

10th February 2013

Dear Councillor,

Our Chairman sent you a message on the 2nd February in advance of your Budget meeting. The message asked you not to support any increase in tolls. We thank all four of the Wirral councillors and the one member from Sefton who voted against any toll increase. But unfortunately the majority of the Authority voted for an increase in the cash tolls payable, albeit that it was decided (apparently at the last minute) to leave the Tag tolls as they were. As we pointed out in our last message this increase makes the Tunnels the joint third most expensive tolled crossing in the UK.

The message on the 2nd gave you various facts as we see them, and asked that if you believed any of our facts to be wrong, you would let us know. No one contacted us, but as the majority voted to increase the tolls it seems that most of the Authority either did not accept what we said or think that it is a good idea for users of the Tunnels to be a cash cow for Merseytravel.

We are aware that Merseytravel has been reviewing the way it is run, but we do not know how this might affect what happens to the Tunnels and the tolls or what Merseytravel communicates to the public. What we do know is that Merseytravel has in the past spent a fortune (some of it from tolls) on lawyers, lobbyists and PR and that the way in which the Tunnels budget is presented has not changed and that the latest tolls report is almost the same as last year, including the mention of a "*pro-active media statement*". So this message is our response to what was said on behalf of Merseytravel at and around the meeting. The headings used are the same as those in our 2nd February message.

Yours sincerely,

John McGoldrick  
Secretary  
Mersey Tunnels Users Association

To MITA members

## THE LAW

1. We gave our view on this at some length in our 2nd Feb message and summed the position up as “There is no legal requirement that the tolls payable be increased.”
2. At the meeting on Thursday it was said that the 2004 Act was *"not as flexible as suggested in some quarters"* - we assume that this meant the MTUA. And in the press reports after the meeting Merseytravel said *“under the Mersey Tunnels Act it is presumed that the actual tolls charged must rise in line with inflation”* This wording echoed what was already in the report that members had considered which included statements such as -

*7.1 .... From a legal perspective it should be remembered that there is an overriding presumption in the legislation that the tolls will increase each year in line with inflation.*

*7.4. .... In broad terms, this is against the spirit of the 2004 Act, (our emphasis)*

3. From the wording used by Merseytravel it seems that Merseytravel’s lawyers must agree with us - i.e. despite Merseytravel’s intentions what the 2004 Act actually says is that Merseytravel still have unlimited power, whatever the circumstances, to set lower tolls or even to waive them altogether. Is it appropriate for an elected organisation to say that they have little choice but to increase the toll tax and then justify that claim by what they meant the law to say rather than what it does say?

## THE TUNNELS FINANCES

4. Our last message to you said that the Tunnels surplus for the year starting from April would be £10,053,00. It seemed at Thursday’s meeting that members of the Authority did not know how much money Merseytravel was taking, though after the meeting Merseytravel told the press that the profit was £5.6 million. So presumably you did not believe our figure. Given the way that the budget is presented and that Council Tax leaflets are sent out showing that the Tunnels only just break even, this is perhaps not surprising.
5. At the meeting, Merseytravel agreed not to raise the Tag tolls. It was said that the effect of this was to reduce the budgeted tolls income by £1.2 million. So the profit that Merseytravel will make from users of the Tunnels in 2013/14 will now be “only” around £8.9 million.
6. Our last message said that we had asked for copies of the accounts from 2007/08. We have now been told that Merseytravel have not published any accounts for the

Tunnels since 2006/07. At the moment it is even unclear whether members of the Authority (including the Tunnels, Ferries and Visitor Economy Committee or the former Tunnels Board) have at any time from 2007/08 seen a copy of the Tunnels accounts.

7. Our last message also said that for the period from April 2004 to March 2013, we estimated that Merseytravel will have taken £58 million from the Tunnels users. That figure was partly based on budgets because published accounts were not available for recent years. Merseytravel did however give us some internal figures, and based on those we now calculate that the transfer from the Tunnels to Merseytravel from April 2004 to March 2013 will be over £64 million. (Similarly the figure for what Merseytravel has taken from the tolls since 1994 goes up from £80 million to £86 million.)

### THE LOCAL ECONOMY

8. A member from Sefton at the meeting suggested that tolls did not have a negative effect on Wirral's economy as was proved by the "Wirral Waters" scheme. Our last message said that on the "English Indices of Deprivation" on the "Rank of employment scale" Liverpool was in 2010 the 2nd worst and Wirral was the 10th worst out of 326 authorities. Sefton is lagging behind as only the 26th worst, so if the aim is promises of future jobs rather than current jobs, perhaps Sefton would like to introduce tolls on the routes from their borough to Liverpool?

### SUBSIDIES

9. At the meeting it was said that Merseytravel needed Tunnels profits to pay for "*a generous concessionary travel scheme, supporting ten per cent of bus services, and railways better than anywhere else in the country*". Merseytravel also told the Press that "*Without the income from the tunnels, concessionary passes might be under threat, for example, as would unprofitable bus services which commercial companies would not operate.*"
10. It is an old trick to suggest that if spending cuts are threatened then it will first hurt popular things like concessionary travel. If that is not a trick but really is the first thing that Merseytravel would cut, then does it not say something about Merseytravel's priorities? One wonders why concessionary travel is less important than these for instance -
  - a) Spending £70 million on the no trams scheme.

