

New road tollways in Australia – If indeed a rort or scam, who, how and why so?

- An inquiry by Dr. Cameron Richards

Abstract: Australian governments appear to be in the process of succumbing to efforts of persuasion by the Transurban corporation to adopt a so-called user pays ‘road pricing’ scheme on all public roads in the future (i.e. that people might need to pay to drive just down the road to the shops or a school, and not just on the existing tollways). We investigate here how this proposal for ubiquitous electronic toll roads – to be facilitated of course solely by Transurban for profit - would also seem to be the culmination of a cynical, opportunistic and often counter-productive process. This is also how, encouraged and supported by an uncritically naïve and generally reckless governmental strategy of market-led public-private investment and public asset privatisation in Queensland as well as elsewhere in Australia in recent times, Transurban emerged as a manipulating and all devouring as well as opportunistic ‘mega-monopoly’ ruthlessly seeking to take over, own or at least control, and endlessly profiteer from perhaps the most pivotal domain of public infrastructure assets (public roads). With a particular personal as well policy focus on Transurban’s recent takeover of the South-East Queensland tollway network as a model also for Sydney, Melbourne and beyond, the paper also explores the nature of various claims at both the macro and micro level that this all constitutes a rip-off, a sting, a rort, and/or a scam (i.e. various and inter-related inappropriate ‘conflicts of interest’) that needs to be challenged as a convergent *corporate-governmental-bureaucratic* refusal as well as failure of overall accountability at every level.

Keywords: road toll scam; corporate gouging; public-private partnerships; public assets and interests; corporate monopolies vs. corporate social responsibility; accountable governance

Introduction: Encountering the Queensland toll roads ‘scam’

A scam – “a dishonest way to make money by deceiving people” (Merriam Webster definition)

After recently graduating from university in Townsville with a large HECS debt my son Bill came to Brisbane to look for work in a very difficult job market. Only able to land a casual job on the north side of Brisbane initially, he got a Govia account with related digital Tag administered by Transurban so he could go to work via the Gateway Bridge. However, after just a few weeks his Govia Tag and thus account stopped working without him being aware of this. By the time Transurban customer service really went to any trouble to contact him about this more than five months later, he had (a) gone over the Gateway 38 times without his Govia account processing this, and (b) although only about \$175 in direct tolling fees it had become a debt of around \$12000 with penalties converted into Queensland (Qld) Department of Transport infringements and a convergent process of threats and intimidation without any prior notification or warning. And then, as I discuss below, instead of being provided any real options to contest this he was threatened with the loss of his licence and his car by predatory and aggressive debt collectors operating as part of an apparent agreement between the government and Transurban. This was in the context of how the Qld government had simply given Transurban a monopoly on toll roads in South-East Queensland from 2015 (Lynch, 25/4/2014) as part of its controversial sell-off of public assets strategy. No wonder that like many other Queenslanders in the same boat (as I soon discovered), he became very angry and depressed as well as stressed – not just about the unfairness of the initial penalty debt but by the

disingenuous, evasive and clearly money-gouging behaviours and practices by Transport agencies as well as by Transurban customer service (e.g. McKinnell, 28/7/2016; Preiss, 14/2/2017).

Over the next twelve months I had extensive dealings with so-called public servants (or bureaucrats) in the State Penalties Enforcement Registry (SPER), the Qld Tolling Offence Unit (TOU), senior Qld Main Roads and Transport bureaucrats, the so-called Tolling Ombudsman and also the Transurban/Govia customer service as I tried to assist my son to challenge this. While this was all going on as discussed below, my online searches revealed that disingenuous toll-gouging, refusals of due process and denials of natural justice were increasingly, regularly, and often inadvertently or innocently happening to many other ordinary Queenslanders – as the epicentre of similar exclusive deals or arrangements also in Sydney, Melbourne and elsewhere. Many of these stories about how other Queenslanders have been similarly impacted are pictured on dedicated websites such as www.Goviacomplaints.com as well as other social media – where I noted that many people spontaneously were referring to this tolling regime as a rip-off, a sting, a rort and/or a scam, etc.

A report for 2016 (e.g. Guillem 22/1/2017) noted that toll fines were the main \$250 million focus of ballooning SPER debts of more than \$1 billion which have caught out many Queenslanders unable to pay as well those refusing to pay more as a matter of principle than a case of real evasion. This has led to recent big brother moves by governments to accelerate and automatize the process of dispossessing people of their cars and related actions (e.g. ABC 22/5/2016) so often without proper due process or fairness (e.g. Caldwell 1/5/2014). Following on from local exposes about this in special Channel 9 and 7 news reports (e.g. <http://www.9news.com.au/.../toll-debt-for-queensland-motorist...> - Cf also Hogan, 19/10/2015). A recent *A Current Affair* special edition about this was headlined as both the ‘great toll sting’ and the ‘toll rort’ <https://www.9now.com.au/.../20.../clip-cisjf9f6m00150hmvqc7oo2u9>. It is further estimated that more than a billion dollars of unfair charging or penalties were involved as Transurban are increasingly allowed to take over toll roads around Australia. As we discuss below, more recent reports indicate this could be the first step in a process by which more and more or even most roads (i.e. you may soon have to pay to drive down the road to go to your local supermarket and even drop your kids off at school) will increasingly become ‘user-pays’ and have tolls administered in agreements between Transurban and Australian state Transport bureaucracies (i.e. you may soon have to pay to drive down the road to the shops or take your family out for a weekend drive) (e.g. Preiss, 9/9/2016).

However, as alarming as many of these reports were, the only thing which seemed to be clear was that these hasty public infrastructure sell-off agreements by debt-strapped governments carelessly looking for quick but necessarily sustainable ‘fixes’ had all come about in world-class negative, self-defeating and counter-productive fashion (e.g. Hannigan, n.d.). As Millar & Schneiders (14/5/2016) put it in their excellent if narrower inquiry into the emergence of ‘Transurban: the making of a monster’ from the origins of an initial Melbourne Citylinks agreement: “It is difficult to imagine any other country where Transurban-like dominance would be allowed over something as important, and lucrative, as major city motorways”. But my own inquiries indicated that even this report (like the others) tended to barely scratch the surface when it came to questions of who was responsible, and the exact nature of the subsequent government-Transurban agreements and ongoing relationships also at the micro level of the kinds of systematic obstruction (i.e. denial of due process and natural justice) as well as money-gouging evidenced in the case of my son and so many similar stories.

