

# MACQUARIE ATLAS ROADS PROSPECTUS

18 DECEMBER 2009



MACQUARIE ATLAS ROADS LIMITED  
(ACN 141 075 201)

MACQUARIE ATLAS ROADS INTERNATIONAL LIMITED  
(Registration No. 43828)

None of the entities noted in this document are authorised deposit-taking institutions for the purposes of the Banking Act 1958 (Commonwealth of Australia). The obligations of these entities do not represent deposits or other liabilities of Macquarie Bank Limited (ABN 46 008 583 542) (MBL). MBL does not guarantee or otherwise provide assurance in respect of the obligations of these entities.



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# Important Information

## Not Authorised Deposit-Taking Institutions

None of the entities noted in this Prospectus are authorised deposit-taking institutions for the purposes of the Banking Act. The obligations of these entities do not represent deposits or other liabilities of Macquarie Bank Limited (ABN 46 008 583 542) (**MBL**). MBL does not guarantee or otherwise provide assurance in respect of the obligations of these entities.

## Prospectus

This Prospectus is a prospectus for the purposes of Part 6D of the Corporations Act. This Prospectus is dated 18 December 2009 and a copy was lodged with ASIC on that date.

This Prospectus has been prepared by the Issuers, being Macquarie Atlas Roads Limited (ACN 141 075 201) (**MQA Australia**), Macquarie Atlas Roads International Limited (Registration No. 43828) (**MQA Bermuda**), Macquarie Infrastructure Group International Limited (ARBN 112 684 885) (**MIGIL**), and Macquarie Infrastructure Investment Management Limited (ABN 67 072 609 271) (AFS Licence Number 241405) (**MIIML**) as responsible entity of Macquarie Infrastructure Trust (II) (ARSN 092 863 780) (**MIT(II)**). This Prospectus relates to the Initial Issue of MQA Australia Shares and MQA Bermuda Shares and subsequent In-Specie Distribution of MQA Australia Shares and MQA Bermuda Shares to MIG Securityholders as part of the implementation of the Restructure Proposal, which involves the reorganisation of the MIG Portfolio, the restructuring of Macquarie Infrastructure Group (**MIG**) into two separate toll road groups, Intoll and Macquarie Atlas Roads (**MQA**), the Initial Issue, and the In-Specie Distribution.

The Issuers are solely responsible for this Prospectus. They take full responsibility for the whole of this Prospectus other than the Investigating Accountant's Report contained in section 4 and the Tax Opinion contained in section 7.

## Defined terms and abbreviations

Certain terms and abbreviations used in this Prospectus are defined in section 10.

## Listing

MQA Australia and MQA Bermuda will each apply to ASX within seven days after the date of this Prospectus for admission to the Official List of ASX and quotation of MQA Australia Shares and MQA Bermuda Shares respectively on ASX (one MQA Australia Share will be quoted jointly with one MQA Bermuda Share as part of one MQA Security such that the securities in the Stapled Entities cannot be traded separately). None of ASIC, ASX and their respective officers takes any responsibility for the contents of this Prospectus or for the merits of the investment to which this Prospectus relates.

## Expiry date

No MQA Securities will be issued or transferred on the basis of this Prospectus later than 13 months after the date of this Prospectus.

## Not investment advice

This is not investment advice: you should seek your own financial advice.

The information in this Prospectus, including its appendices, is not financial product advice and does not take into account your objectives, financial situation or needs. It is important that you read this Prospectus carefully and in its entirety before making any decision concerning your investment in MQA. In particular, in considering the prospects of MQA, it is important for you to consider the risk factors that could affect the financial performance of MQA. You should carefully consider these risks in light of your objectives, financial situation and needs (including financial and taxation issues) and seek professional guidance from your investment or other professional adviser. Some of the risk factors associated with an investment in MQA are set out in section 5 of this Prospectus. You should also consider the assumptions underlying any financial forecasts and the risk factors that could affect the MQA business, financial condition and results of operations.

## Presentation of Financial Information

Unless otherwise indicated, references in this Prospectus to the historical financial information of MQA as a whole are to pro forma historical financial information of MQA, comprising income statements for the years ended 30 June 2007, 2008 and 2009 and the balance sheet as at 30 June 2009. The pro forma historical financial information of MQA contained in this Prospectus was derived from MIG's pro forma audited financial reports for the years ended 30 June 2007, 2008 and 2009 after adjusting for the pro forma adjustments described in this Prospectus. The pro forma adjustments were made to reflect the formation of MQA, so that the pro forma historical financial information for MQA included in this Prospectus for the years ended 30 June 2007, 30 June 2008 and 30 June 2009 is presented on a consistent basis and reflects the proposed structure of MQA. The pro forma historical financial information in this Prospectus has been prepared by MQA in accordance with the recognition and measurement principles prescribed in Australian Accounting Standards (**AASBs**) relevant to MQA, and has been reviewed and reported on by the Investigating Accountant (see section 4).

Unless otherwise indicated, references in this Prospectus to the historical management information of MQA as a whole are to pro forma management information of MQA, comprising proportionate earnings and aggregated operating cash flows for the years ended 30 June 2007, 2008 and 2009. The pro forma management information of MQA contained in this Prospectus was derived from MIG's management information reports for the years ended 30 June 2007, 2008 and 2009.

Any discrepancies between totals in tables and sums of components in tables contained in this Prospectus and between those figures and figures referred to in other parts of this Prospectus are due to rounding.

## Macquarie Interests

Macquarie Capital Advisers Limited (ABN 79 123 199 548) (**MCAL**) and Macquarie will perform certain roles and receive fees or reimbursement in relation to the Restructure Proposal. Further details are set out in section 9.4.

### Foreign jurisdictions

This Prospectus does not constitute an offer or invitation in any place in which, or to any person to whom, it would be unlawful to make such an offer or invitation. No action has been taken to register or qualify MQA Australia Shares, MQA Bermuda Shares, MQA Securities or the Restructure Proposal, or to otherwise permit a public offering of MQA Australia Shares, MQA Bermuda Shares or MQA Securities in any jurisdiction outside Australia.

The distribution of this Prospectus in jurisdictions outside Australia may be restricted by law and persons who come into possession of this Prospectus outside Australia should seek advice on and observe any such restrictions. Any failure to comply with such restrictions may constitute a violation of applicable securities laws.

### Warning - United States

MQA Securities have not been, and will not be, registered under the U.S. Securities Act and MQA Securities may not be offered or sold in the United States or to, or for the account or benefit of, a U.S. person other than in reliance on one or more exemptions provided for under the U.S. Securities Act. MQA Securities may only be resold or transferred if registered under the U.S. Securities Act or pursuant to an exemption from such registration under the U.S. Securities Act and in compliance with applicable United States state securities law. MQA is under no obligation and have no intention to register the MQA Securities in the United States.

### Warning - United Kingdom

This document does not constitute an offer of transferable securities to the public in the United Kingdom (within the meaning of sections 85 and 102B of the Financial Services and Markets Act). Neither this document nor any accompanying letter or any other documents have been delivered for approval to the Financial Services Authority in the United Kingdom and no prospectus has been published or is intended to be published in respect of the MQA Securities. Accordingly, the MQA Securities are not being and may not be offered or sold in the United Kingdom by means of this document, any accompanying letter or any other document.

### Warning - Singapore

This Prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. This Prospectus and any other document or material in connection with the offer, sale or distribution, or invitation for subscription, purchase or receipt of the securities may not be offered, sold or distributed, or be made the subject of an invitation for subscription, purchase or receipt, whether directly or indirectly, to persons in Singapore except pursuant to exemptions in Subdivision (4) Division 1, Part XIII of the Securities and Futures Act, Chapter 289 (SFA), or as otherwise pursuant to, and in accordance with the conditions of, any other applicable provisions of the SFA.

### Warning - Hong Kong

The contents of this document have not been reviewed by any regulatory authority in Hong Kong. You are advised to exercise caution in relation to the offer. If you are in any doubt about any of the contents of this document, you should obtain independent professional advice.

### Warning - Canada

This Prospectus describes an issuance of the New Securities only in the Provinces of British Columbia, Ontario, New Brunswick and Quebec (the “**Provinces**”) which is being made pursuant to an exemption from the prospectus requirements in the Provinces. This document is not, and under no circumstances is to be construed as, an advertisement or a public offering of securities in the Provinces.

No securities commission or similar authority in the Provinces has reviewed or in any way passed upon this document or the issuance of the New Securities and any representation to the contrary is an offence.

No prospectus has been, or will be, led in the Provinces with respect to the issuance of New Securities or the resale of such securities. Any person in the Provinces lawfully participating in the restructuring will not receive the information, legal rights or protections that would be afforded had a prospectus been led and receipted by the securities regulator in the Provinces. Furthermore, any resale of the New Securities in the Provinces must be made in accordance with applicable Canadian securities laws which may require resales to be made through a locally registered dealer and pursuant to prospectus requirements or in accordance with exemptions from dealer registration and prospectus requirements.

Any financial information contained in this document has been prepared in accordance with International Financial Reporting Standards unless otherwise indicated. Unless specifically stated otherwise, all dollar amounts contained in this document are in Australian dollars.

Prospective recipients of the New Securities should consult their own tax adviser with respect to any taxes payable in connection with the restructuring or the acquisition, holding, or disposition of the New Securities.

Upon receipt of this document, each investor in Canada hereby confirms that it has expressly requested that all documents evidencing or relating in any way to the sale of the New Securities (including for greater certainty any purchase confirmation or any notice) be drawn up in the English language only. *Par la réception de ce document, chaque investisseur canadien confirme par les présentes qu'il a expressément exigé que tous les documents faisant foi ou se rapportant de quelque manière que ce soit à la vente des valeurs mobilières décrites aux présentes (incluant, pour plus de certitude, toute confirmation d'achat ou tout avis) soient rédigés en anglais seulement.*

### Representations disclaimer

No person is authorised to give any information or make any representation in connection with the Restructure Proposal which is not contained in the Explanatory Memorandum or this Prospectus. You should rely only on information in the Explanatory Memorandum and this Prospectus. Any information or representation not contained in the Explanatory Memorandum or this Prospectus may not be relied on as having been authorised by any of the Issuers.

### Investigating Accountant's Report

While the Issuers are responsible for this Prospectus, this Prospectus contains an Investigating Accountant's Report issued by the Investigating Accountant. The Investigating Accountant is responsible for its own report subject to any disclaimer, waiver or indemnity. The Investigating Accountant is an independent party and is remunerated for its services as described in section 9.6.

### Forward looking statements

This Prospectus includes forward looking statements based on the current expectations of the Issuers about future events. The prospective information is, however, subject to risks, uncertainties and assumptions that could cause actual results to differ materially from the expectations described in such prospective information. Factors which may affect future financial performance include those risks identified in section 5 of this Prospectus, the assumptions not proving correct and other matters not currently known to, or considered material by, the Issuers.

Statements of intent in relation to future events should not be taken to be a forecast or prediction that those events will occur. Actual events or results may differ materially from the events or results expressed or implied in any forward looking statement and deviations are both normal and to be expected. None of the Issuers or their respective officers or any person named in this Prospectus or involved in the preparation of this Prospectus makes any representation or warranty (either expressed or implied) as to the accuracy or likelihood or fulfilment of any forward looking statement, or any events or results expected or implied in any forward looking statement. Accordingly, you are cautioned not to place undue reliance on those statements.

The forward looking statements in this Prospectus reflect views held by the Issuers (as applicable) only as at the date of this Prospectus.

### Obtaining a paper copy of this Prospectus

A paper copy of the Prospectus is available free of charge to any person in Australia by calling 1800 112 781.

### Time

Unless otherwise stated or implied, references to times in this Prospectus are to AEDT.

### Currency

All financial amounts contained in this Prospectus are expressed in Australian dollars unless otherwise stated. Any discrepancies between totals and sums and components in tables contained in this Prospectus are due to rounding.

### Photographs and diagrams

Photographs and diagrams in this Prospectus do not depict assets or equipment owned or used by MQA unless otherwise indicated. Diagrams used in the Prospectus are illustrative only and may not be drawn to scale. Unless otherwise stated, all data contained in charts, graphs and tables is based on information available at the date of this Prospectus.

### Privacy

As a holder of MQA Securities, the Corporations Act requires information about you (including your name, address and details of the MQA Securities) to be included in MQA's public register. The information must continue to be included in MQA's public register if you cease to hold MQA Securities.

MQA and the Registry may disclose your personal information for purposes related to your investment to their agents, contractors and service providers including those listed below or as otherwise authorised under the Privacy Act:

- the Registry for ongoing administration of the MQA Securityholder register;
- printers and other companies for the purposes of preparing and distributing documents and handling mail;
- market research companies for the purpose of analysing the MQA Securityholder base and for product development and planning; and
- legal and accounting firms, auditors, contractors, consultants and other advisers for the purpose of administering, and advising on, the MQA Securities and for associated actions.

You may request access to your personal information held by or on behalf of MQA. You can request access to your personal information or obtain further information about MQA's privacy practices by contacting the Registry or MQA on 1800 112 781 (within Australia) or +61 2 8268 3602 (outside Australia). MQA aims to ensure that the personal information it retains about you is accurate, complete and up to date. To assist us with this, please contact MQA on 1800 112 781 (within Australia) or +61 2 8268 3602 (outside Australia) or the Registry if any of the details you have provided change.

In accordance with the requirements of the Corporations Act, information on the Registry will be accessible by members of the public.

### Basis of Preparation

This Prospectus, including:

- the information contained in section 2, and
- the financial information contained in section 3,

has been prepared on the basis that the Restructure Proposal has been implemented in the manner described in the Explanatory Memorandum and the Notice of Meetings.

Information relating to the Restructure Proposal, Initial Issue, and the In-Specie Distribution may change. Where this information is of a kind that is required to be included in a supplementary prospectus, this information may be updated and made available on [www.macquarie.com.au/mig](http://www.macquarie.com.au/mig) or by way of paper copy, free of charge, by contacting MQA on 1800 112 781. Where updated information about an Initial Issue, In-Specie Distribution or Restructure Proposal (as applicable) requires the issue of a supplementary prospectus in accordance with the Corporations Act, a supplementary prospectus will be issued.



# Investment Overview







## About Macquarie Atlas Roads

MQA will be a new ASX-listed infrastructure group with a portfolio of toll roads that will be managed/ advised by Macquarie International Advisory Services Pty Limited (ABN 84 127 735 960) (AFS License Number 318123) (**MQA Manager**).

The MQA Manager is a subsidiary of Macquarie Group Limited (ABN 94 122 169 279) (**MGL**). It will manage/ advise MQA on a non-discretionary basis, that is, key decision making will be reserved to the MQA boards which, after a transition period, will comprise a majority of independent directors.

MQA will be created out of the Portfolio Reorganisation of MIG into two separate ASX-listed toll road groups, Intoll and MQA. This Portfolio Reorganisation will be effected through the In-Specie Distribution of MQA Securities to MIG Securityholders. For more information regarding the Restructure Proposal, please refer to the Explanatory Memorandum which accompanies this Prospectus.

MQA will have interests in five major international toll roads (**MQA Portfolio**):

- M6 Toll, a toll road located near Birmingham, UK;
- Autoroutes Paris-Rhin-Rhône (**APRR**), a toll road network located in the east of France;
- Dulles Greenway, a toll road located in North Virginia, USA;
- Chicago Skyway, a toll road located in Chicago, USA; and
- Indiana Toll Road, a toll road located in northern Indiana, USA.

In addition, MQA will also hold investments in three other businesses that are not considered material to the MQA Portfolio. These are Warnow Tunnel, a toll tunnel located in Rostock, Germany, South Bay Expressway, a toll road located in

California, USA, and Transtoll Pty Limited (**Transtoll**), a hardware and software solutions provider to the tolling industry.

At the time of the In-Specie Distribution, MQA will hold corporate level cash reserves of approximately A\$228 million and will have no corporate level debt. All debt is held at the asset level and is non-recourse to the holding entities themselves (and to other assets within the MQA Portfolio).

## What is an MQA Security?

An MQA Security is made up of:

- one share in MQA Australia (**MQA Australia Share**); and
- one share in MQA Bermuda (**MQA Bermuda Share**).

The shares which comprise an MQA Security are stapled together and cannot be traded separately.

MIG Securityholders will receive one MQA Security for every five MIG Securities they hold on the Record Date.

## Strategy and dividend policy

MQA's strategy will be to deliver growth in the value of the existing MQA Portfolio of toll roads. Priorities will include active management of project operations to improve earnings, efficient capital management and the refinancing of project debt as suitable opportunities emerge over the medium term. It is not expected that MQA will make any new asset acquisitions in the medium term.

Macquarie Group has no obligation to provide investment opportunities to MQA and MQA has no obligation to accept any investment opportunities. MQA Australia and MQA Bermuda will not have any priority in respect of investment opportunities sourced by the Macquarie Group.

MQA will hold initial corporate level cash reserves of approximately A\$228 million. These reserves, together with any cash flows received from the MQA Portfolio, if any, are expected to provide MQA with sufficient capital reserves to pursue its strategy and to meet all its obligations as they fall due for the foreseeable future.

Ordinary dividends are not anticipated in the near to medium term. Cash flows from the sale of assets, if any, will be assessed at the time for potential return to MQA Securityholders or, if considered beneficial, for reinvestment in the MQA Portfolio.

## Management arrangements

### Overview

The MQA Directors will be directly elected by MQA Securityholders on a 3 year rotational basis. MQA will be managed by the MQA Manager, a Macquarie Group subsidiary, under new management arrangements using Macquarie staff, including staff who have previously worked for MIG. In the MQA Boards' view, Macquarie Group is one of the pre-eminent global organisations in regard to the management of infrastructure assets. Macquarie Group currently has in excess of A\$116 billion of infrastructure assets under management and MQA will be able to draw on the expertise of the Macquarie Group's range of managers and advisers.

This expertise is required in addressing the challenges associated with some of the assets within MQA, such as managing the performance of those assets and the eventual refinancing of their debt. However, MIG's recent underperformance has been notwithstanding Macquarie's management of MIG.

### Fees

Fees payable to the MQA Manager will comprise a base management fee and a performance fee.

The base management fee will be payable quarterly in arrears, and will be calculated as a percentage of the market capitalisation of MQA at the end of each quarter, as follows:

Market capitalisation of MQA	Base management fee percentage
Up to A\$1.0 billion	2.00%; plus
Between A\$1.0 billion and A\$3.0 billion	1.25%; plus
More than A\$3.0 billion	1.00%

The performance fee will be calculated as 15% of the dollar value of MQA's outperformance of the S&P/ASX 300 Industrials Accumulation Index (**Benchmark Return**). It will be determined annually and will be payable in three equal annual instalments, with outperformance of the Benchmark Return over the two and three year periods to the second and third instalment dates respectively required in order for those instalments to become payable.

Any underperformance of the Benchmark Return in a particular year must be carried forward and recouped before a performance fee may be earned in a subsequent period.

### Termination

The appointment of the MQA Manager may be automatically terminated, without cause, by MQA Securityholder vote. The resolution must be passed by at least 50% of votes cast at a meeting by MQA Securityholders entitled to vote. Macquarie and its associates will be entitled to vote on any such resolution.

### Impact of M6 Toll change of control provisions

MQA holds its investment in M6 Toll via Macquarie Motorways Group Limited (**MMG**). MMG has issued external debt of £1.03 billion to finance the M6 Toll.

Under the terms of MMG's debt facilities, a change of control is deemed to occur if a member or members of the Macquarie Group cease to control, directly or indirectly, more than 50% of MMG, a wholly-owned subsidiary of MQA. While MMG is owned by an entity that is managed or advised by Macquarie (which is currently the case, for MQA Bermuda), it is deemed to be controlled by Macquarie Group for the purposes of this provision.

If a change of control is triggered, individual lenders may determine that their portions of the loan are immediately due and payable, and a majority of lenders representing two-thirds of secured amounts including swap exposures may accelerate repayment of the entire loan. Acceleration of the repayment of the loans made under the debt agreements would also cause a termination event under the swap agreements.

The loan facility balance is £1.03 billion, excluding the market value of interest rate swaps. The loans otherwise mature in August 2015.

In the event of a refinancing of the debt, it is unlikely that an equivalent amount of debt could be sourced in the current bank market. This could allow the lenders to:

- take possession of the asset; or
- reprice the loans, with an additional 100 basis points on the loans costing approximately A\$110 million over the remaining life of the loans.

No pre-emptive rights exist over MQA's investment in the M6 Toll, given MQA owns a 100% interest.

### Impact of MQA's interest in APRR

The Consortium vehicle for the acquisition of APRR is Financière Eiffarie SAS (**FE**).

MQA holds its investment in FE through Macquarie Autoroutes de France SA (**MAF**) and MAF Finance Sarl, in each of which it holds 50% + one share. Macquarie European Infrastructure Fund (**MEIF**), another Macquarie managed fund holds the balance of the shares in MAF and MAF Finance.

MAF and MAF Finance are managed by Macquarie through an advisory agreement (**MAF Advisory Agreement**) with Macquarie Capital Funds (Europe) Limited (**MCFEL**).

If MQA ceased to be managed by a Macquarie entity, but MAF and MAF Finance remained managed by Macquarie:

- a base fee would be payable by MQA to Macquarie equal to 1.25% per annum of its total investment in APRR. The annual cost of this fee would currently be approximately €5 million.
- A performance fee equal to 15% of the total cash flows from the APRR investment would also become payable by the MQA to MCFEL after an 8% IRR is achieved by MQA. That 8% threshold has not yet been met.

If MAF terminates the MAF Advisory Agreement and MQA is not managed by a Macquarie Group entity:

- MAF would lose its right to appoint directors to the board of FE and consequently the right to appoint Directors to APRR.
- A put/call option with MEIF would be triggered, allowing MEIF to call the MQA interests in MAF and MAF Finance, or put MEIF's interests in MAF and MAF Finance to MQA, both at fair market value.
- If MEIF did not acquire MQA's interest pursuant to that call option, Eiffage would be entitled to exercise a call option in respect of all of MAF's shares in FE, at fair market value.

### Application of pre-emptive rights

MQA's interests in MAF and MAF Finance are subject to pre-emptive rights in favour of MEIF, with the exception where the transfer of the interest is to another Macquarie managed entity.

Transfers of MAF's shares in FE are also subject to pre-emptive rights in favour of Eiffage.

See section 1.2 for more details regarding MQA's management arrangements.

# Overview of Macquarie Atlas Roads Portfolio





## Macquarie Atlas Roads Portfolio characteristics

The MQA Portfolio has the following key characteristics:

- a global portfolio, with assets in the UK, France, Germany and USA;
- long concession terms remaining (weighted average 46 years)<sup>1</sup>;
- a mixture of market based and scheduled toll increases providing revenue growth;
- exposure to OECD and OECD-like economies; and
- no major re-financing requirements until 2013.

Portfolio Asset	MQA % Interest	Location	Road Opened / Privatised	Concession Term Expiry (years remaining)	Road Length	Tolling Structure <sup>2</sup>	Valuation (A\$m) <sup>1</sup>	% of MQA Portfolio <sup>1</sup>
M6 Toll	100.00%	UK	2003	2054 (45 years)	42 km	Market based	412	28%
APRR	20.37%	France	2004	2032 (23 years)	2,234 km	% of CPI	448	31%
Dulles Greenway	50.00% <sup>3</sup>	USA	1995	2056 (47 years)	22 km	CPI +	343	24%
Indiana Toll Road	25.00%	USA	2006	2081 (72 years)	253km	CPI +	98	7%
Chicago Skyway	22.50%	USA	2005	2104 (95 years)	12.5 km	CPI +	148	10%

1 As at 30 June 2009.

2 Simplified description. For full details refer to individual asset section in section 2.

3 Reflects estimated economic interest in Dulles Greenway.

## Summary of MQA Portfolio financial information and key financial statistics

Asset	Traffic	Revenue (m) <sup>1,5</sup>	EBITDA (m) <sup>1,5</sup>	EBITDA Ratio <sup>1</sup>
M6 Toll	39,005 <sup>2</sup>	£58.6	£50.9	86.9%
APRR	20,317 <sup>4</sup>	€1,817.6	€1,225.3	67.4%
Dulles Greenway	50,950 <sup>2</sup>	US\$60.2	US\$43.5	72.3%
Indiana Toll Road	28,230 <sup>3</sup>	US\$156.2	US\$121.2	77.6%
Chicago Skyway	45,770 <sup>2</sup>	US\$63.1	US\$53.4	84.7%

1 12 months to 30 June 2009.

2 Average Daily Traffic.

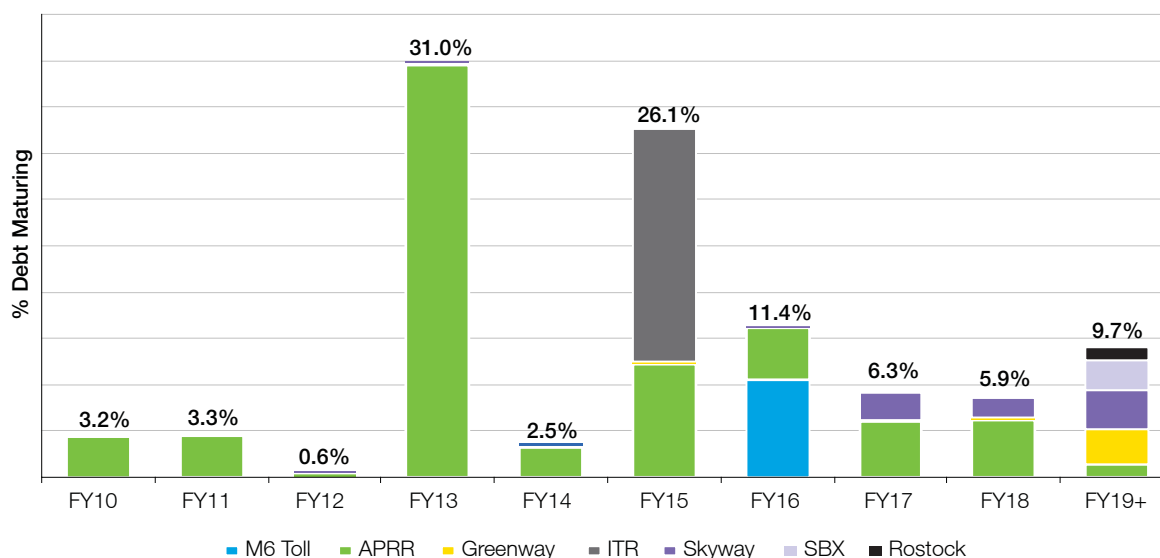
3 Full Length Equivalent Trips (FLET).

4 Vehicle Kilometres Travelled.

5 Extracted from MIG's management information report for the year ended 30 June 2009. In the statutory income statement all the assets except for the M6 Toll will be accounted for using the equity accounting method which requires that the respective share of net profit/(loss) after tax is included in the income statement. The M6 Toll is consolidated into the accounts of MQA – refer to section 3 for further details.

## MQA Portfolio debt profile and hedging position

The assets comprising the MQA Portfolio have a high level of gearing. However, the first significant refinancing requirement is not until 2013. The chart below sets out the maturity profile of the debt at MQA's assets, shown at 100% for each asset rather than MQA's share.



MQA's assets have fixed or hedged the majority of their debt, with in excess of 85% debt across the MQA Portfolio fixed to 30 June 2012 and in excess of 80% fixed to 30 June 2014.

Asset	Hedging % as at 30 June 2009	Term of Hedging
M6 Toll	99%	August 2036
APRR	82%	>75% to December 2013
Dulles Greenway	100%	End of concession
Chicago Skyway	100%	>98% to June 2011, >91% to Dec 2016
Indiana Toll Road	97%	June 2026

# Key Investment Risks

An investment in MQA is subject to general and specific risks, which may affect the price and value of MQA Securities and the income, cash flow, distributions and growth prospects of MQA. These key investment risks include:

## Traffic volumes

MQA's revenue will principally be a function of the traffic volumes on the MQA Portfolio's toll roads and the level of the tolls. Traffic volumes are directly and indirectly affected by a number of factors, including congestion, the quality, proximity and timing of the development of alternative roads and other transport infrastructure, toll rates, population growth, perceived value for money, fuel prices and general economic conditions. Any circumstances that have the effect of reducing traffic volumes or the growth in traffic could materially adversely affect MQA's financial performance, the valuation of its assets, dividends and the market price of MQA Securities.

## Borrowings

The investments within the MQA Portfolio (including entities through which they have been financed), carry high levels of debt. There is a significant risk that one or more investments in the MQA Portfolio may be unable to meet its loan covenants or may be unable to re-finance debt amounts as they fall due, or that the terms of re-financing are less favourable than the current terms. This will be affected by the prevailing economic climate and cost of debt at the time the debt is refinanced, as well as the performance of the assets between now and when debt falls due. An inability to appropriately re-finance may lead to the debt relating to an asset in the MQA Portfolio failing to be repaid, and the relevant borrower breaching its loan covenants, suffering economic loss and/or MQA's investment being written off. All debt within the group is secured against the cash flows and assets to which it relates and is non-recourse to MQA.

## Toll prices

Toll increases will be implemented in MQA's Portfolio toll roads from time to time, in accordance with the respective concession agreements. Any future increases in tolls may have a negative impact on traffic volumes.

## Operations

MQA bears the long-term risk of operating and maintaining its proportionate interest in the toll roads in the MQA Portfolio in proportion to its interest in

each toll road. Increased costs of operating and maintaining the toll roads in the MQA Portfolio may adversely affect MQA's financial performance.

## Economic conditions

Future economic factors including economic growth rates, interest rates and inflation may affect returns to MQA Securityholders.

## Valuation risk

The values of the assets in the MQA Portfolio in this Prospectus are based on valuations undertaken as at 30 June 2009. However, these assets will be transferred to MQA based on valuations as at the date of implementation of the Restructure Proposal. As the value of MQA's toll road assets may fluctuate over time, these valuations may vary. Factors relevant to valuations include traffic volumes and other economic factors referred to in section 5. The long duration of the MQA Portfolio coupled with the relatively high level of borrowings at MQA's assets may result in large changes to valuations, both positive and negative, as the outlook for traffic and revenue growth changes over time. Valuations represent only the analysis and opinion at a certain date and are not guarantees of present or future values. The valuation of an asset may be materially higher than the amount that can be obtained from the sale of the asset in certain circumstances, such as under a liquidation or distressed sale.

## Foreign exchange fluctuations

All MQA Portfolio assets are located offshore, with cash reserves comprising the majority of the assets held in Australia. This exposes MQA Securityholders to fluctuations in foreign exchange rates, which affect the values of the assets when translated to Australian dollars or to the home currencies of overseas MQA Securityholders.

## Post-demerger price risk

Following the implementation of the Restructure Proposal, there is a risk that some existing MIG Securityholders may prefer retaining exposure to the Intoll Portfolio rather than the MQA Portfolio. This may result in MQA's security price being adversely affected.

## Liquidity of MQA Securities

MQA has no trading track record on ASX. If the daily volume of MQA Securities traded is low, there may be a liquidity risk to MQA Securityholders.

For further information on risks see section 5.

# Section 1: Structure





## 1.1 Corporate Structure

### 1.1.1 Overview

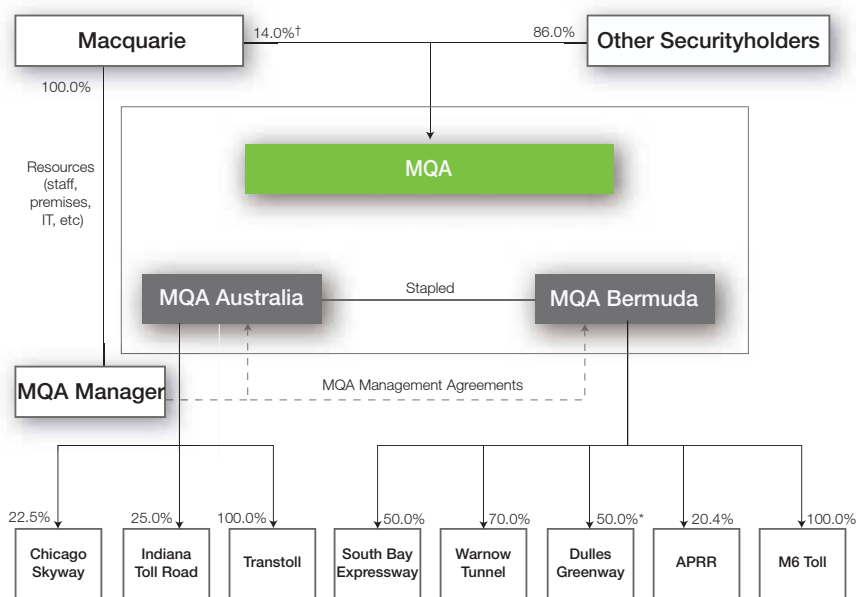
MQA is a new stapled structure consisting of:

- MQA Australia (an Australian public company); and
- MQA Bermuda (an exempted mutual fund company incorporated in Bermuda).

MQA will be created out of MIG through the Restructure Proposal. MQA will own and manage the interests in the MQA Portfolio being the M6 Toll, APRR, Dulles Greenway, Chicago Skyway and Indiana Toll Road. In addition, MQA will also hold investments in the South Bay Expressway, Warnow Tunnel and Transtoll. These three other businesses are not considered material to the MQA Portfolio.

The MQA Australia Shares and MQA Bermuda Shares which together comprise a MQA Security are each linked together and cannot be traded separately.

### Macquarie Atlas Roads Structure



Where assets are held by both MQA Australia and MQA Bermuda, the principal economic interest is shown with the % ownership by MQA as a whole.

† Represents Macquarie's Principal Holding as at 11 December 2009. As at 11 December 2009 Macquarie Group had a total relevant interest in approximately 17.6% MIG Securities. These percentages have been determined on the basis that as at 11 December 2009 MIG had 2,261,732,048 MIG Securities on issue.

\* MQA holds an estimated 50% economic interest in Dulles Greenway, via both MQA Australia and MQA Bermuda (majority of value).

MQA consists of two entities:

Entity	Type of Entity	Asset	Source of Income
MQA Australia	Australian public company	Chicago Skyway Indiana Toll Road Dulles Greenway <sup>1</sup> Transtoll	MQA Australia will derive its income primarily from returns from its investments in the MQA Portfolio
MQA Bermuda	Bermudian exempted mutual fund company	M6 Toll APRR Dulles Greenway <sup>2</sup> South Bay Expressway Warnow Tunnel	MQA Bermuda will derive its income primarily from returns from its investments in the MQA Portfolio

1 Holds a 6.7% shareholding.

2 Holds subordinated loans.

### 1.1.2 Capital Structure

The total capital of MQA will comprise approximately 452.3 million MQA Securities. As part of the Restructure Proposal, MQA Securities will be transferred to MQA Securityholders in the ratio of one MQA Security for every five MIG Securities held on the Record Date prior to the implementation of the Restructure Proposal.

## 1.2 Management Arrangements

MQA Australia and MQA Bermuda have separately entered into management and advisory agreements respectively with the MQA Manager (**MQA Management Agreements**). These are non discretionary management and advisory agreements, that is, consistent with the framework that applied to MIG, key decision making is reserved to the MQA Boards, and the MQA Boards have no obligation to act on the recommendations of the MQA Manager and can appoint other advisers if they wish. Under the terms of the MQA Management Agreements, the MQA Manager is responsible for undertaking the following under the instruction and supervision of the relevant MQA Board:

- advice on any proposed investment or divestment;
- if the MQA Australia Board and MQA Bermuda approve an investment, acquisition and management the investment on behalf of MQA Australia and MQA Bermuda;
- provision of Macquarie executives as nominees of MQA Australia and MQA Bermuda to act as directors of subsidiary entities that hold investments, and where appropriate, making recommendations to the MQA Boards to appoint non-Macquarie nominees to these boards;

- capital management and financial management recommendations;
- recommendations to the MQA Boards in respect of various matters (including but not limited to changes to the MQA Australia Constitution and MQA Bermuda Bye-Laws, any capital reductions, appointment and dismissal of staff and consultants, and the payment of dividends and interim dividends);
- general fund administration including company secretarial services subject to outsourcing company secretarial services in Bermuda to Butterfield Fulcrum Group Limited;
- asset valuations;
- assisting with financial reporting and budgets;
- board reporting in connection with matters on which it provides advice;
- assistance with litigation management;
- investor communications and meetings; and
- provision of suitably qualified personnel to perform the CEO and CFO roles for MQA and the company secretary role for MQA Australia.

Fees payable to the MQA Manager will comprise a base management fee and a performance fee.

The base management fee will be payable quarterly in arrears, and will be calculated as a percentage of the market capitalisation of MQA at the end of each quarter, as follows:

Market capitalisation of MQA	Base management fee percentage
Up to A\$1.0 billion	2.00%; plus
Between A\$1.0 billion and A\$3.0 billion	1.25%; plus
More than A\$3.0 billion	1.00%

The performance fee will be calculated as 15% of the dollar value of MQA's outperformance of the Benchmark Return. It will be determined annually and will be payable in three equal annual instalments, with outperformance of the Benchmark Return over the two and three year periods to the second and third instalment dates respectively required in order for those instalments to become payable.

