tolling Regimes, 1 August 2022.

<sup>11</sup> NSW Legislative Council, Portfolio Committee No. 2 – Health and Customer Services, Road Tolling in NSW, 20 October 2017.

provide bids to the Government for these rights initially and when contracts come up for renewal. The way these bidding processes are organised can significantly affect outcomes.

When new toll roads are proposed, are these automatically made subject to a competitive bidding process? Incumbent providers can have a perceived significant advantage over potential new entrants in these processes by having greater information on asset operations and traffic modelling capability, etc. There may be ways to ensure bidders are placed on a more level playing field by for example making relevant data publicly available.<sup>12</sup>

Toll road concessionaires can also outsource services to other firms thereby utilising competition to drive efficiencies for their own benefit. Outsourced services may cover the gamut of motorway services, including construction, repairs, motorway operations and toll collection.

Toll concessionaires also face competitive pressures through the capital markets and the potential threat of takeovers. These pressures are likely to drive efficiencies and benefit shareholders rather than motorists directly.

Whilst direct competition between motorway providers is generally not strong because of the natural monopoly characteristics of these services, there is generally some element of competition at the margins from other transport services. This may be from other non-motorway roads or from fixed rail services, including public transport rail and light rail services. These may provide a high ceiling to the degree of market power that a toll road operator can exercise.

If competition is not effective in producing good outcomes for motorists, there may be a case for further regulation of the industry by Government. Other industries (e.g. airports) where firms have significant market power are frequently made subject to some form of prices oversight by Government bodies such as the Independent Pricing and Regulatory Tribunal (IPART) in NSW or the Australian Competition and Consumer Commission (ACCC) nationally. How if at all this could operate alongside existing or modified concessionaire agreements will be an issue the review needs to consider.

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<sup>12</sup> For example, the ACCC did not oppose Sydney Transport Partners' (a consortium led by Transurban Limited) proposed acquisition of the majority interest in the WestConnex project following the acceptance of court enforceable undertakings which required Transurban to publish important traffic data to assist bidders to compete for future toll road concessions. ACCC, *ACCC will not oppose Transurban Consortium WestConnex bid following undertaking*, 30 August 2018. <https://www.accc.gov.au/media-release/accc-will-not-oppose-transurban-consortium-westconnex-bid-following-undertaking>

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## 4.2 Criteria for assessing tolls

The Terms of Reference require the review to consider the efficiency, fairness, simplicity and transparency of tolls.

The notion of efficiency in pricing is a complex one. Broadly, however, the review takes this to refer to the extent to which tolls reflect the relevant and efficient marginal costs of constructing and operating motorways, including related social costs such as those associated with congestion and environment impacts, for example caused by vehicle emissions. These costs are likely to vary depending on the time and difficulty of constructing the infrastructure, for example whether a road requires tunnelling, and the level of congestion on the road, which will affect travel speed.

A number of pricing options are being considered by the review. They include network pricing (with zones), time of day pricing, dynamic or real time pricing, cordon pricing and heavy vehicle toll.

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## 4.3 Network pricing

The major focus of the prior work was to consider the numerous separate tolling schemes applying to different motorways as one whole network for tolling or pricing purposes.<sup>13</sup>

Network pricing is a way to achieve greater consistency across the network in the approach to tolling, for example through the adoption of a fixed dollar access charge to the network and variable dollar charge for use of the network based on distance travelled. Under this approach it is also possible to recognise different zones across the network and to have different variable distance-based charges reflecting different characteristics, including cost of construction of the motorways, capacity of users to pay and availability of alternatives to use of the motorways, including importantly public transport.

This review will further examine the implications of this significant idea. Ultimately, the review will need to come up with a set of prices which meet the criteria of efficiency, fairness, simplicity and transparency which can be implemented in the context of the existing agreements with concessionaires and are sustainable from the Government's budgetary perspective.

Within the network pricing model, or separate to it, a range of other pricing options can be adopted. These are discussed next.

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## 4.4 Time-of-day pricing

Travel speeds may vary throughout the day depending on the volume of traffic. Tolls could reflect this as is now the case with the higher peak and lower off-peak charges on the Sydney Harbour Bridge. The aim would be to encourage users to travel when the tolls were lower thereby helping to increase travel speeds for those paying the higher tolls.