So in the sections below we not only explore the larger question of whether it might be appropriate to talk about a general or overall ‘toll scam’ but how so exactly as a massive failure of accountability – not just by Transurban but also by concerned governments and particular politicians and

bureaucrats involved in the process. In contrast to some previous otherwise useful reports, our inquiry will investigate both a micro level failure of accountability by both public servants and Transurban customer service on one hand, and on the other how this is an exemplary consequence of the macro ‘scam’ of the kind of what are really scandalous sell-outs and agreements against the public interest in Australia. As pointed out by the very person who okayed the initial Citylinks toll agreement, Jeff Kennett: “Money, instead of going to government [for new roads as well as to maintain existing infrastructure], is going to the private sector; that is a total waste” (as quoted by Millar & Schneiders - our parentheses). That is, few members of the public are aware of the extent of how little of all toll fees paid actually goes into public roads, whilst Transurban make massive cash profits and extends its road ownership and control (Myer, 11/2/2016). This is so even with clearly little real interest except for profit-making in (as Millar & Schneiders suggest, often with some antagonism towards) better and additional options involving more sustainable transport and indeed city planning for the future.

An exemplary micro ‘toll scam’ focus: How even genuine ‘toll non-payment’ complaints or appeals are now being systematically ignored, obstructed and/or denied as a result of a secretive, ill-advised, and simply reprehensible Qld Transport-Transurban ‘deal’

“The idea of forcing motorists to submit to electronic tolling instead of paying cash at toll booths is not mainly to save money and time, as the government and toll road operators would like you to believe. It is a very carefully crafted technique of social engineering that seems to be working, fooling most motorists and lulling them into a state of complacency while they are getting ripped off royally.” – CARR (n.d.)

At the heart of the various issues and concerns raised by the many valid complaints about ‘cashless’ electronic road toll implementation (Copeland, 7/28/2008), toll money-gouging, and related arrangements with relevant government agencies is how the new system automatically treats any of the related myriad genuine challenges of digital processing and payment (resulting from the loss of a manual toll payment option) as acts of *intentional evasion* when mostly they are not. This was actually the justification put to us regularly by both Transport and Transurban’s Govia ‘customer service’ people we regularly dealt with for over a twelve-month period as the basic rationale for obstructing due process procedures, denying natural justice principles, and simply refusing outright to provide any related policy or procedure explanation beyond this.

It is common sense that any move from manual tolls (where ‘toll evasion’ as such is generally clear-cut) to cashless, automated electronic toll collection will result in many inadvertent non-payments which are clearly not wilful ‘evasions’ or violations (e.g. WSTC 20/9/2006). This includes cases such as my son’s where toll payment devices or tags are not working without people being aware of this. There are also many people who are not even aware there are tolls in place in the first place (suffering what some call ‘cashless confusion’) before receiving a letter of demand or related infringement notice in the mail. But perhaps a key cause of avoidable penalties is how both Transurban and Qld Transport more refuse rather than fail to recognise or adjust procedures for an increasingly mobile society where especially younger people (often new drivers) are often moving addresses and do not receive letters posted out. Together with the arbitrary three-day cut-off date for toll payments set by Govia (apparently approved by Qld Transport), this appears to be tantamount to wilful designs for quite predictable yet largely avoidable gouging of additional fees. In our direct experience it appears to be a joint plan to entrap people for not only inadvertent non-

payment of tolls but also the even more burdensome related infringement penalties (e.g. ABC 22/5/2016).

As we also learnt from first-hand experience of my son's case where a technical issue led to multiple 'non-payments' (which Govia automatically calls evasions) and ultimately a \$12000 debt, this was also the disingenuous rationale to justify both (a) the extensive Transurban 'penalty administration fees' (i.e. in similar fashion to the 'video matching fee' and 'retail service fee' added to every toll quickly amounting to big profits, how multiples of an 'unpaid' \$4 toll can also incur additional multiple fees including a \$28 or so 'administration fee' and then related infringement penalties of several hundred dollars each) and (b) Transport's position that genuine and even successful appeals about initial 'evasions' as well as related and resulting 'infringements' could not ultimately or be challenged on any basis on one hand; and on the other hand (c) their mutual and convergent denial of any appropriate or effective basis to challenge either unfair penalties or a generally unfair situation. As Michael Fraser (4/3/2015) has reported about the issuing of both toll penalties and related traffic infringements "a whistleblower has told us that unless anything is contested very strongly they will fight you and deny you compensation [etc].".

As we discuss below, this is entirely consistent with our own now extensive experience in these matters. In this section we summarise our extensive of dealing with both Transurban customer service and corresponding government agencies such as the Tolling Offence Unit (TOU) drawn out and reinforced by literally hundreds of emails, phone calls and also the interesting events which followed a visit to Transurban's secretive headquarters in Brisbane. In this way we came to understand how the Government-Transurban agreement goes well beyond how "the government gazettes the fees and charges and stipulates the rules Transurban operate under" as Michael Fraser also points out in the same article.