Any underperformance of the Benchmark Return in a particular year must be carried forward and recouped before a performance fee may be earned in a subsequent period.

The appointment of the MQA Manager may be automatically terminated, without cause, by MQA Securityholder vote. The resolution must be passed by at least 50% of votes cast at a meeting by MQA Securityholders entitled to vote. Macquarie and its associates will be entitled to vote on any such resolution.

The MQA Boards have also adopted policies concerning related party transactions, independence of directors, borrowing and hedging, and valuations of assets. Details of these policies are set out in section 6.3.

You should refer to section 6.1.5 for a full summary of the MQA Management Agreements.

### 1.3 Investment Policy/Strategy

MQA's strategy will be to deliver growth in the value of the existing MQA Portfolio. Priorities will include active management of project operations to improve earnings, efficient capital management and the refinancing of project debt as suitable opportunities emerge over the medium term.

Macquarie Group has no obligation to provide investment opportunities to MQA and MQA has no obligation to accept any investment opportunities. It is not expected that MQA will make any new asset acquisitions in the medium term.

MQA will hold initial corporate level cash reserves of approximately \$A228 million. These reserves, together with any cash flows received from the MQA Portfolio, will provide MQA with sufficient funding to meet its operating requirements in the medium term.

### 1.4 Dividend Policy

Ordinary dividends are not anticipated in the near to medium term. Cash flows from the sale of assets, if any, will be assessed at the time for potential return to MQA Securityholders or, if considered beneficial, for reinvestment in the MQA Portfolio.

### 1.5 ASX Listing

MQA Australia and MQA Bermuda will apply for admission to the Official List of ASX, and quotation of MQA Australia Shares and MQA Bermuda Shares on ASX (one MQA Australia Share will be quoted jointly with one MQA Bermuda Share as part of one MQA Security such that the securities in the Stapled Entities cannot be traded separately) within seven days after the date of this Prospectus.

It is expected that holding statements will be dispatched by standard post on 8 February 2010 and the trading of MQA Securities on a normal settlement basis will commence on 9 February 2010. It is the responsibility of persons trading in MQA Securities to determine their allocation prior to trading in MQA Securities. Persons trading in MQA Securities prior to receiving a holding statement do so at their own risk.

### 1.6 CHESS and Holding Statements

MQA intends to apply to participate in CHESS and in accordance with the Listing Rules and the ASTC Settlement Rules, will maintain an electronic sub register. After the In-Specie Distribution of MQA Securities, MQA Securityholders will receive an initial statement of holding (similar in style to a bank account statement) that sets out the number of MQA Securities that have been allocated to them as part of the In-Specie Distribution, together with holder identification details. You will need these details to sell your MQA Securities.

# Section 2: Macquarie Atlas Roads Portfolio Investments

In this section, the valuation and financial performance information presented is management information for each asset, sourced from MIG's published management information reports. This is not the same as the statutory financial information that will be reflected in MQA's financial statements. For more information please refer to Section 3.

Valuations noted are for MQA's interest in each asset. However, operating and financial performance data and financing information is presented for 100% of each toll road concessionaire, even when MQA has a smaller proportionate interest.



## 2.1 M6 Toll

### 2.1.1 Asset description

<b>Overview:</b>	42km motorway which bypasses Birmingham and connects to the free M6 Motorway at both ends
<b>Opened:</b>	December 2003
<b>Concession Period:</b>	53 years, ends January 2054
<b>MQA Interest:</b>	100%
<b>Published valuation (30 June 2009):</b>	A\$411.8 million

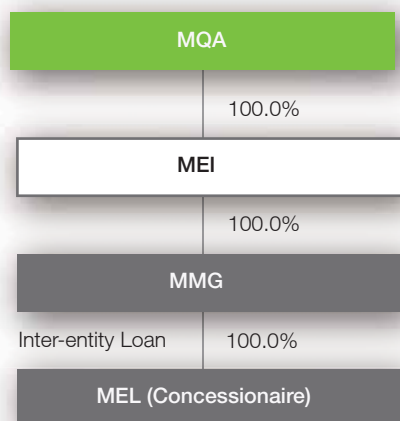
The M6 Toll is a 42 kilometre six-lane toll road that bypasses a congested stretch of the M6 Motorway near Birmingham, in the United Kingdom. The M6 Toll is three lanes in each direction, and has nine entry and exit points. The southern end of the M6 Toll commences at the merge of the M42 and M6, two of the busiest motorways in the UK. The northern end of the M6 Toll merges with the M6 just south of Cannock, allowing motorists to avoid congestion on the M6 around Birmingham.

MQA has a 100% interest in Midlands Expressway Limited (MEL), the concessionaire of the M6 Toll.

As at October 2009, there were 135 employees in MEL carrying out the majority of operations and routine maintenance. More specialised tasks and periodic maintenance work are contracted out on a competitive tendering basis when required.

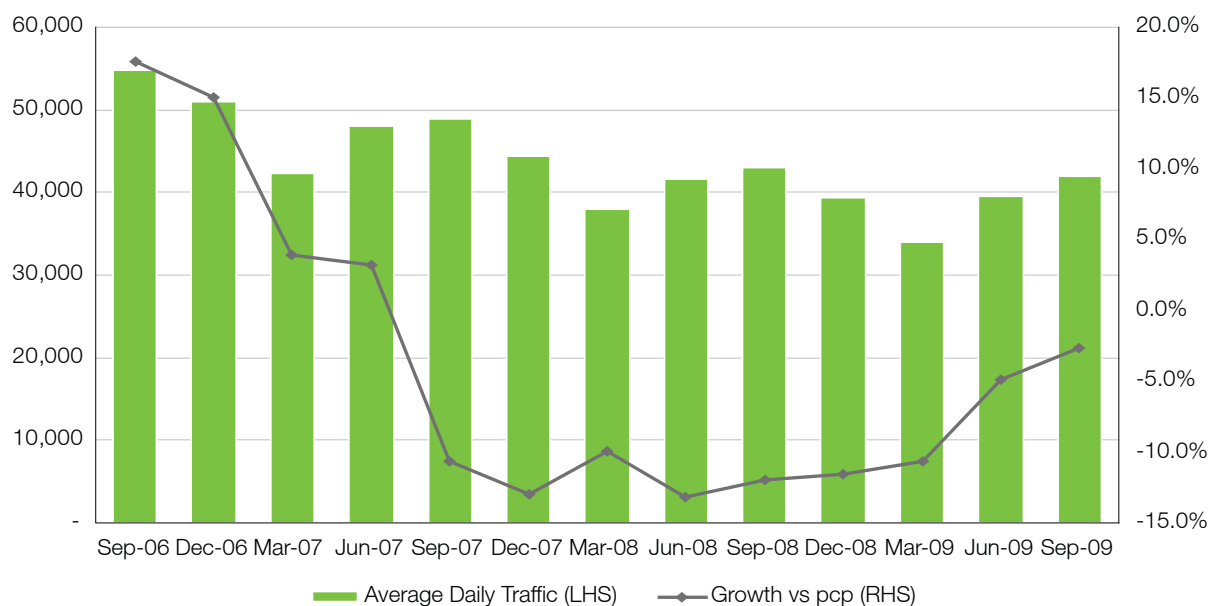


### 2.1.2 Concessionaire ownership structure



MGA holds its investment in MEL through Macquarie European Infrastructure Limited (**MEI**) and MMG. No pre-emption rights exist over MGA's investment in the M6 Toll, given MGA owns a 100% interest.

### M6 Toll quarterly traffic performance



### 2.1.3 Tolling structure

Under the M6 Toll Concession Agreement, MEL has the right to increase tolls at any time as long as toll reviews take place no more than twice a year.

### 2.1.4 Traffic performance

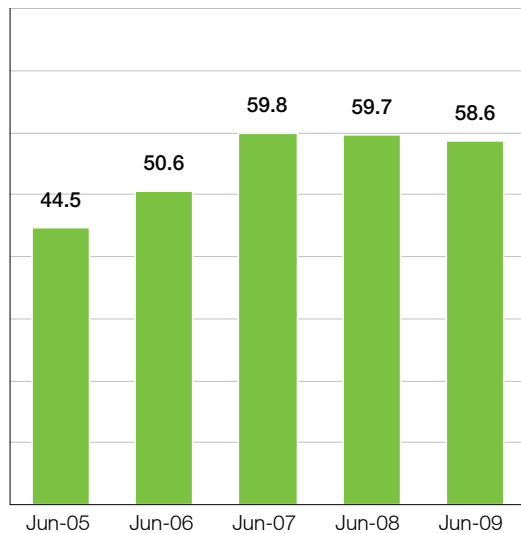
Traffic volumes over the 12 months to 30 June 2009 were 9.9% lower than over the prior corresponding period (**pcp**), reflecting the impact of the weak UK economy. However, the rate of decline has decreased in recent months, with traffic volumes for the September 2009 quarter only 2.7% lower than the pcp.

### 2.1.5 Financial performance

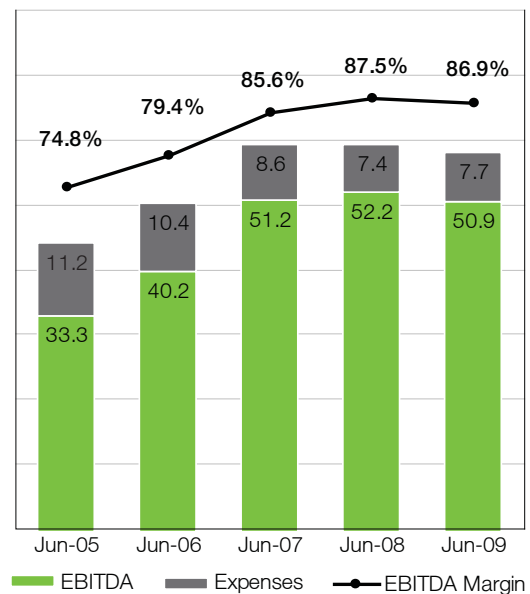
While traffic volumes for the year ended 30 June 2009 were 9.9% lower than 2008, revenue for the year was only 1.8% lower than pcp, as toll increases on 1 January 2009 mitigated the impact of traffic performance.

Operating costs were comparable with the prior period.

M6 Toll revenue (£m), 12 months ended 30 June



M6 Toll EBITDA (£m), 12 months ended 30 June



### 2.1.6 Financing structure

MQA's investment in the M6 Toll is structured via shareholder loans and direct equity interests in the project vehicles. MMG, the parent of MEL, is the issuer of the external debt used to finance the M6 Toll. The key terms of the debt package are as follows:

- term loan facility of £1,000 million;
- capex facility of £30 million;
- 30-year fixed interest rate swap for £1,000 million of debt starting at 1.00% per annum in 2006, increasing to 8.50% in 2025 then an ongoing rate of 7.92% until 2036, with a swap credit margin of 37 basis points (fixed over entire term); and
- rated BB by Standard & Poor's (S&P).

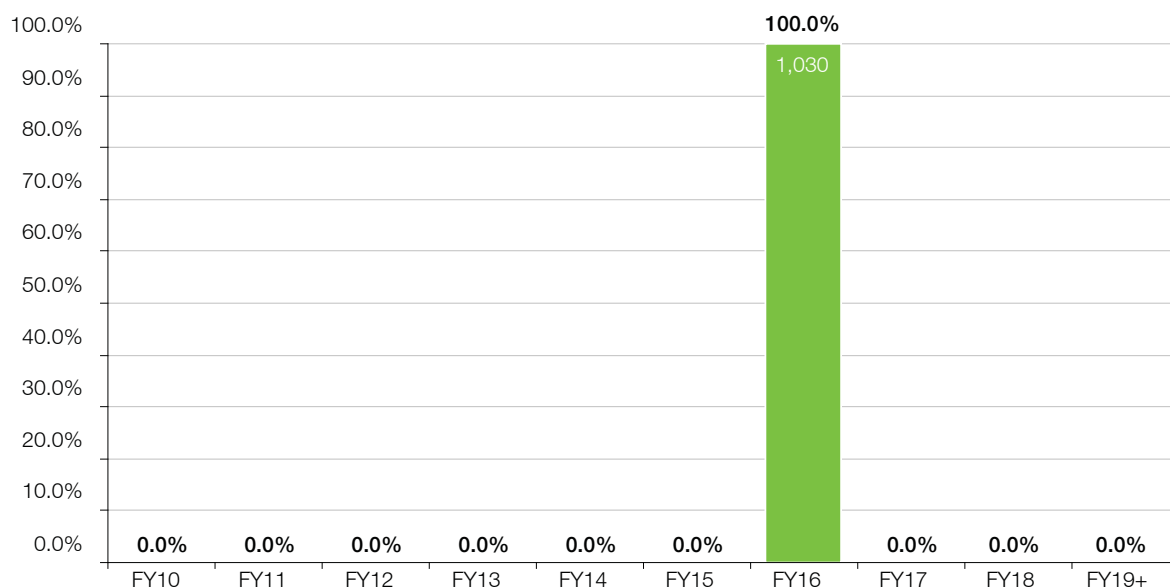
A proportion of the funds drawn on the term facility in 2006 was on-lent by MMG to MEL to repay MEL's existing external debt at the time.

MEL also has a land fund liability in the form of an indexed annuity payment to the UK Government. This liability, of £149 million as of June 2009, represents MEL's obligation to repay the UK Government for land acquisition costs incurred in developing the M6 Toll. The balance accrues interest at inflation plus 6% per annum. The land fund payments commence on 1 October 2010 and the land fund is scheduled to be fully repaid by December 2053.

The term loan and capex facilities are not due to mature until August 2015, however 40% of available cash flows to shareholders are required to be applied to debt repayments from August 2011, increasing to 60% in August 2012, 80% in August 2013, and 100% in August 2014.

MMG is meeting its debt service requirements, with a debt service coverage ratio of 2.4x as at 30 June 2009.

## M6 Toll debt maturity profile

*Change of control provisions*

MQA holds its investment in the M6 Toll via MMG. MMG has issued external debt of £1.03 billion to finance the M6 Toll.

Under the terms of MMG's debt facilities, a change of control is deemed to occur if a member or members of the Macquarie Group cease to control, directly or indirectly, more than 50% of MMG, a wholly-owned subsidiary of MQA. While MMG is owned by an entity that is managed or advised by Macquarie (which is currently the case, for MQA Bermuda), it is deemed to be controlled by Macquarie Group for the purposes of this provision.

If a change of control is triggered, individual lenders may determine that their portions of the loan are immediately due and payable, and lenders representing two-thirds of secured amounts including swap exposures may accelerate repayment of the entire loan. Acceleration of the repayment of the loans made under the debt agreements would also cause a termination event under the swap agreements.

The loan facility balance is £1.03 billion, excluding the market value of interest rate swaps. The loans otherwise mature in August 2015.

In the event of a refinancing of the debt, it is unlikely that an equivalent amount of debt could be sourced in the current bank market. This could allow the lenders to:

- take possession of the asset; or
- reprice the loans, with an additional 100 basis points on the loans costing approximately A\$110 million over the remaining life of the loans.

No pre-emptive rights exist over MQA's investment in the M6 Toll, given MQA owns a 100% interest.

**2.1.7 M54 Link**

MEL, the parent of MMG, has committed to procure that MEL contribute up to £70 million (indexed using construction cost indices from August 2006, and totalling approximately £63 million at 31 March 2009, the latest indexation date) towards a road enhancement project which would provide a link between the M54 Motorway, the M6 and the M6 Toll. This contribution is conditional on the project being undertaken at a future date by the Highways Agency and on certain technical specifications. No project details or commencement date have yet been announced by the Highways Agency.



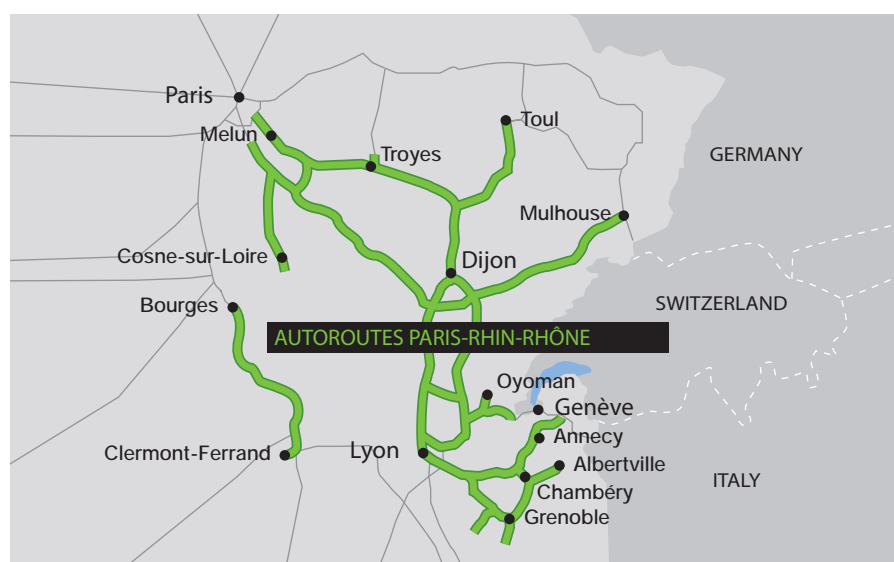
## 2.2 Autoroutes Paris-Rhin-Rhône (APRR)

### 2.2.1 Asset description

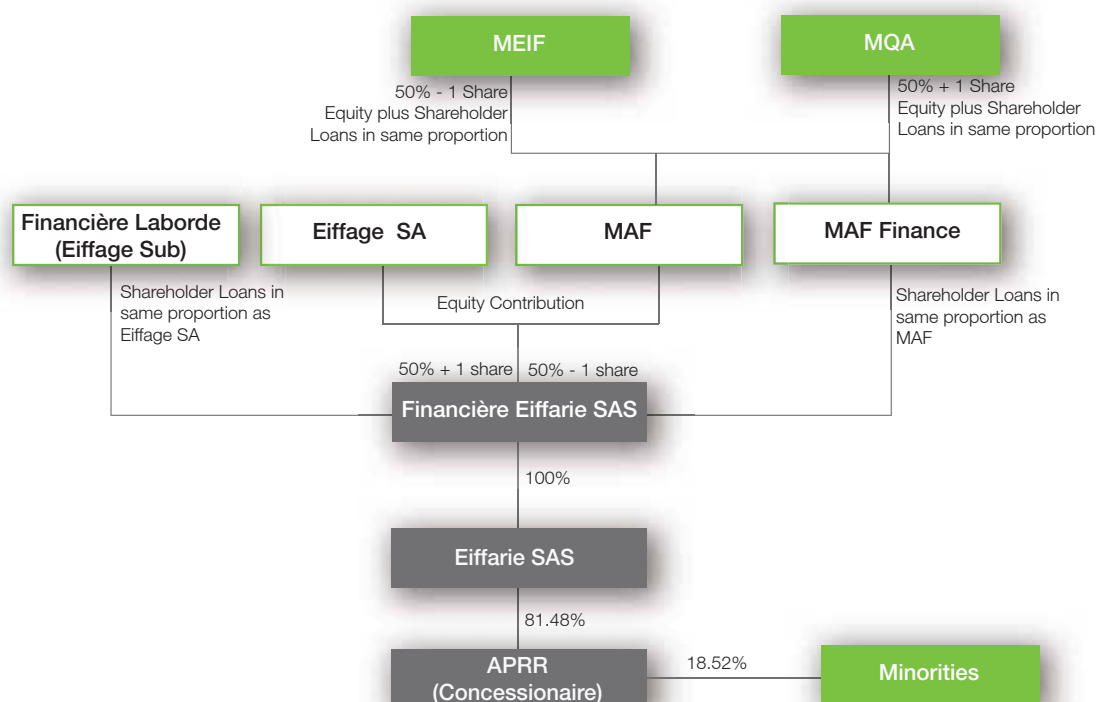
Overview:	APRR is the concessionaire of a 2,234km motorway network located in the east of France. APRR comprises four separate concessions: Autoroutes Paris-Rhin-Rhône, ADELAC, Autoroutes Rhône-Alpes and the Maurice Lemaire Tunnel. APRR is the second largest motorway network in France and the fourth largest in Europe. The concession has a further 44km of motorways to be constructed and opened by 2011.
Concession period:	27 years from privatisation, ends December 2032
MQA interest:	20.37%
Published Valuation (30 June 2009):	A\$447.6 million

APRR is the concessionaire of a toll road network located in the east of France. APRR is a listed company on the Euronext Stock Exchange and comprises four separate concessions: Autoroutes Paris-Rhin-Rhône (**the APRR concession**), ADELAC, Autoroutes Rhône-Alpes (**AREA**) and the Maurice Lemaire Tunnel. The APRR motorway network is located in the heart of Western Europe and serves major business centres, including the Paris–Lyon corridor that links France's two largest metropolitan areas, as well as Northern Europe (the UK, Benelux and Germany), Switzerland and Southern Europe, including Italy and the Iberian peninsula via the Rhône Valley or the Massif Central mountain range. The network also serves as a gateway to Central and Eastern Europe.

Under the APRR Concession Agreements, APRR is entitled to construct and/or toll a total of 2,278 kilometres of toll roads. With 2,234 kilometres of toll roads in operation (comprising 1,821 kilometres for the APRR concession and 413 kilometres for AREA), APRR is the second largest toll road network in France, with 26% of the network, and fourth largest toll road network in Europe. A further 44km is to be constructed and opened by 2011.



### 2.2.2 Concessionaire ownership structure



APRR was acquired from the French Government by a consortium comprising MIG, MEIF and Eiffage SA, the French construction group. The consortium vehicle is FE, which holds its interest in APRR through Eiffarie SAS, the issuer of debt used to fund the acquisition.

#### *Change of control provisions*

MIG holds its investment in APRR through MAF and MAF Finance Sarl, in each of which it holds 50% + one share. MEIF, another Macquarie managed fund holds the balance of the shares in MAF and MAF Finance.

MAF and MAF Finance are managed by Macquarie through the MAF Advisory Agreement with MCFEL.

MAF in turn owns 50% less one share in FE. The remaining interest in FE is owned by Eiffage SA, a French listed construction company and infrastructure developer unrelated to Macquarie Group. MAF Finance and an Eiffage subsidiary have provided loans to FE in corresponding proportions to the MAF/Eiffage shareholdings. FE (via its wholly owned subsidiary, Eiffarie) owns 81.48% of APRR.

Terms relevant to a change of manager are contained in the following documents.

#### *MAF Advisory Agreement*

Under the terms of the MAF Advisory Agreement:

- Base fees and performance fees are payable by shareholders in MAF and MAF Finance, including MQA. These fees are waived if the shareholder is directly or indirectly managed by Macquarie Group, which is the case for MQA; and
- MCFEL exercises MAF's rights under the FE shareholders agreement, including the right to appoint directors to FE (and therefore APRR). MAF currently may appoint four directors out of eight to the board of FE, which is the primary decision making body for FE. The chair and casting vote are held by Eiffage.

#### *MAF Shareholders Agreement*

The MAF Shareholders Agreement governs the management of MAF and MAF Finance.

Under the terms of the MAF shareholders agreement, MEIF has a put/call option allowing MEIF to call the MQA interests in MAF and MAF Finance, or put MEIF's interests in MAF and MAF Finance to MQA, both at fair market value. This option is exercisable if the MAF Advisory Agreement is terminated and MQA is not managed by a Macquarie Group entity.

#### *FE Shareholders Agreement*

The FE Shareholders Agreement governs the decision making in respect of that entity. Under the terms of that agreement:

- MAF loses its right to appoint directors to the FE board in the event that MAF ceases to be managed by a Macquarie Group entity; and
- If, in addition, MAF is not at least 50% owned by a Macquarie Group managed entity, then Eiffage would be entitled to exercise a call option in respect of all of MAF's shares in FE, at fair market value.

#### *Consequences of above arrangements*

If MQA ceased to be managed by a Macquarie entity, but MAF and MAF Finance remained managed by MCFEL:

- A base fee would be payable by MQA to MCFEL equal to 1.25% per annum of its total investment in APRR. The annual cost of this fee would currently be approximately €5 million.
- A performance fee equal to 15% of the total cash flows from the APRR investment would also become payable by the MQA to MCFEL after an 8% IRR is achieved by MQA. That 8% threshold has not yet been met.

If the MAF Advisory Agreement is terminated MAF would lose its right to appoint directors to the board of FE and consequently the right to appoint Directors to APRR. If, in addition MQA ceases to be managed by a Macquarie Group entity:

- The put/call option with MEIF would be triggered, allowing MEIF to call the MQA interests in MAF and MAF Finance, or put MEIF's interests in MAF and MAF Finance to MQA, both at fair market value.

- If MEIF did not acquire MQA's interest pursuant to that call option, Eiffage would be entitled to exercise a call option in respect of all of MAF's shares in FE, at fair market value.

#### *Application of pre-emptive rights*

MQA's interests in MAF and MAF Finance are subject to pre-emptive rights in favour of MEIF, with the exception where the transfer of the interest is to another Macquarie managed entity.

Transfers of MAF's shares in FE are also subject to pre-emptive rights in favour of Eiffage.

### **2.2.3 Tolling structure**

Motorway tariffs are reviewed each year on terms and conditions established contractually with the French Government. For 2009, in accordance with the APRR Concession Agreement, APRR and AREA were permitted a 1.89% tariff increase, as at 1 February 2009. However, APRR and AREA agreed, in view of current discussions with the French Government (see below), to postpone the implementation of this tariff increase by 2 months to 1 April 2009.

Under the APRR Concession Agreements (assuming no new management contract is signed), the next toll review is due on 1 February 2010 and will be calculated as 0.7x the French consumer price index (excluding tobacco) for all households.

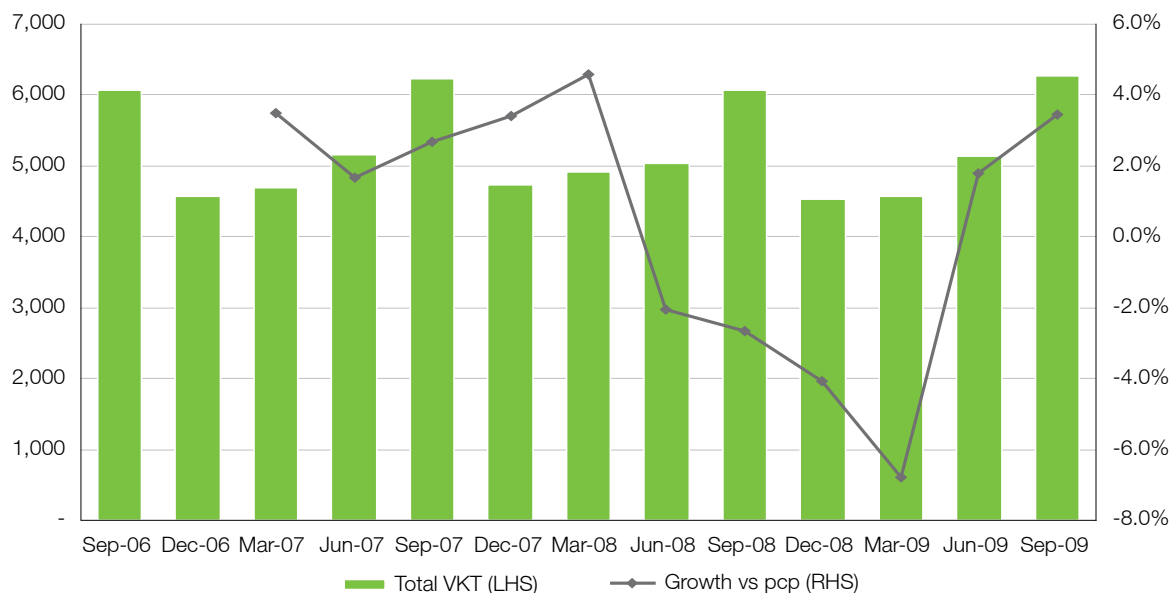
APRR is currently in negotiations with the French Government regarding a new management contract, which would cover the period 2009-2013. There is no obligation to sign a management contract, and one would only be signed if accretive to APRR.

### **2.2.4 Traffic performance**

For the period July 2008–June 2009 traffic, measured by the number of kilometres travelled, declined by 2.9% compared to pcp, reflecting the weak general economic environment during the year. However, signs of recovery in traffic are now being observed with September 2009 quarter traffic up 3.4% from pcp. The recovery is driven by light vehicle traffic, which having decreased by 1.0% over the year to 30 June 2009, increased by 5.8% on pcp in the September 2009 quarter.

Heavy goods vehicle traffic volumes continue to be below pcip, reflecting changes in industrial production volumes, however performance appears to have stabilised. Volumes for the September 2009 quarter were 11.4% below pcip.

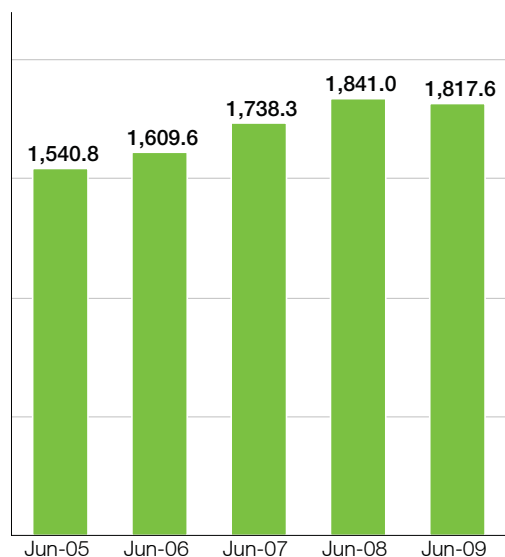
#### APRR quarterly traffic performance (Vehicle Kilometres Travelled - VKT)



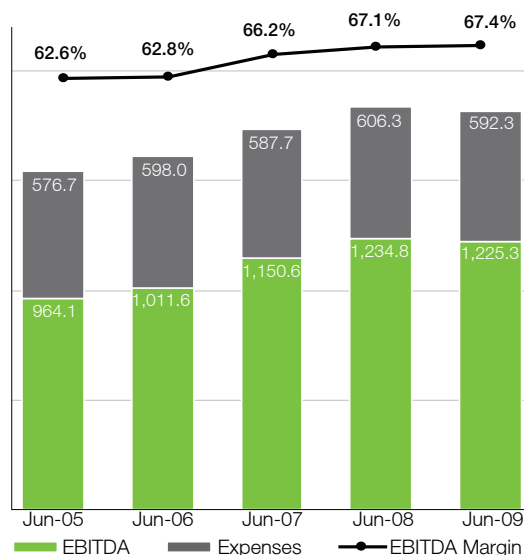
#### 2.2.5 Financial performance

Consolidated revenues totalled €1,817.6 million in the year ended 30 June 2009, down 1.3% from €1,841.0 million in the year ended 30 June 2008. Toll revenues, which account for 97% of total revenues, decreased by 1.5%, and other revenues increased by 6.3%.

#### APRR revenue (€m), 12 months ended 30 June<sup>1</sup>



#### APRR EBITDA (€m), 12 months ended 30 June<sup>1</sup>



<sup>1</sup> The above results in figures include 100% of the results of APRR and FE in which MQA holds effective interests of 20.4% and 25% respectively. FE is the holding company for the consortium's interest in APRR.

### 2.2.6 Financing structure

APRR has been financed at both the Eiffarie level and the APRR level. APRR is currently rated BBB- by S&P and Baa3 by Moody's.

#### *Eiffarie Debt*

The debt of Eiffarie consists of a term facility with an outstanding balance of €3,772 million as at 30 June 2009. The interest margin on the facility is a function of asset leverage and ranges from 0.40% to 1.20% over Euribor with interest payments 91% hedged. This facility is partially repaid via a cash sweep, and matures in February 2013.

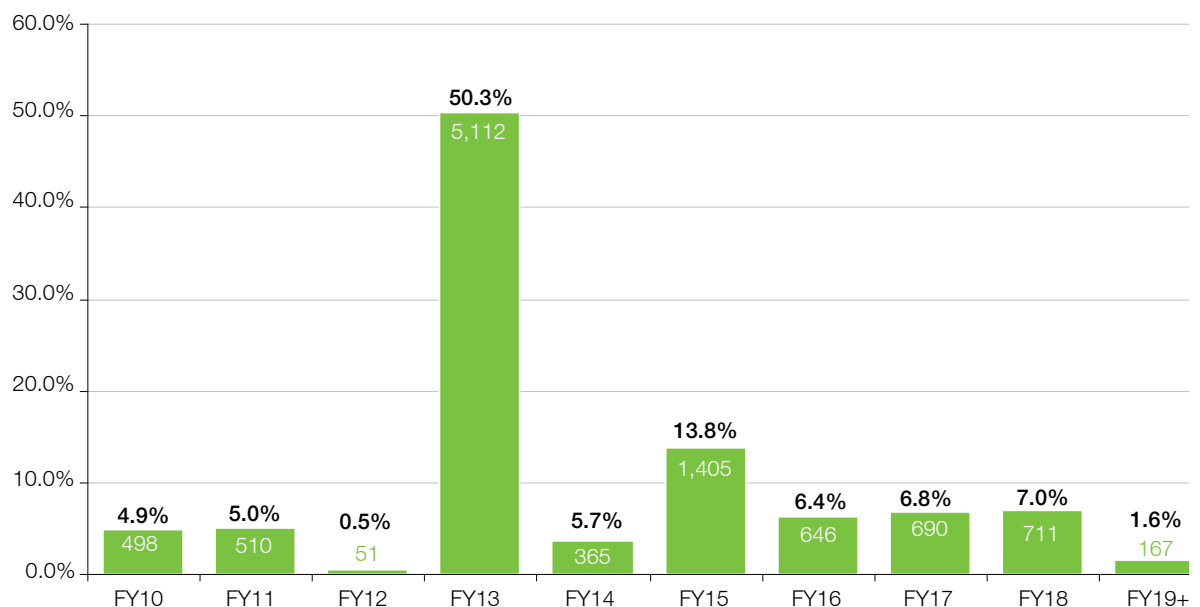
#### *APRR Debt*

APRR has approximately €4,374 million of debt provided by Caisse Nationale des Autoroutes (CNA). Prior to privatisation of APRR, the French Government used the CNA as the financing vehicle. The CNA raised funds by issuing government backed bonds and lent to the toll road companies on the same terms. APRR's outstanding CNA debt is predominantly fixed rate and will be materially amortised by 2018.

The European Investment Bank provided a further €100 million of debt in January 2007 to cover capital expenditure. In addition to this, APRR has arranged a number of new facilities to finance a portion of the CNA maturities and a portion of capital works in the early years of operation. A €1,800 million revolving credit facility is in place, maturing in 2013. A €500 million bank facility was arranged in August 2007 on better terms than the existing debt it replaced. A further €300 million of bank debt was raised in 2008, as well as a €200 million index linked private placement.

APRR has also put in place a €6,000 million medium term note program with a prospectus lodged on the Luxembourg Stock Exchange on 3 October 2007. This new source of financing will serve to replace the CNA loans as they mature and contribute to the financing of investment programs in the longer term. The first public bond issue under the programme was €500 million of 5.5 year notes issued in June 2009.

#### APRR/Eiffarie debt maturity profile (€m)





*Change of control provisions*

Under the Eiffage Senior Facilities Agreement, the acquisition facility must be repaid immediately if Eiffage ceases to be more than 50% owned (indirectly) by Eiffage SA and Macquarie Group managed funds.

**2.2.7 Concession termination**

Under the APRR Concession Agreements, the French Government has the right to terminate the concession in one of two ways:

- (1) At any time from 1 January 2012, the French Government can exercise a call option to purchase the motorway concessions for reasons of public interest. In this case, the concessionaire would be entitled to receive a payment equal to the fair value of the concession calculated in accordance with a discounted cash flow methodology.
- (2) If APRR or AREA fail to cure one of the following breaches within 30 days of the French Government giving notice, the French Government can disqualify the company from operating the concession:
  - Interruption of motorway use repeatedly or for an extended period;
  - Breach of any other material terms of the concession contract;
  - Transfer of the concession to another entity without prior authorisation; or
  - Inability or foreseen inability to finance design, construction, operation or maintenance of the motorway.

In this case, the French Government will invite competitive bids for the concession, the bid price (net of the French Government's costs) being paid to APRR or AREA. If the bidding process fails, no compensation is payable to APRR or AREA. Assuming APRR complies with the terms of each concession contract, there would be no foreseeable reason for the government to terminate, and there is no precedent of this occurring. The termination would also have to be approved by a judge.

## 2.3 Dulles Greenway

### 2.3.1 Asset Description

<b>Overview:</b>	22km toll road in Loudoun County, northern Virginia, part of road corridor connecting Leesburg and other suburban communities with Washington DC
<b>Opened:</b>	September 1995
<b>Concession period:</b>	61 years, ends 2056
<b>MQA interest:</b>	50% estimated economic interest
<b>Published Valuation (30 June 2009):</b>	A\$342.8 million

The Dulles Greenway is a 22 kilometre toll road located in northern Virginia, west of Washington D.C. It runs from Dulles International Airport through Loudoun County to Leesburg. Currently six lanes wide (at the Main Line Toll Plaza), the road has the potential to be expanded to up to 12 lanes.