This time-of-day pricing was considered as part of the prior work and will be further examined by this review. Just how responsive motorists are likely to be to these price signals is something requiring further consideration. The distributional issues associated with time-of-day pricing, that is who ends up paying the higher tolls and who ends up paying the lower tolls, also needs further analysis.

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<sup>13</sup> The Government has just released a summary of the work conducted by the Treasury and Transport for NSW, assisted by the private consultants, for the previous Government.

Having the flexibility to be able to alter the structure of tolls over time is also likely to be important. The cogency of time-of-day pricing and the extent to which a network approach to pricing allows sufficient flexibility to apply time of day pricing in particular parts of the network is a matter for consideration.

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## 4.5 Dynamic or real-time pricing

In many industries, including transport, prices adjust throughout the day in response to demand and supply factors. This kind of price flexibility, constantly responsive to supply and demand, is referred to as dynamic or real time pricing. It is common, for example, in airlines and ride sharing.

Rapid advances in technology have facilitated these developments and this kind of price flexibility could be applied to road tolls.

While noting the potential for dynamic or real time pricing, the prior work did not consider it a high priority option for the short term. This review will examine the overseas experience of dynamic pricing in road tolling and consider whether it is relevant as a longer-term approach to tolling in Sydney.

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## 4.6 A special CBD zone and cordon pricing

The prior work suggested that a network pricing approach could operate with a number of zones, based on relevant cost or other characteristics. It noted that a special zone could be the Central Business District (CBD) of Sydney.

The cities of London, Stockholm and Milan provide examples where CBD zones have operated. More generally, special pricing zones sometimes referred to as cordon areas could be applied elsewhere in the city as part of demand management schemes aiming to relieve congestion. Traffic coming into these zones is charged tolls sufficient to reduce congestion, boost utilisation of public transport and provide more pedestrian friendly environments.

Like dynamic pricing, the prior work did not prioritise the CBD zone option in the short term but suggested it could be considered in the longer term.

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## 4.7 Heavy vehicles

Heavy vehicles, mainly trucks but also buses, are significant users of the motorway network and provide a disproportionate share of motorway revenues, due to the higher level of tolls they pay. The use of motorways by these vehicles is derived from the demand for the goods and from the passengers they carry. The operators aim to pass on these costs to their customers.

The existing truck toll multipliers need to be closely examined to ensure that they accurately reflect the costs associated with road wear and tear but also provide the right incentives for the use of higher productivity vehicles.

There are significant safety and environmental benefits from higher productivity vehicles, which all other things equal, allow for a reduced number of trips.

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## 4.8 Non-toll road restrictions

The operation of trucks and buses on motorways may also be influenced by non-toll requirements. For example, trucks and buses more than 12.5 meters long or more than 2.8 metres clearance height travelling between the M1 and M2 must use the NorthConnex tunnels unless they have a genuine delivery or pickup destination only accessible via the Pennant Hills Road. Restrictions on the hours of operation of loading docks around the Sydney CBD also may provide practical limitations on the hours trucks can distribute goods and utilise the motorway network.

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## 4.9 Pricing principles

The previous Government established a set of principles as a guide to setting tolls.<sup>14</sup> New tolls were to be applied only where users receive a direct benefit. The 10 specific principles are:

1. New tolls are applied only where users receive a direct benefit.
2. Tolls can continue while they provide broader network benefits or fund ongoing costs.
3. Distance-based tolling for all new motorways.
4. Tolls charged for both directions of travel on all motorways.
5. Tolls charged reflect the cost of delivering the motorway network.
6. Tolls take account of increases in expenses, income and comparable toll roads.
7. Tolls will be applied consistently across different motorways, to the extent practicable, taking into account existing concessions and tolls.
8. Truck tolls at least three times higher than car tolls.
9. Regulations could be used so trucks use new motorway segments.
10. Untolled alternative arterial roads remain available for customers.

It is noted these principles do not apply currently in all instances due to legacy arrangement (e.g. the Sydney Harbour Crossings are one-way tolls). The review will consider whether these principles continue to be appropriate for the future.