On or about July 15, 2015, my son Bill Richards contacted Govia customer service (which we later realised is actually Transurban) after receiving retrospective demand notices that had also been converted into Transport infringements as well as an extensive range of penalty charges. These related to the 38 times he went across Gateway Bridge over the next few months after his automated Govia Tag account had stopped working without him being aware of it (and no real further effort to contact him in those subsequent months). In this initial exchange, Bill informed the Govia/Transurban customer service representative (who freely admitted that they were part of a Philippines call-centre - Passmore, 11/3/2015) that he wanted to challenge or appeal this as he was not aware that his automated payment account had stopped working, and had never been informed there was a problem in the five months since (they now told him) it had first stopped working. In short, the call centre rep responded that there were no avenues to appeal through Govia/Transurban and that he would need to take the matter to the Tolling Ombudsman if he wanted to challenge this. After an online query to Transurban about a review of his complaint, Bill received a call the following week (on or about the 22nd July) from a customer representative who identified herself from their 'back office'. She told Bill that the matter had now been passed on to a debt collection service (Dun & Bradstreet Pty Ltd) and that he had no choice but to pay up. When he reiterated his wish to appeal the matter and also indicated that as a new graduate with only occasional work he had no money to pay this, she replied by saying that he had no other option, that he would have his credit rating suspended, and that he would likely lose his driving license also and possibly his car.

At this time, after being made aware that over two-thirds of the \$12000 or so debt from about \$175 in unpaid tolls was actually owed to the Government (with SPER admitting to us they also cooperated with Transurban on debt collector arrangements), we also turned our attention to making an appeal about this part of the overall unpaid toll debt. After Bill was given the run-around by an anonymous rep (in uncannily similar fashion to Transurban's overseas call center reps), I personally rang up and was initially lucky to find someone apparently helpful in the TOU. After looking into the matter, they advised that it seemed to be a reasonable and genuine case which could be supported by evidence provided. They told us that if we would just provide by email a statutory declaration to confirm in writing a couple of key details then all the related Transport infringements would be fully waived. However, after we provided this requested declaration (email to - 23/10/2015), and well after the fifteen-day email response turn around assured by TOU, we then received a message from someone else at TOU to say that the case would not be waived as promised. No real explanation involving any specific detail was provided, and there was only silence about this when we pointed out in follow-up communications that we had been provided an earlier 'full waiver' assurance.

After further emails and phone calls to TOU representatives who would only give a first name if pressed and refused to take on individual responsible to follow-up (as well as being distant, evasive and disingenuous, their modus operandi to also refuse to nominate any one with overall responsibility), they retrospectively justified their position on the demonstrably inappropriate and inaccurate basis about the Vodafone evidence provided. This was that Bill would not have received the one SMS text message warning Transurban claimed was sent out on 22nd January because he could prove he had switched from prepaid to postpaid accounts the day before when the capacity to receive messages is suspended for days. This also ignored how although Transurban had his full details they had failed to call his phone number or post to his address until many months later demonstrating clearly inadequate procedures that were arguably a case of designed entrapment and more 'customer avoidance' than 'customer support'. When we immediately followed up with an additional Vodafone statement confirming that the TOU had made a legally indefensible judgement they again simply ignored this and refused to review, explain or even defend their thus indefensible decision. And to my repeated requests (by emails which I am happy to share as well as by phone) for them to clarify their policy and procedures for fair or legitimate appeals and complaints, they just persisted in refusing to do so and intentionally and therefore dishonestly ignoring these requests.

We seemed to be completely snookered except that in a further conversation with a SPER representative in October 2015 we were (a) assured that if a Transurban appeal was successful then all the related infringements would be automatically waived (as documented at the time) and (b) also their similar advice to the Transurban reps that our only option was to appeal to the Tolling Ombudsman. However, after then also reading on the Transurban website about the 'small print' option of requesting an internal appeal we then rang their Manila-based customer service again to be told that we would need to speak to their 'back office'. For several weeks calls to the phone number provided for this were never answered, so we tried their online form (where someone emails back after a couple of days). We then had another slow and unhelpful (i.e. intentional 'run-around') exchange with someone who identified themselves as Jason - who kept promising to arrange to call us to clarify the details of our case and complaint, but never did. After it was clear that we could not catch him 'in the office' and that he would never call back, we used the online form option to try and appeal this which lead to similar online communications with several other back room reps (Paul, Gillian and James) who also gave us a similar and recurring run around experience.

The situation completely and dramatically changed after I was able to track down the apparent location for the Govia customer service at the Transurban corporate office at Eight Mile Plains. This was after finding out that a Murarrie centre had closed down the previous year (Passmore, 11/3/2015) and that an apparently current Heathwood centre was really a non-existent address on online maps pointing to the middle of a tollway overpass road. My query about speaking to Govia customer service reps at the Transurban front desk was cause for security guards to immediately come out and listen in on my query in intimidating fashion. After being told by the front desk person that Govia reps did not work in the building but only existed 'virtually' I was assured that if I left a contact phone number someone would call me. In reply I told them that I had had many such assurances for many months now and no-one from their back office had ever called me back as promised. I agreed to their request for me to leave and provide a contact phone number for someone to call back – on the clear mutual understanding that I would physically come back every week to follow up on this until someone did call back.

Within a couple of days I received a call back from the rep Gillian who now introduced herself as Gillian Potter. In her phone call she said that she had been authorised to acknowledge the genuine claim, to unconditionally give a 'heartfelt apology' for the 'unprofessional' and 'clearly inappropriate' earlier responses' to a valid complaint and appeal. She also agreed to wipe out existing claims as well as reimburse my son for all the penalties and fees that had been the cause of debt collector harassment. This subsequently did happen. She also assured me that Govia had taken note of and would address the inadequate policies, procedural failures and related concerns that I had raised in relation to my son's case. I then received a follow up email that day (16/3/2016) from Ms. Potter using (for the first and only time in all my dealings with anyone in this matter) her individual work email account generally confirming all this. I had mentioned that SPER had assured us that all the related infringements would be waived when Govia either directly notified them or at least provided us with a confirmation of this. But Ms. Potter had then replied that this was 'not part of their agreement with Qld Transport' refusing to elaborate any further. So the next day I emailed a formal request for either option only to receive an email message on the 21st April which set out a formal refusal to either inform SPER and TOU of the upholding of our claim or to provide any additional confirmation letter or message which could be used as part of our mentioned plans to appeal the related infringements. After challenging this and getting no more responses from Ms. Potter, I was eventually emailed by team leader James Newton on the 20th July which definitively confirmed that his office would not provide 'any further assistance' because of their agreement with Department of Transport agencies.