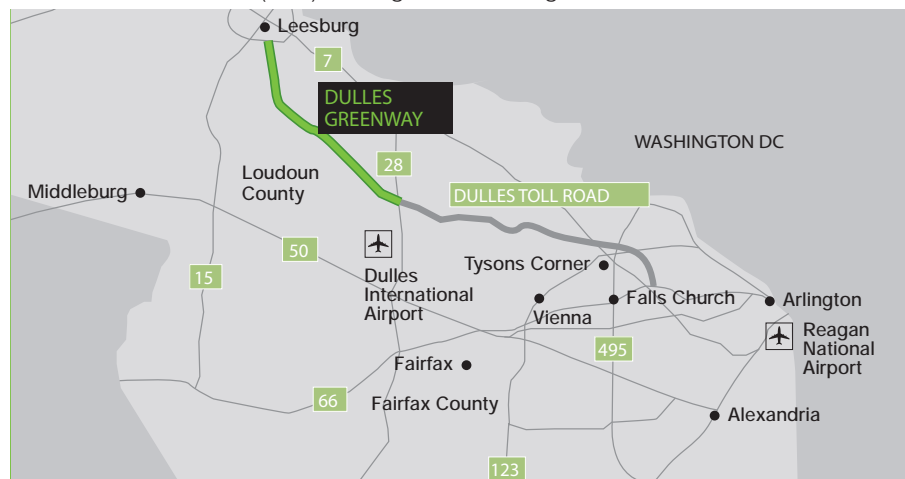
The tollway provides the only limited access route from Dulles International Airport to Leesburg in Loudoun County. At its eastern end, the Dulles Greenway connects with the Dulles Toll Road (**DTR**). The DTR, which opened in 1984, is also approximately 22 kilometres in length and extends from the Dulles Greenway terminus, intersects the Capital Beltway at Tysons Corner and ends at Interstate 66 in Falls Church. When combined with the DTR, the Dulles Greenway provides the only limited access route through the Dulles Corridor.

The Dulles Greenway has seven toll plazas, including a main line toll plaza (with 18 lanes) and six tolled ramps.

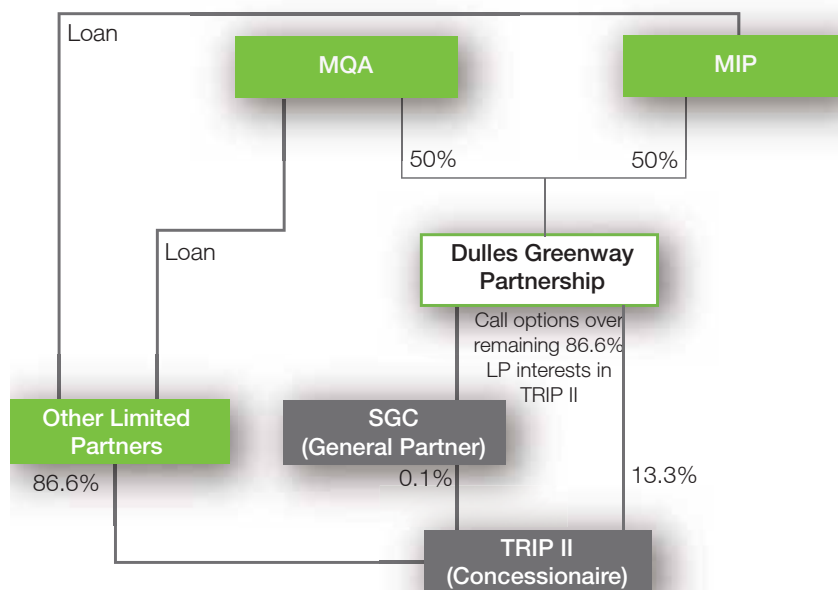
The Dulles Greenway is designed to allow for future expansion, as the right of way is located on land that was acquired by the concessionaire, Toll Road Investors Partnership II (**TRIP II**), fee simple or through an easement agreement with the local airports authority. A typical section of the Dulles Greenway is 250 feet wide, providing future lane widening potential. It also includes a minimum 40 foot median designed to accommodate potential future mass transit development.

TRIP II staff perform functions including management of various capital expenditure programs, administration of the VIP miles program, community outreach, finance, accounting and administration. Toll collection and maintenance is outsourced, primarily to Autostrade International of Virginia O&M, Inc. (**AIV**) through a long-term cost-plus contract extending to the end of the concession. AIV further subcontracts some of these functions.

MQA has an effective 50% economic interest in Dulles Greenway, with Macquarie Infrastructure Partners (**MIP**) holding the remaining economic interest.



### 2.3.2 Concessionaire ownership structure



The Dulles Greenway concession is owned by TRIP II, a Virginian Limited Partnership. MQA has an estimated 50% economic interest in the Dulles Greenway including a 50% interest in Shenandoah Greenway Corporation, the general partner of TRIP II (SGC), that has day-to-day responsibility for the management and operation of the concession. MIP has the remaining 50% economic interest in the Dulles Greenway including the other 50% interest in SGC.

The economic interest comprises a mixture of a direct limited partner interest, a loan to one of the remaining limited partners and call options over the remaining limited partner interests. The options are exercisable during a period running from an earliest date of 2013 to a latest date of 2020. The option exercise date is subject to a number of conditions that will determine the actual date of exercise. MQA will decide whether or not to participate in any option exercise at the time the conditions for exercise have been satisfied.

#### *Change of control provisions*

There are restrictions in respect of the assignment of MQA of the direct limited partner interest, and rights to the loan to one of the remaining limited partners and call option over the remaining limited partner interests held by MQA. However these agreements do not restrict a change in manager of MQA nor a change of ownership of more than 50% of the securities in MQA.

MQA and MIP each hold 50% of Dulles Greenway Partnership, through which a 100% interest in SGC and 100% economic interest in the Dulles Greenway is held. The Dulles Greenway Partnership general partnership agreement contains rights of first offer in favour of the other partner, in the event of a disposal of an interest in Dulles Greenway Partnership, however these rights do not apply to transfers to Macquarie group members or affiliates. The non-transferring partner may designate another member of the Macquarie group to exercise these rights of first offer where applicable.

The Dulles Greenway Partnership general partnership agreement also contains change of control restrictions where a change of control (including a change of manager, advisor or responsible entity or a change in voting power of 50% or more in a partner) would be deemed an intended transfer of all of a partner's partnership interest at a cash amount equal to the fair market value of such partnership interest and the provisions of the rights of first offer in the Dulles Greenway Partnership general partnership agreement described above would become applicable.

However, a change of manager of a Macquarie affiliate (such as MQA) or change of ownership of more than 50% of the securities in a Macquarie affiliate (such as MQA) is specifically carved out from the change of control definition.

### 2.3.3 Tolling Structure

The tolls on the Dulles Greenway are set, on application, by the Virginia State Corporations Commission (VSCC) under the Virginia Highways Corporation Act (VHCA). The VSCC has approved a path of maximum toll levels up to December 2012. Maximum tolls between 2013 and 2020 can be increased at the highest of Virginia CPI+1%, Real GDP or 2.8% per annum in accordance with section 56-542 of the Code of Virginia. After 2020, maximum tolls are subject to application and approval by the VSCC.

### 2.3.4 Traffic performance

Average Daily Traffic (ADT) on the Dulles Greenway for the year to 30 June 2009 decreased 5.1% compared to pcp.

Traffic has also been impacted by the new toll schedule implemented on 1 January 2009. Softening economic conditions, both locally and nationally, also continue to negatively impact traffic performance.

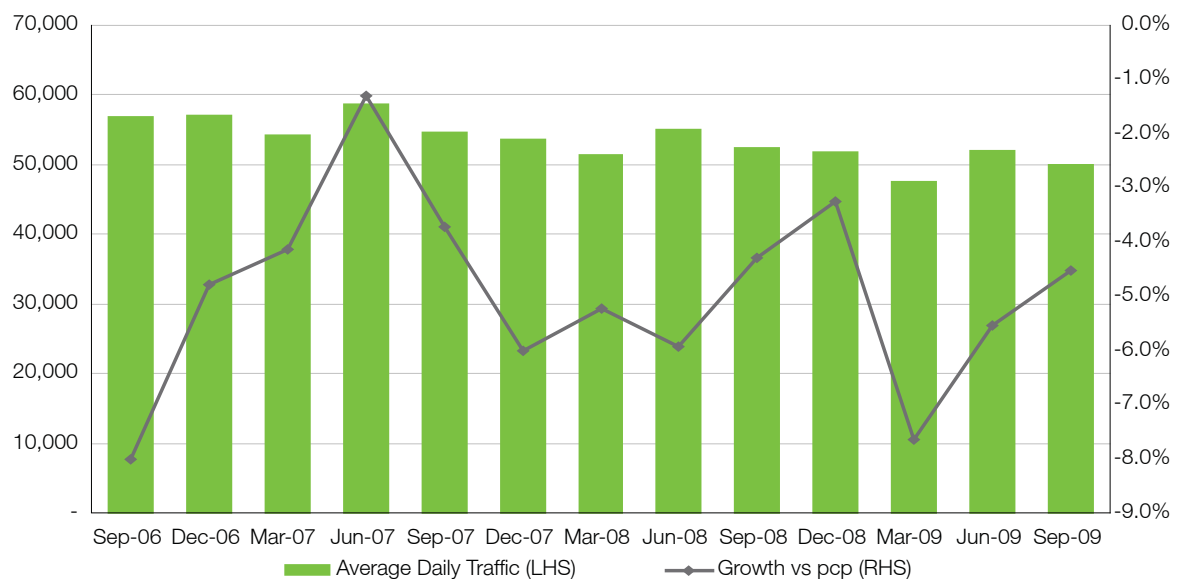
### 2.3.5 Financial performance

Revenue for the year to 30 June 2009 increased by 3.6% compared to pcp due to the scheduled toll increase implemented on 1 January 2009. Weekday tolls were increased at the mainline toll plaza by 13% for off-peak periods and by 33% for peak periods.

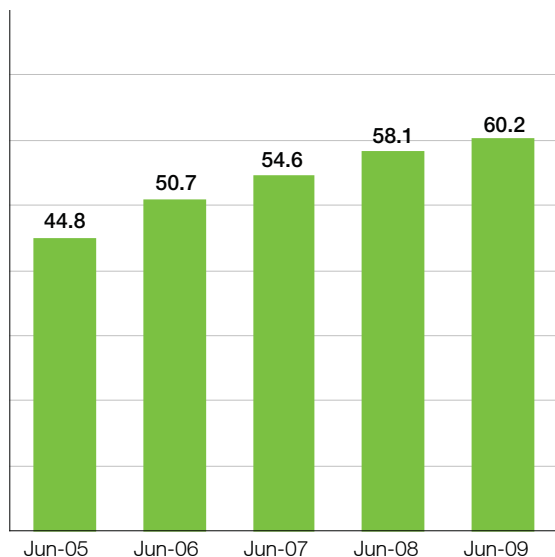
EBITDA for the year increased by US\$2.2m, with a 1.2% decrease in operating expenses.

The EBITDA margin for the year was 1.2% higher than pcp due to higher revenues and slightly lower operating and maintenance expenses.

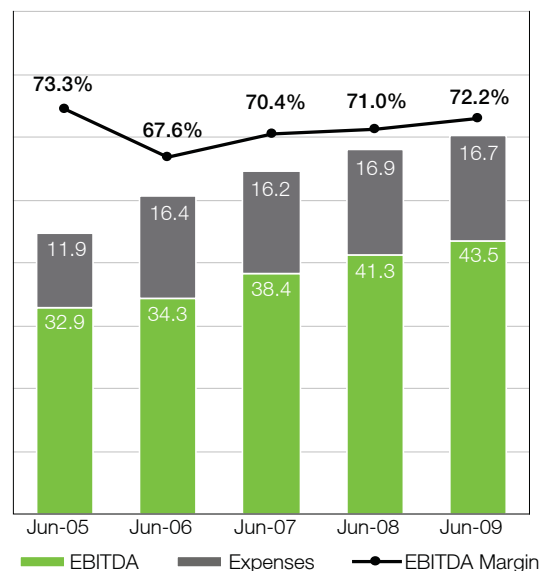
### Dulles Greenway quarterly traffic performance



Dulles Greenway revenue (US\$m),  
12 months ended 30 June



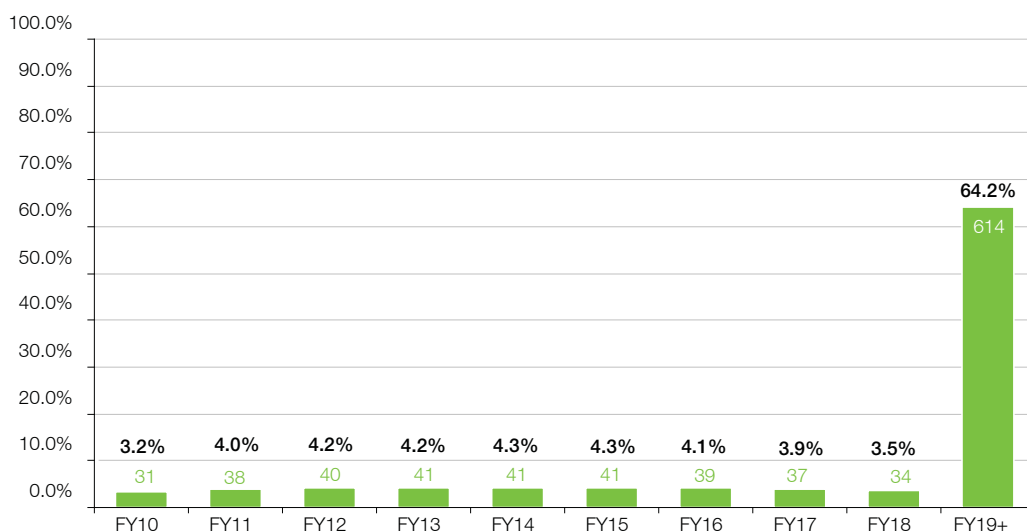
Dulles Greenway EBITDA (US\$m),  
12 months ended 30 June



### 2.3.6 Financing structure

The Dulles Greenway debt consists of five tranches of senior debt, including two from a 1999 re-financing and three from a 2005 re-financing. The Dulles Greenway did not meet its distribution test at 31 December 2008 and consequently is in distribution lock-up under its senior debt indentures until at least 31 December 2011. Excess cash will continue to accumulate while the Dulles Greenway is in lock up and will be distributed when the project complies with the distribution test requirements. The Dulles Greenway continues to generate a positive cash flow and held more than US\$140 million of cash reserves as at 30 June 2009.

Dulles Greenway debt maturity profile (US\$m)



### 2.3.7 Change of control provisions

MQA's 50% interest in SGC is held through a subsidiary, MIG Investments 3 (US) LLC. The consent of the trustee for the bond-financing of the project, or of National Public Finance Guarantee Corporation (formerly MBIA Inc), the bond insurer, would be required for any disposal by MIG Investments 3 (US) LLC of its interests in SGC. These restrictions would not otherwise be impacted by a change in the manager of MQA or a change of ownership of more than 50% of MQA or any future disposal of MQA of its interest in the Dulles Greenway.



## 2.4 Indiana Toll Road

### 2.4.1 Asset description

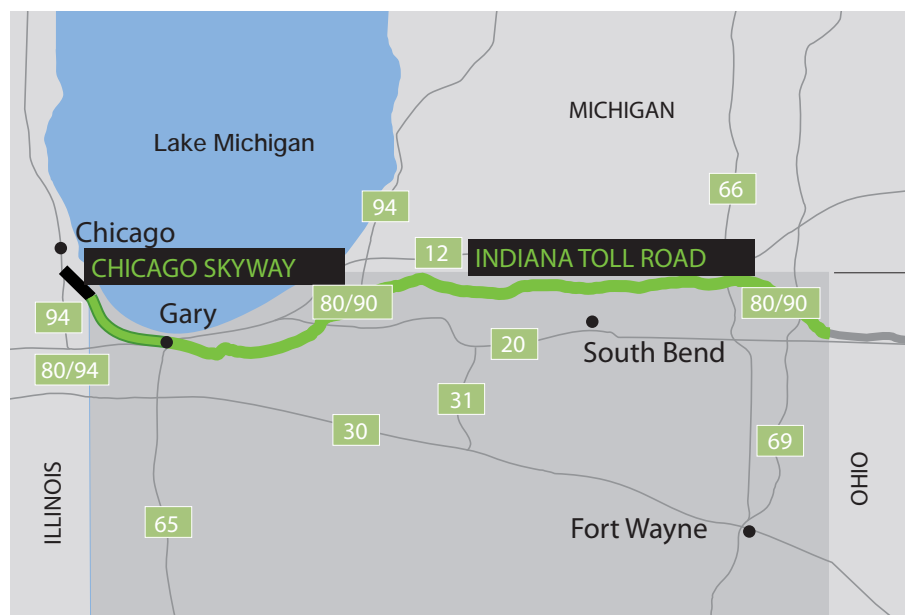
<b>Overview:</b>	253km limited access, divided toll road spanning northern Indiana, connecting to Chicago Skyway in the west and Ohio Turnpike in the east. The westernmost 37km operates a barrier tolling system and acts primarily as a commuter link to Chicago and surrounding areas. The eastern section operates on a ticket tolling system and is primarily an interurban road
<b>Opened:</b>	1956 and leased to the private sector in June 2006
<b>Concession period:</b>	75 years, ends 2081
<b>MQA interest:</b>	25%
<b>Published Valuation (30 June 2009):</b>	A\$98.1 million

The Indiana Toll Road (ITR) is a 253 kilometre, limited access, divided highway in the United States. The road spans northern Indiana, from its border with Ohio to the Illinois state line near Chicago, feeding directly into two toll roads at the state lines – the Chicago Skyway in the west and the Ohio Turnpike in the east.

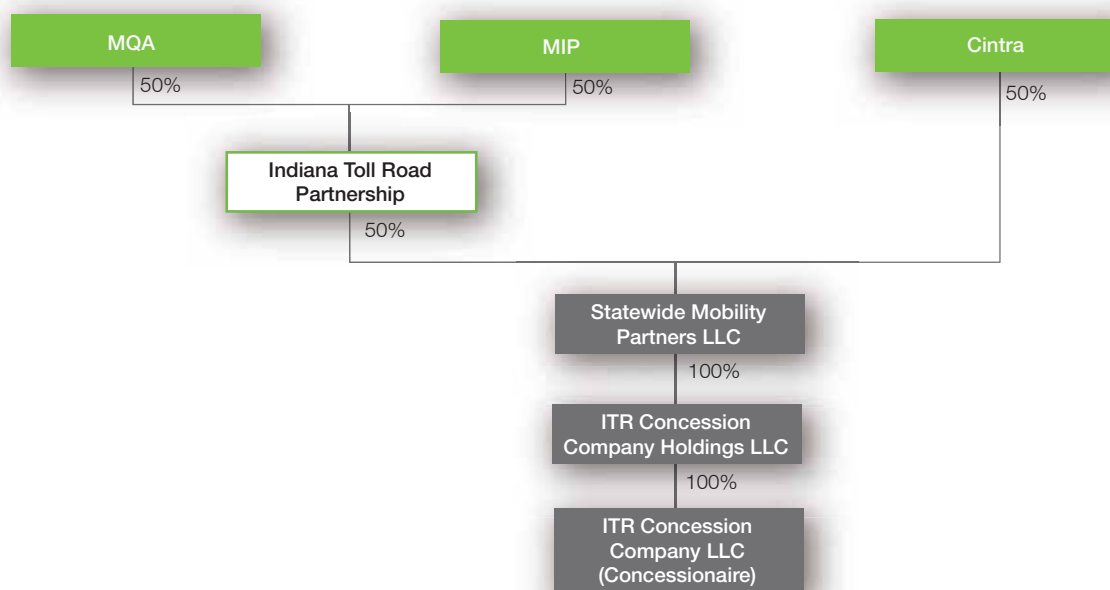
For its westernmost 37 kilometres, the ITR runs through the urban region surrounding Gary, Indiana. The remainder of the road is effectively inter-urban, providing a principal link between the Chicago region and the east coast. On an average day, approximately 130,000 transactions are conducted on the road which is two to three lanes in each direction.

Indiana Toll Road Concession Company LLC (ITRCC), the concessionaire, performs all tolling, operations and maintenance activities required under the ITR Concession Agreement, using subcontractors for certain functions where it is beneficial to do so. In addition, there is a management services agreement in place between ITRCC and Skyway Concession Company LLC (SCC), the entity responsible for the Chicago Skyway concession, whereby costs are shared between the two entities relating to common staff positions and overheads.

MQA has a 25% interest in the ITR.



### 2.4.2 Concessionaire ownership structure



MQA has a 25% interest in Statewide Mobility Partners LLC, which in turn has a 100% interest in ITRCC.

#### *Change of control provisions*

Under the bank debt it is an event of default on the part of ITRCC if there is a default under the ITR Concession Agreement (including in respect of the change of control restrictions) or if Cintra or MIG (as defined in the relevant agreements) collectively ceasing to hold no less than 50% of the concessionaire, directly or indirectly, without the consent of the administrative agent. Accordingly, these restrictions are not prima facie impacted by a change in the manager of MQA nor a change of ownership of more than 50% of MQA or any future disposal of MQA of its interest in the Indiana Toll Road.

#### *Capital expenditure program*

MQA and MIP are parties to the Indiana Toll Road Partnership general partnership agreement, through which they hold a collective 50% interest in the ITR. The Indiana Toll Road Partnership general partnership agreement contains rights of first offer in favour of the other partner, in the event of a disposal of an interest in Indiana Toll Road Partnership, however these rights do not apply to transfers to Macquarie Group members or affiliates. The non-transferring partner may designate another member of the Macquarie Group to exercise these rights of first offer where applicable.

The Indiana Toll Road Partnership general partnership agreement also contains change of control restrictions where a change of control (including a change of manager, advisor or responsible entity or a change in voting power of 50% or more in a partner) would be deemed an intended transfer of all of a partner's partnership interest at a cash amount equal to the fair market value of such partnership interest and the provisions of the rights of first offer in the Indiana Toll Road Partnership general partnership agreement described above would become applicable. However, a change of manager of a Macquarie affiliate (such as MQA) or change of ownership of more than 50% of the securities in a Macquarie affiliate (such as MQA) is specifically carved out from the change of control definition.

Cintra holds the remaining 50% interest in the ITR. Indiana Toll Road Partnership and Cintra are parties to the Statewide Mobility Partners LLC Agreement, which indirectly owns 100% of ITRCC. Under the Statewide Mobility Partners LLC Agreement, transfers (including indirect or upstream transfers of interests) to parties that are not affiliates give rise to a right of first refusal of the non-transferring members. In such cases a member is not permitted to transfer to the third party, directly or indirectly, its interest without first offering the interest to the other members for the same price and on the same terms offered by such third party. However, transfers (including indirect or upstream transfers of interests) to affiliates are specifically carved out from the right of first refusal and expressly permitted. This means that

as long as MQA remains managed by a Macquarie group affiliate, a transfer by MQA to a member of the Macquarie Group would be expressly permitted.

### 2.4.3 Tolling structure

The eastern end of the road works on a ticket system, primarily serving long-distance and freight based traffic. The western end is a barrier system catering more to commuter traffic. ITR completed the installation of electronic toll collection (ETC) along the full length of the road in April 2008.

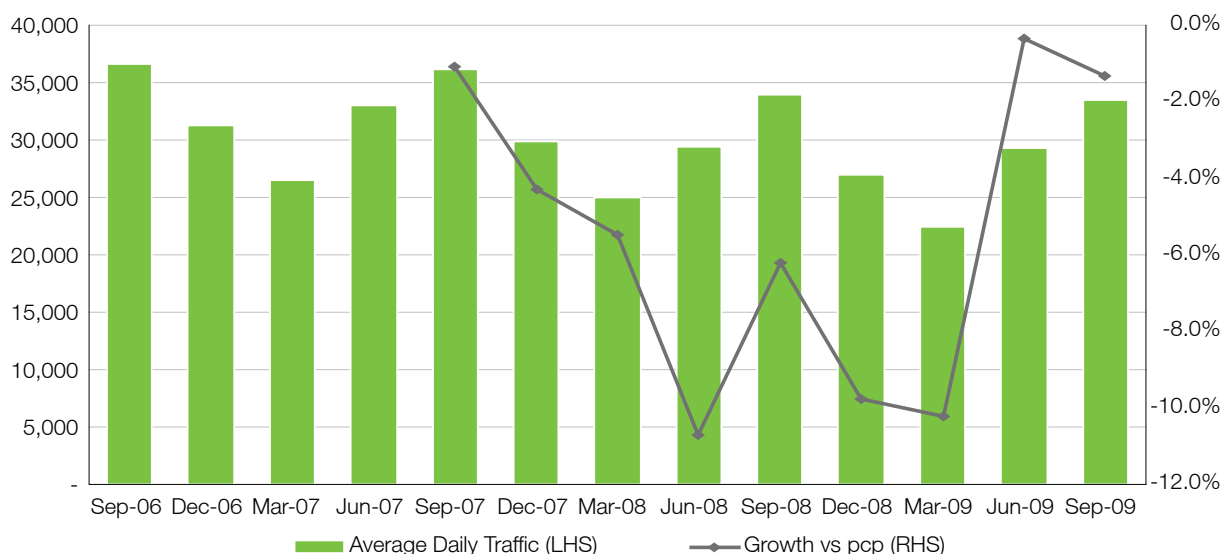
The current maximum tolls on the ITR are US\$8.00 for cars and US\$32.00 for a five-axle vehicles travelling the full length of the roadway. On 30 June 2010, car and heavy vehicle tolls can be increased by the greater of 8%, the CPI and Per Capita Nominal GDP growth over the prior four calendar years. Beginning 30 June 2011, and annually thereafter, tolls can be escalated at the greater of 2.0%, CPI or Per Capita Nominal GDP growth over the past calendar year.

The State of Indiana also provides a cash rebate program for ETC passenger vehicle users, which is currently scheduled to remain in place until June 2016. Pursuant to a separate agreement with the Indiana Finance Authority (IFA), ETC car users currently only pay US\$4.65 per full length trip and the IFA pays ITRCC the difference between the toll paid by ETC car users and the maximum car tolls set out in the ITR Concession Agreement (currently US\$8.00 per full length trip). This agreement with the IFA has a sunset clause of 30 June 2016 and can be cancelled by either party with 120 days notice.

### 2.4.4 Traffic performance

ADT (measured in full-length equivalent trips) on the ITR for the year to 30 June 2009 decreased 3.8% on the ticket system and 14.9% on the barrier system compared to pcp. Weak economic conditions and the toll increases for heavy vehicles implemented in April 2009 have negatively impacted traffic volumes. Light vehicle traffic has shown early signs of improvement in the second half of the year, while heavy vehicle traffic continues to be impacted by the economic downturn.

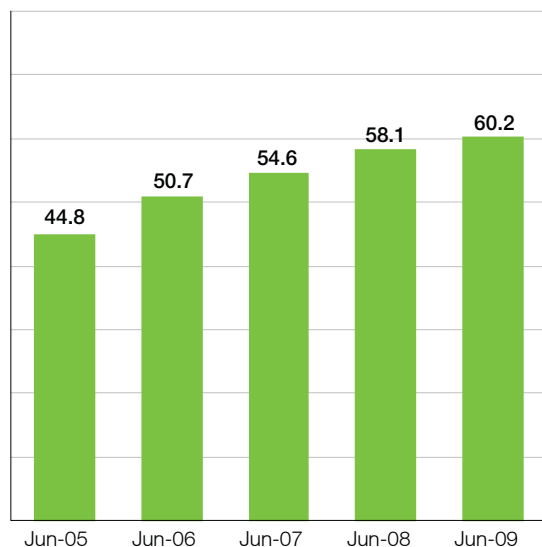
ITR quarterly traffic performance (full length equivalent trips)



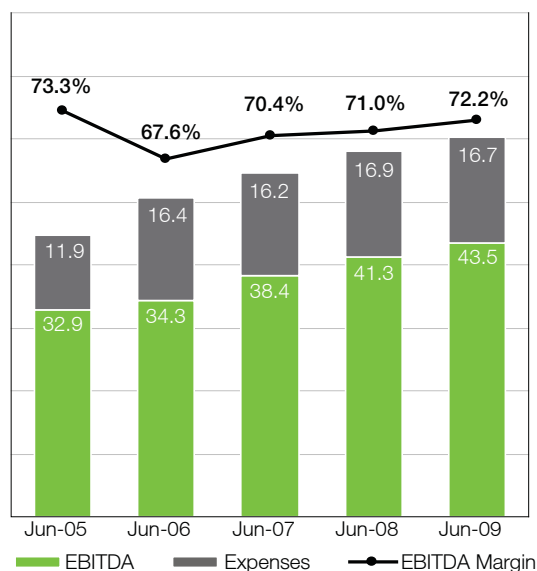
### 2.4.5 Financial performance

Revenue for the last 12 months has increased by 1.2% as toll increases have offset lower traffic volumes.

ITR revenue (US\$m), 12 months ended 30 June



ITR EBITDA (US\$m), 12 months ended 30 June



### 2.4.6 Financing structure

Three tranches of bank debt were used to fund the ITR acquisition:

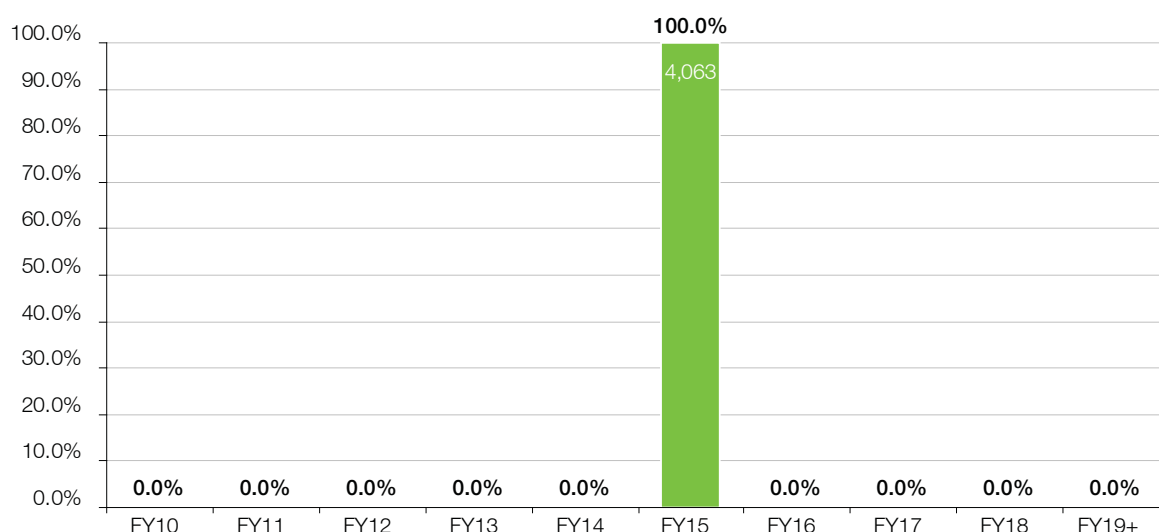
- US\$3,248 million acquisition facility, maturing June 2015;
- US\$150 million liquidity facility to fund early period interest payments (undrawn at acquisition), maturing June 2015; and
- US\$665 million capex facility to fund capital expenditures (undrawn at acquisition), maturing June 2015.

In addition to funding the purchase price and transaction costs, proceeds from the acquisition facility were used to pre-fund a US\$100 million revenue stabilisation reserve (**RSR**). The RSR can be used to meet debt service obligations in instances where there are insufficient funds post drawing the liquidity facility. If the RSR is not required to fund debt service obligations, semi-annual distributions to equity in equal instalments are permitted over 3.5 years, subject to certain performance requirements. ITR did not achieve the 12 month revenue test in December 2008 or June 2009 and so the fifth and sixth instalments of the RSR, totalling US\$28.6 million, were used to service senior debt. No further distributions from the RSR to equity are anticipated.

Prior to financial close, ITRCC entered into a series of swap positions to hedge the current and expected future interest rate exposure stemming from the bank debt obligations. Under the swap arrangement, interest rates have been effectively locked to a set schedule from 2006 to 2026, gradually stepping up from 3.15% in year one to 11.29% in year 20 (including swap margin). On average, 97% of forecasted project debt is hedged over the first 20 years of the concession.

Debt service obligations are borne by ITRCC and must be satisfied prior to making distributions to its members.

### ITR debt maturity profile (US\$m)



#### *Change of control provisions*

Under the bank debt it is an event of default on the part of ITRCC if there is a default under the ITR Concession Agreement (including in respect of the change of control restrictions) or if Cintra or MIG (as defined in the relevant agreements) collectively ceasing to hold no less than 50% of the concessionaire, directly or indirectly, without the consent of the administrative agent. Accordingly, these restrictions are not prima facie impacted by a change in the manager of MQA nor a change of ownership of more than 50% of MQA or any future disposal of MQA of its interest in the Indiana Toll Road.

#### 2.4.7 Capital expenditure program

The ITR Concession Agreement sets out a number of specific projects referred to as mandatory expansion works (**MEW Projects**) that must be completed by specified dates within the first four and a half years of the concession term. These projects include ETC implementation, roadway expansions and roadway elevation reductions. All MEW Projects are required to be completed at or before 31 December 2010. The majority of MEW Projects have been completed, however the remaining works are subject to various uncertainties that may affect their timely completion. The MEW Projects along with various other capital expenditure activities are currently being funded with the 9-year US\$665 million capital expenditure bank facility raised at acquisition.

Further, ITRCC is required to maintain a minimum level of service (**LOS**) for each section of the ITR. This requirement is likely to require future roadway expansions and related construction works. The timing and quantum are dependent upon the current and forecast levels of service. Each year ITRCC is required to conduct a traffic study to determine if the minimum level of service is being achieved.

Capital works (maintenance and expansion) are expected to be a substantial cash flow over the life of the concession. Funding of future capital expenditure beyond 2015 has not been arranged or reserved for at the present time.



## 2.5 Chicago Skyway

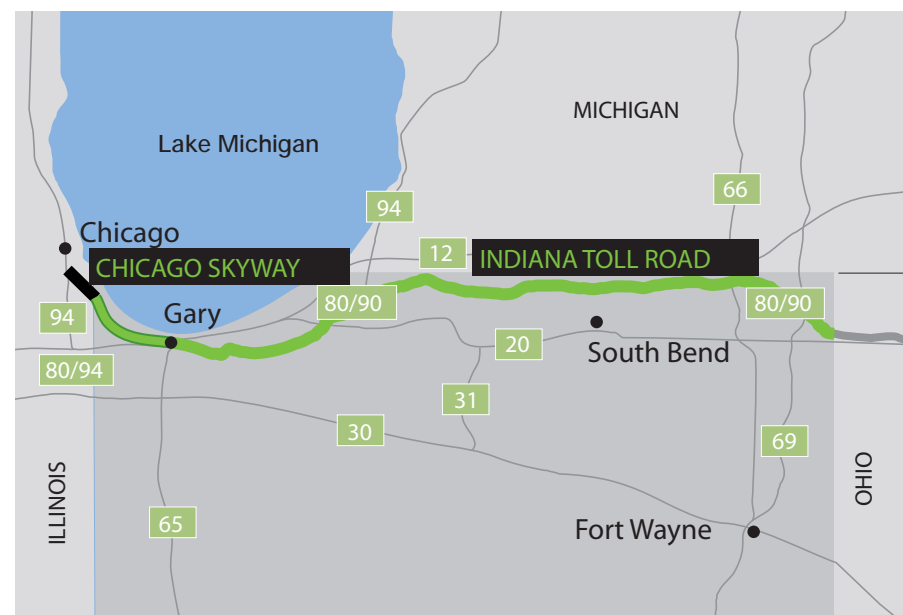
### 2.5.1 Asset description

<b>Overview:</b>	12.5km majority elevated toll road in Chicago, Illinois, connecting the Dan Ryan Expressway to the Indiana Toll Road and providing an important link to downtown Chicago and surrounding communities
<b>Opened:</b>	1959 and leased to the private sector in January 2005
<b>Concession period:</b>	99 years, end 2104
<b>MQA interest:</b>	22.5%
<b>Published Valuation (30 June 2009):</b>	A\$148.3 million

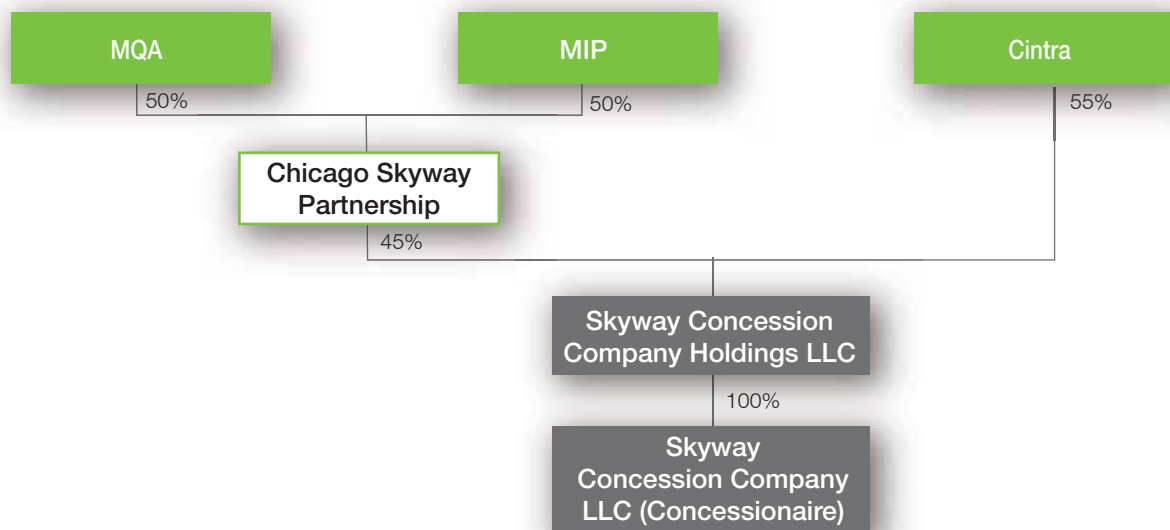
The Chicago Skyway is a 12.5 kilometre, limited access six lane median-divided toll road, located south of Chicago that links the Indiana Toll Road (I-90), at the Illinois-Indiana state line, to the Dan Ryan Expressway (I-94). The road contains 8.0 kilometres of elevated roadway pavement supported on embankment. The remaining 4.5 kilometres consists of various types of elevated bridge structures including overpasses, the Calumet River Bridge and viaduct sections.