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<sup>14</sup> <https://www.parliament.nsw.gov.au/lcdocs/submissions/57351/0109%20Transport%20for%20NSW.pdf>



# 5 Invitation to provide written submissions

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People and organisations wanting to provide a submission should do so in writing and lodge with the Independent Toll Review by 28 July 2023.

Should you wish to attend and present at the public hearings, please provide a broad outline of your submission one week prior to the hearing. This may be followed with a final submission to the Independent Toll Review by 28 July 2023.

The review wishes to ensure there is an adequate cross-section of views represented and with the limited time available may need to allocate places at the hearings. An invitation will be forwarded to you if you are successful in gaining a place.

Please note the Independent Toll Review will include targeted consultation with industry and other key stakeholder groups.

Submissions may be lodged through the NSW Government's [Have Your Say platform](https://www.nsw.gov.au/have-your-say/toll-review) (<https://www.nsw.gov.au/have-your-say/toll-review>).

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## 5.1 Questions relating to the Toll Review

Below, the review has provided a list of questions relating to the terms of reference and criteria to apply in the assessment of tolls.

These can be used as a guide by interested people and organisations as to the sort of matters on which feedback would be welcomed. Submitters need not address all questions as there may also be other matters submitters wish to comment on. If submitters do address any of these questions, it would be helpful to number the responses to match the questions.

### 5.1.1 General questions relating to the Toll Review

A	Questions
1	What issues do you see with the current tolling regimes across Sydney?
2	How do these issues affect you?
3	What do you think can be done about them?
4	For toll reform in New South Wales, what would success look like to you?

## 5.1.2 Specific questions relating to the Toll Review Terms of Reference

<b>B</b>	<b>Determination of Tolls</b>
1	What factors are important in determining the level of tolls?
2	How should the Government be influencing the setting of tolls?
3	What improvements would you like to see in the way road tolls are set?
4	Do you believe the tolls across the motorway network should pay for upgrades to the network (e.g. an increase of 5c/km distance charge for a widening to the M2)?

<b>C</b>	<b>Competition and regulation</b>
1	How do you think competition could influence road tolls and the efficiency of service performance by providers?
2	What scope is there to increase the influence of competition in the tolling industry?
3	Should tolls on existing motorways or on future motorways be subject to on-going independent prices oversight, say by IPART (Independent Pricing and Regulatory Tribunal)? If so, how?

<b>C</b>	<b>Criteria for assessing tolls - efficiency</b>
Pricing options	
1	Should tolls be set on a network basis? What are the pros and cons of doing this rather than setting tolls for individual parts of the motorway network as is now the case?
2	Should tolls should vary according to traffic flow e.g. higher in peak periods and lower in off peak periods?
3	Should tolls be set on a per kilometre basis, with or without a fixed access charge?
4	Should tolls be set having regard to levels of congestion on the wider road network (i.e. including non-motorway) roads?
5	<p><b>Cordon</b></p> <p>A CBD zone could potentially improve the local road network in the CBD with less cars, faster travel times, greater use of public transport, and a more pedestrian friendly environment.</p> <p>Do you think a CBD zone or other cordon zone pricing area would be desirable and/or feasible in Sydney?</p> <p>Are there other things that government could do to better achieve the desired outcomes of reducing congestion in particular areas?</p>
6	What tolling arrangements should apply to trucks on motorways?

<b>C</b>	<b>Criteria for assessing tolls - efficiency</b>
Other pricing considerations	
7	Should vehicle emissions be considered in setting road tolls?
8	<p><b>Road user pricing</b></p> <p>There is an emerging view that road user pricing will need to be introduced across Australia, to replace the reducing revenue from a reducing fuel excise tax, due to the increasing uptake of hybrids and fully electric vehicles.</p> <p>What implications, if any, do you see this having on for motorway tolls and how should this Review respond to the issue?</p>

<b>D</b>	<b>Heavy vehicles</b>
1	<p>Heavy vehicles create more wear and tear on the roads and contribute to congestion with light vehicles.</p> <p>Do current toll multipliers for trucks accurately reflect vehicle capacity in relation to wear and tear per tonne of freight moved?</p>
2	Do current toll multipliers provide sufficient incentive for the use of more productive vehicles?
3	Are there sufficient incentives/requirements for heavy vehicles to use the motorways rather than the non-motorway network, eg for safer, more sustainable and productive outcomes?
4	Is there scope to improve road use efficiency by modifying non-toll restrictions on the use of trucks?