- b) The move to a new HQ building and the associated actions of Merseytravel as detailed in the Post and Echo with its *“Reports lift the lid on Merseytravel’s missing millions”* story in October.
  - c) The various ‘visitor attractions’ including spending £4.2 million on *“installing and fitting out the U-534”* as revealed in a Freedom of Information answer.
11. Apart from other extravagances, the Tunnels themselves seem to be an area where it looks as if ‘economy’ is not a recognised word . At the meeting the chairman said that the Tunnels were “expensive”, and then quickly added “but cost effective”. Was it ‘cost effective’ in these times to spend £7 million on the *“Mersey Tunnel Refurbishment Fit For A Queen!” “including 18 panels at either end displaying .. artwork”*? Was it cost effective when Merseytravel had a walk through the Birkenhead Tunnel in the “Capital of Culture” year that had a net cost of over £100,000 and raised for charity - £495 (though Merseytravel then threw in another £5,381 from tolls “overpayments”).
  12. We suspect that the examples of Merseytravel extravagance that become known to the public are just the extreme tip of the iceberg as the press and public have little idea of what is being spent.

## DEBT

13. It was said at and after the meeting that one of the main reasons for a toll increase was *“residual debt”*, that the Tunnels *“still had historic debts to pay off”* and that there was *“still outstanding debt on the Tunnels to pay for”*.
14. From our last message you will be aware that the money that Merseytravel has taken from the Tunnels is much more than the debt that is attributed to the Tunnels. I say “attributed” because part of it is not real debt but is the amount that was charged to rates etc between October 1988 to March 1992, and another part relates to the break-up of Merseyside County in 1986 where debt that was identified as relating to the Tunnels was earmarked but all other debt - whatever it was for - was all put in one pot.
15. There was a suggestion at the meeting that Merseytravel putting up tolls and taking the money would help the Tunnels if there was a need for unanticipated spending on the Tunnels. This is a bit like saying that if a householder wanted to have some money available for possible repairs to the roof, they should give all their savings away to pay for a stranger to take a holiday in the West Indies.

16. On the morning of the meeting there was another story in the Post - *“No end in sight for tunnels debts”* in which Merseytravel said there was *“nothing out of the ordinary about the schedule repayments ... This is not some kind of strategy to keep the loans in place for as long as possible but an accepted and prudent way of repaying the loans on the best terms. The changes in payment levels simply reflect the terms of the agreed schedule of repayments. Also, we would not be able to repay the loans early without incurring penalties – just as householders may when they repay their mortgages early.”*
17. We will be asking some questions of Merseytravel about the debt, but we already know quite a bit about this ‘debt’ and though we gave an explanation of the debt in our last message we did not touch on this *“schedule of repayments”*.
18. The system in local authorities for control of debt used to include prescribing maximum loan periods for any borrowing. For example, the cost of new building had to be fully charged against revenue within a maximum of 40 years. Though, except in the case of PWLB loans, it was most unlikely that a loan would be available for such a long period and in practice a local authority would borrow over a much shorter period and replace that loan with another as necessary. This system of controlling local authority debt was replaced at least 16 years ago, for a system based on *“minimum revenue provision”*. Under that system for non-Housing debt the local authority has to charge the revenue account with an amount which is equal to at least 4 per cent of the outstanding debt. In practice, authorities don’t usually volunteer to provide more than this 4 per cent and may provide even less than 4 per cent through various legal adjustments in the calculation.
19. From what we understand Merseytravel do the same as other local authorities with their debt - except for the Tunnels debt which they continue to calculate as if it was subject to the pre 1997 system. This means that Merseytravel potentially have a gain if the figure for the Tunnels annual debt redemption charge is more than the 4 per cent required, as then they can reduce the amount that they have to provide for Merseytravel’s non-Tunnel debt. This gain could then either be used to reduce the levy or to enable more spending by Merseytravel - you can guess which was more likely.
20. Apart from any gain that Merseytravel might automatically have they decided in two years to boost it. They did this by prematurely repaying some of the Tunnels debt in 2000/01 and 2002/03, in each case for £3 million, thus boosting what Merseytravel could spend on non Tunnels activities. Nothing seems to have been said then about *“penalties”* for early repayment. But most incredibly this extra £6 million charge to the Tunnels was made about the same time as Merseytravel was telling the press and public that tolls had to go up as they were running out of cash.

21. As to whether the Tunnels debt could not be repaid early “*without incurring penalties*” we have to agree that this is correct, at least in part, and particularly if the interest rate on the loan is lower than current rates for a new loan for the period remaining on the old loan. But, if it is not already obvious, this “penalty” will be less than the interest that would be saved in future years - because all of the interest is saved, not just that part which may be above current rates.
22. Part of the so called Tunnels debt is the “loan” where the money goes to Merseytravel - at 9 per cent interest (as there is no real lender this rate was decided by Merseytravel). As Merseytravel since 2004 have legally been able to take all the profits on the Tunnels, the existence of this charge makes no difference to the total sum that Merseytravel gets, only to how the profit is (or is not) presented. In any case this part of the Tunnels debt is now probably down to about the same level as the Tunnels reserves. Unless Merseytravel have changed their previous practice, they get the benefit of these reserves without crediting any interest to the Tunnels accounts. So even if this loan was real, it would be as if Merseytravel were charging interest to the Tunnels on the Tunnels own money.

### REQUESTS FOR GOVERNMENT HELP

23. If the Government had said that they would now take over responsibility for the Tunnels, thus depriving Merseytravel of its profits, it would have been more amazing than a spaceship from Mars landing at Mann Island. It was said at the meeting that the question had now been asked of the Government, because “*if you don't ask, then you don't get*”, so it would be interesting to know the details of the other approaches that Merseytravel have made in recent years.

### BRIDGES AT RUNCORN

24. We noticed at the meeting that when the responsible officer was going through the tolls report, the part that got the most emphasis was at 10.3 the “*impact on the Mersey Gateway business plan*”. When this Private Finance Initiative scheme - which will include the private sector taking over the existing bridge (which was paid for by national and local taxes) and tolling it - goes ahead, can we all assume that Merseytravel will be proud of their part in this achievement?

Thank you for reading all of this.

END