SCC, the owner of the Chicago Skyway concession, self-performs all tolling, operations and maintenance activities required under the concession agreement (**CS Concession Agreement**), using subcontractors where it is beneficial to do so. In addition, there is a management services agreement in place between SCC and ITRCC, the entity responsible for the ITR concession, whereby costs are shared between the two entities relating to common staff positions and overheads.

MQA has a 22.5% interest in the Chicago Skyway.



## 2.5.2 Concessionaire ownership structure



MQA has a 22.5% interest in Skyway Concession Company Holdings LLC (**SCCH**), which owns 100% of SCC.

### *Change of control provisions*

Under the CS Concession Agreement there are restrictions on direct transfers of interests in SCC (the Concessionaire), or a change of control in respect of SCC (i.e. such that 50% or more of the direct or indirect voting or economic interests in SCC, or the power to directly or indirectly direct or cause the direction of management and policy of SCC, is transferred to a person or group of persons acting in concert). These restrictions are subject to certain exceptions for transactions in respect of publicly traded entities or transfers to entities under common control. As MQA has only a 22.5% indirect interest in SCC, a change in manager of MQA, a change of ownership of more than 50% of the securities of MQA or any future disposal of MQA's interests in the Chicago Skyway would prima facie not be restricted under the CS Concession Agreement.

MQA and MIP are parties to the Chicago Skyway Partnership general partnership agreement, through which they hold a collective 45% interest in the Chicago Skyway. The Chicago Skyway Partnership general partnership agreement contain rights of first offer in favour of the other partner, in the event of a disposal of an interest in Chicago Skyway Partnership, however these rights do not apply to transfers to Macquarie group members or affiliates. The non-transferring partner may designate another member of the Macquarie group to exercise these rights of first offer where applicable.

The Chicago Skyway Partnership general partnership agreement also contains change of control restrictions where a change of control (including a change of manager, advisor or responsible entity or a change in voting power of 50% or more in a partner) would be deemed an intended transfer of all of a partner's partnership interest at a cash amount equal to the fair market value of such partnership interest and the provisions of the rights of first offer in the Chicago Skyway Partnership general partnership agreement described above would become applicable. However, a change of manager of a Macquarie affiliate (such as MQA) or change of ownership of more than 50% of the securities in a Macquarie affiliate (such as MQA) is specifically carved out from the change of control definition.

Cintra holds the remaining 55% interest in the Chicago Skyway. Chicago Skyway Partnership and Cintra are parties to the Skyway Concession Company Holdings LLC Agreement, which directly owns 100% of SCC. Under the Skyway Concession Company Holdings LLC Agreement, transfers (including indirect or upstream transfers of interests) to parties that are not affiliates give rise to a right of first refusal of the non-transferring members. In such cases a member is not permitted to transfer to the third party, directly or indirectly, its interest without first offering the interest to the other members for the same price and on the same terms offered by such third party. However, transfers (including indirect or upstream transfers of interests) to affiliates are specifically carved out from the right of first refusal and expressly permitted. This means that as long as MQA remains managed by a Macquarie group affiliate, a transfer by MQA to a member of the Macquarie group would be expressly permitted.

### 2.5.3 Tolling structure

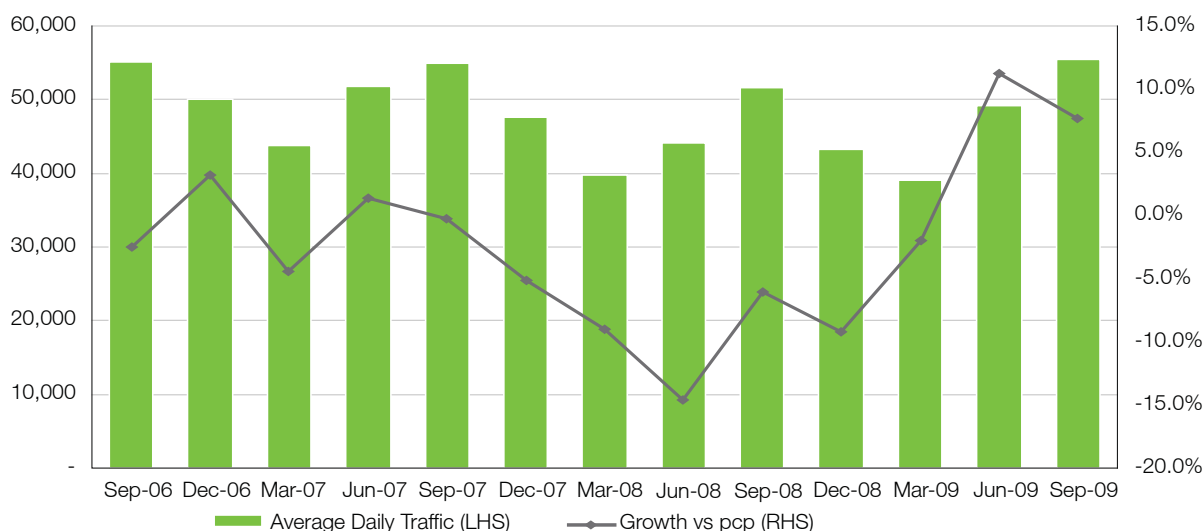
The CS Concession Agreement specifies the maximum toll schedule for the Chicago Skyway.

On 1 January 2008, toll rate changes were implemented for all vehicle classes on the Chicago Skyway. Maximum tolls are specified in the CS Concession Agreement through to 31 December 2017, with increases permitted on 1 January 2011, 1 January 2013, 1 January 2015 and 1 January 2017. Beginning 1 January 2018, and annually thereafter, maximum toll increases are limited to the greater of 2.0%, CPI or Per Capita Nominal GDP growth.

### 2.5.4 Traffic performance

ADT for the year to 30 June 2009 fell 1.9% compared to pcp and was impacted by the slowdown in both regional and national economic activity and improvements to the competing alternatives.

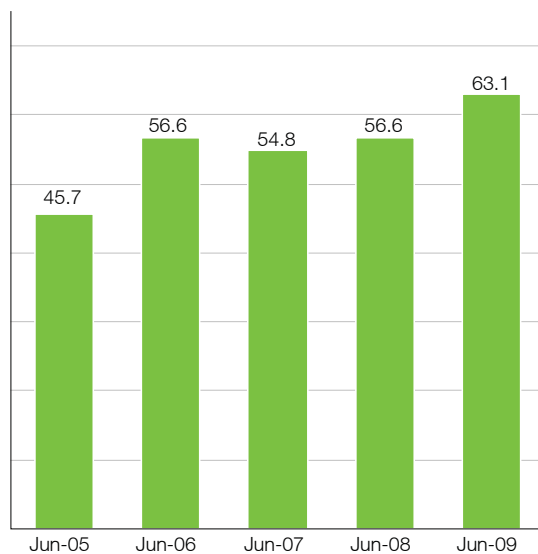
#### Chicago Skyway quarterly traffic performance



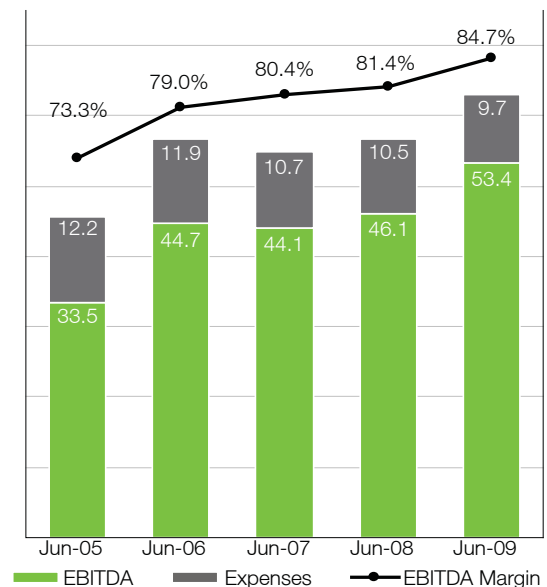
### 2.5.5 Financial performance

Revenue for the year to 30 June 2009 increased by 11.4% to US\$63.1 million compared to pcp, primarily due to a 20% increase in light vehicle tolls and an approximate 50% increase in heavy vehicle tolls on 1 January 2008. Traffic was positively impacted by construction on the Borman Expressway (I-80) and the Bishop Ford Freeway (I-94), which together comprise a major competing free route. These construction projects are expected to continue over the next 6-18 months.

Chicago Skyway revenue (US\$m),  
12 months ended 30 June



Chicago Skyway EBITDA (US\$m),  
12 months ended 30 June



### 2.5.6 Financing structure and performance

On 16 August 2005, the SCC successfully completed a US\$1.55 billion refinancing. The refinancing was used to repay US\$1 billion in acquisition debt, fund reserves, transaction costs and distribute US\$373 million back to equity holders.

Under the refinancing, two tranches of Rule 144A bonds, totalling US\$1.40 billion, were underwritten as set out below:

- Series A – US\$439 million Current Interest Bonds (CIBs).
- Series B – US\$961 million Capital Accretion Bonds (CABs).
- The borrowing entity in relation to these issues is SCC. Both tranches are monoline credit wrapped by Financial Security Assurance Inc. (FSA). A portion of the FSA premium was paid upfront with proceeds of the issue and the remainder is payable over the life of the monoline wrap. Subject to certain conditions precedent, FSA has agreed to provide a financial guarantee for the maturing CIBs and CABs in accordance with

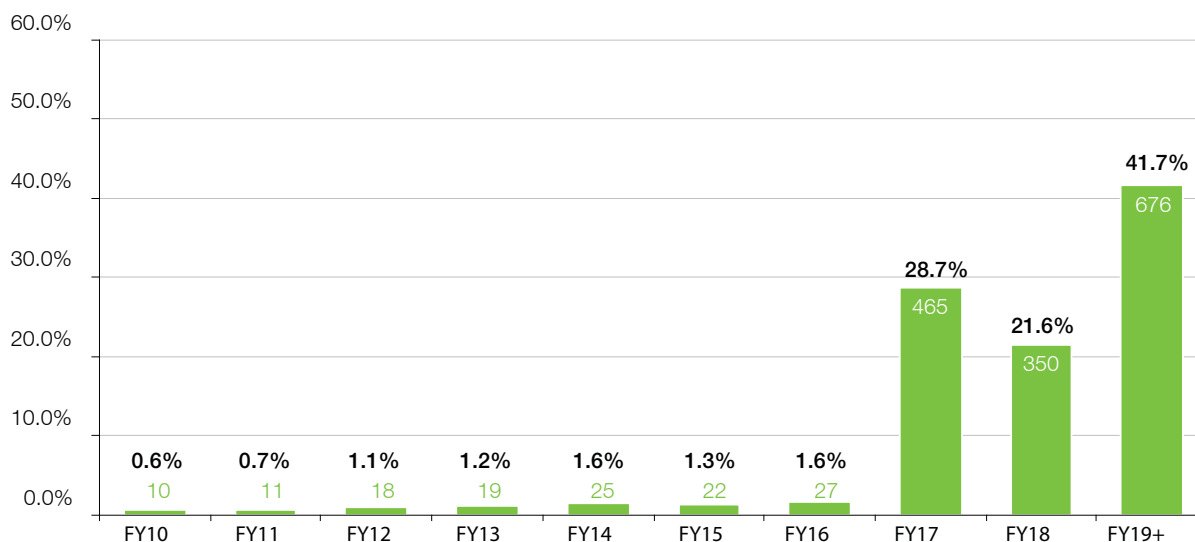
agreed principal amounts through to 2058, which include the principal amounts for existing bonds that are due to mature from 2017 to 2026. The annual premium for the wrap is pre-agreed and varies according to the shadow rating of the Chicago Skyway at the time of refinancing.

In addition to repaying the acquisition debt and funding a return of capital to equity, proceeds from the bond issues were used to fund multiple reserves, as set out below:

- Operational Reserve – US\$4 million.
- Debt Service Reserve – US\$22 million.
- Schedule 2 Works Reserve – US\$80 million.
- Revenue Stabilisation Reserve – US\$10 million.

In addition to the bond debt, subordinated debt in the amount of US\$150 million was issued. The borrowing entity in relation to the subordinated debt is SCCH.

## Chicago Skyway debt maturity profile (US\$m)

*Change of control provisions*

Under the CIBs and CABs, it is an event of default on the part of SCC if there is a default under the CS Concession Agreement (including in respect of the change of control restrictions) or a change of control of 50% or more of interests in SCC, directly or indirectly, subject to certain exceptions. Under the subordinated debt, there are restrictions on Cintra and Macquarie Group and its affiliates collectively ceasing to hold at least 37.5% of SCC, directly or indirectly. As MQA will only have a 22.5% indirect interest in SCC and will remain a Macquarie affiliate, these restrictions are not impacted by the Restructure Proposal, nor will they be prima facie impacted by a change in the manager of MQA nor a change of ownership of more than 50% of MQA or any future disposal of MQA of its interest in the Chicago Skyway.



## 2.6 Other assets

MQA also holds investments in the following three businesses, which are valued at zero or close to zero. The businesses have not performed well financially, however the debt at each of the assets is non recourse to MQA and is not secured over anything but the assets of the project to which it relates. Other than as indicated below in sections 2.6.1 and 2.6.2, MQA has no obligation to contribute any further equity to these investments.

MQA's strategy in relation to these businesses is to continue to manage them as efficiently as possible, in cooperation with the various lenders and other stakeholders of those businesses.

### 2.6.1 Warnow Tunnel

#### *Overview*

Warnow Tunnel is a four kilometre toll road located in the city of Rostock in north-eastern Germany. At the time of investment, Rostock was the largest of seven Baltic ports and the fourth largest German port. The Warnow Tunnel opened to traffic in September 2003, and has a 50 year concession ending in 2053. The road includes a 0.8 kilometre tunnel under the Warnow River. This river divides the city, with most residential areas located on the western side and most of the industrial areas on the eastern side, including a power station, bulk goods terminal and growing retail precinct. Alternative options to cross the river include:

- ferries, which take more than 15 minutes to complete the crossing; and
- a 19 kilometre journey via untolled roads through the Rostock central shopping precinct. This route can be subject to delays of up to two hours during peak periods.

MQA has a 70% interest in Warnowquerung GmbH & Co. KG (**WQG**), the concessionaire partnership, and its general partner, with the remaining 30% owned by Bouygues Travaux Publics SA. Under the terms of the WQG partnership agreement, a 75% majority is required to pass significant resolutions.

The partnership agreement with Bouygues Travaux Publics SA prohibits direct transfers of partnership interests without the consent of all limited partners, however it does not impose any consent or pre-emption requirements on the change of control of a limited partner.

Since opening, Warnow Tunnel traffic has been significantly below MIG's investment case. Due to this performance, the value of the investment has been reduced to A\$1.3 million as at 30 June 2009.

Under the concession deed, the level of permitted toll increase varies with the forecast pre-tax equity internal rate of return. Based on current projections, the equity IRR for the investment is zero, so tolls may be escalated at a rate greater than inflation if the concessionaire chooses to do so.

#### *Debt Restructure*

In December 2005, WQG and its banks agreed to restructure the loan to WQG. Under the terms of the restructuring agreement, the €147 million in senior loans together with the present value of interest rate swaps were converted into 3 tranches of debt:

- Tranche I – €52.5 million with a fixed amortising profile until December 2029.
- Tranche II – €41.1 million.
- Tranche III – €68.3 million.

Tranche I is 100% hedged at an all-in swap rate of 4.07% until full repayment in December 2029.

Tranches II and III are available until the end of the concession period in September 2053.

Tranche III was structured to be qualified as legally subordinated debt and will only pay principal and interest to the extent that cash is available after payments on Tranche I and Tranche II.

#### *Other*

An MQA group company has made two separate guarantees, totalling €1.19 million, in the event of a senior debt payment event of default by WQG. These are backed by cash on deposit in a blocked account. WQG is currently meeting its debt service obligations and MQA has no reason to believe that these guarantees will be called.

## 2.6.2 South Bay Expressway

### *Overview*

South Bay Expressway (**SBX**), formerly known as SR 125 South, is a 13.9 kilometre, four-lane toll road that runs north from adjacent to the Mexican border to just south of Route 54 in Bonita. The road opened to traffic on 19 November 2007 and provides an alternative route east of State Route 805 and Interstate 5 in the San Diego region of California. In conjunction with construction of SBX, two other sections of untolled, government-funded road were constructed to link SBX into the wider San Diego road network.

The SBX opened to traffic in November 2007, with fully tolled operations commencing in January 2008. SBX is able to set market-based toll rates throughout the concession period, which runs for 35 years, ending 2042.

MQA owns a 50% interest in SBX, which is currently valued at zero.

### *Financing*

In 2003, SBX was selected by the U.S. Department of Transportation (**USDOT**) for financial support under the Transportation Infrastructure Finance and Innovation Act (**TIFIA**) program, which is designed to encourage investment in transportation infrastructure. SBX is the first ever private toll road to receive a loan under the TIFIA program.

The construction of SBX was financed through a combination of senior debt, TIFIA debt and equity contributions. The senior debt facility was permitted to be drawn up to US\$400 million during construction and equity was contributed to reduce the facility to US\$340 million on April 2008. The TIFIA facility limit (excluding capitalised interest) of US\$140 million was fully drawn down during construction and the facility is currently accruing interest at a fixed rate of 4.46%.

SBX is currently facing significant construction related litigation claims and is also dealing with a number of other major unresolved project issues. Given its current financial position, SBX is currently working with key counterparties (including lenders) to attempt to resolve these issues. Should these negotiations break down or be unsuccessful, SBX is likely to come under the control of the senior secured lenders and bankruptcy or foreclosure may follow at any time thereafter. MQA does not currently expect to receive any future distributions from the project and has written off its investment entirely.

### *MQA's Residual Exposure*

MQA has certain residual contingent obligations with respect to SBX which total approximately US\$33 million. Of these amounts, MQA expects that at least US\$5 million will be called in the future. The balance will remain as contingent obligations of MQA until either called, terminated or otherwise settled.

## 2.6.3 Transtoll

### *Overview*

Transtoll is an engineering and systems integration company specialising in toll systems integration and the provision of ancillary toll services including turnkey tolling system design, development, integration, operation and post-delivery support. Through a number of successful tolling system deployments, has gained extensive experience in the development and delivery of fully electronic constrained lane and unconstrained multi-lane free-flow/open road tolling systems.

Due to the project-based nature of Transtoll's business, its revenue has traditionally exhibited a degree of volatility.

MQA owns 100% of Transtoll's equity, which has been written off to zero, and has made loans to Transtoll with an estimated recoverable value of \$2.6 million.

An aerial photograph of a river flowing through a landscape. A large, curved concrete dam or bridge structure is visible, spanning across the river. The image is overlaid with a semi-transparent green filter. The text "Section 3: Financial Information" is written in white, sans-serif font in the upper left quadrant.

# Section 3: Financial Information

### 3.1 Introduction

This section contains the following financial information:

- Summary pro forma statutory income statements for the three years ended 30 June 2009.
- Summary pro forma statutory balance sheet as at 30 June 2009 (together with the summary pro forma statutory income statements for the three years ended 30 June 2009, the “**Pro Forma Historical Financial Information**”).
- Pro forma proportionate earnings for the three years ended 30 June 2009.
- Pro forma aggregated operating cash flows for the three years ended 30 June 2009 (together with the Pro Forma Proportionate Earnings for the three years ended 30 June 2009, the “**Pro Forma Management Information**”).
- Accounting policies, assumptions and notes relevant to the above.

### 3.2 Basis of Preparation

#### *Statutory Financial Information*

The Pro Forma Historical Financial Information has been prepared on the basis set out in section 3.3.3 and is prepared in accordance with AASBs.

The Pro Forma Historical Financial Information has been reviewed by PricewaterhouseCoopers Securities Ltd whose Investigating Accountant's Report relating to the Pro Forma Historical Financial Information is included in section 4.

The Pro Forma Historical Financial Information has been prepared in an abbreviated form. It does not contain all the disclosures that are usually provided in an annual report prepared in accordance with the Corporations Act.

#### *Non Statutory Management Information*

The Pro Forma Management Information has been derived from management information reports for the three years ended 30 June 2009 and has been prepared on the basis set out in section 3.4. MIG's management information reports are not subject to audit or review.

Copies of MIG's audited Financial Report and MIG's management information report for the year ended 30 June 2009 can be found on MIG's website at [www.macquarie.com.au/au/mig](http://www.macquarie.com.au/au/mig).

### 3.2.1 Accounting consequences of the Restructure Proposal

#### *Adoption of accounting policies*

MQA on its initial adoption of accounting policies intends to apply equity accounting for its investments in non-controlled toll road assets over which MQA has significant influence. Application of equity accounting for its associates will result in MQA's controlled and non-controlled toll road assets being recognised on a consistent basis under the historical cost convention. This policy is considered appropriate given the stage of development of MQA's portfolio of assets.

MQA intends to continue for the medium term to publish the directors' valuation of the MQA Portfolio in a management information report, but these valuations will not be reflected for statutory reporting purposes.

MQA will have a 31 December year end, consistent with the majority of its investments in toll road assets.

#### *Impact*

As toll road concessionaires typically report accounting losses during their early stages of development (due primarily to non cash depreciation and amortisation), MQA will recognise its share of losses from its non-controlled toll road assets in earlier years. These equity accounted losses will result in a reduction to the carrying value of MQA's investments in associates recorded on the balance sheet. Consequently it is expected that this will result in MQA having a net liability position on its balance sheet, given that the consolidated M6 Toll reports a net liability position.

This is an outcome on application of accounting standards and does not in itself reflect any going concern or solvency issues in MQA, as it does not impact on cash flows.

The debt borrowed by each of MQA's toll road assets is limited-recourse debt i.e. project finance, where MQA provides no guarantee in relation to its equity contributions and it is not required to provide further funding for the losses made by the toll road assets. The lenders only have recourse to the cash flows of the toll road asset. Further, MQA is not liable for the losses of its investments. MQA has no corporate level debt and is expected to have sufficient working capital to carry out its stated objectives.

### 3.3 Pro Forma Historical Financial Information

#### 3.3.1 Summary pro forma statutory income statements

The pro forma historical MQA consolidated income statements have been derived from audited financial information to provide an illustration of the financial performance that MQA would have reported if the Restructure Proposal had occurred at the commencement of each financial year reported, adjusted to reflect the accounting policies adopted by MQA. These adjustments are set out in section 3.3.1.1. This information is provided for illustrative purposes only and is not represented as being indicative of MQA's view of future financial performance of MQA.

The results of M6 Toll and Transtoll, which are subsidiaries of MQA, are consolidated in MQA. That is, 100% of the income and expense lines are reflected in the MQA income statement. The results of associates FE (APRR), Dulles Greenway, Chicago Skyway, Indiana Toll Road, South Bay Expressway and Warnow Tunnel are equity accounted by MQA as set out in section 3.3.3.3.

##### *3.3.1.1 Summary pro forma statutory income statements for the years ended 30 June 2007, 30 June 2008 and 30 June 2009*

The table below sets out the pro forma consolidated income statements for MQA assuming the transaction was effective at the commencement of each financial year reported.

	Pro forma Year ended 30 June 2007 \$'m	Pro forma Year ended 30 June 2008 \$'m	Pro forma Year ended 30 June 2009 \$'m
<b>Revenue and other income from continuing activities</b>			
Toll revenue	136.3	127.8	121.6
Interest income (i)	19.1	22.4	13.2
Other income	31.0	15.7	(4.0)
<b>Total revenue and other income from continuing activities</b>	<b>186.4</b>	<b>165.9</b>	<b>130.8</b>
<b>Operating expenses from continuing activities</b>			
Finance costs	(175.4)	(147.1)	(183.3)
Asset operating expenses	(130.0)	(120.8)	(109.9)
Corporate operating expenses	(6.5)	(6.5)	(6.5)
Management fee (ii)	(16.3)	(16.3)	(16.3)
Share of profit/(losses) of associates (iii)	(248.2)	(225.4)	(275.2)
<b>Loss from continuing activities before income tax benefit/(expense)</b>	<b>(390.0)</b>	<b>(350.2)</b>	<b>(460.4)</b>
Income tax benefit/(expense) (iv)	(0.4)	(0.3)	(0.2)
<b>Loss from continuing activities after income tax benefit/(expense)</b>	<b>(390.4)</b>	<b>(350.5)</b>	<b>(460.6)</b>
<b>Loss attributable to:</b>			
MQA Bermuda Securityholders	(202.0)	(162.8)	(261.3)
MQA Australia Securityholders (as minority interests) (v)	(86.7)	(111.8)	(110.0)
Other minority interests	(101.7)	(75.9)	(89.3)
	<b>(390.4)</b>	<b>(350.5)</b>	<b>(460.6)</b>

The above pro forma income statements should be read in conjunction with the accompanying notes.

### Notes

(i) Interest income has been calculated based on the following:

- a. An opening consolidated cash balance for MQA of \$293 million; and
- b. Assumed average interest rates of 6.5%, 7.7% and 4.5% for the years ended 30 June 2007, 30 June 2008 and 30 June 2009 respectively

(ii) Management Fee adjustments relate to the following:

- a. MQA after implementation of the Restructure Proposal will be managed by Macquarie based on a new management agreement. An adjustment has been made to reflect the estimated base management fees that would have been payable if this agreement had been in place from 1 July 2006. In calculating this amount the following assumptions have been made:

- The same discount applied to the net asset backing of MQA as was the average discount to the net asset backing of MIG for the period 2 January 2009 to 30 October 2009, resulting in an assumed market capitalisation of \$814.2 million; and
- The fee is calculated for a full 12 month period.

- b. No performance fee is assumed to be payable.

(iii) MQA accounts for its investments in associates as equity accounted investments which requires that the share of associates profit/(loss) after tax be recorded in the income statement. The pro forma results for MQA reflect its share of losses after tax for the equity accounted investments assuming equity accounting was adopted at the commencement of each financial year reported.



A breakdown of the contribution of each asset is provided below:

	Pro Forma as at 30 June 2007 \$'m	Pro Forma as at 30 June 2008 \$'m	Pro Forma as at 30 June 2009 \$'m
FE (APRR)	(164.1)	(108.5)	(133.5)
Dulles Greenway	(24.7)	(24.2)	(36.2)
Chicago Skyway	(24.1)	(22.8)	(24.5)
Indiana Toll Road	(35.3)	(69.9)	(81.0)
<b>Total</b>	<b>(248.2)</b>	<b>(225.4)</b>	<b>(275.2)</b>

The above results are derived from the audited accounts of the respective toll road for the year ended 31 December 2006, 31 December 2007, and 31 December 2008.

MQA's share of losses of South Bay Expressway and Warnow Tunnel are not brought to account as the carrying value of its investments are \$Nil (or will be adjusted to \$Nil in the first year post the implementation of the Restructure Proposal with an immaterial impact on the results for that period). Refer to section 3.3.3.3 for details of the carrying value of each of MQA's non-controlled investments.

A breakdown of equity accounted losses not brought to account is provided below:

	Pro Forma as at 30 June 2007 \$'m	Pro Forma as at 30 June 2008 \$'m	Pro Forma as at 30 June 2009 \$'m
South Bay Expressway	(2.4)	(19.4)	(45.0)
Warnow Tunnel	(9.3)	(10.6)	(10.0)
<b>Total</b>	<b>(11.7)</b>	<b>(30.0)</b>	<b>(55.0)</b>

Upon commencement of equity accounting MQA will be required to perform a notional purchase price allocation for these investments. For the purposes of the pro forma income statements the notional allocation has been made based on estimated values with the difference between the cost of the investment and the associate's net assets being allocated to the tolling concession.

This amount has then been notionally amortised with the additional amortisation reflected in the income statements above. The final determination of fair values will not be finalised prior to the issue of this prospectus. Once this allocation is finalised it will likely increase the amount of losses that are recorded in the income statement. This is due to the expected adjustment that will arise from the fair valuing of the debt of the associates. The fair value difference will be written off over the shorter term of the debt rather than the concession period. This will have no impact on the cash flows of MQA.

- (iv) While MQA is recording losses from continuing activities before income tax, deferred tax assets have not been recognised for tax losses and consequently the income tax benefit/(expense) reported is minimal.
- (v) MQA Bermuda is the parent entity of MQA. In accordance with AASB 3 the results of MQA Australia which form part of the MQA results are recognised as attributable to minority interests, being the securityholders of MQA Australia.

### 3.3.2 Summary pro forma statutory balance sheet

The table below sets out the pro forma consolidated balance sheet for MQA assuming the transaction was effective on 30 June 2009.

#### 3.3.2.1 Pro Forma Statutory Balance Sheet at 30 June 2009

	Pro Forma as at 30 June 2009 \$'m
<b>Current assets</b>	
Cash and cash equivalents	292.7
Receivables and other assets	8.2
Total current assets	300.9
<b>Non-current assets</b>	
Investments in associates	1,485.7
Property, plant and equipment	1,107.2
Tolling concessions	100.1
Total non-current assets	2,693.0
<b>Total assets</b>	<b>2,993.9</b>
<b>Current liabilities</b>	
Payables	(30.2)
Derivative financial instruments	(63.8)
Current tax liabilities	(0.5)
Total current liabilities	(94.5)
<b>Non-current liabilities</b>	
Payables	(184.5)
Interest-bearing financial instruments	(2,512.1)
Derivative financial instruments	(4.9)
Deferred tax liabilities	(105.7)
Total non-current liabilities	(2,807.2)
<b>Total liabilities</b>	<b>(2,901.7)</b>
<b>Net assets</b>	<b>92.2</b>
<b>Equity</b>	
MQA Bermuda Securityholder interests	
Contributed equity	1,324.2
Retained profits and reserves	(1,653.9)
	(329.7)
Equity attributable to equity holders in MQA Australia (as minority interests)	273.8
Other minority interests	148.1
<b>Total equity</b>	<b>92.2</b>

The net asset position of MQA is sensitive to movements in the fair value of its investments in associates between 30 June 2009, being the date of the pro forma, and the date the Restructure Proposal is implemented. Refer to section 3.5 for sensitivities on the carrying value of MQA's investments. For example, were revenue forecasts for all of MQA's investments to be 5% lower, MQA would have net liabilities of \$237.4 million on a pro forma basis at 30 June 2009. Considered in isolation this would also result in MQA having net liabilities at the implementation date of the Restructure Proposal, but does not in itself reflect any going concern or solvency issues in MQA as it does not impact on cash flows of MQA.

### 3.3.2.2 Statutory balance sheet at 30 June 2009

The assets and liabilities acquired from MIG have been stated based on amounts derived from the MIG consolidation at 30 June 2009. The actual amounts may differ as the amounts will be transferred for the fair value at the date of the implementation of the Restructure Proposal.

### 3.3.2.3 Adjustments to the pro forma consolidated balance sheet

The adjustments made to present the Restructure Proposal in the pro forma consolidated balance sheet are described below:

#### Adjustments for asset acquisitions

- Acquisition of 100% of the M6 Toll, 20.4% of APRR, 50% economic interest in Dulles Greenway, 25% of Chicago Skyway, 22.5% of Indiana Toll Road, 50% of South Bay Expressway, 70% of Warnow Tunnel and 100% of Transtoll through the issue of equity.
- The consideration payable by MQA to MIG for the acquisition of the MQA Portfolio will comprise MQA Securities which will then be distributed to MIG Securityholders via the In-Specie Distribution. The consideration payable is based on the valuation of the MQA Portfolio, although for the purposes of the pro forma balance sheet this has been assumed to be those values at 30 June 2009.

#### Adjustments for MQA Stapling

- Stapling of MQA Australia to MQA Bermuda, with equity in MQA Australia recognised as a category of minority interests.

## 3.3.3 Significant Policies and Notes to the Pro Forma Financial Information

### 3.3.3.1 Basis of preparation

The financial information presented has been prepared in accordance with AASBs, other authoritative pronouncements of the Australian Accounting Standards Board and the Corporations Act. The accounts are prepared in accordance with the historical cost convention unless otherwise stated. The accounting policies have been consistently applied by all entities in the combined structure unless otherwise stated.

### 3.3.3.2 Consolidation and stapling arrangements

AASB 3: Business Combinations requires that an acquirer be identified for the stapled group. MQA Bermuda has been deemed to be the accounting acquirer of the stapled group and as such will prepare consolidated MQA accounts, consolidating MQA Australia from the date of stapling. As the net assets of MQA Australia are already reflected at fair value in MIG's 30 June 2009 balance sheet no further fair value adjustments were necessary.

The interests of MQA Securityholders in MQA Australia (and its subsidiaries) are shown as minority interests in the income statement and balance sheet of MQA. Other minority interests are interests in partly owned subsidiaries which are not held directly or indirectly by MQA Bermuda or MQA Australia.

### 3.3.3.3 Investments in associates

Pro Forma as at  
30 June 2009  
\$/m

FE (APRR) <sup>1</sup>	895.2
Dulles Greenway <sup>2</sup>	342.8
Chicago Skyway	148.3
Indiana Toll Road	98.1
South Bay Expressway	-
Warnow Tunnel	1.3
<b>Total</b>	<b>1,485.7</b>

1 The Group's interest in FE (APRR) is held through MAF and MAF Finance, companies owned 50% plus one share by MQA and 50% less one share by MEIF. Consequently, MQA consolidates MAF and MAF Finance with MEIF's share recognised as other minority interests.

2 Comprising a partnership interest of \$41.6 million and subordinated loans of \$301.2 million.

MQA accounts for its investments in associates in accordance with AASB 128: *Investments in Associates*. Associates are entities over which the consolidated entity has significant influence, but not control or joint control, and are accounted for under the equity method.

The equity method of accounting is applied in the consolidated financial report and involves the recognition of the consolidated entity's share of its associates' post-acquisition profits or losses in the income statement, and its share of post-acquisition movements in reserves. The cumulative post-acquisition movements are adjusted against the carrying amount of the investment. Dividends receivable from associates reduce the carrying amount of the investment.

When MQA's share of losses in an associate equals or exceeds its interest in the associate, MQA does not recognise further losses, unless it has incurred obligations or made payments on behalf of the associate.

#### 3.3.3.4 Property, plant and equipment

Pro Forma as at  
30 June 2009  
\$'m

Plant and machinery	29.0
Short leasehold land and buildings	43.9
M6 Toll road	1,034.3
<b>Total</b>	<b>1,107.2</b>

#### Property, plant and equipment

Depreciation is calculated to write off the net cost of property, plant and equipment over its estimated useful life. Estimates of remaining useful life are made on a regular basis for all assets, with annual reassessments for major items.

#### Leasehold improvements

Amounts recorded as leasehold improvements relating to the M6 Toll including expenses and borrowing costs, are amortised over the estimated remaining term of the right granted to operate the road, being until January 2054.

The period of amortisation of leasehold improvements is reassessed on a regular basis.

The expected useful life of property, plant and equipment for the M6 Toll is as follows:

	Estimated useful life	Depreciation basis
Plant and machinery	3-12 years	Straight line
Short leasehold land and buildings	50 years	Straight line
M6 Toll road – wearing course/road base	8-15 years	Straight line
M6 Toll road – road/road buildings infrastructure	50 years	Straight line

#### 3.3.3.5 Tolling concessions

Pro Forma as at  
30 June 2009  
\$'m

M6 Toll	100.1
<b>Total</b>	<b>100.1</b>

MQA's interests in APRR, Dulles Greenway, Chicago Skyway, Indiana Toll Road, South Bay Expressway and Warnow Tunnel are equity accounted and not consolidated. Consequently, there is no direct book value included for tolling concessions in relation to these interests.