<b>E</b>	<b>Public transport</b>
1	What interrelationships can be identified between tolls and public transport?
2	Should buses be treated the same as trucks when determining what they are tolled?

<b>F</b>	<b>Criteria for assessing tolls - simplicity</b>
1	Currently tolls are expressed in a number of different ways e.g. fixed amounts, distance (per kilometre) based, distance based with a fixed (access) component. Does it matter that this variation exists?

G	Criteria for assessing tolls - fairness
1	Is it appropriate that users pay road tolls?
2	Are road tolls value for money? Why, or why not?
3	Are road tolls fair for all motorists? Could they be made fairer? If so, how?
4	Should the Government provide a subsidy to enable cheaper tolls?
5	<b>Toll relief</b> Temporary toll relief measures are expected to be in place for the next two years. If toll relief is to continue to be made available directly to motorists, should it be means tested?
6	Could toll relief measures be removed if tolls were set differently to now?
7	How can it be ensured that the benefit toll operators receive from increased traffic as a result of toll relief paid by Government is passed back to the community?
8	Can the collection of tolls be improved by consolidating notices and other measures?

H	Criteria for assessing tolls – transparency
1	To what extent does the level of the tolls influence the use of a motorways?
2	What information would assist you make better decisions as to whether to use a toll road?

# 6 Public hearings

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The review will be undertaking face to face consultations with interested parties throughout the course of the Review.

However, it has also allocated three days for public hearings where there will be an opportunity for more people and organisations to directly put their views to Prof Fels and Dr Cousins.

The hearings will be informal in nature. At this stage, Prof Fels and Dr Cousins are wanting more to identify and understand issues rather than have detailed discussions about proposed remedies.

The hearings will provide an opportunity for Government agencies and industry providers as well as users to provide information/views relevant to the review's terms of reference.

Invitations to attend and present will be issued to key stakeholders.

Provision will be made for confidential sessions where parties request this. However, the Review would like to see as much information as possible made public, given the desire for openness and a public process.

A transcript of the hearings will be taken to assist the review and be made available after the hearings.

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## 6.1 Hearings times and locations

The public hearings will occur from 11-13 July 2023 in Sydney CBD, Parramatta and Penrith. For more details on the public hearings, check the [NSW Toll Review website](https://www.treasury.nsw.gov.au/toll-review) (<https://www.treasury.nsw.gov.au/toll-review>).

Persons and organisations wishing to provide information and views at a public consultation should contact the review team through the [Toll Review Have Your Say portal](https://www.nsw.gov.au/have-your-say/toll-review) (<https://www.nsw.gov.au/have-your-say/toll-review>) in advance to ensure they can be accommodated. It may be necessary for the review to allocate people to the limited number of places that can be accommodated.

Persons wishing just to attend the consultations as observers should register with staff through the [Toll Review Have Your Say portal](https://www.nsw.gov.au/have-your-say/toll-review) (<https://www.nsw.gov.au/have-your-say/toll-review>) in advance of the consultations.

# 7 Appendix A: Terms of Reference

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On 8 May 2023, the NSW Government released the Terms of Reference of the Toll Review. They are included below in full.

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## 7.1 Background on tolls

Tolls in New South Wales are a form of motorway pricing which apply a ‘user-pays’ model, whereby the cost of providing motorway capacity and connectivity can be recovered from the road users that benefit from its usage.

In addition to building infrastructure, this form of motorway pricing has a role in managing traffic flow and utilisation of the motorway and broader road network to minimise delays, congestion, and accidents.

The evolution of tolling arrangements in New South Wales has largely been on a case-by-case basis as new toll roads have been commissioned. While there is a set of ‘NSW Tolling Principles’ that guides the toll setting process, the current arrangements do not reflect a system-wide approach and incorporate many different charging mechanisms (i.e. different escalation rates, point versus distance, time of day versus fixed, variations in price per unit of distance or time saved, and different vehicle classification definitions).