With Ms. Potter's email confirmation of a successful Govia appeal we then contacted SPER again. They informed us that they were only the 'collection agency' with an *administrative* function only, and that only TOU had any *executive* authority to deal with appeals and waivers – so that we would need them to process the confirmation of a successful appeal on the multiple initial penalties as a basis for a waiver of related infringements. With some trepidation after our earlier dealings with TOU, we went ahead with the further appeal. In this we included the Govia confirmation of a successful appeal as well as the additional Vodafone evidence which should have been sufficient to uphold the initial promise of a waiver and override any pretext for refusing to honor this. We subsequently received an email response from a Kirsty Poole, finally identifying herself as the head of TOU (i.e. the hidden person in a number of previous communications). In this she applied what we were to further discover was a cookie-cutter template of arbitrary appeal refusal without reason and without any evidence or detail at all to indicate they had even looked at any of the irrefutable evidence or compelling grounds provided. In short, she just rejected our appeal out of hand with no

explanation given. Over the last six months of 2016 we made further complaints and appeals which were passed up the chain of Qld Transport until we got to the apparent top. We received almost identical letters from three apparently more senior members of the Qld Transport hierarchy including Darren Minehan, Heather Haywood, and the general manager himself of Qld Transport's Customer Services Geoffrey Magoffin. Mr. Magoffin also indicated that his conclusively definitive response - also showing an apparent intent to dissuade and intimidate (email from – 29/9/2016) - was additionally authorised as a response also to a separate complaint made directly to the Qld Minister for Main Roads Mark Bailey who had promised to follow it up. Mark Bailey had been on the record when interviewed as part of the Channel 9 News toll debt scandal 'expose' as wanting to get to the bottom of this and address the problem.

Michael Fraser had informed me that in an interview he personally conducted with her, Kirsty Poole had claimed that TOU was just a collection agency with no real say on genuine complaints. So I did further point out to Ms. Poole by email that her apparent disingenuity (i.e. that TOU clearly had the executive function whilst it was SPER which was Transport's 'collection agency') was clearly a breathtaking dishonest misrepresentation – a 'Laurel and Hardy' effort of apparent Transport whitewash (email to – 19/9/2016). We also pointed out to Mr. Magoffin (e.g. email to – 25/10/2016) that the convergent Transport-government claim that "Govia NODS are simply not related to Transport PINS" was clearly unfair, highly inappropriate and likely illegal. This was in addition to being simply indefensible, arrogantly dismissive, and demonstrating a complete lack of both accountability and transparency - which is why it appeared that Kirsty Poole and the others had sought to just ignore and whitewash our specific complaints about this. In other words, of course it should have been legally as well as ethically inappropriate and even quite self-evident that if an original offense was upheld by an appeal and denied/cancelled or waived as well as recognised to be demonstrably unfair or inappropriate, then so should any related or subsequent infringements issued by Qld Transport agencies. However, we also conceded that he had at least assisted with possibly a proposed new verb in the English language – *to magoffin someone*: that is, to bureaucratically discourage or deny perfectly reasonable inquiries and legitimate concerns, especially those related to transport or 'main roads' matters.

We earlier mentioned how Qld Transport as well as Transurban reps had regularly advised us that our only real option was to appeal to the Tolling Customer Ombudsman (TCO). We therefore had proceeded earlier in the year with a very detailed and compelling appeal (email to - 9/2/2016) to TCO solicitor Michael Arnold who on his website and in relation to the initial email query had guaranteed to provide independent judgments which would be 'binding on toll operators'. In relation to the initial complaint and a series of follow-up emails over almost six months, Mr. Arnold kept simply 'flicking on' every communication to Transurban to look at with usually no additional comment (and not appearing to ever get a response from them). Each and every time there was never any real indication that he had ever looked at either any supporting detail or the overall case of the complaint and repeated promises of some eventual judgement which never came. At this stage, as well as repeated similar online complaints about him, I also came across claims that he was a Transurban 'stool pigeon' and 'fraud' actually paid by Transurban to (a) give people with genuine grievances the 'run around' without acting, and (b) make people think he was the only independent help available who would genuinely review cases which would then be independently binding on Transurban.

A bit of further research confirmed that he was originally appointed as the Transurban Tolling Customer Ombudsman in September 2006, had an alternative email address tombudsman@transurban.com, and had continued after a name change to still be employed by

Transurban for his clearly disingenuous ‘services’. I also discovered that this function was also set up by another Transurban officer Jean Ker Walsh (Arnold, 28/2/2013) who had both earlier and later worked for the Victorian government as a political media adviser or ‘spin doctor’ (e.g. Lucas, 7/1/2010). This apparent government-corporate conflict of interest was also replicated by Edward Byden (as well as quite a few others), who had worked as Legal Counsel for Transurban and had later moved on to a key position with Public Transport in Victoria. In such ways the suggestions of a micro version of the toll scam kept increasingly pointing to a macro version centered around inherent conflicts of interest in government-Transport agreements – agreements or ‘deal’ which also appeared to completely be against or in contempt of the real, sustainable, and future public interest of Australian communities.