Tolling concessions are intangible assets and represent the right to levy tolls in respect of controlled motorways.

Tolling concessions have a finite useful life by the terms of the concession arrangement and are carried at cost, which represents fair value on acquisition, less accumulated amortisation. Amortisation is calculated using the straight line method to allocate the cost of tolling concessions over their estimated useful lives.

#### 3.3.3.6 Interest bearing liabilities

Pro Forma  
as at 30 June  
2009  
\$'m

<b>Non current liabilities</b>	
M6 Toll	2,229.6
Loan from minority interest	282.5
<b>Total</b>	<b>2,512.1</b>

Subsequent to initial recognition at fair value, net of transaction costs incurred, interest bearing financial liabilities are measured at amortised cost. Any difference between the proceeds (net of transaction costs) and the redemption amount is recognised in the income statement over the period of the borrowings using the effective interest method based on the lesser of the expected or contractual life.

### 3.3.3.7 Deferred tax

Deferred income tax is determined using the Balance Sheet method, being the temporary differences arising between the tax bases of assets and liabilities and their carrying amounts in the consolidated financial statements. Deferred tax assets are recognised for deductible temporary differences and unused tax losses only if it is probable that future taxable amounts will be available to utilise those temporary differences and losses. However, the deferred income tax is not accounted for if it arises from initial recognition of an asset or liability in a transaction other than a business combination that at the time of the transaction affects neither accounting nor taxable profit or loss. Deferred income tax is determined using tax rates (and laws) that have been enacted or substantially enacted by the balance sheet date and are expected to apply when the related deferred income tax asset is realised or the deferred income tax liability is settled.

Under current Bermudian law, MQA Bermuda will not be subject to any income, withholding or capital gains taxes in Bermuda. Controlled entities of MQA Bermuda that are subject to taxes in their jurisdictions recognise income tax using the balance sheet approach of tax effect accounting.

## 3.4 Pro Forma Management Information

This section includes the Pro Forma Management Information which provides information supplementary to the Pro Forma Historical Financial Information. This information has been derived from the MIG management information report for the years ended 30 June 2007, 30 June 2008 and 30 June 2009 and is based on the policies detailed in those reports. MQA intends to continue to provide information supplementary to its Annual Report.

### 3.4.1 Pro Forma Proportionate Earnings

The table below sets out the pro forma proportionate earnings for the three years ended 30 June 2009.

	Pro forma year ended 30 June 2007 \$'m	Pro forma year ended 30 June 2008 \$'m	Pro forma year ended 30 June 2009 \$'m
Operating revenue	839.4	886.9	888.7
Operating expenses	(254.4)	(264.8)	(263.3)
<b>EBITDA</b>	<b>585.0</b>	<b>622.1</b>	<b>625.4</b>
Asset maintenance capex	(48.7)	(46.6)	(45.4)
Asset net interest expense	(365.5)	(321.3)	(340.0)
Asset net tax expense	(51.2)	(70.9)	(45.9)
<b>Proportionate earnings from road assets</b>	<b>119.6</b>	<b>183.3</b>	<b>194.1</b>
Corporate net interest income (iii)	14.9	17.4	10.3
Corporate expenses	(6.5)	(6.5)	(6.5)
Management fee (iv)	(16.3)	(16.3)	(16.3)
<b>MQA Proportionate earnings</b>	<b>111.7</b>	<b>177.9</b>	<b>181.6</b>

The above pro forma proportionate earnings should be read in conjunction with the accompanying notes and MIG's management information report for the year ended 30 June 2009.

**Notes:**

- (i) Proportionate earnings for the three years have been recognised based on the ownership interest of each asset at 30 June 2009.
- (ii) The proportionate earnings of all assets denominated in foreign currencies have been restated using a constant rate of exchange across all three years shown above. The assumed rates are those at 30 June 2009. The exchange rate assumptions are:

	30 June 2009
Euro	0.5749
Pound Sterling	0.4904
United States Dollar	0.8068

- (iii) Interest income has been calculated on the following basis:
- An opening cash balance for MQA of \$228 million. Corporate net interest income excludes interest earned on the M6 Toll cash balances which are included in interest income per the statutory income statements.
  - Assumed average interest rates of 6.5%, 7.7% and 4.5% for the years ended 30 June 2007, 30 June 2008 and 30 June 2009 respectively.

- (iv) An adjustment has been made to reflect the estimated base management fees that would be payable if the new management arrangements had been in place for each of the reported periods. Details of the management fee arrangements are included in section 6. No performance fee has been assumed to be payable.

### 3.4.2 Pro Forma Aggregated Operating Cash Flow Statements

Detailed in the table below are the pro forma aggregated cash flows for the three years ended 30 June 2009. These cash flows are historic and future cash flows may differ significantly.

MQA does not anticipate making any distributions to security holders in the near to medium term. Future cash flows from the MQA Portfolio are expected to be retained in reserves to potentially assist with the future re-financing and/or restructuring of one or more projects in the MQA Portfolio.

	Pro forma year ended 30 June 2007 \$'m	Pro forma year ended 30 Jun 2008 \$'m	Pro forma year ended 30 Jun 2009 \$'m
<b>Cash flow received from assets</b>			
M6 Toll (ii)	21.7	62.2	49.2
FE (APRR)	137.1	121.1	34.2
Dulles Greenway (iii)	5.4	-	-
Indiana Toll Road (iv)	3.1	7.9	4.2
Chicago Skyway	3.3	2.5	3.0
<b>Total cash flow received from assets</b>	<b>170.6</b>	<b>193.7</b>	<b>90.6</b>
<b>Other operating cash flows</b>			
Interest received on corporate cash balances (v)	14.9	17.4	10.3
Responsible entity and manager base fees paid (vi)	(16.3)	(16.3)	(16.3)
Other receipts and payments	(6.5)	(6.5)	(6.5)
<b>Total operating cash flow</b>	<b>162.7</b>	<b>188.3</b>	<b>78.1</b>

The above pro forma aggregated cash flows should be read in conjunction with the accompanying notes.



**Notes:**

- (i) Cash flows received from assets are reflected at the historical rate of exchange at the time of the transaction and have not been restated.
- (ii) MIG received a non recurring dividend from M6 Toll in the year ended 30 June 2007 of \$970.3 million. This cash flow has been excluded from the above analysis due to its non recurring nature.
- (iii) Dulles Greenway did not meet its debt covenant requirements at 31 December 2008 and consequently is in distribution lock up through to 31 December 2011. Excess cash will continue to accumulate while Dulles Greenway is in lock up and it is anticipated that surplus funds will be distributed when the project complies with all applicable covenants.
- (iv) Indiana Toll Road did not achieve its 12 month revenue test in December 2008 or June 2009 and consequently the fifth and sixth instalments of the revenue stabilisation reserve were used to service senior debt and no distributions were paid for those periods. The cash flow received in the year ended 30 June 2009 was the distribution for the 6 months ended 30 June 2008.
- (v) Pro forma interest income reflects:
  - a) An opening cash balance for MQA of \$228 million. Corporate interest received excludes interest earned on the M6 Toll cash balances which are included in interest income per the statutory income statements.
  - b) Assumed average interest rates of 6.5%, 7.7% and 4.5% for the years ended 30 June 2007, 30 June 2008 and 30 June 2009 respectively.
- (vi) An adjustment has been made to reflect the estimated base management fees that would be payable if the new management arrangements had been in place for each of the reported periods. Details of the management fee arrangements are included in section 6. No performance fee has been assumed to be payable.

It is assumed that MQA management fees are settled in cash and not reinvested in MQA Securities.

### 3.5 Valuations and Net Asset Backing Per Security

The table below sets out the individual asset valuations of the MQA Portfolio at 30 June 2009 which has been extracted from the 30 June 2009 MIG management information report.

Asset	Discount Rate as at 30 June 2009	Valuation		Portfolio Weighting 30 June 2009
		30 June 2009 Natural currency' m	30 June 2009 \$'m	
M6 Toll	14.0	£202	412	28%
FE (APRR)	13.5	€257	448	31%
Dulles Greenway <sup>1</sup>	12.5	US\$277	343	24%
Chicago Skyway	12.5	US\$120	148	10%
Indiana Toll Road	14.5	US\$79	98	7%
Other		\$1	1	-
<b>Portfolio valuation</b>			<b>1,450</b>	<b>100%</b>
Non-investment Balances			236	
<b>Net asset valuation</b>			<b>1,686</b>	
Number of securities on issue			452,346,410	
Net asset backing per security (A\$)			3.73	

<sup>1</sup> Value of MQA's economic interest comprises partnership interest, options and loans.

The values of the MQA Portfolio have been determined based on the discounted cash flow analysis, as it is the generally accepted methodology for valuing toll road assets and the basis upon which market participants have derived valuations for specific transactions.

Discounted cash flow analysis is the process of estimating future cash flows that are expected to be generated by an asset and discounting these cash flows to their present value, by applying an appropriate discount rate.

The valuations derived from the discounted cash flow analysis are periodically benchmarked to other sources, such as recent market transactions, to ensure that the discounted cash flow valuations are providing a reliable measure.

The following matters are reconciling items between the amount reflected in the Pro Forma Balance Sheet and the above Portfolio Valuation:

- (i) MQA's interest in the M6 Toll is carried at historical cost and does not reflect the above valuation.

- (ii) MQA's interest in FE (APRR) is held through MAF and MAF Finance, companies owned 50% plus one share by MQA and 50% less one share by MEIF. For statutory reporting purposes the entire interest held by MAF and MAF Finance is consolidated with MEIF's share recognised as minority interests. The above valuation reflects MQA's effective interest and excludes the component allocated to minority interests.

The portfolio valuation sensitivity at 30 June 2009 to movements in revenue forecasts and foreign exchange rates is disclosed in the table below.

The below sensitivities include changes in the valuation of the M6 Toll, which is carried at historical cost in the statutory balance sheet, and excludes MEIF's interest in APRR which is recognised in the statutory balance sheet. Excluding the M6 Toll and including MEIF's interest in APRR, the sensitivity of MQA's investments in associates, as reported on its statutory balance sheet, to 5% lower revenue forecasts and a 5% appreciation in the Australian dollar were decreases of \$329.6 million and \$74.3 million. Sensitivities to 5% higher revenue forecasts and a 5% depreciation in the Australian Dollar were increases of \$344.8 million and \$74.3 million.

	5% lower	5% higher
Change in valuation of portfolio due to movement in revenue forecasts	(259.6)	272.1
	5% appreciation in A\$	5% depreciation in A\$
Change in valuation of portfolio due to movement in foreign exchange rates	(72.5)	72.5

## 3.6 Debt and Hedging

### 3.6.1 Pro Forma Debt Maturity Profile

The debt maturity profile reflects a 100% consolidation of the debt balances of the MQA Portfolio, not MQA's portion, as at 30 June 2009. MQA has no corporate level debt. The chart shows the legal maturity of each debt tranche in accordance with the relevant loan agreement.

Average debt maturity at 30 June 2009 is 6.7 years.

### 3.6.2 Hedging profile

The hedging profile below reflects the hedging coverage levels for each financial year, as at 30 June 2009. Debt is considered hedged when the interest rate has been fixed and therefore includes fixed rate debt as well as floating rate debt with interest rate swaps in place.

### 3.6.3 Debt service coverage ratios and covenants

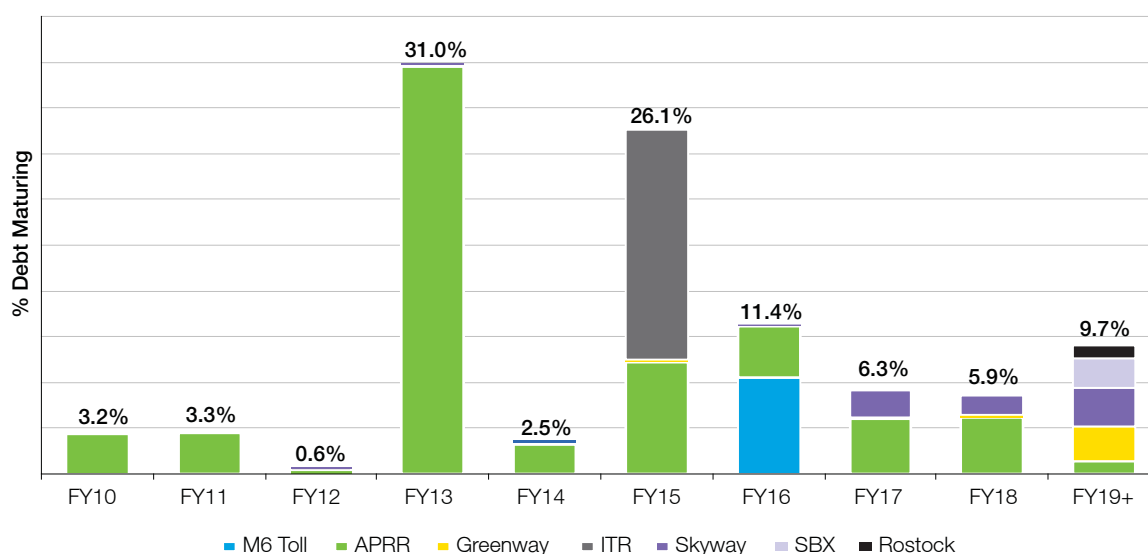
Asset	DSCR as at 30 June 09	Equity Lock-up Covenant
M6 Toll	2.4x	1.35x
APRR	1.8x	1.25x
Dulles Greenway	1.3x	1.25x
Chicago Skyway	1.8x	1.60x
Indiana Toll Road <sup>1</sup>	n/a	1.15x

<sup>1</sup> ITR has a liquidity facility in place to fund debt service while cash flows are ramping up. The amount drawn on the liquidity facility during each period is equal to an amount such that actual DSCR is brought to 1.0x.

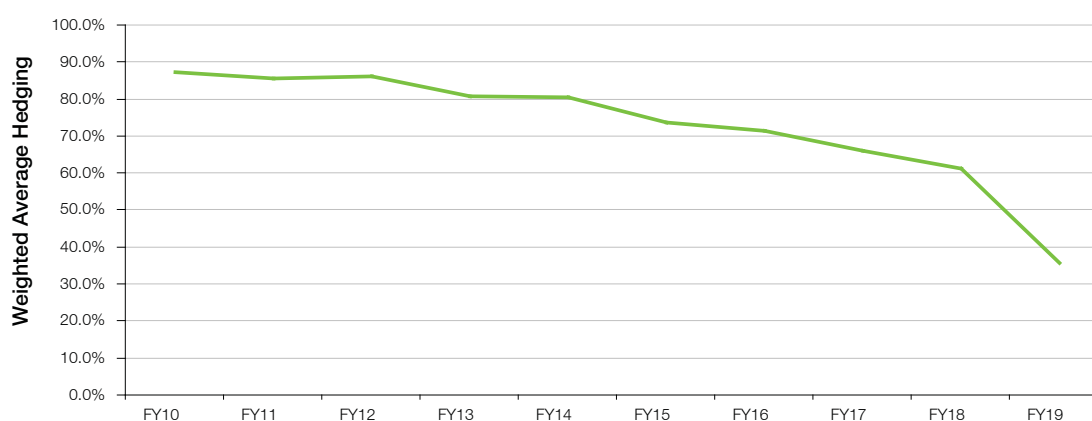
## 3.7 Working Capital

Following the implementation of the Restructure Proposal, MQA is expected to have sufficient working capital to carry out its stated objectives and is forecast to be able to meet its obligations as and when they fall due for the foreseeable future.

### MQA Debt Maturity



### MQA Hedging Profile



# Section 4: Investigating Accountant's Report



18 December 2009

The Directors

Macquarie Infrastructure Investment Management Limited ("MIIML")  
As responsible entity of Macquarie Infrastructure Trust (I) and Macquarie  
Infrastructure Trust (II)  
No 1 Martin Place  
Sydney NSW 2000

Macquarie Infrastructure Group International Limited ("MIGIL")  
Rosebank Centre  
11 Bermudiana Road  
Pembroke HM 08  
Bermuda

Macquarie Atlas Roads Limited  
No 1 Martin Place  
Sydney NSW 2000

Macquarie Atlas Roads International Limited  
Rosebank Centre  
11 Bermudiana Road  
Pembroke HM 08  
Bermuda

Dear Directors

**Subject: Investigating Accountant's Report and Financial Services Guide**

We have prepared this report on certain financial information of Macquarie Atlas Roads Limited ("MQA Australia") and MQA International Limited ("MQA Bermuda") which together comprise a double stapled group ("MQA") for inclusion in a prospectus dated on or about 18 December 2009 (the "Prospectus") to be issued in relation to the issue of stapled securities in MQA and the In Specie Distribution of these stapled securities to MIG Security Holders as part of the Restructure Proposal for MIG.

Expressions defined in the Prospectus have the same meaning in this report.

The nature of this report is such that it should be given by an entity which holds an Australian Financial Services licence under the Corporations Act 2001 (C'th). PricewaterhouseCoopers Securities Ltd, which is wholly owned by PricewaterhouseCoopers, holds the appropriate Australian financial services licence. This report is both an Investigating Accountant's Report, the scope of which is set out below, and a Financial Services Guide, as attached at Appendix A.

**Background**

MQA is a doubled stapled structure comprising MQA Australia and MQA Bermuda.

PricewaterhouseCoopers  
Securities Ltd  
ACN 003 311 617  
ABN 54 003 311 617  
Holder of Australian Financial  
Services Licence No 244572

Darling Park Tower 2  
201 Sussex Street  
GPO BOX 2650  
SYDNEY NSW 1171  
DX 77 Sydney  
Australia  
Telephone +61 2 8266 0000  
Facsimile +61 2 8266 9999  
[www.pwc.com/au](http://www.pwc.com/au)

MQA has resulted from the reorganisation of the Macquarie Infrastructure Group, which comprises Macquarie Infrastructure Trust (I) ("MIT (I)"), Macquarie Infrastructure Trust (II) ("MIT (II)") and Macquarie Infrastructure Group International Limited ("MIGIL") (collectively "MIG").

## Scope

You have requested PricewaterhouseCoopers Securities Ltd to prepare this Investigating Accountant's Report (the "**Report**") in relation to the following information:

- (a) the summary pro forma statutory balance sheet of MQA as at 30 June 2009 (the "**Pro Forma Balance Sheet**") as set out in Section 3.3.2.1; and
- (b) the summary pro forma statutory income statements of MQA for the years ended 30 June 2007, 30 June 2008 and 30 June 2009 (the "**Pro Forma Income Statements**") as set out in Section 3.3.1.1,

(collectively the "**Pro Forma Historical Financial Information**").

This Report has been prepared for inclusion in the Prospectus. We disclaim any assumption of responsibility for any reliance on this Report or on the Pro Forma Historical Financial Information to which this Report relates for any purposes other than the purpose for which it was prepared.

## Scope of review of the Pro Forma Historical Financial Information

The Pro Forma Historical Financial Information as set out in Sections 3.3.1.1 and 3.3.2.1 of the Prospectus has been derived from the audited financial statements of MIG and in respect of MQA, the audited financial statements of the associates. Those financial statements were audited by PricewaterhouseCoopers that issued an unqualified audit opinion on them, except for the Warnow Tunnel which is not material to the summary pro forma statutory income statement of MQA. The Pro Forma Historical Financial Information incorporates such pro forma transactions and adjustments as the respective Directors of MIIML and MIGIL (collectively the "MIG Directors") and Directors of MQA Australia and MQA Bermuda (collectively the "MQA Directors") considered necessary to reflect the impact of the reorganisation of MIG and the operation of MQA going forward. The basis of the Pro Forma Historical Financial Information including the pro forma transactions and adjustments are set out in Sections 3.3.1.1 and 3.3.2.3. The MIG Directors and MQA Directors are responsible for the preparation of the Pro Forma Historical Financial Information, including the determination of the pro forma transactions and adjustments.

We have conducted our review of the Pro Forma Historical Financial Information in accordance with Australian Auditing Standards applicable to review engagements. We made such inquiries and performed such procedures as we, in our professional judgement, considered reasonable in the circumstances including:



- a review of the derivation of the Pro Forma Historical Financial Information from the audited financial information of MIG for the years ended 30 June 2007, 30 June 2008 and 30 June 2009 and in respect of MQA, the audited financial statements of the associates for the years ended 31 December 2006, 31 December 2007 and 31 December 2008
- a review of work papers, accounting records and other documents
- a review of the adjustments made to the Pro Forma Historical Financial Information
- a review of the assumptions used to compile the Pro Forma Historical Financial Information
- a comparison of consistency in application of the recognition and measurement principles under Australian Accounting Standards and other mandatory professional reporting requirements in Australia, and the accounting policies adopted by MQA as disclosed in Section 3.3.3 of the Prospectus, and
- enquiries of the MIG Directors, MQA Directors, management and others.

These procedures do not provide all the evidence that would be required in an audit, thus the level of assurance provided is less than given in an audit. We have not performed an audit and, accordingly, we do not express an audit opinion on the Pro Forma Historical Financial Information.

#### **Limitation of scope of review of the MQA Pro Forma Historical Financial Information**

The MIG Directors and MQA Directors are responsible for the preparation of the MQA Pro Forma Historical Financial Information.

AASB 128 *Investments in Associates* requires that in applying the equity method the difference between the reporting date of the associate and that of the investor shall be no more than 3 months. In preparing the MQA Pro Forma Historical Financial Information, however, the audited financial statements of the associates for the years ended 31 December 2006, 2007 and 2008 have been used as the basis for calculating the equity accounted net profit/ (loss) after tax for the years ended 30 June 2007, 2008 and 2009 respectively. This approach has been adopted as no audited or reviewed financial statements have previously been prepared by the associates at 30 June, given MQA did not exist on a historical basis and MIG did not apply the equity method historically for these investments.

In addition, only a preliminary notional purchase price allocation has been undertaken for the purposes of calculating the share of equity accounted results.

Accordingly, the Pro Forma Income Statements for MQA do not necessarily reflect the equity accounted results that would be required if financial statements for the years ended 30 June 2007, 2008 and 2009 had been prepared by each associate or a final notional purchase price allocation had been undertaken. We are unable to quantify the possible effects on the MQA Pro Forma Income Statements.

### **Review statement on Pro Forma Historical Financial Information**

Based on our review of the Pro Forma Historical Financial Information, which is not an audit, except for the impact, if any, resulting from the limitation of scope described above, nothing has come to our attention which causes us to believe that:

- the Pro Forma Historical Financial Information has not been properly prepared on the basis of the pro forma transactions and adjustments
- the pro forma transactions and adjustments do not form a reasonable basis for the Pro Forma Historical Financial Information
- the Pro Forma Historical Financial Information, as set out in Sections 3.3.1.1 and 3.3.2.1 of the Prospectus, does not present fairly:
  - (a) the summary pro forma statutory balance sheet of MQA as at 30 June 2009; and
  - (b) the summary pro forma statutory income statements of MQA for the years ended 30 June 2007, 30 June 2008 and 30 June 2009,

in accordance with the recognition and measurement principles prescribed under Australian Accounting Standards and other mandatory professional reporting requirements in Australia, and the accounting policies adopted by MQA as disclosed in Section 3.3.3 of the Prospectus.

### **Subsequent events**

Apart from the matters dealt with in this Report, and having regard to the scope of our Report, to the best of our knowledge and belief no material transactions or events outside of the ordinary course of business of MQA have come to our attention that would require comment on, or adjustment to, the information referred to in our Report or that would cause such information to be misleading or deceptive.

### **Independence or disclosure of interest**

PricewaterhouseCoopers Securities Ltd does not have any interest in the outcome of the Restructure Proposal for MIG other than the preparation of this Report and the performance of certain due diligence procedures for which normal professional fees will be received.

### **Liability**

PricewaterhouseCoopers Securities Ltd has consented to the inclusion of this Report in the Prospectus in the form and context in which it is included. The liability of PricewaterhouseCoopers Securities Ltd is limited to the inclusion of this Report in the Prospectus. PricewaterhouseCoopers Securities Ltd makes no representation regarding, and has no liability for, any other statements or other material in, or any omissions from, the Prospectus.

**Financial Services Guide**

We have included our Financial Services Guide as Appendix A to our Report. The Financial Services Guide is designed to assist retail clients in their use of any general financial product advice in our Report.

Yours faithfully



Clara Cutajar  
Authorised Representative  
PricewaterhouseCoopers Securities Ltd

## APPENDIX A

### PRICEWATERHOUSECOOPERS SECURITIES LTD FINANCIAL SERVICES GUIDE

This Financial Services Guide is dated 18 December 2009

1. **About us**

PricewaterhouseCoopers Securities Ltd (ABN 54 003 311 617, Australian Financial Services Licence no 244572) ("**PwC Securities**") has been engaged by Macquarie Atlas Roads Limited and Macquarie Atlas Roads International Limited which together comprise a stapled group (the "**MQA**") which results from the reorganisation of the Macquarie Infrastructure Group ("**MIG**") to provide a report in the form of an Investigating Accountant's Report ("**IAR**") in relation to the Pro Forma Historical Financial Information of MQA (the "**Report**") for inclusion in the Prospectus dated 18 December 2009 to be issued in relation to the issue of stapled securities in MQA and In Specie Distribution of these Stapled Securities to MIG Security Holders as part of the Restructure Proposal.

You have not engaged us directly but have been provided with a copy of the Report as a retail client because of your connection to the matters set out in the Report.

2. **This Financial Services Guide**

This Financial Services Guide ("**FSG**") is designed to assist retail clients in their use of any general financial product advice contained in the Report. This FSG contains information about PwC Securities generally, the financial services we are licensed to provide, the remuneration we may receive in connection with the preparation of the Report, and how complaints against us will be dealt with.

3. **Financial services we are licensed to provide**

Our Australian financial services licence allows us to provide a broad range of services, including providing financial product advice in relation to various financial products such as securities, interests in managed investment schemes, derivatives, superannuation products, foreign exchange contracts, insurance products, life products, managed investment schemes, government debentures, stocks or bonds, and deposit products.

4. **General financial product advice**

The Report contains only general financial product advice. It was prepared without taking into account your personal objectives, financial situation or needs.

You should consider your own objectives, financial situation and needs when assessing the suitability of the Report to your situation. You may wish to obtain personal financial product advice from the holder of an Australian Financial Services Licence to assist you in this assessment.

5. **Fees, commissions and other benefits we may receive**

PwC Securities charges fees to produce reports, including this Report. These fees are negotiated and agreed with the entity who engages PwC Securities to provide a report. Fees are charged on an hourly basis or as a fixed amount depending on the terms of the

agreement with the person who engages us. Our fees are outlined in Section 9.6 of the Prospectus.

Directors or employees of PwC Securities, PricewaterhouseCoopers, or other associated entities, may receive partnership distributions, salary or wages from PricewaterhouseCoopers.

## 6. **Associations with issuers of financial products**

PwC Securities and its authorised representatives, employees and associates may from time to time have relationships with the issuers of financial products. For example, PricewaterhouseCoopers may be the auditor of, or provide financial services to, the issuer of a financial product and PwC Securities may provide financial services to the issuer of a financial product in the ordinary course of its business. PricewaterhouseCoopers is the auditor of MIG and Macquarie Group Limited and will be the auditors of MQA.

## 7. **Complaints**

If you have a complaint, please raise it with us first, using the contact details listed below. We will endeavour to satisfactorily resolve your complaint in a timely manner. In addition, a copy of our internal complaints handling procedure is available upon request.

If we are not able to resolve your complaint to your satisfaction within 45 days of your written notification, you are entitled to have your matter referred to the Financial Ombudsman Service ("**FOS**"), an external complaints resolution service. FOS can be contacted by calling 1300 780 808. You will not be charged for using the FOS service.

## 8. **Contact Details**

PwC Securities can be contacted by sending a letter to the following address:

Clara Cutajar  
Authorised Representative  
Darling Park Tower 2  
201 Sussex Street  
SYDNEY NSW 2000  
GPO Box 2650  
SYDNEY NSW 1171

# Section 5: Risk Factors





MQA's financial performance, dividends and the market price of MQA Securities may be adversely affected, sometimes materially, by a number of risk factors. MQA Securityholders should be aware that an investment in MQA has a number of risks which are associated with investing in both toll roads and listed securities generally, some of which are beyond the control of MQA. Accordingly, the price and value of MQA Securities may rise or fall over any given period.

MQA Securityholders should be aware of the following risks (which are some, but not necessarily all, of the risks) that may affect the performance and value of MQA. These risks have been divided into general risks and investment specific risks.

## 5.1 General

### 5.1.1 Traffic volumes

MQA's revenue will principally be a function of the traffic volumes on the MQA Portfolio's toll roads and the level of the tolls. Traffic volumes are directly and indirectly affected by a number of factors, including congestion, the quality, proximity and timing of the development of alternative roads and other transport infrastructure, toll rates, population growth, perceived value for money, fuel prices and general economic conditions. Any circumstances that have the effect of reducing traffic volumes or the growth in traffic could materially adversely affect MQA's financial performance, the valuation of its assets, dividends and the market price of MQA Securities.

### 5.1.2 Tolling and revenue collection

Increases in tolls for many of the MQA Portfolio's toll roads are affected by factors such as the rate of inflation, often in combination with another benchmark. Movement in the factors which cause trigger points to be reached cannot be predicted. Lower than expected increases (or decreases) in inflation could materially adversely affect MQA's financial performance, the valuation of its assets, dividends and the market price of MQA Securities.

MQA's tolling revenues depend on reliable and efficient tolling and revenue collection systems. There is a risk if the concessionaires of the MQA Portfolio's toll roads are not able to operate and maintain the tolling and revenue collection systems in the manner expected, or if the cost of operation and maintenance is greater than expected, MQA's financial performance, the valuations of its assets, dividends and the market price of MQA Securities could be materially adversely affected.

Motorists who do not pay tolls may be subject to either direct legal action from the concessionaire of the relevant toll road, or may be referred to the state for enforcement action. MQA Securityholders bear the ultimate risk if either MQA's or the state's enforcement actions against defaulting motorists are not successful and if MQA's enforcement actions are more costly or take more time than expected.

### 5.1.3 Borrowings

*Ability to comply with loan terms, to refinance and terms of any refinancing*

The investments within the MQA Portfolio (including entities through which they have been financed) carry a high level of debt. There is a significant risk that one or more investments in the MQA Portfolio may be unable to comply with the terms of their loans or may be unable to arrange refinancing when loans fall due, or that the terms of refinancing are less favourable than the current terms. These risks will be affected by the prevailing economic climate and cost of debt as well as the performance of the assets between now and when debt falls due. However, the debt at each of the assets is non recourse to MQA and is not secured over anything but project to which it relates.

*Increases in interest rates*

The MQA Portfolio assets have a high level of interest rate hedging in place. In some cases debt is 100% hedged for many years. However there is residual exposure to fluctuations in interest rates on the unhedged portion of debt, which is partially mitigated by the impact on interest earned on cash reserves at the corporate and MQA Portfolio level. Section 3.6.2 contains details of the hedging profile for the MQA Portfolio.

### 5.1.4 Major repairs and maintenance capital expenditure

Under the MQA Concession Agreements, the concessionaires of each of the MQA Portfolio's toll roads must meet the cost of all major repairs and maintenance to the toll roads – with no entitlement to increase tolls in response to these costs. These costs can be required to be incurred at specified intervals while others are due to usual wear and tear. In some circumstances the cost of these repairs and maintenance may exceed the cash flow available from the asset, requiring new or additional capital or debt to be raised. In particular as these capital expenditure requirements may not arise for many years, the amount of this expenditure is often not known until closer to the relevant time. Accordingly, the relevant concessionaire may be unable to make an allowance for these costs before they are incurred or to raise the required capital from internal or external sources.

Overall the need to fund or provide for greater than expected repairs and maintenance expenditure could materially adversely affect MQA's financial performance, the valuation of its assets, dividends and the market price of MQA Securities.

### 5.1.5 Operations risk

There is a risk that the operation of the MQA Portfolio's toll roads could be adversely affected by a number of events, as is inherent for projects of this nature, including (without limitation) failure of the tolling and revenue collection system; traffic management issues, including temporary closure due to traffic incidents; and extreme weather events.

### 5.1.6 Tax risk

The structure of MQA and the holding structures for the different MQA Portfolio investments rely on certain existing treatments for taxation purposes and interpretation of applicable fiscal arrangements. The tax rules or their interpretation, in relation to an investment in MQA may change during the life of MQA. In particular, both the level and basis of the taxation may change. A change in law or administrative practice in jurisdictions where toll road investments are located could adversely impact on existing tax assumptions which could have a flow on effect to toll road valuations.

In addition to risks at the entity level, an investment in MQA may involve tax considerations which may differ for each MQA Securityholder. Each prospective MQA Securityholder is encouraged to seek professional tax advice in connection with an investment in MQA.

### 5.1.7 MQA Concession Agreements – liabilities and termination

There are several circumstances that could result in an MQA Concession Agreement being terminated before the scheduled end of the concession period. Depending upon the circumstances that cause the premature termination of a MQA Concession Agreement, MQA Securityholders may incur economic loss. The circumstances which may give rise to termination of the MQA Concession Agreements are addressed in more detail in section 8.3 of this Prospectus. The termination of a MQA Concession Agreement could materially adversely affect MQA's financial performance, dividends and the market price of MQA Securities.

### 5.1.8 Regulatory and change of law risk

MQA Securityholders are exposed to the risk that the governments that act as the counterparties to the concessionaires may exercise their powers under legislation in a way that is not beneficial to MQA Securityholders. Depending on the nature of the change and the individual MQA Concession Agreement, the relevant concessionaire may be entitled to compensation and/or a right to renegotiate the MQA Concession Agreement. Refer to section 8.3 for an outline of the terms of the MQA Concession Agreements for the MQA Portfolio toll roads.

There is also the risk that a government agency will repeal, amend, enact or promulgate a new law or regulation, or that a government authority will issue a new interpretation of the law or regulation, which will affect a toll road's performance.

### 5.1.9 Valuation risk

The values of the assets in the MQA Portfolio in this Prospectus are based on valuations undertaken as at 30 June 2009. However, these assets will be transferred to MQA based on valuations as at the date of implementation of the Restructure Proposal. As the value of MQA's toll road assets may fluctuate over time, these valuations may vary. Factors relevant to valuations include traffic volumes and other economic factors referred to in this section 5.

The long duration of the MQA Portfolio coupled with the relatively high level of borrowings at MQA's assets may result in large changes to valuations, both positive and negative, as the outlook for traffic and revenue growth changes over time.

Valuations represent only the analysis and opinion at a certain date and are not guarantees of present or future values. The valuation of an asset may be materially higher than the amount that can be obtained from the sale of the asset in certain circumstances, such as under a liquidation or distressed sale.

### 5.1.10 Foreign exchange risk

All MQA Portfolio assets are located offshore, with cash reserves being the majority of MQA's Australian dollar denominated assets in Australia. This exposes MQA Securityholders to fluctuations in foreign exchange rates, which affect the values of the assets when translated to Australian dollars or to the home currencies of overseas MQA Securityholders.

### 5.1.11 Force majeure

Force majeure refers to an event beyond the control of a party, including natural disasters, sabotage, acts of terrorism, unforeseen environmental liabilities, dangerous chemical contamination and other events outside the control of a party that can affect a party's ability to perform its contractual obligations.

The occurrence of a force majeure event could materially adversely affect MQA's financial performance, the valuation of its assets, dividends and the market price of MQA Securities.

### 5.1.12 Joint venture risk

MQA holds a certain number of its interests in its companies and affiliates jointly with joint venture partners through equity or co-operative joint ventures. Although in many cases, such as the Chicago Skyway, ITR, APRR and Warnow Tunnel, MQA has control over or significant influence on the decision-making of these joint ventures, certain decisions require approval of all the directors or shareholders of the joint ventures. The co-operation among the joint venture partners of such companies on existing and future business decisions is an important factor for the sound operation and financial success of such business. The joint venture partners in these projects may have objectives different from those of MQA, or be unable or unwilling to fulfil their obligations under the relevant joint venture contracts. In order to minimise the risks associated with the development and operation of its joint venture project, MQA seeks to enter into joint ventures with partners whom MQA considers to be reputable, creditworthy and reliable and on terms favourable to MQA. Although to date MQA has not experienced any significant disputes with its partners, disputes among joint venture partners over joint venture obligations or otherwise could have an adverse effect of the financial conditions or results of operations of these businesses.

### 5.1.13 Competition risk

An MQA Portfolio investment may be affected by improvements in existing alternative routes and/or the construction of new alternative routes and/or the construction of a new, or the improvement of an existing means of alternative transportation (such as trains or some other form of public transportation). There is no guarantee that alternative roads that may allow for no tolls or faster travelling speed will not be built or improved. Competition from an alternate route or means of alternative transportation could materially adversely affect MQA's financial performance, dividends and the market price of MQA Securities.

### 5.1.14 Carbon pricing

There is considerable uncertainty in the global carbon market. Future changes in the regulatory landscape, particularly the introduction of emissions trading schemes, are likely to impact jurisdictions in which MQA operates and could materially adversely affect MQA's financial performance, dividends and the market price of MQA Securities.