As a result of this historical approach to tolling arrangements across the State, the following factors have been identified for consideration as part of this Review:

1. Optimising the road network to minimise congestion impacts, maximise the benefits of travel time savings and identify opportunities to reduce overall operating costs.
2. Cost of living impacts, fairness and equity for the users of NSW toll roads, particularly for regular commuters without viable public transport alternatives.
3. Inconsistencies embedded in the different arrangements leading to customer confusion.

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## 7.2 Toll Review

### 7.2.1 Lead of the Toll Review

On 12 February 2023 the Labor Party committed to independent oversight of the review of road tolls and toll relief if it was successful at the NSW Election.

‘A Minns Labor Government will also appoint Professor Allan Fels AO, former chairman of the Australian Competition & Consumer Commission (ACCC), to lead an overhaul of the toll network.

Professor Fels’ overhaul would:

- immediately take charge of the current Treasury and Transport review of tolls
- be responsible for negotiating with tolling operators to drive a good deal for motorists; and
- be tasked with looking at long term reform options to overhaul the tolling system in NSW including but not limited to potential competition in toll contracts, moving freight on toll roads at night, the intersection of public transport and toll roads, long term concessions, what other jurisdictions are doing and compliance with toll contracts.

Under Labor the review and recommendations will be made public, it will be open to submissions and will consult with the transport sector and the toll paying public.<sup>15</sup>

Professor Allan Fels AO, former chairman of the Australian Competition & Consumer Commission (ACCC), and Dr David Cousins AM, former Chair of the Prices Surveillance Authority and Director of Consumer Affairs Victoria, have been commissioned by the NSW Government to lead an ‘overhaul of the toll network’ – a significant policy review into motorway pricing reform across New South Wales.

Professor Fels will be the independent Chair and Dr Cousins the Deputy Chair of a cross-agency Project Steering Committee, with representatives from NSW Treasury, Transport for NSW and the Cabinet Office.

The Review will be open to submissions from the transport sector and the toll paying public, with a final report released to the public.

Upon release of the final report by Professor Fels and Dr Cousins, Cabinet will consider its recommendations.

## **7.2.2 Terms of Reference of the Toll Review**

The Review will examine the basis for setting motorway tolls in Sydney and the impact of toll relief measures.

Specifically, the Review will consider the appropriate structure and level of tolls for the future having regard to their efficiency, fairness, simplicity and transparency, the historical concession agreements with providers, and the interface with all modes of transport.

It will take into account the extent to which tolls should reflect the capital and operating costs of road provision, the impact different users have on road sustainability, and the use of roads throughout the day.

Toll relief measures help to ensure the affordability of tolls for motorists. The Review will consider the appropriate targeting of relief, fairness for the whole community in funding relief, and how to ensure the community rather than toll road owners benefit from toll relief measures.

Tolls need to be readily understandable, simple to pay by motorists and administratively efficient to collect.

The Review will consider the scope for competition and regulation to influence road tolls and the efficiency of service performance by providers.

## **7.2.3 Specific activities**

Specific activities will include but not be limited to:

1. Considering the work completed to date by NSW Treasury and Transport for NSW in reviewing the tolling arrangements across New South Wales, to determine if it aligns with the Government’s Toll Review priorities.
2. Consulting with the transport sector and toll paying public. Key milestones underpinning this include:
  - the release of a public discussion paper in Q2 2023
  - holding public hearings in early Q3 2023
  - seeking submissions from community and industry stakeholders

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<sup>15</sup> Chris Minns MP NSW Labor Leader and John Graham MLC NSW Deputy Leader of the Opposition in the Legislative Council NSW Shadow Minister for Roads, ‘More and Better Toll Relief for NSW Drivers’, media release 12 February 2023.

3. Releasing public papers or reports which will inform the public of potential options and pathways for toll reform.
4. Working collaboratively with toll road owners to develop an implementation pathway for any proposed changes to the toll road network.