Macro ‘toll scam’ issues: The link between non-sustainable government-corporate deals on infrastructure ‘sell-offs’ and the slippery slope of wholesale accountability failure

Transurban is a massive machine that feeds in concrete, tar and motor vehicles at one end and spits out money at the other. The more Australians drive, the more profitable it becomes. - Myer (11/2/2016)

Even Jeff Kennett, the man who in effect launched Transurban through its Melbourne CityLink contract in 1996, now warns governments against granting the company more toll road projects, arguing that taxpayers are being “ripped off”. “Transurban people must be laughing absolutely underwater,” Mr Kennett said. “They are a very successful company, they have been very clever in using their intellectual property and powers of persuasion to pull the wool right over the eyes of the government.” – Millar & Schneiders (The Age, 14/5/2016)

Our interest was only ever [owning and controlling] the road network, and the cash – a former Transurban insider quoted by Schneiders & Millar (SMH, 14/5/2016)

The typical bureaucratic abuses of ‘power without responsibility’ (e.g. Scoenbrod, 2008) seem to have worsened along with ever-increasing governmental policy paralysis since the Global Financial Crash a decade or so ago now. In Australia as elsewhere, this appears to also be reflected by a series of hasty and ultimately non-sustainable as well as counter-productive quick-fix or reactionary decisions linked to the current road toll system in Queensland and other infrastructure sectors and related failures of support for local industries. Apart from the bureaucratic rationale for unfair and obstructionist treatments of ‘toll scam’ complaints, the ostensibly valid justification of lower-level Qld Transport ‘customer service’ agents seems to be as follows: they have been told by their superiors or otherwise acting on the ultimately dishonest and generally false assumption that they are really bringing in desperately needed funds for the government, and that the toll-based privatisation of Queensland roads (especially the deal with Transurban) ultimately benefits everyone as part of a needed *user-pays* economic model of ‘road pricing’.

But as such deals inevitably become exposed for refusals of accountability and as disasters of public interest, those at higher levels of relevant government bureaucracy more directly involved in the process appear to be regularly, intentionally, and disingenuously covering up for incompetence, bad judgment, and hastily careless or even desperately counter-productive decisions. In other words,

this might reasonably be construed as higher and greater levels of wilful complicity which on occasions clearly involves inappropriate conflicts of interest (i.e. a bureaucratic not public servant response) and may even involve outright corruption. Transurban employees in Govia customer service have no such illusion at all, and even when their own individual motivation is merely economic or work survival know full well that 'the deal' is really about corporate profiteering at the expense of the community as well as government. From a slightly different 'conflict of interest' angles, then, Transurban 'customer service along with Transport 'public servants' both seem to be acting as if personally threatened by every individual genuine appeal about unfair and even illegal penalties for non-payment of tolls (as an exemplary focus of challenges to secretive and unreasonable efforts to increasingly charge fees for people to drive on Queensland roads).

In this section we explore in more detail the who, how, and why of the larger macro scam as exemplified by how both Transurban and Transport agents thus tend to obstruct or discourage and even simply deny genuine complaints such as that of my son. We are on record as supporting constructive public-private cooperation where there is genuine corporate social responsibility committed to future sustainability in the wider social and public interest (Richards & Zen, 2016). So our reported conclusions here (i.e. that Transurban deals with Australian governments have tended to be dishonestly unfair, grossly non-sustainable and motivated by cynical profiteering with little or no interest in either real accountability or the greater public good) cannot be so easily dismissed out of hand also by those who are either naively blind or compromised by vested interests. Likewise, those who would challenge the rationale of our methods should take a closer look (e.g. Richards & Farrokhnia, 2016) – especially in relation to our associated interest in sustainable government policies linked directly to genuine 'win-win' practices as well as policies of corporate social responsibility (Richards, 2016; Richards & Padfield, 2016).

In Qld the emergence of a non-sustainable and ill-advised Transurban monopoly (and related privatisation of key Qld roads as tollways) involving various levels of government complicity can be traced back to the Anna Bligh government's 2009 'Renewing Queensland Plan' to sell off public assets (e.g. Hurst, 26/3/2012). The backlash to this post Global Financial Crash panic was such that both subsequent Labour and Liberal leaders in Qld have promised not to sell off any more public assets. This is despite how both continue to espouse 'market led' strategies to attract corporate and foreign investment – culminating in the current government's formal adoption of a Market-Led Proposals (MLP) framework. Whilst the push for privatisation of public infrastructure also took shape in other states and overseas, as Hurst points out it is quite widely recognised that this government made very hasty and ill-advised decisions often locking the community into non-sustainable as well as costly and unfair arrangements to sell of 'public assets' – including toll roads. After initially planning a direct sell-off of the government agency Queensland Motorways, the Bligh government then re-packaged this group of tollways (Gateway, Gateway Extension and Logan motorways, Legacy Way, the Go Between Bridge and the CLEM7 tunnel) as part of the Queensland Investment Corporation (QIC). The QIC then 'auctioned' off Qld Motorways (subsequently renamed Transurban Queensland) and sold it to a consortium managed by Transurban in 2014 by the next government (e.g. Lynch, 25/4/2014). The new Airport Link was later added at a bargain price (Passmore, 24/11/2015; Pash 24/11/2015).

The fate of the Logan tollway (which should have been fully paid off in 2018 after 30 years of toll payments) in particular exemplifies some of the key implications of the whole process (McKinnell, 28/7/2016). In late 2016 the current Qld government revealed that the Logan tollway had been extended to 2051 (Moore, 27/10/2016). The pretext for condemning Logan, Ipswich and Inala residents as well as anyone else wanting or needing to travel to or via a central area to the South of Brisbane to another 33 years of toll payments (i.e. 63 years not the original 30 years) was that the original agreement had not included upgrades (Wiggins, 23/11/2016). In 2011 when an upgrade project was completed, the Bligh government included this as part of the Queensland Motorways bundle that it put together under the aegis of the QIC. It includes a little-known or hidden clause not only linking any further toll increases to the Consumer Price Index (CPI) but extending the toll period for another 40 years. So when Qld Motorways was effectively sold off to Transurban in 2014 for just a fraction of its real value, they wanted more funding to cover upgrades to this motorway – since the government had to cover upgrades of the gateway arterial but not this section. In any case, Transurban even later convinced the government to allow them to be able to make increases beyond the CPI (Moore, 27/10/2016). And Transurban’s token CSR gesture of contributing to a community centre opposite the Logan tollway might be regarded as an offensive contradiction of its real corporate social responsibility responsibilities and general accountability.