### 5.1.15 Post implementation price risk

The performance of the MQA Securities after implementation of the In-Specie Distribution will in part be determined by whether or not existing MQA Securityholders choose to sell, hold or buy MQA Securities. Their decision may affect the prevailing market price at which MQA Securities are traded. This may result in MQA Securities trading at less than the listing price.

### 5.1.16 General economic conditions

The financial performance, dividends and the market price of MQA Securities may be materially adversely affected by a number of general risk factors, including but not limited to changes in:

- international economic outlook;
- governmental fiscal, monetary and regulatory policies; and
- laws and regulations.

### 5.1.17 Equity markets risks

There are risks associated with any investment in listed securities. The market price of listed securities such as MQA Securities is affected by numerous factors. These factors include but are not limited to factors such as inflation, interest rates, changes in supply and demand for infrastructure securities, hostilities, tensions and acts of terrorism, general investor sentiment and the movement of prices on local and international share and bond markets.

### 5.1.18 Liquidity and realisation risks

There can be no guarantee that an active market in MQA Securities will develop or that the price of MQA Securities will increase. There may be relatively few, or many, buyers or sellers of MQA Securities on ASX at any given time. This may increase the volatility of the market price of MQA Securities. It may also affect the prevailing market price at which MQA Securityholders are able to sell their MQA Securities. This may result in MQA Securityholders receiving a market price for their MQA Securities that is less than the listing price.

### 5.1.19 Demerger price risk

Following the implementation of the Restructure Proposal, there is a risk that some existing MIG Securityholders are likely to prefer retaining exposure to the Intoll Portfolio rather than the MQA Portfolio. This may result in MQA's share price being adversely affected.

### 5.1.20 Conflicts of Interest

The MQA Manager and its affiliates provide a wide variety of financial services to numerous different clients, including being engaged in the investment in and the management of infrastructure assets globally. Additionally, the MQA Management who work on MQA do so on a non-exclusive basis and may provide services to the Macquarie Group or other clients.

The MQA Manager, its affiliates, managers, members, shareholders, officers, directors, employees and the agents of the MQA Manager and their respective affiliates may engage in transactions or investments or cause or advise other clients to engage in transactions or investments that may differ from or be identical to the transactions or investments recommended by the MQA Manager.

Portfolio strategies for other clients, funds or investment programmes could conflict with strategies employed in managing MQA and affect the prices and availability of investments in which MQA invests.

There can be no assurance that conflicts will not arise between MQA and the Macquarie Group in the future in relation to the Macquarie Group's provision of any services to MQA, asset transactions with Macquarie Group and its managed vehicles or other clients, and deal allocation between MQA and Macquarie Group and its managed vehicles or other clients. See the management arrangements in section 6.1.5 for a description of potential conflicts and related party transactions and how they will be managed.

#### 5.1.21 Removal of MQA Manager

While MQA Securityholders have the right to remove the MQA Manager without cause on an ordinary resolution (more than 50% of votes cast voting in favour), this may trigger "removal of manager events" under debt or shareholder arrangements that have potentially adverse consequences for MQA because a significant asset may have to be sold or its debt refinanced. See the management arrangements summary referred to in section 6.1.5, and details concerning change of control in respect of M6 Toll and APRR in sections 2.1.6 and 2.2.2 respectively.

#### 5.1.22 Resignation of MQA Manager

The Manager may resign on 90 days notice, and MQA may not be able to find a suitable replacement in that short period of time, leading to business disruption. Additionally, "removal of manager events" may be triggered resulting in the adverse consequences referred to in the risks above.

#### 5.1.23 MQA Management

Members of MQA Management, will devote such time to MQA as the MQA Manager, in its sole discretion, deems necessary to carry out the operations of MQA effectively. Although the MQA Manager expects that the majority of MQA Management will be primarily focused on MQA, some members of MQA Management will spend a portion of their time on matters unrelated to MQA (such as existing funds division commitments and on other funds managed by the Macquarie Group funds division). As a result of the foregoing, conflicts of interest may arise in allocating the time of those members of MQA Management between MQA and the other matters in which such persons are involved.

## 5.2 MQA Investment Specific Risks

### 5.2.1 M6 Toll

*Refinance risk – the risk that debt facilities may not be able to be refinanced on acceptable terms at their maturity, leading to potential loan default, economic loss or investment write-off.*

The M6 Toll is a highly leveraged project. Refinance of the project's loan facilities in August 2015 will depend on improvements in toll revenues, an improved economic outlook and the availability on acceptable terms of syndicated bank loan facilities of an amount in excess of GBP1,000 million. There is no certainty that loans will be successfully refinanced.

### 5.2.2 APRR

*Refinance risk – the risk that debt facilities may not be able to be refinanced on acceptable terms at their maturity, leading to potential loan default, economic loss or investment write-off.*

MQA's investment in APRR is held through FE, a French joint investment company. FE via its wholly owned subsidiary, Eiffarie, is a highly leveraged company. Refinance of the company's loan facilities in February 2013 will depend on continued improvements to toll revenues, an improved economic outlook and the availability on acceptable terms of syndicated bank loan facilities of an amount in excess of €3,800 million. There is no certainty that loans will be successfully refinanced.

*Loan default risk – the risk that loan covenants may be breached, leading to potential loan default, economic loss or investment write-off.*

Eiffarie is highly leveraged and its ability to comply with the terms of its facilities with respect to debt service payments is dependent on future dividends from APRR. There is a risk that these dividends will not be sufficient to meet these payment obligations which may result in Eiffarie defaulting under those facilities.

### 5.2.3 Chicago Skyway

*Refinance risk – the risk that debt facilities may not be able to be refinanced on acceptable terms at their maturity, leading to potential loan default, economic loss or investment write-off.*

The Chicago Skyway is a highly leveraged project. The first tranche of the project's bond facilities, Series A Senior Secured Floating Rate Bonds, matures in June 2017 in the amount of US\$439 million. Refinance of this series is subject to pre-agreed re-insurance arrangements with FSA, the project's credit insurer. Successful issuance of refinancing bonds will depend on continued growth in both traffic and revenue, and market conditions prevailing in 2017 and the strength of the credit rating of FSA at that time.

### 5.2.4 Indiana Toll Road

*Refinance risk – the risk that debt facilities may not be able to be refinanced on acceptable terms at their maturity, leading to potential loan default, economic loss or investment write-off.*

The ITR is a highly leveraged project. Refinance of the project's loan facilities in June 2015 will depend on continued growth in both traffic and revenue, an improved economic outlook and the availability on acceptable terms of syndicated bank loan facilities of an amount in excess of US\$3,800 million. There is no certainty that loans will be successfully refinanced.

*Loan default risk – the risk that loan covenants may be breached, leading to potential loan default, economic loss or investment write-off.*

ITR's revenues are expected to remain insufficient to cover debt service obligations over the medium term. While a liquidity debt facility is available to be drawn down to supplement the project's revenues, absent an improved economic outlook and material improvement to the project's toll revenues, there is a risk that these reserves may be insufficient to support the project until the existing debt facilities mature in June 2015. Should this occur, any default under the loan documents may lead to lender actions which may include foreclosure of the project assets or bankruptcy.

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# Section 6: Management and Corporate Governance





## 6.1 Management of Macquarie Atlas Roads

### 6.1.1 MQA Boards

MQA will comprise two entities, MQA Australia and MQA Bermuda. The MQA Australia Board and MQA Bermuda Board (**MQA Boards**) will be responsible for the overall management of these entities. The MQA Boards will initially comprise various current directors of MIIML and MIGIL respectively, with an additional Macquarie nominee to the MQA Australia Board. Their independence status or otherwise has been determined in accordance with the independence criteria set out in section 6.2.1.

#### *MQA Australia Board*

The MQA Australia Board has been established with four directors with broad industry experience. From implementation of the Restructure Proposal, two members of the MQA Australia Board will be independent directors, one will be a non-independent, non-executive director and one will be a non-independent executive director. Consequently, and at this time, MQA will not be in compliance with the ASX Corporate Governance Principles and Recommendations (**Principles**) and the Macquarie Funds Management Policy, but is expected to transition to majority independent boards prior to its first annual general meeting which will be held no later than May 2011. The MQA Australia Board has invited John Roberts, a Macquarie nominee, to join the MQA Australia Board. All the directors of MQA Australia, including John Roberts, will stand for re-election on a three year rotational basis as required by the Listing Rules.

On implementation of the Restructure Proposal, the MQA Australia Board will initially comprise:

**Mark Johnson** (Chairman, Non-Executive Director) recently retired as deputy chairman of Macquarie Group. Mark has more than 40 years of experience in corporate finance and banking. He is a qualified lawyer and has a Masters of Business Administration degree from Harvard University. He is chairman of AGL Energy and the Australian Security Policy Institute.

**David Mortimer AO** (Independent Director) is Chairman of Australia Post, Crescent Capital Partners and Leighton Holdings Limited, a director of Petsec Energy Limited and a governor of the Australia Israel Chamber of Commerce. David was formerly a director of the Australian Graduate School of Management and the former CEO of TNT. David graduated from Sydney University with first class honours in Economics.

**David Walsh** (Independent Director) is an experienced corporate and commercial lawyer and company director. He was a partner of the law firm Mallesons Stephen Jaques from 1962 to 2004. Currently, he is the chairman of Templeton Global Growth Fund and was formerly a non-executive director of Dyno Nobel Ltd, PaperlynX Ltd and of Asia Pacific Specialty Chemicals Ltd.

**John Roberts** (Non-Independent Director, Macquarie Nominee) will join the MQA Australia Board as a casual vacancy and intends to stand for election at MQA Australia's next AGM. John joined Macquarie in 1991 and is the Global Head of Macquarie Capital Funds. He has various roles as either a director or member of the Investment Committees for a number of Macquarie's infrastructure funds, including the Macquarie European Infrastructure Funds. Mr Roberts is not considered to be independent.

However, at the date of this Prospectus, John Roberts is not a director of MQA Australia. Paul McClintock is a current independent director on the MQA Australia Board, but intends to resign on implementation of the Restructure Proposal. Paul is a principal of the private investment banking firm McClintock Associates. He is chairman of Medibank Private Limited, Thales Australia and the COAG Reform Council. From July 2000 to March 2003, he was secretary to the Cabinet and head of the Cabinet Policy Unit for the Australian Government. Paul graduated from Sydney University with a Bachelor of Arts and a Bachelor of Law.

#### *MQA Bermuda Board*

The MQA Bermuda Board has four directors each with broad industry experience. The MQA Bermuda Board has two independent directors and two non-independent, non-executive directors. It is a requirement of the MQA Bermuda Bye-Laws that no more than two directors may be resident in the same jurisdiction (other than Bermuda) and that the majority of the directors must be resident for tax purposes in Bermuda. All the directors of MQA Bermuda will stand for re-election on a three year rotational basis as required by the Listing Rules.

On implementation of the Restructure Proposal, the MQA Bermuda Board will initially comprise:

**Robert Mulderig** (Chairman, Independent Director) is chairman of the board of financial services company Woodmont Trust Company Ltd and the Bermudan Bank of N.T. Butterfield and Son Ltd. Mr Mulderig is also a director of another Macquarie managed fund, Macquarie International Infrastructure Fund. He is a former member of the board of governors of the Bermuda Stock Exchange and was chairman and chief executive officer of Mutual Risk Management Ltd for 20 years until 2002. He attended Columbia University and the Fordham University School of Law.

**Jeffrey Conyers** (Independent Director) began his professional career as a stockbroker in Toronto and returned to Bermuda in 1985 to join the Bank of Bermuda where his focus was investments and trusts. A founding executive council member and deputy chairman of the Bermuda Stock Exchange, Jeffrey is also a director of numerous other companies in Bermuda, including Macquarie Airports (Holdings) Bermuda Limited, and is the chief executive officer of First Bermuda Group Limited. The First Bermuda Group provides an advisory and execution service on worldwide offshore mutual funds to individuals and local companies based in Bermuda.

Jeffrey Conyers is married to Ede Conyers, who is Executive Director, Chief Executive Officer and a shareholder in ISIS Fund Services Limited, a Bermuda based firm which provides company secretarial and funds administration services to other Macquarie managed vehicles. Jeffrey has no involvement with the operations of ISIS Fund Services Limited but is a beneficiary of his wife's investment in the business. Ede Conyers is an independent business woman of 30 years standing as a fund administrator in Bermuda. She is not involved with the day to day provision of services to MQA. Jeffrey Conyers' appointment to the MQA Bermuda Board was made in view of his expertise.

**Peter Dyer** (Non-Independent Director) was previously executive director of Kværner Corporate Development Limited (now Macquarie Infrastructure (UK) Limited). Peter gained extensive experience in the development of Kværner's UK-based PFI projects, including the Birmingham Northern Relief Road (now M6 Toll) and the A1-M1 Road in Yorkshire. Peter was employed by the Kværner Group from 1981 and became a director of Macquarie European Infrastructure plc (now replaced by MIGIL), following the acquisition of Kværner Corporate Development Limited.

**Mark Johnson** (Non-Independent Director) recently retired as deputy chairman of Macquarie Group. Mark has more than 40 years of experience in corporate finance and banking. He is a qualified lawyer and has a Masters of Business Administration degree from Harvard University. He is chairman of AGL Energy and the Australian Security Policy Institute.

### 6.1.2 MQA Boards' transitional arrangements

Following the implementation of the Restructure Proposal, the MQA Boards will undergo a period of transition and refreshment.

These transition arrangements are designed to ensure continuity following the implementation of the Restructure Proposal, whilst also ensuring a refreshment of talent and compliance with the ASX guidance note on independence of directors. For MQA:

- Following implementation of the Restructure Proposal, Mr John Roberts (an Executive Director of Macquarie Group) will be invited to join the MQA Australia Board, as Macquarie's nominee. Mr Roberts' appointment will be on a casual vacancy basis and he will stand for re-election at the first annual general meeting of MQA Australia which is anticipated to be held in October 2010.
- Within six months from the date of the implementation of the Restructure Proposal Mr David Mortimer intends to resign from the MQA Australia Board and will be replaced with suitably qualified independent director.
- Mr Mark Johnson has indicated that he intends to retire from the MQA Boards at or before the first annual general meeting of MQA and will be replaced by a suitably qualified independent director on each of the MQA Boards. It is anticipated that David Walsh, an independent director, will replace Mr Johnson as chairman of MQA Australia.
- Following these changes, the MQA Australia Board will comprise four directors, being three independent directors, including an independent chairman, Mr David Walsh.
- Following these changes, the MQA Bermuda Board will comprise four directors, being three independent directors, including an independent chairman.

As set out in section 6.1.1, all MQA Directors will stand for re-election on a three year rotational cycle.

### 6.1.3 Audit and Risk Committees

The role of each Audit and Risk Committee (**Committees**) is to advise on and monitor the risk management of MQA Australia and MQA Bermuda respectively. The Committees will also:

- monitor the quality and reliability of the financial information prepared by the MQA Manager, working on behalf of the respective MQA Boards with the external auditor; and

- review non-audit services provided by the external auditor to confirm they are consistent with maintaining external audit independence.

The Committees will comprise at least three directors, all of whom must be non-executive directors and a majority of whom must be independent. The chairman of the committee must be an independent non-executive director.

The Committees will meet as often as is required to undertake their roles effectively. The chairman of each Committee may invite members of management and representatives of the external auditor or other external advisers to be present at meetings of the Committees. The Committees will regularly report to the MQA Boards about committee activities, issues and related recommendations.

The Committees will, immediately following the implementation of the Restructure Proposal, comprise the independent directors of MQA Australia and MQA Bermuda respectively, and Mark Johnson. The composition of the Committees will change as part of the MQA Boards' transitional arrangements.

### 6.1.4 Key Executives

MQA will be managed by MQA Management, which will comprise a team of executives employed by the Macquarie Group. MQA Management will include existing members of MIG Management and will therefore provide continuity of management, knowledge and experience.

The key executives of MQA are set out below:

**Peter Trent** (Chief Executive Officer) has been appointed Chief Executive Officer of MQA. Peter is currently a Division Director with Macquarie, having held senior advisory and fund management roles for Macquarie in both Europe and in Australia over the past ten years.

Peter has been actively involved in the development, financing, management and operation of toll roads in Australia, Europe and North America over the past 16 years. Prior to joining Macquarie Infrastructure Group in 2005, Peter was head of European toll roads advisory within the Macquarie Group in London U.K., where he was actively involved in the bidding and development of toll roads across Europe on behalf of European concessionaires. He was also the lead adviser to MIG for its highly successful €816m acquisition of a 40% interest in the Spanish concessions group Cintra.



With over 25 years of infrastructure and capital markets experience covering a broad range of major investment transactions, principally within the transportation sectors, Peter is well qualified to lead MQA through a necessary period of restructure and renaissance over the medium term.

Prior to joining Macquarie, Peter was an Executive Vice President with Bankers Trust Australia.

**Mary Nicholson** (Chief Financial Officer) has been appointed Chief Financial Officer of MQA. Mary is the current Chief Financial Officer of MIG, a position she has held for more than four years. Mary is currently a Division Director with Macquarie, and is a chartered accountant. Mary has been involved with MIG since joining Macquarie in 2002, prior to which she worked for PricewaterhouseCoopers in London and Sydney.

### 6.1.5 Summaries of the MQA Management Agreements

Under the MQA Management Agreements, the MQA Manager will provide management and advisory services respectively to MQA Australia and MQA Bermuda following the implementation of the Restructure Proposal. This section 6.1.5 contains a brief overview of the key terms of the MQA Management Agreements.

The following is a high level summary of the MQA Management Agreements addressing the disclosure recommended in ASX Guidance Note 26. We recommend that you also read the MQA Management Agreements on the MQA website:

<b>Parties</b>	MQA Australia and MQA Manager to the MQA Australia Management Agreement MQA Bermuda and MQA Manager to the MQA Bermuda Advisory Agreement	
<b>Investment mandate</b>	The investment policy is to invest in infrastructure assets in OECD and OECD equivalent countries; and non-infrastructure assets where ancillary to a major infrastructure investment or acquisitions but with focus on tollroad investments, both greenfield and mature. The investment policy may be varied from time to time on reasonable notice to MQA Securityholders.	MQA Management Agreements clause 3.3
<b>Services</b>	The MQA Manager is responsible to MQA Australia and MQA Bermuda for: <ul style="list-style-type: none"> <li>– advice on any proposed investment or divestment;</li> <li>– if the MQA Australia Board and MQA Bermuda approve an investment, acquisition and management the investment on behalf of MQA Australia and MQA Bermuda;</li> <li>– provision of Macquarie executives as nominees of MQA Australia and MQA Bermuda to act as directors of subsidiary entities that hold investments, and where appropriate, making recommendations to the MQA Boards to appoint non-Macquarie nominees to these boards;</li> <li>– capital management and financial management recommendations;</li> <li>– recommendations to the MQA Boards in respect of various matters (including but not limited to changes to the MQA Australia Constitution and MQA Bermuda Bye-Laws, any capital reductions, appointment and dismissal of staff and consultants, and the payment of dividends and interim dividends);</li> <li>– general fund administration including company secretarial services subject to outsourcing company secretarial services in Bermuda to Butterfield Fulcrum Group Limited;</li> <li>– asset valuations;</li> <li>– assistance with financial reporting and budgets;</li> <li>– board reporting in connection with matters on which it provides advice;</li> <li>– assistance with litigation management;</li> <li>– investor communications and meetings; and</li> <li>– provision of suitably qualified personnel to perform the CEO, and CFO roles for MQA and the company secretary role for MQA Australia.</li> </ul>	MQA Management Agreements clause 3

<b>Term</b>	No fixed term or until the MQA Manager is removed or resigns.	MQA Management Agreements clause 11.1
<b>Extension or removal</b>	There are no extension or renewal provisions in the MQA Australia Management Agreement and MQA Bermuda Advisory Agreement.	MQA Management Agreements clause 11
<b>Termination</b>	The appointment of the MQA Manager will automatically terminate on a MQA Securityholder vote following the commencement date. The resolution must be passed by more than 50% of votes cast at a meeting by MQA Securityholders entitled to vote to terminate the MQA Australia Management Agreement and MQA Bermuda Advisory Agreement. The MQA Manager and its associates (including Macquarie) may vote their securities on the resolution.	MQA Management Agreements clause 11.3(b)
	The MQA Manager can also be removed for cause being where the MQA Manager is in liquidation, ceases to carry on business, lacks the appropriate licence or authorisation, or commits a material breach which cannot be remedied.	MQA Management Agreements clause 11.3(a)
	The MQA Manager may resign by giving not less than 90 days written notice.	MQA Management Agreements clause 11.2
	Where the agreement terminates, all directors, executives, employees, representatives, assignees and delegates of the MQA Manager and its associates (including Macquarie) will cease to work under the agreement at the date of termination or at any other time determined by MQA.	MQA Management Agreements clause 11.3(c)
	Base fees and performance fees accrued to the date of termination are payable.	MQA Management Agreements clause 8.1(d), 8.2(b)
<b>Fees</b>	<p><b>Base fee</b></p> <p>Payable quarterly.</p> <p>The parties agree that the MQA Manager and MQA Australia may agree from time to time to a base fee which is less than the amount determined below. At the commencement date for the MQA Management Agreement, the MQA Manager and MQA Australia have agreed to a base fee calculated as follows:</p> <ul style="list-style-type: none"> <li>– 2.00% per annum of the Market Value of MQA at the end of each Calendar Quarter up to \$A1 billion or less; plus</li> <li>– 1.25% per annum of the Market Value of MQA at the end of each Calendar Quarter in excess of \$A1 billion but less than or equal to A\$3 billion; plus</li> <li>– 1.00% per annum of the Market Value of MQA at the end of each Calendar Quarter in excess of \$A3 billion.</li> </ul> <p>“Market Value” means the aggregate of the market value of the MQA Securities calculated on the basis of the average number of MQA Securities in issue during the last 10 trading days of the ASX in the relevant calendar quarter multiplied by the VWAP of all MQA Securities over those 10 trading days.</p> <p>The MQA Manager and its associates (including Macquarie) may, where the non-executive directors of MQA Australia and MQA Bermuda so determine, apply the base fee in subscription for MQA Securities. The price of the MQA Securities is the VWAP of the MQA Securities traded on ASX during the 10 trading days up to and including the quarter end date.</p>	MQA Management Agreements clause 8.1

Fees (continued)	Performance fee	MQA Management Agreements clause 8.2
	<p>A performance fee is payable at 30 June each year in the event that MQA Securities outperform the Benchmark Return (based on the S&amp;P/ASX 300 Industrials Accumulation Index) in the financial year having made up for underperformance in previous years. Any underperformance deficit from prior periods must be made up before future performance fees can be earned.</p> <p>Performance fee = 15% of the dollar amount of out performance and is payable in three equal annual instalments. The second and third instalments are only paid if MQA continues to outperform the index on a cumulative basis over the two and three year period. The performance fee to be calculated in respect of any given financial year means:</p> <ul style="list-style-type: none"> <li>– subject to paragraph 3 below, 15% of the amount (if any) by which the Annual Return for the financial year exceeds the Benchmark Return of the financial year; or</li> <li>– nil if the Annual Return for the financial year does not exceed the Benchmark Return for the financial year; but</li> <li>– if the Annual Return in any prior financial year is less than the Benchmark Return for that financial year the deficit is to be carried forward on a cumulative basis until offset on a dollar for dollar basis against a surplus or surpluses of the Annual Return over the Benchmark Return in any succeeding financial year or financial years. The MQA Manager must allocate any deficit between MQA Australia and MQA Bermuda based on the net assets of the companies (adjusted for the net market value of its assets).</li> </ul> <p><b>Annual Return</b> means:</p> $AR = A \times \frac{B - C}{C}$ <p>Where:</p> <p>AR = the Annual Return for the financial year;</p> <p>A = in respect of each financial year is the average number of MQA Securities on issue during the last ten ASX trading days in the previous financial year multiplied by the VWAP of all MQA Securities traded on the ASX during that ten trading days period or in the case of the initial financial year using the thirty trading days following Listing for the calculations;</p> <p>B = the average of the daily closing accumulation indices for the MQA Securities over the last ten trading days of the financial year as calculated by a person reasonably approved or selected by the MQA Manager and reported by Bloomberg;</p> <p>C = the average of the daily closing accumulation indices for the MQA Securities over the last ten trading days of the previous financial year as calculated by a person reasonably approved or selected by the MQA Manager and reported by Bloomberg, or in the case of the initial financial year over the thirty trading days following Listing.</p>	



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**Benchmark Return** means:

MQA Management  
Agreements clause 1.1

$$BR = X \times \frac{Y - Z}{Z}$$

Where:

BR = the Benchmark Return for the financial year;

X = in respect of each financial year is the average number of MQA Securities (as used in the determination of "A" for the purposes of determining the Annual Return for the financial year) on issue during the last ten ASX trading days in the previous financial year multiplied by the VWAP of all MQA Securities (as used in the determination of "A" for the purposes of determining the Annual Return for the financial year) traded on the ASX during that ten trading days period or in the case of the initial financial year using the thirty trading days following Listing for the calculations;

Y = the average of the daily closing S&P/ASX 300 Industrials Accumulation Indices over the last ten trading days of the financial year as reported by Bloomberg;

Z = the average of the daily closing S&P/ASX 300 Industrials Accumulation Indices over the last ten trading days of the previous financial year or in the case of the initial financial year, the thirty trading days following Listing as reported by Bloomberg.

If the MQA Manager's appointment is terminated, any future second and third performance fee instalments will be crystallised and paid on termination.

The MQA Manager and its associates (including Macquarie) may, where the non-executive directors of MQA Australia and MQA Bermuda so determine, apply the performance fee in subscription for MQA Securities. The price of the MQA Securities is the VWAP of the MQA Securities traded on ASX during the last 10 trading days of that financial year.

The same base fee and performance fee provisions apply for the MQA Bermuda Advisory Agreement.

#### **Apportionment of fees**

MQA Management  
Agreements clause 8.4  
and Schedule 2

The MQA Manager acknowledges that in respect of the performance fees that are earned under the MQA Management Agreements for the relevant period while Stapling applies:

- the amount calculated under each of the MQA Manager Management Agreements are representative of the aggregate fees payable to the MQA Manager in respect of MQA; and
- the MQA Manager has absolute discretion as to the allocation of such fees.

Unless agreed in writing to the contrary by MQA Australia, MQA Bermuda and the MQA Manager, the allocation of the base fee and the performance fee between MQA Australia and MQA Bermuda is to be at the ratio of that amount of the aggregate net assets (adjusted for the net market value of its investments) of MQA Australia (excluding the MQA group) at the end of the relevant period bears to the amount of the aggregate net assets of the MQA group (adjusted for the net market value of its investments) at the end of the relevant period on the basis that in respect of the performance fee, the allocation will apply for each of the three instalments in the same ratio.

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<b>Expenses</b>	<p>The MQA Manager is entitled to be reimbursed for expenses incurred in relation to the proper performance of its duties.</p> <p>Expense reimbursement does not include administration costs such as premises, staff and facilities or any costs, commissions, charges, fees, expenses and taxes arising as a result of any gross negligence, fraud, wilful misconduct or dishonesty by the MQA Manager or any of its employee, delegate, agent or contractor of the MQA Manager.</p>	MQA Management Agreements clause 9
<b>Exclusivity</b>	The MQA Manager is not engaged by MQA on an exclusive basis, and MQA Australia and MQA Bermuda can appoint additional managers or advisors.	MQA Management Agreements clause 4.5
	The MQA Manager may from time to time perform services for itself and other parties the same as or similar to services performed under the MQA Management Agreements.	MQA Management Agreements clause 4.7
	The MQA Manager, and its associates have no obligation to provide investment opportunities and MQA Australia and MQA Bermuda has no obligation to accept any investment opportunities. MQA Australia and MQA Bermuda will not have any priority in respect of investment opportunities sourced by the MQA Manager and its associates.	MQA Management Agreements clause 4.9
<b>Discretions</b>	The advisory mandate for MQA Australia and MQA Bermuda is non-discretionary. All significant investment/divestment and operational decisions are made by the MQA Australia Board and MQA Bermuda Board based on recommendations from the MQA Manager. The MQA Boards are not obliged to accept the recommendations of the MQA Manager.	MQA Management Agreements clause 4.1
<b>Related Party Protocols</b>	MQA has adopted a detailed related party protocol covering transactions with and services provided by Macquarie Group companies and managed vehicles.	MQA Management Agreements clause 7.1
	All related party transactions or services must be on arm's length terms and approved by the MQA independent directors only.	
	Asset acquisition or sale transactions with related parties for 5% or greater of fund value are supported by an independent valuation.	
	Mandates for the provision of services to MQA or their controlled businesses are subject to third party independent review unless the independent directors determine otherwise on the basis of appropriate market information or practice.	
	MQA independent directors have put in place a panel of reviewers (which does not include the MQA auditor) and the reviewer for a particular service or transaction is usually chosen by them on a rotational basis.	
	Swap and foreign exchange transactions with Macquarie Group companies solely for hedging purposes are given standing approval if certain conditions are met.	
	Significant volume securities transactions with a Macquarie Group broker require independent director approval.	
	Fees paid or payable by MQA group entities for related party services will be disclosed in the MQA financial statements.	

<b>Change of Control</b>	<p>A party may not assign any of its rights and obligations under the MQA Management Agreements without the prior written consent of the other party except to an associate in the case of the MQA Manager provided the MQA Manager has demonstrated to the reasonable satisfaction of MQA Australia and MQA Bermuda (as the case may be) that the relevant associate has or has access to all necessary expertise, experience and resources for it to perform the MQA Manager's obligations under the MQA Management Agreements.</p> <p>The MQA Management Agreements are not able to be terminated by either the MQA Manager or MQA Australia and MQA Bermuda (as the case may be) in the event of a change of control of MQA Australia or MQA Bermuda. However, as noted above under 'Termination', the agreement will terminate if MQA Securityholders so determine by 50% majority resolution. Base fees and performance fees accrued to the date of termination will be payable by MQA Australia and MQA Bermuda in those circumstances.</p> <p>MQA co-invests from time to time with other Macquarie companies or managed vehicles. Co-investment arrangements may include pre-emption and tag-along or drag-along rights in favour of each other including rights which are triggered on removal of the Macquarie manager typical of those agreed with third party co-investors.</p> <p>Removal of manager trigger events are typically put in place because counterparties (both equity and debt providers) require ongoing Macquarie involvement in the management of the fund or particular businesses.</p>	MQA Management Agreements clause 19
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## 6.2 Corporate Governance

The ASX Corporate Governance Council has issued the Principles which encompass matters such as board composition, committees and compliance procedures. The Principles are designed to maximise corporate performance and accountability in the interests of investors and the broader economy.

While the Principles are not prescriptive, listed entities are required to disclose in their annual reports the extent of their compliance with the Principles and to explain why they have not adopted a Principle, if they consider it inappropriate in their particular circumstances. MQA will include on its website details of its corporate governance regime and a corporate governance statement will be included in MQA's first annual report. Except as set out in section 6.2.1, MQA has adopted policies and procedures in full compliance with the Principles.

### 6.2.1 Departure from the Principles

#### *Independence criteria of directors*

Independence of directors determined by objective criteria is acknowledged as being desirable to protect investor interests and optimise the financial performance of MQA and returns to MQA Securityholders.

In determining the status of a director, MQA applies the standards of independence required by the MQA

independence criteria, which is similar to but not exactly the same as the Principles. The full details of MQA's independence criteria are as follows:

An independent director is a director of the responsible entity and/or special purpose vehicle who is not a member of management (a non-executive director) and who (to the satisfaction of the relevant MQA board) meets the following criteria:

- Is not a substantial shareholder of MGL or MQA, or a company holding more than 5% of the voting securities of MGL or MQA.
- Is not an officer, or otherwise associated directly or indirectly with a shareholder holding more than 5% of the voting securities, of MGL or MQA.
- Has not, within the last three years, been:
  - Employed in an executive capacity by the responsible entity and/or special purpose vehicle, or by another Macquarie Group entity, or
  - A director of any such entity after ceasing to hold any such employment.
- Is not and has not within the last three years been a principal or employee of a professional adviser to MQA, Macquarie Group or other Macquarie Group managed vehicles whose billings to MQA, Macquarie Group or other Macquarie Group managed vehicles over the previous full year, in aggregate, exceed 5% of the adviser's total

revenues over that period. A director who is or within the last three years has been a principal or employee of a professional adviser will not participate in any consideration of the possible appointment of the professional adviser and will not participate in the provision of any service to MQA, Macquarie Group or another Macquarie Group managed vehicle.

- Is not a significant supplier or customer of MQA, Macquarie Group or other Macquarie Group managed vehicles, or an officer of or otherwise associated directly or indirectly with a significant supplier or customer. A significant supplier is defined as one whose revenues from MQA, Macquarie Group and other Macquarie Group managed vehicles exceed 5% of the supplier's total revenue. A significant customer is one whose amounts payable to MQA, Macquarie Group and other Macquarie Group managed vehicles exceed 5% of the customer's total operating costs.
- Has no material contractual relationship with Macquarie Group other than as a director of a responsible entity and/or special purpose vehicle.
- Is not a director of more than two Macquarie Group related responsible entities or special purpose vehicle boards.
- Has no other interest or relationship that could interfere with the director's ability to act in the best interests of the Macquarie Group managed vehicle and independently of management of Macquarie Group.

However, where an individual may not meet one or more of the above criteria, the relevant MQA Board may make a specific determination that, in the particular overall circumstances of that individual, the fact that these criteria have not been met would not prevent the individual from exercising independent judgment on the relevant board(s).

The main areas of difference from the independence criteria set out in the Principles are:

- the MQA independence criteria are designed to ensure that directors are not only independent from MQA but that they are also independent from Macquarie Group and its other managed vehicles. Accordingly the independence criteria must be satisfied in respect of relationships with each of MQA, Macquarie Group and other Macquarie Group managed vehicles. By way of example a partner of a professional services firm who is a director on MQA would not be able

to provide services to MQA or any Macquarie Group entities or managed vehicles and would not be able to vote on the appointment of their firm by MQA. Additionally the firm must not have earned more than 5% of its annual income from doing work for any of MQA, Macquarie Group or other Macquarie Group managed vehicles for 3 years prior to the appointment of the director and on an ongoing basis during the currency of the directorship;

- the MQA independence criteria do not specifically provide that independent directors must be free of any business relationship that could reasonably be perceived to materially interfere with their independence. However, the criteria are designed to ensure that this is in fact the case. Further, the MQA Boards can in appropriate circumstances determine that a director is not independent notwithstanding they continue in a formal sense to satisfy all of the independence criteria. This envisages that in some cases candidates will not be appointed or directorships will cease because of perception issues around independence; and
- the MQA independence criteria have a catch all provision, not included in the Principles, which gives the MQA boards discretion to determine that a director is independent even if they do not meet all the other MQA independence criteria.

The ability of independent directors to serve on up to two separate managed vehicle boards is considered appropriate because the time commitment and level of remuneration for these roles is not so significant as to compromise independence.

If any independent director serves on two managed vehicle boards or has been determined by the MQA boards as independent despite not satisfying all of the MQA independence criteria they will be noted as such in their description in any corporate governance disclosure. Reasons will be provided for any independence determination.

Each year independent directors are required to provide MQA with written confirmation of their independence status and they have each undertaken to inform MQA if they cease to satisfy the MQA independence criteria at any time. The MQA Australia company secretary also monitors compliance with the MQA independence criteria and seeks information from the independent directors in this regard if necessary and reports to the MQA Boards.

MQA considers that the independence of its directors, each of whom is a highly qualified and reputable business person and professional who satisfies the above criteria, does not depend on who appoints them but on their independence of mind, including an ability to constructively challenge and independently contribute to the MQA Boards.

#### *Non-Independent Chairman of MQA Australia*

Mark Johnson, being the former deputy chairman of MBL until his retirement on 19 July 2007, is a non-executive chairman of MQA Australia, and does not satisfy the independence recommendation of the Principles. Mr Johnson will be replaced with an independent chairman as part of the MQA Boards' transitional arrangements. See section 6.1.2 for more details.

#### *The MQA Boards will not comprise a majority of independent directors*

This will be adjusted over time. Please refer to See section 6.1.2 for more details.

#### *Remuneration committee*

The MQA Boards do not consider it necessary or appropriate to constitute a remuneration committee. Given the small size of the MQA Boards and that senior executive remuneration is not paid by MQA, the full board undertakes a process to review and benchmark director remuneration and considers that a remuneration committee is not justified.

#### *Nomination committee*

Neither of the MQA Boards has appointed a nomination committee given the small size of each board but an appropriate review of board candidates to ascertain that they meet director selection criteria will be undertaken by each of the relevant boards in full meeting before they are put forward for election.

## 6.3 Summary of MQA Policies

#### *Related party transactions*

The general rule is that all related party transactions involving members of the Macquarie Group must be on arm's length terms unless approved by investors with Macquarie interests excluded from voting and in accordance with applicable regulatory requirements. For the purposes of this policy, Macquarie Group includes:

- entities directly or indirectly controlled by MGL,

- special purpose vehicles or entities managed or advised by those entities (each, a "managed vehicle") and their controlled entities.