## 8 Appendix B: Glossary

Term	Description
<b>Administration Fee &amp; Charges</b>	Administration fees and charges are levied by toll operators, in addition to the core tolls charged, for various reasons relating to the operation and enforcement of tolls.  Administration fees can be segmented into enforcement and tolling fees.
<b>Concessionaire</b>	The holder of a toll road concession, which grants said holder the right to operate, maintain, and (in particular circumstances) build and finance a motorway for a set term or period of time, before returning the motorway back to the government entity in the required condition. In return for said services, the concessionaire may collect tolls on a contractually agreed basis.
<b>Distance-based toll</b>	The toll calculated based on the distance travelled on the motorway.
<b>Enforcement Fees</b>	Enforcement fees are fees related to the levying and imposition of unpaid tolls.
<b>Flat rate or fixed toll</b>	Traditional tolling method where there is a fixed toll for use of the motorway, regardless of the distance of time travelled.
<b>Government Information (Public Access) Act 2009 (GIPA Act)</b>	The GIPA Act sets out the rules for how the public can access government information held by the public sector agencies of New South Wales.
<b>HV Multiplier</b> (Heavy Vehicle Multiplier)	Heavy Vehicle multipliers are a pricing multiplier imposed on those vehicles that exceed Class A vehicle definitions (i.e. greater than 2.8 metres in height and greater than 12.5 metres in length) when travelling currently on toll roads – typically 3x under current tolling schemes.
<b>LV</b> (Light Vehicle)	A light vehicle is any vehicle that is defined within Transport for NSW's Class A vehicle classification (i.e. 2.8 metres or less in height and 12.5 metres or less in length).
<b>Means-tested</b>	Means-tested relief is financial support, with eligibility given to individuals or households under specific income/asset levels.
<b>Motorway network</b>	A motorway is a distinct type of road that has a pure mobility function with no access function; motorways provide for major regional and inter-regional traffic movement.  A motorway network is a stretch of connected motorways.  Sydney's motorway network is made up of approximately 179 km of roads, comprising both tolled (80 per cent) and untolled roads, connecting various localities across Sydney.
<b>Peak/Off-Peak Pricing</b>	A form of variable toll pricing, which raises or lowers prices during period of high and low demand respectively.

<b>Term</b>	<b>Description</b>
<b>SHCs</b> (Sydney Harbour Crossings)	A term used to collectively refer to the Sydney Harbour Tunnel (SHT), the Sydney Harbour Bridge (SHB) and Western Harbour Tunnel (WHT).
<b>Tag</b>	A form of toll collection which relies on an electronic tag mounted within vehicles, currently utilised throughout New South Wales.
<b>Transport for NSW</b>	Transport for NSW is the leading transport and roads agency throughout New South Wales.
<b>Toll Relief Rebate Scheme</b>	A relief scheme by which toll users are refunded a portion of their tolls paid within a financial year (i.e. for 2023 it is set at a 40 per cent rebate of up to \$750 if users spend more than \$375 per financial year).
<b>Toll Road Network</b>	The network of tolled roads across Greater Sydney, either current or future.
<b>Toll Road Operator</b>	The entities responsible for operational maintenance of toll roads.
<b>Tolling Fees</b>	Tolling fees, is a term used to describe the various associated fees levied by toll road operators relating to the administration of providing toll services (i.e. video matching fees, service fees and dishonour fees).
<b>Variable time of day tolling</b>	The toll is calculated based on the time of travel.
<b>WestConnex</b>	A predominantly underground motorway consisting of M4, M5 South West, M5 East, M8 and M4-M8 link.
<b>Zonal Pricing</b>	Pricing which geographically varies the tolling charge of a toll road by zone (i.e. Northern, Eastern).

## Disclaimer

This paper has been prepared by Professor Allan Fels AO and Dr David Cousins AM for the purpose of seeking feedback from the public, as part of the independent Toll Review commissioned by the NSW Government.

Professor Allan Fels AO, Dr David Cousins AM and the NSW Government do not guarantee or warrant, and accept no legal liability whatsoever arising from or connected to, the accuracy, reliability, currency or completeness of any material contained in this paper.

Readers of this paper will be responsible for making their own assessment of the material and should make their own inquiries and rely on their own advice when making decisions related to material contained in this paper.

This paper does not represent and is not indicative of recommendations that may be presented to the NSW Government and does not represent approved policy directions of the former or current NSW Government.