So without re-negotiating but just simply accepting at face value the Transurban argument that it should be generously compensated, the Qld government allowed further price increases to cover further upgrades and thus additional windfall as well (e.g. Norris, 9/8/2016). This was deceptively rationalised as the first new major project initiative under the current Qld governments new ‘market-led’ strategy of such public-private deals (Duck, 23/11/2016). This was in addition to: (a) how the original \$140 million cost of this motorway contrasts with the estimate \$400 million a year which go in to the coffers of Transurban/Govia, and (b) how its similarly estimated that motorists have already paid a rough total of \$18 billion in tolls for both Logan and the Gateway bridge - projected as 45 times the original building costs (Hodges, 2017). So as well as clearly involving a very large amount of money over the next 30 years that will go mainly to Transurban, you can understand the ‘pain’ of all those who will need to keep paying with little or anything of this money really going into public infrastructure as many think. (e.g. Gould, 1/12/2016). And it appears that users of the Logan and other tollways in Qld will not just have to pay these tolls for another 30 years or so but really in perpetuity or ‘forever’ (unless such highly controversial and clearly dishonest ‘public-private sleight of hand’ deals can be effectively challenged and rescinded, as Jeff Kennett recommends). At the beginning of 2017 there is already a reported ‘half-year profit jump’ in part because of how ‘toll revenue in Brisbane jumped 31 per cent’ the last six months (Hatch, 7/2/2016).

Just as CEO Scott Charlton disingenuously claims that Transurban is not a monopoly “since the government sets toll prices” (quoted by Schneiders & Millar, 14/5/2016), so too the current Qld treasurer Curtis Pitt has also tried to deflect money gouging complaints about local tolls to the toll operators (Gould, 1/1/2016). This is despite how, as mentioned earlier within the context of secretive agreements which typically involve premium toll fees, “the government gazettes the fees and charges and stipulates the rules Transurban operate under” (Gould 1/12/2016). There is clearly a complicated overall deal also going on between the Qld government and Transurban which both seem keen to conceal or downplay as well as deflect their own role in. This may be because a closer formal scrutiny of both the implicit and explicit aspects of both the general and particular deals still taking place between Transurban and Australian government might inevitably point to possible illegality or at least be perhaps construed as effective corruption. In any case, in addition to the deception that road tolls are a userpays approach to ensuring additional public roads of the future, the general deal of course involves governments using Transurban as initially a management and technology service to deflect and conceal its own budgetary challenges and policy paralysis. Closer inspection reveals how this is at the cost of Transurban charging for this short-term evasion by not only effectively taking over ownership of these roads, tunnels and bridges at a firesale price but permanently locking in the public as well as governments to its windfall profiteering designs.

Likewise, the position of of regular Transurban partner-investor Tawreed is typically downplayed also in Transurban’s Qld takeover. Already previously a part-owner of Victoria’s Citylink tollway, Tawreed is one of the two minor investors who make up Transurban Queensland managed and run by the Transurban corporation. Tawreed is a wholly-owned subsidiary of the Abu Dhabi Investment Authority (ADIA). A regular quiet investor in Australia as well as overseas infrastructure such as ports and electricity grids, AIDA/Tawreed also is owner of Australia’s largest hotel chain Tourism Asset Holdings and also NSW’s Transgrid electricity network. It has strict policies to seek out in Australia as well as other strategic parts of the world attractive including bargain ‘cash cow’ infrastructure investments - in similar fashion to Singapore Power’s attraction to Australian electricity networks along with Hong Kong and China-backed groups (Uhlmann, 21/8/2016).

CITI analysts have recognised Transurban as an emerging star on its shortlist of ‘global cash cows’ (Commins 29/5/2015) – clearly the basis of its partnership with Tawreed and other investors. As Commins reports, CITI’s notion of a global cash cow typically shows a disinclination to reinvest for future sustainability. Transurban’s relative disinclination in this respect is listed in the article as a key factor for its investor cash cow rating. This is also typified by a 2016 report (Myer 11/1/2016) which revealed that the previous year Transurban revenues jumped “a whopping 19.3 per cent to \$990 million, while earnings were up 14.6 per cent to \$729 million”. In the article an independent traffic economist points out how these ‘outrageous returns’ are largely based on the ‘escalation formulae’ that Transurban ensures are built in to its contracts despite government assurances to the contrary (e.g. the Qld government gave such an assurance about the Logan motorway). As Myer continues, this is the basis for how “tolling arrangements are too generous and there are cheaper ways to provide the infrastructure without over-rewarding”. In any case, this is how ordinary Australian motorists in Logan and elsewhere came to be footing the bill for Transurban CEO Scott Charlton’s reported \$6.5 million pay and perks last year (Dagge, 9/8/2016).

It is perhaps appropriate for the Qld government to refer to its agreement with Transurban to take over valuable public infrastructure as ‘concessions’ (e.g. Moore 27/10/2016). This is a term that

also has connotations of past colonial and some present ‘third world’ practices of giving away for free or as a bargain very valuable public lands or infrastructure to opportunistic corporate profiteers compromising local communities and their future sustainability. For example, there are the various ‘concessions’ that some South-East Asian governments have given to the very controversial palm oil and logging giant Wilmar. This is another foreign company that the Qld government has shown a complete lack of due diligence towards when allowing them to effectively take over the local sugar industry - with apparently as much interest in the welfare of local farmers (and local economies) as they have regularly shown to dispossessed local farmers and villagers in Borneo and Sumatra.

Jeff Kennett’s various warnings in a May 2016 Herald Sun column to Australian governments about Transurban (i.e. about the very corporation or ‘monster’ he helped create as the Victorian premier who approved the initial opportunist Citylink agreement) provide a useful stepping stone to more directly address the larger question posed here about how the new public-private electronic road toll agreements might be said to constitute an overall set of related ‘scams’. Perhaps further reflecting an associated view of how banks are ‘now running the economy’ in Australia (e.g. Kohler, 6/5/2016), a follow-up *Financial Review* article (Vesna, 30/5/2016) somewhat narrowly focused on Kennett’s criticism of governments simply allowing Transurban cherry-pick additional ‘windfalls’ at will – a process which has seen them quickly become the 11th largest listed company on the Australian stock exchange or ASX (Mc.Crann, 9/8/2016). On this basis Kennett was further quoted as suggesting that Transurban should agree (or be forced) to return its Citylink concession, and also not be considered for the upcoming \$5.5 billion Western Distributor project. Kennett’s related argument was that the government could get cheaper funding itself which would have the inestimable bonus that tolls paid would go directly to it as well as towards future infrastructure (i.e. instead of the ‘total waste’ of just going into the private pockets of Transurban and its investors). He also pointed out how with government complicity Transurban had also been able to charge extortionate ‘premium’ toll rates at will – also generating the many additional ‘billions’ that Miller & Scheiders point out “could have been pouring into government coffers, funding hospitals and schools”.