#### *Independence of directors*

Please refer to section 6.2.1 for a summary of MQA's independence criteria.

#### *Borrowing and hedging*

MQA's borrowing and interest rate hedging policies will be consistent with MIG's current practice. All term debt should be project level finance, secured over the assets of the project to which it relates, with no cross collateralisation between projects and with no recourse to MQA itself. Interest rate hedging should be in place to fix the cost of the majority of project level debt.

In relation to foreign exchange, MQA will not enter into 'balance sheet hedging' of the MQA Portfolio. Foreign currency cash receipts may be converted into Australian dollars or other currencies as required from time to time in order to carry out MQA's strategy.

#### *Valuations of assets*

MQA will equity account for its non-controlled investments (refer to section 3.2.1). As such valuations will not be reflected in MQA's statutory financial report.

MQA intends to continue for the medium term to publish the directors' valuation of the MQA Portfolio in a management information report, as a means of providing this additional information to investors.

The values of MQA's road asset investments will be determined by the valuation framework adopted by the directors of MQA Australia and MQA Bermuda. Discounted cash flow (DCF) analysis will be applied as the primary valuation methodology, as it is the generally accepted methodology for valuing toll road assets and the basis upon which market participants have derived valuations for specific transactions.

Discounted cash flow is the process of estimating future cash flows that are expected to be generated by an asset and discounting these cash flows to their present value, by applying an appropriate discount rate.

The valuations will be internally produced by MQA. External or independent valuations will not be sought as a matter of course, however the valuations derived from the discounted cash flow analysis will be periodically benchmarked to other sources, such as recent market transactions.



# Section 7: Taxation

## Implications for Macquarie Atlas Roads Securityholders



# Greenwoods & Freehills

The Directors  
Macquarie Infrastructure Investment  
Management Limited  
(in its capacity as RE of MIT (I))  
c/o No.1 Martin Place  
Sydney NSW 2000

18 December 2009  
Matter 87679

The Directors  
Macquarie Infrastructure Investment  
Management Limited  
(in its capacity as RE of MIT (II))  
c/o No.1 Martin Place  
Sydney NSW 2000

The Directors  
Macquarie Infrastructure Group International  
Limited  
Rosebank Centre  
11 Bermudiana Road  
Pembroke HM 08  
Bermuda

Dear Sirs

## **Macquarie Infrastructure Group - Restructure Proposal Tax Information for Securityholders in relation to MQA Securities**

We have been requested to provide an opinion for inclusion in the Prospectus for the issue of Macquarie Atlas Roads ("MQA") Group Securities to current Macquarie Infrastructure Group ("MIG") Securityholders as part of a Restructure Proposal for MIG. We have been requested to outline the Australian income tax implications of holding and disposing of MQA Securities for MIG Securityholders who participate in the Restructure Proposal in our tax opinion.

Our opinion has been prepared for the benefit of the Due Diligence Committee of MIG for the Restructure Proposal and entities within MIG and MQA. No other person or entity is entitled to rely on it.

The summary of Australian tax implications of the holding and disposing of MQA Securities below is general in nature and should not be relied upon by securityholders. The precise tax treatment for a securityholder will depend on their own individual facts and circumstances. As such, MIG Securityholders should seek their own independent tax advice in relation to the holding and disposal of MQA Securities.

### **1 Introduction**

Set out below is a high-level summary of the Australian income tax consequences for MIG Securityholders (both Australian resident and non-resident) of holding and disposing of

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MQA Securities. References to entities or other defined terms are references to those entities or terms as defined for the purposes of this Prospectus.

The summary set out below assumes that all securityholders hold their MQA securities on capital account, rather than as revenue assets.

Comments relating to Australian resident securityholders assume that a company securityholder (with associates) does not hold an interest of 10% or more in MQA and also does not hold its interest in MQA as part of a business it conducts through a foreign branch or permanent establishment.

In relation to non-resident securityholders, the comments in the summary relating to capital gains tax assume that no non-resident securityholder (with associates) will hold 10% or more of MQA throughout any 12 month period in the 24 months leading up to a disposal of MQA Securities. The comments also assume that no non-resident securityholder will hold their interest in MQA as part of a business that he, she or it conducts through a permanent establishment in Australia.

## **2 Taxation implications for Macquarie Atlas Roads Securityholders**

### **2.1 General**

Following the implementation of the Restructure Proposal, former MIG Securityholders will hold securities in two separate stapled groups being:

- Intoll - being the MIT(I) Units, MIT(II) Units and MIGIL Shares; and
- MQA - being the MQA Australia Shares and MQA Bermuda Shares.

Significantly, although the MQA Securities will be stapled, they will be treated as two separate assets for Australian income tax purposes, being shares in MQA Australia and MQA Bermuda.

### **2.2 Consequences for Australian resident MQA Securityholders**

#### **(a) Receipt of distributions**

Distributions from MQA will be comprised of dividends from MQA Australia and MQA Bermuda. Dividends received from MQA Australia and MQA Bermuda should be included in an MQA Securityholder's assessable income (in the case of a dividend from MQA Australia, the dividend should be grossed up for any franking credits).

#### **(b) Capital gains**

When an MQA Securityholder disposes of an MQA Security, the MQA Securityholder will dispose of two separate assets, being an MQA Australia Share and an MQA Bermuda Share. An MQA Securityholder will realise a capital gain or loss on the disposal of each of these assets.

For the purpose of determining the capital gain, the MQA Securityholder will need to recognise the re-allocation of cost base undertaken at the time of implementation of the Restructure Proposal. This re-allocation is described immediately below on the basis that the In-Specie Distributions made by MIGIL and MIT(II) are ultimately to be treated as a demerger for the purposes of applying demerger tax relief to the Restructure Proposal. This is to be confirmed with the ATO in both cases by way of class ruling, although it is expected that both rulings should be forthcoming if the ATO acts in conformity with its public statements on demerger tax relief. Reallocation of cost base would apply whether or not the MIG Securityholder elected for demerger relief to apply.

In the case of the MQA Australia Shares, the re-allocation of cost base would involve a split of the cost base in the MIT(II) Units immediately before the Restructure Proposal to

reflect the relative market values of the MIT(II) Units and MQA Australia Shares immediately following the implementation of the Restructure Proposal.

In the case of the MQA Bermuda Shares, the re-allocation would involve a split of the cost base of the MIGIL Shares immediately before the restructure to reflect the relative market values of the MIGIL Shares and MQA Bermuda Shares immediately following the implementation of the Restructure Proposal.

The above comments assume that each of the In-Specie Distributions by MIGIL and MIT(II) are to be treated as a demerger which qualifies for demerger tax relief. Although it is expected that this will be confirmed in a class ruling from the ATO, where this is not ultimately the case, the cost base of the MQA Bermuda and MQA Australia Shares should reflect their Market Value upon issue.

Any capital gains on disposal of the two assets comprising an MQA Security will potentially be reduced under the capital gains discount provisions if an MQA Securityholder is an individual, trust or complying superannuation fund and has held its securities for more than twelve months. Where demerger relief is available, the acquisition date of the MQA Bermuda Shares and MQA Australia Shares will be backdated to the acquisition date of the MQA Securityholder's MIGIL Shares and MIT(II) Units (respectively) in relation to which the MQA Bermuda Shares and MQA Australia Shares were received. This treatment will apply whether or not the securityholder elects for demerger tax relief to apply in respect of the In-Specie Distributions where the In-specie Distributions are demergers under demerger tax relief. It will not apply where the In-Specie Distributions are ultimately held not to be demergers for the purpose of this relief.

## **2.3 Consequences for non-resident MQA Securityholders**

### **(a) Receipt of distributions**

Unfranked dividends paid by MQA Australia to non-resident MQA Securityholders will generally be subject to Australian withholding tax at 30% (potentially reduced to 15% under a double tax treaty between Australia and the country of residence of the non-resident MQA Securityholder). An exemption from dividend withholding tax may also apply for the unfranked portion of dividends attributable to certain foreign sourced income and gains of MQA Australia under Australia's conduit foreign income regime.

Dividends paid by MQA Bermuda should not be subject to withholding tax in Australia.

### **(b) Capital gains**

Based on our assumptions relating to non-resident MQA Securityholders in 1. above, non-resident securityholders should not be subject to Australian income tax on their disposal of MQA securities.

Yours sincerely



**James Pettigrew**  
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# Section 8: Material Contracts



## 8.1 Summary of Material Contracts at Stapled Entity Level

This section 8 contains a summary of the material contracts entered into by the Stapled Entities. The main contracts, including a brief description of the contract and the parties to the contract are outlined in the following table.

Title	Parties	Subject Matter	Section/ Page ref.
<b>Constituent Documents</b>			8.2.1 - 8.2.5
The rights of MQA Securityholders are set out in the Constitution, MQA Bermuda Bye-Laws, and the Cooperation Deed (together the “ <b>Constituent Documents</b> ”).			
<b>The Stapling Provisions</b>			
The Constitution and the MQA Bermuda Bye-Laws contain identical Stapling provisions, which apply while the securities comprising the MQA Securities are Officially Quoted and Stapled.			
The Stapling Provisions provide that a MQA Security is comprised of one share in MQA Australia and one share in MQA Bermuda.			
Essentially, the component securities are treated as one security such that a MQA Securityholder may only deal in a MQA Security and not individually in the shares that comprise the MQA Security.			
Accordingly, a MQA Securityholder will always hold the same number of shares in MQA Australia and shares in MQA Bermuda.			
Each Stapled Entity must use every reasonable endeavour to procure that each MQA Security is dealt with in a manner consistent with the Stapling Provisions.			
The Stapling Provisions also set out the core rules governing dealings in the MQA Securities, the stapling of additional instruments to the MQA Securities and the unstapling of the MQA Securities. Please refer to section 8.2.2 for further details.			
<b>Constitution</b>	MQA Australia	Sets out rights of shareholders, board governance procedures and various other matters relating to the operation and governance of MQA Australia.	8.2.3
<b>MQA Bermuda Bye-Laws</b>	MQA Bermuda	Sets out rights of shareholders, board governance procedures and various other matters relating to the operation and governance of MQA Bermuda.	8.2.4
<b>Cooperation Deed</b>	Stapled Entities	Sets out rights of agreement between the Stapled Entities to consult and cooperate on stapling matters and to coordinate administrative arrangements.	8.2.5

## 8.2 Summary of Constitution, MQA Bermuda Bye-Laws and Cooperation Deed

### 8.2.1 General

The Constitution and MQA Bermuda Bye-Laws are designed to permit and facilitate the Stapling of the MQA Australia Shares to the MQA Bermuda shares. A general summary of the rights attaching to the shares and other key provisions of the Stapling Provisions, the Constitution, the MQA Bermuda Bye-Laws and the Cooperation Deed, on implementation of the Restructure Proposal, is set out below. This summary is not intended to be exhaustive and is qualified by the Stapling Provisions, the Constitution, the MQA Bermuda Bye-Laws, the Cooperation Deed, the Bermuda Companies Act, the Corporations Act, exemptions and declarations by ASIC, the Listing Rules, waivers by ASX, the ASTC Settlement Rules and the general law.

### 8.2.2 Stapling Provisions

The Stapling Provisions for the Constitution and the MQA Bermuda Bye-Laws are in all material respects identical. The Stapling Provisions apply on and from the Stapling Commencement Date (as determined under the Cooperation Deed) and, subject to any specific provisions to the contrary in the Constitution and the MQA Bermuda Bye-Laws, the Stapling Provisions prevail over all other provisions of the relevant Constituent Documents (except where this would result in a breach of the Corporations Act, the Listing Rules or any other law).

#### (a) *Intention*

The intention of the Stapling Provisions is to ensure that to the extent permitted by law, each MQA Security will be treated as one security.

#### (b) *Stapling arrangements*

Under the Stapling Provisions:

- **(Stapling)** each component of an MQA Security must be stapled to each other component of the MQA Security on and from a stapling commencement date agreed by the Stapled Entities;
- **(No issue)** a Stapled Entity must not offer or issue a component of an MQA Security, or any option or rights to such a component without a corresponding and simultaneous offer or issue being made in respect of each other component of the MQA Security;
- **(No transfer)** a Stapled Entity must not register any transfer of a component of a MQA Security without a corresponding and simultaneous transfer of each other component of the MQA Security;
- **(Corporate action)** a Stapled Entity must not cancel, buy-back or redeem a component of a MQA Security without a corresponding and simultaneous corporate action being made in respect of each other component of the MQA Security;
- **(New Attached Securities)** a Stapled Entity may cause a security to be stapled to the MQA Security (a “New Attached Security”) provided certain conditions are satisfied including:
  - the New Attached Security is (or will be) Officially Quoted;
  - ASX has indicated that it will approve the stapling of the New Attached Security to the MQA Securities;
  - each Stapled Entity (excluding the issuer of the New Attached Security) has agreed to the stapling of the New Attached Security and that the stapling of the New Attached Security is in the best interests of MQA Securityholders as a whole and is consistent with the then investment objectives of the Stapled Entities and any subsidiary of the Stapled Entities;
  - the Constituent Documents for the New Attached Security have provisions giving effect to the Stapling;
  - the issuer of the New Attached Security has agreed to enter into a deed with the other Stapled Entities acceding to the Cooperation Deed;
  - where the New Attached Security is partly paid, or approval from MQA Securityholders is required to give effect to the transaction, approval of the MQA Securityholders has been obtained; and
  - the number of New Attached Securities is identical to the number of MQA Securities on issue;

- **(Unstapling of MQA Securities)** a component of the MQA Securities may be unstapled if:
  - ASX has indicated that it will approve such unstapling and the remaining components remain Officially Quoted as an MQA Security;
  - each Stapled Entity has agreed to the unstapling by ordinary resolution and such unstapling is not contrary to the interests of MQA Securityholders as a whole and is consistent with the then investment objectives of the Stapled Entities and any subsidiary of the Stapled Entities; and
  - after the stapling, the Stapling Provisions will terminate in respect of the component of the MQA Security that has been unstapled;
- **(Restapling)** if a component of the MQA Security becomes unstapled, the Stapled Entity of the unstapled component may subsequently determine that the Stapling Provisions should recommence in respect of that unstapled component;
- **(Unstapling of Securities)** where an ordinary resolution of the members of each Stapled Entity is passed to unstaple the MQA Securities, stapling becomes unlawful or prohibited under the Listing Rules, or a winding up is commenced in respect of a Stapled Entity, the MQA Securities will be unstapled, provided that:
  - the ASX has indicated in writing that it will grant permission for the unstapling of the MQA Security;
  - each Stapled Entity has agreed to the unstapling and the unstapling is not contrary to the interests of MQA Securityholders as a whole; and
  - after the unstapling, the Stapling Provisions cease to have effect in respect of that MQA Security;
- **(Meetings)** meetings of each Stapled Entity may be held in conjunction with the meetings of each other Stapled Entity; and
- **(Interests of MQA Securityholders)** each Stapled Entity may, subject to the Corporations Act and the terms of any applicable ASIC relief, have regard to the interests of MQA Securityholders as a whole and not only to the interests of holders of each component of the MQA Security.

*(c) Stapling matters*

The Stapling Provisions also provide that by acquiring an MQA Security, each MQA Securityholder will be taken to have consented to each provision in the Constituent Documents, including without limitation:

- the stapling of the MQA Securities;
- any Portfolio Reorganisation of the MQA Securities (subject to an ordinary resolution if required by the Constituent Document of the relevant Stapled Entity);
- the disposal of any partly paid MQA Security on which an instalment is due and payable but unpaid, or in respect of which a call has been validly made but remains unpaid by the due date for payment;
- the disposal of any small holding of MQA Securities that is less than a marketable parcel;
- the restrictions on MQA Securities that are “restricted securities”, as that term is defined in the Listing Rules;
- the stapling of New Attached Securities to the MQA Securities;
- the MQA Securityholder becoming a member of any new Stapled Entity and being bound by the Constituent Documents for any New Attached Security;
- the unstapling of one or more MQA Securities;
- the restapling of an unstapled MQA Security; and
- the disposal of the MQA Securities of a “Designated Foreign Holder” (see below),

(each a “Stapling Matter”).

*(d) Powers of attorney*

In respect of each Stapling matter (including the stapling of a New Attached Security, and the disposal of the MQA Securities of a “Designated Foreign Holder”), each MQA Securityholder irrevocably appoints the Stapled Entity as the MQA Securityholder’s:

- agent and attorney in the MQA Securityholder’s name and on the MQA Securityholder’s behalf to:
  - do all acts and things and execute all documents which the Stapled Entity, in consultation with each other Stapled Entity, considers necessary, desirable or reasonably incidental to effect any Stapling Matter;
  - agree to obtain any New Attached Security;



- apply any distributions, redemption proceeds or other payments to obtain a New Attached Security;
- where a New Attached Security comprises shares or an interest in shares or interests in a company or managed investment scheme, to agree to become a member of that company or managed investment scheme;
- to do all acts and things and execute all applications, transfers, withdrawals and any other documents which the Stapled Entity considers necessary, desirable or reasonably incidental to effect the transfer of:
  - the New Attached Security to the MQA Securityholder;
  - the MQA Securities of a “Designated Foreign Holder” to a nominee appointed by the Stapled Entity and the subsequent sale of those MQA Securities; and
- proxy to vote at any meeting in favour of any resolution to effect a Stapling Matter.

*(e) New Attached Securities*

The issuer of New Attached Securities has the power to do all things considered necessary, desirable or reasonably incidental to give effect to the stapling of New Attached Securities to the MQA Security and may transfer a New Attached Security to an MQA Securityholder by any means and in any manner, including but not limited to any combination of issue, sale, reduction of capital, distribution in kind or transfer.

*(f) Designated Foreign Holders*

It is possible that the issue/transfer of a New Attached Security to a foreign MQA Securityholder would require compliance with legal and regulatory requirements in the foreign jurisdiction. Subject to the Corporations Act as modified by any applicable ASIC relief, the Stapling Provisions provide that a Stapled Entity will have the ability to determine that a MQA Securityholder (whose address in the register is in a place other than Australia) is a “Designated Foreign Holder” and divest that “Designated Foreign Holder” of their MQA Securities where the Stapled Entity determines that it is unreasonable to issue or transfer New Attached Securities to such MQA

Securityholders, having regard to the following criteria:

- the number of “Designated Foreign Holders” in the foreign place;
- the number and the value of New Attached Securities that may be transferred to the “Designated Foreign Holders” in the foreign place; and
- the cost of complying with legal requirements and the requirements of any regulatory authority applicable to the transfer of the New Attached Securities in the foreign place.

Where “Designated Foreign Holders” are divested of their MQA Securities they will receive the proceeds of sale of those MQA Securities (net of transaction costs including without limitation any applicable brokerage, stamp duty and other taxes or charges) as soon as practicable after the sale.

MQA Securities are issued on terms under which each MQA Securityholder who is or becomes a MQA Securityholder agrees to the above terms and irrevocably appoints each Stapled Entity as that MQA Securityholder’s agent and attorney to do all acts and things and execute all documents which the Stapled Entity considers necessary, desirable or reasonably incidental to effect the above actions.

*(g) Partly paid MQA Securities*

An MQA Security may be offered on terms that the application price is payable by one or more instalments. If a call has been validly made on an MQA Security but is unpaid by the due date for payment, the MQA Security may be sold (“**Defaulted MQA Security**”). Interest accrues on the unpaid amount of the call and subject to the Listing Rules, the Corporations Act and Constituent Documents all voting rights, entitlements to distributions and any other rights in respect of the Defaulted MQA Security are suspended.

*(h) Application price*

Unless otherwise agreed between the Stapled Entities, the application price for an MQA Security or an option to acquire an MQA Security will be allocated between the application price of each component of the MQA Security as follows:

- first, to the application price for the unit (or any other component that is an interest in a trust) being an amount reflecting the net



assets (adjusted for the net market value of its investments) of the relevant trust. If there is more than one Stapled Entity which is a trust, the amounts to be allocated between those trusts is in the ratio that the net assets of each relevant trust (adjusted for the net market value of its investments) immediately before the issue or acquisition of the MQA Security, bears to the amount of the aggregate net assets (adjusted for the net market value of their investments) of those trusts at the end of the relevant period immediately before the issue of the MQA Security; and

- second, to the application price of any other component that is not a unit of a trust being the lesser of the balance remaining (if any) and the amount reflecting the net assets of the relevant Stapled Entities before the issue of the MQA Security which will be allocated between them in the ratio of their respective net assets (adjusted for the net market value of its investments).

In the case of a redemption or buy-back of MQA Securities, the allocation of the price between the Attached Securities is to be based on the respective fair values of the Attached Securities as determined by agreement between MQA Australia and MQA Bermuda immediately prior to the redemption or buy-back of the MQA Securities.

### 8.2.3 MQA Australia Constitution

#### (a) General

MQA Australia is incorporated in Australia and is governed by the laws of Australia, in particular, the Corporations Act, the Listing Rules and the ASTC Settlement Rules.

Any reference to Constitution in this section 8.2.3 refers to the Constitution of MQA Australia. Any reference to shareholder in this section 8.2.3 refers to the holder of a share in MQA Australia.

#### (b) Stapling

The Constitution provides that the Stapling provisions take effect if determined by the MQA Australia Board on and from the Stapling Commencement Date. Any provisions, which by their meaning and context apply only while shares are not Stapled do not apply while the shares are Officially Quoted as part of an MQA Security.

#### (c) Voting

Subject to any special rights or restrictions attached to any class or classes of shares and to the Constitution,

- on a show of hands, each shareholder present in person and each other person present as proxy, attorney or representative of a shareholder has one vote; and
- on a poll, each shareholder present in person has one vote for each fully paid share held by the shareholder and each person present as proxy, attorney or representative of a shareholder has one vote for each fully paid share by the shareholder that the person represents.

A poll may be demanded by:

- the chairman of the meeting;
- at least five shareholders present in person (or by proxy, attorney or representative) who are entitled to vote on the resolution; or
- shareholders present in person (or by proxy, attorney or representative) with at least 5% of the votes that may be cast on the resolution.

Unless a poll is demanded, the chairman may on a show of hands, declare whether a resolution has been carried or carried unanimously, or by a particular majority, or lost. If there is an equality of votes, either on a show of hands or on a poll, the chairman is not entitled to a casting vote.

Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it. At any general meeting, a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is demanded.

The quorum required for a meeting of shareholders is two shareholders present in person (or by proxy, attorney or representative).

#### (d) General meeting

Annual general meetings of MQA Australia are to be held in accordance with the Corporations Act. The MQA Australia Board may convene and arrange to hold a general meeting of MQA Australia whenever they think fit and must do so if required to do so under the Corporations Act.

Each shareholder will receive notice of general meetings and be entitled to attend, speak and vote at any general meeting in accordance with the Corporations Act. Currently under the Corporations Act, a notice of a general meeting must be provided to members at least 28 days before the meeting.

*(e) Additional issue of shares and options*

Subject to the Corporations Act, the Listing Rules and any special or preferential rights conferred on the holders of any shares or class of shares, the MQA Australia Board may:

- issue and cancel shares;
- grant options over unissued shares; and
- settle the manner in which fractions of a share are to be dealt with, regardless of how they arise.

*(f) Variation of class rights*

The rights conferred on the holders of the shares of any class are not to be taken as varied by the issue of further shares ranking equally with the first-mentioned shares unless expressly provided by the terms of issue of the first-mentioned shares or required by the Corporations Act or the Listing Rules.

Subject to the requirements of the Corporations Act and the Listing Rules, if, at any time, the capital of MQA Australia is divided into different classes of shares, the special rights attached to any class of shares may be varied from time to time in such a manner as may be provided by those rights, or in the absence of such a provision, with the consent in writing of the holders of 75% in nominal value of the issued shares in the class, or with the sanction of a “Special Resolution” (as that term is defined in the Corporations Act) passed at a separate meeting of the shareholders of that class.

*(g) Winding up*

If MQA Australia is wound up, the liquidator may, with the sanction of a “Special Resolution” (as that term is defined in the Corporations Act), divide among shareholders, the whole or part of the property of MQA Australia and for this purpose, may set such value as the liquidator considers fair on any property and determine how the division should be carried out as between the shareholders or different classes of shareholders.

*(h) Proportional takeover provisions*

The Constitution contains provisions that prohibit the registration of any transfer of voting shares that give effect to an offer made pursuant to a proportional takeover bid (that is, an offer for some but not all of the shareholder’s shares in MQA Australia) until the persons holding shares in a class for which the takeover bid was made have passed a resolution approving the bid. The bidder and any associates of the bidder are excluded from voting on that resolution. To remain effective, the proportional takeover provisions must be renewed at a general meeting every three years.

*(i) Small holdings*

While the shares are Officially Quoted, MQA Australia may in its discretion from time to time sell or redeem any shares held by a shareholder, the aggregate market value of which at the relevant date is less than a marketable parcel (as that term is defined in the Listing Rules) without request by the shareholder.

*(j) Transfer of shares*

Subject to the Constitution and the Listing Rules, the shares are transferable in any manner permitted by the operating rules of the relevant clearing settlement facility (**CS facility**), or by any other method of transfer which is required or permitted by the Corporations Act and ASX.

If permitted to do so by the Listing Rules, the MQA Australia Board may request the operator of the relevant CS facility to apply a holding lock to prevent a transfer of shares, or refuse to register a transfer of other shares. The MQA Australia Board must refuse to register a transfer or request the relevant CS facility operator to apply a holding lock if the Listing Rules require MQA Australia to do so, or the transfer is in breach of the Listing Rules or a “Restriction Agreement” (as that term is defined in the Listing Rules).

*(k) MQA Australia Board*

The MQA Australia Board are responsible for the overall corporate governance of MQA Australia.

Unless otherwise determined by MQA Securityholders in a general meeting, the number of directors on the MQA Australia Board is not to be more than five and not less than four. MQA Securityholders may also by resolution increase or reduce the number of directors on the MQA Australia Board, and may also determine the rotation in which the increased or reduced number is to retire from office.

At each annual general meeting, there must be an election to determine the directors of the MQA Australia Board. Directors on the MQA Australia Board who must retire from office (but are eligible to stand for re-election) at the annual general meeting are as follows:

- a director who has held office for three years or more;
- a director who has been appointed to fill a casual vacancy on the MQA Australia Board or as an addition to the existing composition of the MQA Australia Board; and

- if none of the above, the director who has served of ce longest without re-election. If there are two or more such directors who have been in of ce an equal length of time, then in default of agreement, the director to retire will be determined by lot.

Members of the MQA Australia Board are entitled to be remunerated for their services as directors. The total amount of the remuneration for each of the directors on the MQA Australia Board must not exceed A\$1 million per year, or any greater sum from time to time determined by MQA Securityholders in a general meeting. The remuneration is to be divided among the MQA Australia Board in the proportion and manner agreed between them or, in default of agreement, equally.

The MQA Australia Board may appoint an employee of MQA Australia or one of its subsidiaries to the of ce of managing director or executive director, to hold of ce as a director of MQA Australia for the period determined at the time of appointment, but not to exceed the term of employment of the employee. One managing director nominated by the MQA Australia Board is, while holding that of ce, exempt from retirement by rotation. The MQA Australia Board may x the remuneration of a managing director or an executive director, which may be paid by way of salary or commission or participation in pro ts or by all or any of these modes, but may not be by a commission on or percentage of operative revenue.

Questions arising at an MQA Australia Board meeting will be decided by a majority vote. The chairman of the meeting has a casting vote, unless only two directors are present and entitled to vote at the meeting on the particular question.

At an MQA Australia Board meeting, the number of directors whose presence in person or by proxy is necessary to constitute a quorum is as determined by the MQA Australia Board and, unless so determined, is two.

#### (l) *Directors' indemnities*

The Constitution provides for the indemnification of any current or former directors, secretaries, or officers of MQA Australia against all liability (except legal costs) incurred by that person in that capacity and all legal costs incurred in defending or resisting any proceedings in which the person becomes involved because of that capacity, unless MQA

Australia is forbidden by law to indemnify the person or an indemnity in this manner would be made void by statute. The indemnity is to be funded from the property of MQA Australia.

#### (m) *Dividends*

Subject to the Corporations Act, the Constitution and the rights of any person entitled to shares with special rights, the MQA Australia Board may determine to distribute out of the pro ts of MQA Australia a dividend to MQA Securityholders in proportion to the MQA Australia Shares held by them, paid in proportion to the amounts paid, or credited as having been paid, on those MQA Australia Shares.

The MQA Australia Board may:

- before paying any dividend, set aside out of the pro ts of MQA Australia such sums as they think proper as a reserve, to be applied, at the discretion of the MQA Australia Board, for any purpose for which the pro ts of MQA Australia may be properly applied; and
- carry forward so much of the pro ts remaining as they consider ought not to be distributed as dividends without transferring those pro ts to a reserve.

Pending application, any sum set aside as a reserve may, at the discretion of the MQA Australia Board, be used in the business of MQA Australia as the MQA Australia Board think t.

The MQA Australia Board may deduct from any dividend payable to an MQA Securityholder, any sums presently payable by that shareholder to MQA Australia on account of calls or otherwise in relation to MQA Australia Shares.

When resolving to pay a dividend, the MQA Australia Board may:

- resolve that the dividend be satisfied either wholly or partly by the distribution of speci c assets to some or all of the persons entitled to the dividend, including fully paid shares in or debentures of MQA Australia or fully paid shares in or debentures of any other body corporate; and
- direct that the dividend payable in respect of any particular shares be satisfied wholly or partly by such a distribution and that the dividend payable in respect of other shares be paid in cash.

*(n) Preference shares*

MQA Australia may issue preference shares on the terms set out in the Constitution or on such terms as have otherwise been approved by "Special Resolution" (as that term is defined in the Corporations Act).

Under the Constitution, each preference share confers on its shareholder:

- a right to receive a preferential dividend at the rate and on the basis decided by the MQA Australia Board;
- the right to receive the preferential dividend in priority to the payment of any dividend on any other class of shares;
- the right in a winding up or on redemption to payment in cash in priority to any other class of shares of the amount of any dividend accrued but unpaid on the share at the date of winding up or redemption and any amount paid on the share; and
- the same rights as those conferred by the Constitution upon the holders of ordinary shares in relation to receiving notices of general meetings, reports, balance sheets and accounts and of attending and being heard at all general meetings of MQA Australia.

*(o) Partly paid shares*

The MQA Australia Board may allot or issue any share on the basis that the issue price is payable by instalments.

The MQA Australia Board may at any time make calls upon shareholders in respect of any moneys unpaid on their shares. If a call has been validly made but is unpaid by the due date for payment, the MQA Australia Board may sell, re-issue or otherwise dispose of that shareholder's shares. Such sale is to include all dividends and distributions declared or to be made in respect of these shares and not actually paid or distributed before the disposal.

**8.2.4 MQA Bermuda Bye-Laws***(a) General*

MQA Bermuda is incorporated in Bermuda and is governed by the laws of that country. The MQA Bermuda Bye-Laws contain references to the laws of Bermuda, in particular the Bermuda Companies Act, but while the MQA Securities are Officially Listed, the MQA Bermuda Bye-Laws are also governed (to the extent permitted by the Bermuda Companies Act) by the Corporations Act, the Listing Rules and the ASTC Settlement Rules.

*(b) Share capital*

The authorised share capital of MQA Bermuda is \$680,000,002, divided into 68,000,000,000 unclassified ordinary shares.

The MQA Bermuda bye-Laws also provide for preference shares to be issued.

*(c) Stapling*

The MQA Bermuda Bye-Laws provide that the Stapling provisions take effect if determined by the MQA Bermuda Board on and from the Stapling Commencement Date. Any provisions, which by their meaning and context apply only while shares are not Stapled do not apply while the shares are Officially Quoted as part of an MQA Security.

*(d) Voting*

Subject to any special rights or restrictions attached to any special classes of shares in the MQA Bermuda Bye-Laws, at a general meeting, each shareholder who is present in person (or represented by proxy) has one vote. On a poll, each shareholder present in person (or represented by proxy) has one vote for each fully paid share held by that holder.

A poll may be demanded by:

- the chairman of the meeting;
- at least three shareholders present in person (or represented by proxy);
- any shareholder or shareholders present in person (or represented by proxy) and holding between them at least 10% of the total voting rights of all the shareholders having the right to vote at such meeting; or
- a shareholder or shareholders present in person (or represented by proxy) holding shares conferring the right to vote at such a meeting, being shares on which an aggregate sum has been paid up equal to at least 10% of the total sum paid up on all such shares conferring such a right.

Unless a poll is demanded, the chairman may on show of hands, declare whether a resolution has been carried or carried unanimously or by a particular majority or not carried by a particular majority or lost. The chairman of the meeting is not entitled to a casting vote.

Save where a greater majority is required by the Bermuda Companies Act or the MQA Bermuda Bye-Laws, any question proposed for consideration at any general meeting shall be decided on by a simple majority of votes cast.

The quorum required for a meeting of shareholders is two shareholders present in person (or represented by proxy).

*(e) General meeting*

The MQA Bermuda Board shall convene and MQA Bermuda shall hold general meetings in accordance with the requirements of the Bermuda Companies Act at such times and places as the MQA Bermuda Board shall appoint (save that such meetings must not be held in any jurisdiction if to do so would cause MQA Bermuda to become resident for tax purposes in a jurisdiction other than Bermuda).

Each MQA Bermuda Securityholder will receive notice of general meetings and be entitled to attend, speak and vote at any general meetings in accordance with the Bermuda Companies Act. A notice of general meeting must be provided to shareholders at least 21 days before the meeting.

*(f) Additional issue of shares and options*

Subject to the Bermuda Companies Act and the MQA Bermuda Bye-Laws, and without prejudice to any special rights conferred on the holders of any shares or class of shares, the MQA Bermuda Board may:

- issue shares, options or other securities at any time and on any terms and conditions, and having attached to them any preferred, deferred, qualified, or other special rights or restrictions; or
- grant options over unissued shares at any time and for any consideration as the MQA Bermuda Board sees fit.

*(g) Variations of class rights*

Subject to the Bermuda Companies Act and the Listing Rules, if, at any time the capital of MQA Bermuda is divided into different classes of shares, the special rights attached to any class of shares may be varied from time to time in such a manner as may be provided by those rights, or in the absence of such a provision, with the consent in writing of holders of 75% in nominal value of the issued shares in the class, or with the sanction of a special resolution passed at a separate meeting of the shareholders of that class.

*(h) Winding up*

If MQA Bermuda is wound up, the liquidator may, with the sanction of a special resolution and any other sanction required by the Bermuda Companies Act, divide amongst the shareholders, the whole or any part of the assets of MQA Bermuda and for this purpose, may set such value as the liquidator deems fair on any property and determine how the division should be carried out as between shareholders or classes of shareholders.

The liquidator may vest the whole or any part of such assets in trust for the benefit of the contributories as the liquidator thinks fit, but so that no shareholder shall be compelled to accept any shares or other assets upon which there is any liability.

*(i) Small holdings*

While the shares are Officially Quoted, the MQA Bermuda Board may in their discretion sell any shares held by a shareholder which comprises less than a marketable parcel (as that term is defined in the Listing Rules) without request by the shareholders.

*(j) Transfer of shares*

Subject to the Listing Rules and to the MQA Bermuda Bye-Laws, the shares are transferrable by a written instrument, a proper ASTC transfer in the form required or permitted by the ASTC Settlement Rules, or by any other electronic system established or recognised by the Listing Rules in which MQA Bermuda participates in accordance with the rules of that system.

The MQA Bermuda Board may take any action they think fit to comply with ASTC Settlement Rules and may request the ASTC to apply a holding lock to prevent a transfer of shares the subject of the ASTC Settlement Rules if the MQA Bermuda Board think fit.



*(k) MQA Bermuda Board*

The MQA Bermuda Board are responsible for the overall corporate governance of MQA Bermuda.

Unless otherwise determined by MQA Securityholders in a general meeting, the number of directors on the MQA Bermuda Board is not to be more than five and the minimum number of directors on the MQA Bermuda Board is four.

No more than two directors of the MQA Bermuda Board at any one time may be resident in the same jurisdiction (other than Bermuda). No person shall be appointed to be a director of MQA Bermuda if it would cause a majority of the MQA Bermuda Board to be resident for tax purposes in a jurisdiction other than Bermuda.

At each annual general meeting of MQA Bermuda, one third of the MQA Bermuda Board, or if the number of directors is not three or a multiple of three, then the number nearest to one-third, and any other director of MQA Bermuda who has held office for three years or more, must retire from office. A retiring director of MQA Bermuda is eligible for re-election.

The MQA Bermuda Board are entitled to be remunerated for their services as directors, unless otherwise determined by MQA Bermuda in accordance with the MQA Bermuda Bye-Laws. The total amount of the remuneration must not exceed an annual sum of US\$500,000 or such larger amount as MQA Bermuda may decide in accordance with the MQA Bermuda Bye-Laws. The remuneration is to be divided among the MQA Bermuda Board in the proportion and manner agreed between them or, in default of agreement, equally. Directors' fees shall be deemed to accrue from day to day and shall be distinct from and additional to any remuneration or other benefits which may be paid or provided to any director of MQA Bermuda pursuant to the MQA Bermuda Bye-Laws.