A closer analysis of the Western Distributor agreement between Transurban and the Andrews Victorian state government provides a useful example of the typically ‘disastrous’ deals other Australian state governments are also making with Transurban. Transurban pushed the ostensibly reasonable idea that Victoria could benefit from a motorway route to the Western areas of Melbourne as an alternative to the Westgate Bridge. It then further convinced the Andrews government not only about this but that its own deal offer will provide the ‘right solution’. This is that Transurban would pay for two thirds of the overall \$5.5 billion dollar project and that the federal government could be convinced or bullied into paying the other third (it has refused to do so).

One hidden aspect of the agreement is that all that Transurban seems to be asking in return, besides effectively permanent tolls going into its coffers starting at the (of course) premium rates of \$3 per car and \$12 per truck, is a 12-15 year extension on the original Citylink deal approved by the Kennett government. Like the Logan tollway, the other hidden aspect is that just as part of the Distributor project also involves upgrades a not-unrelated hidden clause in the original Citylink agreement allows the Transurban and the Andrews government to effectively further agree to perpetual Transurban ownership and profiteering from tollways in Melbourne – as a basis for encouraging more cars on the roads as well as profits at the expense of public transport and related alternatives. As

Schneiders & Millar (5/2/2016) has reported this, “The analysis by *The Age* and transport actuary Ian Bell indicates a 12-year extension would generate \$20 billion to \$30 billion (nominal) in extra toll revenue”. In other words, even allowing adjustments it should be clear to anyone (and especially Daniel Andrews) that this one deal alone will allow Transurban to profiteer to the reported tune of “tens of billions of dollars”. This puts in relief the kind of profiteering really going on with the Logan and Gateway bridge tollways in Brisbane and elsewhere. Also, although it took some time in early 2017 the state opposition began to question the deal throwing some doubt on it actually proceeding (Galloway & Masnauskas, 9/2/2017).

Millar & Schneider’s (14/5/2016) later article also in *The Age* focused on Kennett’s related comments that Transurban leaders have ‘mastered the art’ of not just out-manouvring but also manipulating and deceiving governments in negotiations leading to agreements that locked the public as well as their representatives for decades into schemes ensuring those ‘windfall profits’ for Transurban. They mention in passing how a series of key Transurban personnel influencing negotiations (including Tony Shepherd, Alison Crowellor, and Tim Salathiel) since the original director Kim Edwards created the Transurban strategy ‘blueprint’ have all been either directly political insiders themselves or pursuing indirect strategies exemplifying a general conflict of interest. As Millar & Schneider put it, this is all part of a “business strategy is to be the ‘partner of choice’ for government; a friend always at hand with advice and ideas, a kind of corporate-in-residence”. In other words, although Kennett suggests a lack of sufficient proficiency or preparedness by government negotiators there seems to be also a concession that they have also been hamstrung by representatives influenced by a market-led view of public-private agreements which makes little consideration of public interest or sustainability issues. It’s on such a basis then that a fellow former state Premier Carmen Lawrence (2/2/2017) has bemoaned the increasing ‘government failure to act’ in Australia even when there are obvious cases of ‘corporate corruption’.

This dovetails with some other reports that explain further the Transport modus operandi in Queensland and elsewhere. Carey (13/5/2016) has further discussed Transurban’s (2016) strategy to intimidate or simply overwhelm politicians and government bureaucrats involved in future Transport policy-making and planning with a series of its reports that argue that government’s must move to a road pricing mechanism (e.g. Roth, 2008). These reports describe how such a mechanism would seem to be inevitable since petrol taxes can no longer keep up with current projections of future road congestion. What they obviously mean by a future national road pricing mechanism is one that only Transurban can really deliver in Australia – of course failing to mention how most of this will be to generate private profits with short-term infrastructure solutions which will become owned and controlled as a Transurban ‘cash cow’ in the long-run. Thus in their SMH article Schneiders & Millar (14/5/2016) describe how the analysts Morgan Stanley have referred to the Transurban takeover of prime Australian public roads as not just a monopoly but a ‘mega-monopoly’. They further report on how “a senior Transurban executive told a private meeting of investors this month that the company wanted to be viewed as the ‘natural custodian’ of the nation’s motorways, in the likely event of motorists being charged to drive on them”. It is interesting to note that the term ‘robber baron’ - which some might see as an appropriate label for Transurban leadership and its insatiably greedy plans – actually derives from medieval times in relation to the age-old custom of dishonest, unjust, and/or arguably illegal toll collection.

On this basis as Carey further discusses, Transurban are not just participating in but leading ongoing talks with governments about implementing a user-pays model where, in principle at least, Australian motorists should pay for any of their usage of any or all Australian roads in the future (and not just existing tollways). Thus, the pivotal notion of a scam going on here relates to how Transurban has engineered from within (and has been complicitly allowed to do so by governments for a range of ultimately inexcusable reasons) to become a ‘mega-monopoly’ controlling more and more of the main city traffic grids as tollways. In this scheme South East Queensland tollways around Brisbane have become a model for not only a similar stranglehold on the management as well ownership of key road networks and related infrastructure such as bridges and tunnels around Melbourne and Sydney – but in principle all Australian roads and beyond (Transurban also currently owns several North American tollways and clearly hopes to extend that).

Yet Transurban’s disingenuous hijacking of a user-pays argument could be the basis of a much fairer and more sustainable public-private partnership. As indicated earlier Scott Charlton has also similarly denied they are monopoly because government determine tolls – ignoring how they designed these agreements to include hidden ‘acceleration formulae’ and re-negotiations or updating which always seem to benefit Transurban’s expansion as well as profit-making agendas. On its website Transurban claims that it is “committed to best practice corporate governance, transparency and accountability” (<https://www.transurban.com/about-us/corporate-governance>) – a claim very clearly lacking any genuine commitment to effective corporate social responsibility to the wider society or future Australian transport needs.

Schneiders & Millar (14/5/2016) are therefore probably correct to suggest that “few, if any, countries in the world have allowed a private operator to control so much of their road networks”. In a report for the Qld OPT Review in 2016 (Richards, 2016), we came to a similar conclusion in terms of how Queensland (along with other Australian states) has also led the world with an uncritical ‘legalisation’ of Uber at the expense of sustainable future local taxi industries. It seems in both cases that local politicians and commentators are not aware that the new technologies involved are not as innovative and unique as they have assumed. As with the use of ridesharing apps per se, cloud-based digital vehicle recognition as the basis for ‘electronic toll collection’ should have been approached as part of some new options to support revised public-private models – rather than (as it generally appears) to be some cargo cult carte blanche for a counter-productive as well as monopolistic takeover off such critical infrastructure and/or industries (McLean, 6/12/2016). The two cases are linked in terms of how (as our report explains in detail) a non-Uber ridesharing model in support of a viable integrated response to what are called the critical ‘first and last mile issues’ of using public transport. This also could and should have been the basis for a sustainable strategy for getting cars ‘off the road’ and help stop the emerging dependency and expansion plans for Transurban controlled and owned transport infrastructure in this state. Just as Uber has and promoted the general deception of being a ‘ride-sharing’ alternative to taxis, so too Transurban has likewise hid behind a similarly predatory and monopolistic manipulation of politicians and bureaucrats as well as the public – in this case a deceitful manipulation of the ‘user-pays’ argument and perception that each and every toll payment is actually paying for future roads when they are not at all.

Conclusion: Taking on these 21st Century ‘robber barons’

Ultimately our inquiry here has thus found that the world class Queensland ‘road toll scam’ needs to be understood as a wholesale *corporate-government-bureaucratic* refusal as well as failure of accountability which has translated into a massive overall betrayal of the Queensland community’s local road and wider transport needs as well as the future of the wider Australian society. This wilful and designed accountability evasion (the sufficient basis for recognising this as an overall scam) has been epitomised by the related firesale sell-off of one of the most important public assets - future Australian roads. Just as the Transurban’s corporate imperative has been (as admitted by Schneider and Millar’s quoted ‘insider’) to simply own and control all roads and make profits from them, so too we have been able to better identify how: (a) governments have become both directly and indirectly complicit in this process for reasons that combine short-term expediency and regular conflicts of interest with apparently little or no concern for the public interest, and (b) how the bureaucrats who translate such non-sustainable agreements and related ad hoc policies as well as decision-making are only incentivized in their work it appears to anonymously yet wilfully and regularly evade and deny accountability at the micro level (i.e. the power without responsibility rationale of bureaucracy as an end itself).

As discussed in the first section, it became clear to us from our personal dealings with both Transport and Transurban customer service representatives that their unhelpful behaviour and responses were all ultimately with awareness that this was unethical, not supported by fair and explicit policies as well as procedures, and in the larger service of money-gouging one way or another. And to the extent that this has reflected the macro level of the government’s non-sustainable, inappropriate and counter-productive deals with Transurban as short-term ‘backsides-covering’ fixes, then the micro level example discussed here has exemplified how that macro level deal might reasonably be referred to as a wilful scam consistent with a typical dictionary definition of “a dishonest way to make money by deceiving people”.

The only sustainable remedy for this or any similar kind of scam is for people to one way or another (and both individually and collectively) demand accountability from all those involved (e.g. Switzer, 13/3/2015). As epitomized by Transurban’s changed response when I directly turned up at their corporate headquarters and promised to keep coming back each week until their customer service actually took up my complaint, corporations today are very sensitive and (many will be surprised to hear) also particularly vulnerable to potential shared information about their possible lack of genuine corporate social responsibility. Even if it was largely motivated as a redemptive admission of earlier mistakes, we think that Jeff Kennett is not only generally well-meaning but strategically correct to insist that Transurban should either voluntarily renounce its current ‘mega-monopoly’ plans or be forced to do so. This perhaps should start with ACIC (Australian Securities and Investments Commission) as well as the ACCC (Australian Competition and Consumer Commission) both extending their definitions of inappropriate and even effectively corrupt or illegal ‘conflicts of interest’ to cover this. The whole community (and strategic as well as key representatives) need also to hold to account political leaders who would otherwise tend to make unwise agreements often done in secret or self-evident mistakes at the public expense involving clearly non-sustainable strategies - such as selling off public assets, especially roads, to profiteering forces of privatisation.

Likewise, bureaucratic cultures are similarly vulnerable when particular anonymously-evasive or personally-obstructionist treatments of genuine complaints are personally called out for their unfairness, disingenuity and sheer arrogance as well as for lack of real transparency and general

accountability. This is especially so when – as we found in dealings with representatives at various levels of Qld Transport agencies such as TOU - there is a lack or outright denial of consistent as well as reasonable policies and fair procedures. What might be rather encouraged is a much more constructive and sustainable model of public-private partnerships for future roads and transport in Australia. Transurban might still be welcome to participate in this if they really do learn their lesson, mend their ways, and start to practice genuine ‘corporate social responsibility’ which really does benefit the public interest in Queensland or elsewhere. Also, if he is serious about his claim to want to try and address the ‘problem’, relevant government Minister Mark Bailey can and should at least start by demanding real accountability as well as transparency (and genuine customer and ‘public’ service) within and across the agencies of the Queensland Department of Main Roads and Transport. The pressing need for this is reinforced by the calls for real change linked to another current crisis (Caldwell, 6/2/2017) which pales in significance when compared to the importance of future roads.

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