The MQA Bermuda Board may appoint and remove one or more of their number to the office of managing director or to any other executive office of MQA Bermuda for such term as the MQA Bermuda Board think fit, and may determine the remuneration and conditions of appointment of the managing director and any person appointed to executive office. Such an appointment ceases if the director so appointed ceases to be a director of MQA Bermuda.

Questions arising at a meeting of the MQA Bermuda Board will be decided by a majority vote. In the case of an equality of votes, the chairman shall have a second or casting vote.

A quorum necessary for the transaction of the business of the MQA Bermuda Board is two directors of MQA Bermuda, and a majority of the directors present must not be resident or located in a single jurisdiction other than Bermuda.

*(l) Directors' indemnities*

The MQA Bermuda Bye-Laws provide that every director and officer of MQA Bermuda, member of a committee constituted under the MQA Bermuda Bye-Laws and any resident representative is indemnified out of the funds of MQA Bermuda against all liabilities, loss, damage or expense incurred or suffered by that person in that capacity and all reasonable legal costs and expenses incurred in defending any proceedings in which the person becomes involved because of that capacity, unless MQA Bermuda is forbidden by statute to indemnify such a person or an indemnity in this manner would be void by statute.

*(m) Alteration of MQA Bermuda Bye-Laws*

No MQA Bermuda Bye-Law may be amended, rescinded or altered and no new MQA Bermuda Bye-Laws may be made other than by a special resolution.

*(n) Dividends*

Subject to the Bermuda Companies Act, the MQA Bermuda Bye-Laws and the rights of persons entitled to shares with special or preferential rights, the MQA Bermuda Board may determine to distribute out of the profits of MQA Bermuda a dividend to MQA Securityholders in proportion to the MQA Bermuda Shares held by them, paid in proportion to the amounts paid, or credited as having been paid, on those shares.

Any dividend, interest or other money payable in cash in respect of MQA Bermuda Shares may be paid by any means determined by the MQA Bermuda Board.

The MQA Bermuda Board may also, subject to the MQA Bermuda Bye-Laws and in accordance with the Bermuda Companies Act, direct, on a recommendation from the MQA Manager, the payment or satisfaction of any dividend or distribution wholly or in part by the distribution of specific asset, including paid up shares or debentures of any other company.

*(o) Preference shares*

MQA Bermuda may issue preference shares on the terms set out in the Constitution or on such terms as have otherwise been approved by special resolution (as that term is defined in the Bermuda Companies Act).

Under the MQA Bermuda Bye-Laws, each preference share confers on its shareholder:

- a right to receive a preferential dividend at the rate and on the basis decided by the MQA Bermuda Board;
- the right to receive the preferential dividend in priority to the payment of any dividend on any other class of shares;
- the right in a winding up or on redemption to payment in cash in priority to any other class of shares of the amount of any dividend accrued but unpaid on the share at the date of winding up or redemption and any amount paid on the share; and
- the same rights as those conferred by the MQA Bermuda Bye-Laws upon the holders of ordinary shares in relation to receiving notices of general meetings, reports, balance sheets and accounts and of attending and being heard at all general meetings of MQA Bermuda.

*(p) Partly paid shares*

The MQA Bermuda Board may determine that any shares to be offered for sale or subscription are to be offered on terms that the application price is payable by one or more instalments.

The MQA Bermuda Board may at any time make calls upon MQA Securityholders in respect of any moneys unpaid on their shares. If a call has been validly made but is unpaid by the due date for payment, the MQA Bermuda Board may sell or otherwise dispose of that holder's shares. Such sale is to include all dividends and distributions declared or to be made in respect of these shares and not actually paid or distributed before the disposal. Subject to the Bermuda Companies Act, a share on which a valid call has not been paid may be sold or otherwise disposed of or dealt with as the MQA Bermuda Board think fit and with or without any money paid on the share by any former holder being credited as paid up.

*(q) Amalgamation*

Any resolution proposed for consideration at any general meeting to approve the amalgamation of MQA Bermuda with any other company, wherever incorporated, shall require the approval of a simple majority of votes cast at such meeting and the quorum for such meeting shall be two MQA Securityholders and a poll may be demanded in respect of such resolution in accordance with the MQA Bermuda Bye-Laws.

**8.2.5 Cooperation Deed**

*(a) Stapling Commencement Date*

The Cooperation Deed determines that, in accordance with the Constitution, and the MQA Bermuda Bye-Laws, the date upon which Stapling of the Attached Securities is to commence is the date of the Cooperation Deed, proposed to be the Implementation Date (**Stapling Commencement Date**).

*(b) Cooperation*

Each Stapled Entity is a party to the Cooperation Deed. The Cooperation Deed provides for the sharing of information between the Stapled Entities and obliges the Stapled Entities to adopt consistent accounting policies and valuation policies and to coordinate the provision of all reports, circulars and other information which are required by law or the Listing Rules or which it is reasonably desirable to provide to MQA Securityholders.

Under the Cooperation Deed, the Stapled Entities agree to:

- cooperate and consult with each other in relation to all stapling arrangements, including:
- the agreement not to issue, transfer, consolidate, divide, redeem, buy-back or cancel any component of a MQA Security without a simultaneous and corresponding action in respect of each other component of the MQA Security;
- the maintenance of a single MQA Security register;
- the coordination of meetings of MQA Securityholders;
- the making of calls and disposal of a partly paid component of a MQA Security on which an instalment is due and payable but unpaid, or in respect of which, a valid call has been made but has not been paid in the time specified in the call;



- the disposal of small holdings of securities comprising the MQA Security that are less than a marketable parcel (as that term is defined in the Listing Rules);
- the disposal of the MQA Securities of a “Designated Foreign Holder” (see section 8.2.2(f) above);
- the payment of dividends and distributions on the MQA Securities;
- the allocation of the issue, redemption or buy-back price of each MQA Security in various circumstances;
- the stapling of a New Attached Security;
- the unstapling or restapling of a component of an MQA Security;
- the unstapling of the MQA Securities;
- the winding up of a Stapled Entity;
- consult with each other before making an acquisition or disposal, or allowing any of the respective subsidiaries to make an acquisition or disposal of an asset the value of which is 5% or greater of the net tangible assets of that Stapled Entity;
- consult with each other before borrowing or raising any money;
- if requested by any other Stapled Entity, to enter into any agreement or arrangement or take any other action to lend money or provide financial accommodation or guarantee or provide various other financial benefits to that Stapled Entity; and
- indemnify each other Stapled Entity for any loss incurred as a consequence of any act or omission by that other Stapled Entity in complying with any provisions of the Cooperation Deed.

The Cooperation Deed also requires MQA Bermuda to consider from time to time nominations for appointment to the board of MQA Bermuda with a view to promoting the maintenance of one common director between MQA Australia and MQA Bermuda.

*(c) Reimbursement of costs*

If a Stapled Entity incurs costs for or on behalf or for the benefit of MQA, that Stapled Entity may seek reimbursement for those costs from the other Stapled Entity. Unless otherwise agreed, these reimbursement costs will be apportioned between the Stapled Entities in accordance with the proportion that the gross consolidated revenue of that Stapled Entity bears to the gross revenue of MQA for the quarter most recently ended, as shown in the management accounts.

*(d) Financial Benefits*

The Cooperation Deed provides that each Stapled Entity covenants and agrees with each other Stapled Entity that, while Stapling applies and to the maximum extent permitted by law, if called upon by each other part, enter into any agreement, document or arrangement and do any act, matter or thing at the request or direction of the other party in respect of the provision of loans, guarantees and security for MQA borrowing or acquisitions.

*(e) Allocation of issue price*

The Cooperation Deed provides for the Stapled Entities to agree what part of the amount payable for the issue, redemption or buy-back of an MQA Security is to represent the issue, redemption or buy-back price of each Attached Security.

In the case of an issue of MQA Securities, unless the Stapled Entities agree otherwise, the allocation of this amount is to be based on the methodology set out in the stapling provisions in the Constituent Documents. In the case of a redemption or buy back of MQA Securities the allocation of this amount is to be based on the respective fair values of the Attached Securities as determined by agreement between the parties immediately prior to the redemption or buy back of the MQA Security.

*(f) Single register*

The Stapled Entities may maintain a single MQA Security register. If separate registers are kept, the parties must ensure that the registers are entirely consistent with each other.

*(g) Paramountcy of Constituent Documents*

If there is any inconsistency between the obligations of a Stapled Entity under the Cooperation Deed and the relevant Constituent Document, the provisions of the Constituent Documents apply to the extent of the inconsistency.

*(h) Amendment*

The Cooperation Deed may be amended by agreement of the Stapled Entities.

*(i) Disputes*

Notice of any dispute arising under the Cooperation Deed must be given to each Stapled Entity and each party to the dispute must use its best endeavours to resolve the dispute within 10 Business Days of receiving the notice or such longer period as agreed. If the parties to the dispute do not resolve the dispute in that time, the chief executive officer or other senior employee of the relevant Stapled Entities must negotiate in good faith to resolve the dispute for a period of up to 10 Business Days. No court proceedings must be commenced unless the above steps have been followed except where urgent injunctive relief is sought or where the dispute relates to compliance with these steps.

## 8.3 Summary of MQA Concession Agreements

### 8.3.1 M6 Toll

#### *Concession Term*

The M6 Toll Concession Agreement was executed in February 1992. The concession was granted for a period of 53 years from 26 January 2001 (**Concession Period**). The Concession Period will therefore expire on 25 January 2054.

#### *Land Fund Payments*

MEL has a land fund liability in the form of an indexed annuity payment to the UK Government. This liability was £149 million as of June 2009, which represents MEL's obligation to repay the UK Government for land acquisition costs incurred in developing the M6 Toll. The balance accrues interest at inflation plus 6% per annum, with certain further minor residual "new costs" still to be booked, representing ongoing settlement of cases and contingency amounts. The land fund payments commence on 1 October 2010 and the land fund is scheduled to be fully repaid by December 2053.

MEL may elect to procure either an on-demand bond or escrowed amounts in respect of a related security obligation.

#### *Operation and Maintenance*

The M6 Toll Concession Agreement specifies the standards to which the project facilities must be maintained and operated. MEL performs its own maintenance and operation obligations under the M6 Toll Concession Agreement.

#### *Revenue*

MEL is entitled to charge tolls from the date of permit to use until the end of the Concession Period. There is no limit on the amount of such tolls and MEL has the ability to alter its toll tariff every six months if it wishes. Within such six month period, MEL is entitled to lower the tolls at any time and (subject to the maximum specified level in any six month period) there is no limit on MEL's ability to vary the level of its tolls by reference to different times of the day, week or month.

*Events of Default*

The following represent a summary of the principal events of default by MEL:

- (i) insolvency;
- (ii) disposal of any material part of the assets of MEL;
- (iii) particularly serious default (which included abandoning the works or demonstrating a clear intention not to complete the works).

Events (i) and (ii) entitle the Secretary of State to terminate the M6 Toll Concession Agreement forthwith (but see “Security” below). Event (iii) provides MEL with a remedial period (which can take the form of a remedial programme) but if appropriate remedial action is not taken, the Secretary of State can terminate the M6 Toll Concession Agreement without compensation (see “Security” below). If the Secretary of State terminates for an event of default, any entitlement of the Secretary of State to claim for damages must take into account the value of the works completed.

*Termination by MEL*

MEL is entitled to terminate the M6 Toll Concession Agreement in a number of specified circumstances including:

- nationalisation or sequestration of M6 Toll facilities;
- the passing of penal legislation materially affecting the financial viability of the M6 Toll;
- the passing of concession-specific UK legislation prior to permit to use which puts the M6 Toll costs up more than a net present value (1990 base) of £10 million and which cannot be rectified by a Secretary of State change;
- the passing of concession-specific European Commission legislation materially affecting the financial viability of the M6 Toll; and
- the occurrence of a force majeure event which puts the funders in a materially worse position than they would have been had no such event occurred.

If MEL exercises the right to terminate in any of the above circumstances, compensation is payable by the Secretary of State. This includes, subject to certain exceptions and deductions, repayment of all sums due to the lenders to MEL (including all breakage costs), third parties and, depending on the nature of the event, giving rise to termination, an element of equity return. With the exception of termination due to force majeure or as a result of

specific European Commission legislation (where the level of compensation is limited to the initial subscribed equity), the level of equity return is an amount equal to the independently determined value of the ordinary shares in MEL (if unlisted) or the market price of such shares (if listed).

*Change in Law*

MEL is compensated for changes in UK legislation which require an amendment to the technical requirements provided such changes in UK legislation relate specifically to the concession or other projects governed by Parts I and II of the New Roads and Street Works Act, such amendments being treated as a change introduced by the Secretary of State. However, MEL is only entitled to compensation payments once the effect of all such changes in law on the NPV of the M6 Toll (calculated in accordance with the M6 Toll Concession Agreement) exceeds an aggregate threshold of £10 million (1990 base).

*Force Majeure*

The M6 Toll Concession Agreement contemplates a limited number of events of force majeure including:

- war, hostility, invasion, armed conflict;
- rebellion, revolution, riot, commotion or disaster, insurrection, military or usurped power, terrorism, sabotage, criminal damage or the threat of such acts; and
- chemical or nuclear explosion.

*Security*

MEL is entitled to assign by way of security its interest in the M6 Toll Concession Agreement. In addition, pursuant to the terms of the M6 Toll Concession Agreement, the “Agent Institution” for the lenders is entitled to:

- a minimum notice period of 28 days prior to termination of the M6 Toll Concession Agreement by the Secretary of State;
- a right to “step-in” and take control of MEL and the concession through the lenders’ security instruments (with the right subsequently to “step-out”); and
- a right to require a novation of the M6 Toll Concession Agreement to a third party “substitute entity”.

### *Refinancing*

If MEL and the funders propose a rescheduling or refinancing of the debt, MEL must submit to the UK Department for Transport a copy of the first draft of the agreement and a copy of each succeeding draft within 2 days of their production. The representative of the Department for Transport is only entitled to object to any term or condition in such agreement if it contains provisions which could take effect in certain circumstances and which would oblige the Secretary of State to pay compensation under the M6 Toll Concession Agreement which is materially more onerous than existing market practice.

### *Disputes*

Disputes in relation to the M6 Toll Concession Agreement, with the exception of those relating to termination, are to be referred to the disputes resolution procedure. The dispute resolution procedure originally specified in the M6 Toll Concession Agreement has been amended pursuant to the M6 Toll SSA (see below).

### *Terminal Value*

If, following the termination of the concession for any reason, the Secretary of State collects tolls from the Highway and/or obtains a payment from a new concessionaire for the M6 Toll, the Secretary of State is obliged to pay to MEL the amount so collected or obtained net of all associated costs (the "subsequent receipts"). Where the M6 Toll Concession Agreement has been terminated as a result of an event of default by MEL, the Secretary of State is entitled to set off any resultant damages claim which he has against the subsequent receipts. Where the Secretary of State is obliged to pay compensation to MEL following termination, the amount of such compensation will be reduced to the extent of the subsequent receipts paid over by the Secretary of State.

### *First Supplemental Agreement*

The first supplemental agreement to the M6 Toll Concession Agreement was made on 25 October 1999 between the Secretary of State and MEL (**M6 Toll FSA**). The purpose of the M6 Toll FSA was to document a substitution of the sponsors, and to record agreed amendments to the M6 Toll Concession Agreement relating, amongst other things, to the financial contribution of the Secretary of State to the M42 widening, the timing of lease

rental payments, the re-negotiation and re-tendering of the construction contract and the operation of the aggregate land fund.

### *Aggregate Land Fund*

The M6 Toll FSA clarified that the cost of acquiring the land would include the cost of securing the land from protestors prior to handover to MEL and certain other costs and that land rental payments would be deferred until after the sixth anniversary of the permit to use.

### *Second Supplemental Agreement*

- The second supplemental agreement to the M6 Toll Concession Agreement was entered into between the Secretary of State and MEL on 26 September 2000 (**M6 Toll SSA**). The purpose of the M6 Toll SSA was to amend and update the M6 Toll Concession Agreement to provide, amongst other things, for the transfer of certain specific highway functions and traffic management and regulation functions to MEL, the clarification of certain construction related matters;
- the adoption of a revised dispute resolution procedures; and
- the waiver of any existing claims or defaults.

## **8.3.2 APRR**

### *APRR and AREA concession agreements*

The statements in this section apply to the concessions held by each of APRR and AREA.

The relationships between the French State and the concessionaires are governed by concession agreements and their addendums and, since 1994, by multi-year contracts called management contracts, under which companies holding motorway concessions are committed to financial objectives, technical enhancement and toll rate conditions. The present management contracts apply for the period from 2004 to 2008.

APRR and AREA build, maintain and operate their motorway network under concession contracts entered into with the French Government. APRR's concession agreement and AREA's concession agreement are broadly similar to one another, except notably for certain stipulations concerning financial and toll rate conditions. They were approved by decrees in 1986 (APRR) and 1988 (AREA) and have since been the subject of several addendums (**APRR Concession Agreements**).

*Scope of the concessions*

The APRR Concession Agreements relate to the motorways or motorway sections, and also all land, and assets necessary for the construction, maintenance and operation of each motorway, such as parking, service and rest areas, service stations, restaurants, motels and hotels (**Concession Assets**).

The Concession Assets fall into three categories:

- assets necessary to operate the concession, automatically revert to the French Government (legally the owner since the date of operation of the motorway) at the end of the concession without compensation (**Returnable Assets**);
- other assets that are the property of the concessionaire, which the French Government may elect to buy back at the end of the concession period, if they are of use in operating the concession (**Redeemable Assets**);
- assets owned outright by the concessionaire, which will not be transferred to the State at the end of the concession period, with or without consideration (**Owned Assets**).

Throughout the duration of the concession agreement, the concessionaire has the exclusive right to operate the motorways or motorway sections covered by the concession, and to collect tolls.

*Duration of concessions and recovery of assets on expiry of concessions*

APRR's concession and AREA's concession will both expire in 2032.

On expiry of each concession, the French Government will take possession of the Returnable Assets. The concessionaire must carry out all necessary maintenance and replacement work, at its own expense, so that the Returnable Assets are returned in a good state of repair. To this end, seven years before the expiry of the APRR Concession Agreements, the French Government, in consultation with APRR and AREA, if necessary assisted by independent experts, will establish a maintenance and replacement programme for the last five years of the concessions.

On the concession expiry date, the French Government may decide to exercise its buyback option in order to also take possession of the other assets required to operate the network.

*Motorway construction*

Each of the APRR Concession Agreements outline the main features of the infrastructure. For motorways that are classified as being in the public interest, the concessionaire enjoys all the legal and regulatory rights conferred on the French Government in matters of public works, for the purpose of acquiring land, carrying out expropriations and building the motorway, and is subject to all the corresponding obligations. In particular, the concessionaire must fulfil all the undertakings given and conditions imposed in the declaration of public interest.

APRR's and AREA's contracts (whether works, service or procurement contracts) exceeding certain amount thresholds must be awarded under a competitive bidding process.

*Motorway operation*

The concessionaire must deploy all necessary resources to maintain continuity of traffic in good conditions of safety and convenience. Concession Assets must be kept in a good state of repair and operated by the concessionaire at its own expense.

The concessionaire must comply with law and order measures announced by the concerned authorities. It must also submit its proposed operating rules and safety plan for the prior approval of the concerned authorities. In the case of a strike by its employees, the concessionaire is required to maintain a minimum service as defined by the minister responsible of the national roadway.

The concessionaire also has certain obligations in the event that the motorway traffic flow is interrupted or restricted because of works. These include informing the public in advance of any such traffic interruption or restriction. Further, the concessionaire must immediately notify the relevant French Government representative and the minister responsible for national roadway if traffic is interrupted due to circumstances beyond the concessionaire's control.

*Financial terms and conditions*

Each concessionaire is responsible for financing the construction and operation of the motorway network and related infrastructure, on the basis specified in the relevant concession agreement and the attached terms and conditions.



### *Tariffs*

The APRR Concession Agreements specify the basis to be used by the concessionaire to determine toll charges.

Under the APRR Concession Agreements, the rates are normally revised each year on the 1st of October. Upon the signing of a management contract between the French Government and the concessionaire, the tariff increases are defined for the duration of the said contract. The APRR Concession Agreements specify the rules applicable to the toll rates calculation to be stated within their management contracts.

The APRR Concession Agreement provides that if no management contract has been signed, "toll rates will be set by a ministerial order issued jointly by the Minister of Finance and the minister in charge of Infrastructure, following consultation with the concessionaire company". In such a scenario, "increases in toll rates determined by this procedure may not be less than 70% of the increase in the French consumer price index (excluding tobacco products) for all households over the year since the toll rates had previously been set".

The formula that will apply for the period 2009-2013 will depend on the signing of a new management contract. Negotiations are ongoing.

### *Operation of service area outlets and other commercial installations*

The concessionaire awards contracts for the operation of service area outlets following a competitive bidding process. The fees paid by the service area operators are included in concession revenues.

Under the terms of the APRR Concession Agreements, the concessionaire may install fibre optics and telecommunications networks alongside the motorways and operate these facilities for its own needs. The concessionaire may also authorise their installation by others for a period of time not exceeding the duration of the concession.

### *Technical regulations*

The APRR Concession Agreements stipulate that in the event that a substantial change in technical regulation or the publication of a new regulation (provided such changes or new rules directly relate to the APRR Concession Agreements object) would significantly negatively impact the concession financial equilibrium, the French Government and the concessionaire will mutually agree on the amount of compensation to be paid to the concessionaire.

### *Taxation*

The concessionaire is liable for all current and future taxes relating to the concession. However, under the terms of the APRR Concession Agreements, in the event of a substantial change in tax rules or the introduction of new taxes or levies (provided such changes or new rules are to motorway concessionaires) during the life of the agreement that may seriously undermine the financial viability of the concession, the French Government and the concessionaire will mutually agree on compensatory measures to be taken to permit the continued provision of the public service.

### *State buyback option*

Pursuant to French administrative case law, the French Government may terminate either of the APRR Concession Agreements for reasons of public interest at any time. In such case, the concessionaire would be entitled to compensation including (i) certain costs incurred as a consequence of the termination (essentially the net accounting value of the Returnable Assets) and (ii) lost profits (as may be calculated by the administrative courts). However, should the concession contracts be terminated for reasons of public interest later than January 2012, the relevant concessionaire's compensation would be calculated in accordance with the buy-back provision contained in the APRR Concession Agreements.

Starting in 2012, under the buyback provision in both APRR Concession Agreements, the French Government will have the right to buy back the concession, for reasons of public interest, on 1 January of each year, subject to giving one year's notice.

If the buyback option is exercised, the concessionaire will be paid compensation corresponding to the loss sustained due to the early termination of the APRR Concession Agreements. The net amount after tax due for this compensation, after taking into account all deductible expenses, will be equal to the fair value of the concession, calculated in accordance with the available discounted cash flow method, based on the after tax value of the discounted cash flow.

On the buyback date, the French Government will assume all of the concessionaire's commitments entered into in the normal course of business for the construction and operation of the Concession Assets, except for those commitments arising from loan agreements.

*Penalties and remedies*

Unless due to circumstances beyond the concessionaire's control, any failure by the concessionaire to fulfil its obligations under the concession agreement may lead to penalties.

Following a failure by the concessionaire to fulfil certain of its obligations under the APRR Concession Agreements that is not remedied within the period specified in the execution order issued by the French Government, the concessionaire will be required to make a remedial payment. The breach of certain of the concessionaire's obligations may lead to penalties without the French Government being required to give prior notice to the concessionaire (notably over motorway construction delays and partial or total interruption of traffic).

Further, the penalty amount depends upon the obligations which the concessionaire has failed to fulfil. Certain penalties may increase depending on the duration of the corresponding contractual breach.

If the concessionaire breaches its obligations concerning tariffs, the tariffs applicable until the next revision date will be set jointly by the minister in charge of the national roadway and the minister in charge of the economy.

*Termination for default*

The APRR Concession Agreements may be terminated by decision of the French Government made by decree of the Conseil d'Etat if any of the following breaches are not remedied within 30 days of receiving an execution order:

- the concessionaire, other than as a result of a "force majeure" event, interrupts a motorway operation repeatedly or for a lengthy period without authorisation or commits a serious breach of any other contractual obligations;
- the concessionaire transfers the concession without the prior and express authorisation of the French Government;
- the concessionaire fails to obtain on a timely basis the funds required to finance the design, construction, operation and maintenance of a motorway.

Either concessionaire may also be disqualified if, without the prior approval of the French Government, it is or becomes involved, for any reason whatsoever, in any restructuring process (such as merger, contribution, spin-off, dissolution) that may alter its

economic and financial standing or its technical and/or professional ability to perform the obligations stated in the APRR Concession Agreements.

Either concessionaires may also be disqualified following a period of 12 months from the date the French Government guarantee backing certain of their long-term loans is called under, unless they have fully reimbursed the French Government within such 12-month period.

In the event of termination for default, the APRR Concession Agreements will be granted to a new concessionaire, in compliance with applicable laws and regulations, through a competitive bidding process. In this case, the bid price may possibly be paid by the new concessionaire to the disqualified company, immediately following publication of the Conseil d'Etat decree approving the new concession agreement and related specifications.

*The Maurice Lemaire tunnel concession agreement*

The Maurice Lemaire tunnel is covered by a separate concession agreement.

Following the Mont Blanc tunnel fire in 1999, new safety measures for tunnels were ordered by the French government, which led to the temporary closure of the Maurice Lemaire tunnel in April 2004 to allow the completion of works to bring the tunnel up to the new standards. In order to be compensated for the closure and for the safety works, the Concessionaire will receive a one-off €298 million payment from the French government at the expiry of the concession in 2049.

Prior to its closure, the tunnel carried 3,500 vehicles per day (of which heavy goods vehicles comprised 30%) and generated revenues of approximately €3.5 million. It should be noted that the tunnel is geographically separate from the rest of the APRR network, thus its closure had no direct impact on the rest of APRR's network.

*ADELAC*

ADELAC is a company of which AREA holds 49.9% of the share capital. ADELAC obtained in 2005 a mandate to build and operate a 19km section of motorway between Annecy and Geneva (A41M). The opening took place in December 2008 and the company is financed, by shareholder equity and bank loans that are non-recourse to the shareholders.



### 8.33 Dulles Greenway

#### *Overview*

The key terms and conditions governing the Dulles Greenway are set out in the comprehensive agreement entered into by Virginia Department of Transportation (VDOT) and TRIP II, dated 28 September 1993 (**DG Comprehensive Agreement**). The main terms are described below.

#### *Concession Period*

The DG Comprehensive Agreement allows TRIP II to operate, maintain and collect tolls from the Dulles Greenway for the term specified by the certificate of authority. The certificate of authority has an expiration date that will be extended to the earlier of:

- (i) the date 10 years after the last maturity date of any 2005 Senior Bond; or
- (ii) upon the final payment of principal or interest of all 2005 Senior Bonds.

Provided all of the 2005 Senior Bonds are not paid in full prior to their stated maturities, the certificate of authority will not expire before February 15, 2056.

#### *Tolling*

The tolls on the Dulles Greenway are set, on application, by the VSCC under the VHCA. Per the VSCC order of 11 September 2007, maximum tolls are limited in accordance with an approved schedule from 2009-2012. From 2013 through 2020 tolls can be escalated up to the highest of:

- (i) CPI + 1%;
- (ii) Real GDP;
- (iii) 2.8% per VHCA, §56-535 et seq, Code of Virginia; or
- (iv) Post 2020 toll growth is subject to approval by the VSCC.

The DG Comprehensive Agreement also requires TRIP II to collect tolls for VDOT's account from users of the DTR at the point that it connects to the Dulles Greenway.

#### *Property damage, personal injury and indemnities*

Any operator that constructs, operates or enlarges a roadway pursuant to the VHCA must secure and maintain a policy or policies of public liability insurance in form and amount satisfactory to the VSCC. Such insurance must be sufficient to insure coverage of tort liability to the public and employees and enable the continued operation of the roadway.

#### *Operations and maintenance*

TRIP II is obliged to keep the Dulles Greenway open at all times unless, in concurrence with VDOT, TRIP II determines it would be unsafe to do so (in the case of a serious accident or major maintenance).

TRIP II has contracted AIV to provide operation and maintenance services for the Dulles Greenway (**O&M Agreement**). Pursuant to the O&M Agreement, AIV is required to provide all labor, materials, personnel, supplies and support services necessary to operate and maintain the Dulles Greenway on a 24-hour, seven-days-a-week basis.

#### *Competition*

The DG Comprehensive Agreement does not have any protection against competing routes. Route 7 and Route 28 currently act as the primary competing routes.

#### *Payments to VDOT*

TRIP II is required to reimburse VDOT for VDOT's direct costs in connection with reviewing and approving drawings and specifications, inspecting and approving construction and monitoring and enforcing TRIP II's maintenance obligations and providing other services to the Dulles Greenway.

Possible payments to other parties under other agreements:

TRIP II obtained an easement over a certain portion of the property leased to the Metropolitan Washington Airports Authority (MWAA) for the period through April 2, 2066. In consideration, TRIP II makes annual payments in accordance with a schedule set forth in the MWAA Agreement, ranging from US\$400,000 in 2004 to US\$2,000,000 beginning in 2036.

#### *Default and termination of the DG Comprehensive Agreement*

Upon a breach by TRIP II under the DG Comprehensive Agreement there will be notice given and an opportunity to cure. The VSCC will grant a hearing in which TRIP II is provided notice and is able to participate, after which the VSCC may revoke the certificate of authority for the Dulles Greenway. If the certificate of authority is revoked, TRIP II will be without authority to operate the Dulles Greenway at which point VDOT may take over operations. Thereafter, VDOT may take any step which is in the public interest, including closing the Dulles Greenway.

TRIP II may receive compensation from VDOT for such assets, however VDOT will first deduct from the value of such assets all of its costs incurred in connection with completion or fulfilment of the operator's unperformed obligations, including the payment of any obligations assumed by VDOT and any other costs associated with the revocation of the certificate of authority. VDOT will take into account money received from the proceeds of any payment or completion bond in calculating the amount due to TRIP II.

VDOT has no recourse to the partners of TRIP II for any non-compliance under the DG Comprehensive Agreement.

#### *Termination of the DG Comprehensive Agreement by TRIP II*

The DG Comprehensive Agreement does not contain any specific provisions that allow TRIP II to terminate the DG Comprehensive Agreement.

#### *Taxes*

The State of Virginia has legislated that real estate and tangible personal property shall be assessed and taxed at their fair market value. The relevant jurisdiction for levying this tax is Loudoun County.

TRIP II is responsible for paying all local, State, and Federal taxes applicable to the operation of the Dulles Greenway.

#### *Change of ownership of the concession company*

There are no change of control provisions within the DG Comprehensive Agreement.

#### *Events which may affect the financial viability of the Greenway*

Force majeure events suspend TRIP II's obligations under the DG Comprehensive Agreement to the extent that these obligations are impacted. TRIP II is to take all reasonable measures to re-establish normal operations. TRIP II bears the risk of force majeure and is not entitled to receive any compensation for losses from the Authority. TRIP II is to maintain a clear 40 foot median along the full length of the Dulles Greenway for potential future rail use.

#### *Other*

The DG Comprehensive Agreement requires TRIP II to maintain the Dulles Greenway such that a level of service D or better is maintained, except within the limits of the Town of Leesburg, where level of service C or better is required. Future enlargements are necessary when unsatisfied demand makes it economically feasible to expand the Dulles Greenway.

### 8.3.4 Indiana Toll Road

#### *Overview*

The terms and conditions of the ITR lease are set out in the concession agreement entered into by ITRCC and the IFA dated 12 April 2006 (**ITR Concession Agreement**). The main terms are described below.

#### *Concession Period*

The ITR is leased from the IFA for a period called the concession term. The concession term ends on 30 June 2081. At the end of the concession term, the highway must be returned to the IFA in a good state of repair. No compensation is payable by the IFA at that time.

#### *Tolling*

The ITR Concession Agreement sets out how tolls and fees will be calculated and the maximum permitted tolls during the concession term. The ITR Concession Agreement specifies maximum tolls for the first four years of the concession term through to 30 June 2010. At 30 June 2010, maximum car and heavy vehicle tolls can be increased up to the greatest of 8%, CPI and Per Capita Nominal GDP over the prior 4 calendar years. Beginning 30 June 2011, and annually thereafter, maximum tolls can be escalated up to the greater of 2.0%, CPI, or Per Capita Nominal GDP growth.

Pursuant to a separate agreement with the IFA entered into subsequent to the ITR Concession Agreement, ETC car users currently pay an amount lower than the maximum tolls specified in the ITR Concession Agreement and the IFA pays ITRCC the difference between the toll paid by ETC car users and the maximum car tolls set out in the ITR Concession Agreement. This agreement with the IFA has a sunset clause of 30 June 2016 and can be cancelled at any time prior to this by either party with 120 days notice.

#### *Property damage personal injury and indemnities*

ITRCC bears the risk of loss or damage to the highway, with limited exceptions. ITRCC indemnifies the IFA from any liability which the IFA may suffer in relation to the highway, with only limited exceptions.

ITRCC must insure the highway against loss or damage and must repair the highway if it is damaged. If the insurance proceeds are less than the cost of repair (for example, because ITRCC was not able to obtain insurance for a particular risk) then ITRCC must pay for the cost of repairs. ITRCC's lenders have security over the proceeds of an insurance claim.

ITRCC must also take out other usual forms of insurance coverage, such as commercial general liability and business interruption insurance.

#### *Operations and maintenance*

The highway must be operated and maintained in accordance with standards set out in the ITR Concession Agreement. The highway must be kept open for traffic unless it needs to be closed due to an emergency or similar temporary event. The highway is operated and maintained by ITRCC.

#### *Competition Restrictions*

The ITR Concession Agreement requires the IFA to pay ITRCC compensation in the event a new interstate quality roadway (4 lanes with controlled access) is built by or on behalf of the State and at least 20 miles of such new roadway is within 10 miles of the ITR. In addition, the IFA will pay compensation to ITRCC in the event that US 20 is improved within the first 55 years of the concession in such a manner as to make US 20 an interstate quality roadway.

#### *Default and termination of the ITR Concession Agreement*

The ITR Concession Agreement sets out various events which, if they occur, would be considered an event of default (**EOD**) by ITRCC. If a EOD occurs, and is not cured, then the IFA may step in and perform ITRCC's obligations. The IFA also holds security over the highway, subordinated to the security over the highway held by senior lenders, which it can enforce following a EOD. In most circumstances, but depending on the reason for termination, ITRCC is entitled to a period of time to remedy the EOD. The remedy period varies according to the nature of the EOD.

If the ITR Concession Agreement is terminated due to a default by ITRCC, then no compensation is payable to ITRCC.

#### *Termination of the ITR Concession Agreement by ITRCC*

ITRCC may terminate the ITR Concession Agreement if it is prevented from leasing and operating the highway due to certain events, such as a court decision, a discriminatory law change, a resumption of land or a breach by the IFA of its obligations. However, if those matters arise due to a breach of the ITR Concession Agreement by ITRCC then termination of the ITR Concession Agreement is not permitted.

The IFA may suspend ITRCC's notice terminating the ITR Concession Agreement for up to 60 days while it seeks to remedy the issue.

Ultimately, if the matter is not resolved satisfactorily, ITRCC may terminate the ITR Concession Agreement and receive an early termination payment from the IFA. That payment is calculated to be the fair market value of ITRCC's interest in the ITR as determined by an independent appraiser but in no event less than the outstanding leasehold mortgage debt amount plus breakage costs.

#### *Dispute Resolution*

In the event of a dispute between ITRCC and the IFA, a formal dispute resolution mechanism is in place per the ITR Concession Agreement. The parties are required to attempt to resolve the dispute in good faith within 15 days. Should this not occur, the dispute is to be referred to a designated senior person of each party for further negotiation. If resolution is not achieved within 15 Business Days the matter will be referred to a mediator. A mediator must be selected within 15 days, or else be appointed by the judge of the relevant circuit court. Should mediation fail to resolve the dispute within 30 Business Days, the matter will be referred to binding arbitration.

#### *Taxes paid by ITRCC*

ITRCC must pay any taxes incurred due to the operation of the road. The IFA has indemnified ITRCC for any property tax imposed by the State, or any local, city, or county government as well as any sales, use or similar tax imposed by the State or any local, city or county government in Indiana, on the rent or toll revenues or any transfer, stamp, deed recording or similar tax associated with the transaction.

*Change of ownership of the concession company*

ITRCC's interest in the ITR may not be transferred without the approval of the IFA. A change in control, including a transfer of 50% or more of the direct or indirect voting or economic interests of ITRCC to a person or group of persons acting in concert, constitutes a transfer subject to such restrictions. This prohibition is not applicable to transfers to qualified institutional buyers, transfers to pre-approved purchasers, transfers of shares of a publicly traded company (unless there is a takeover), transfers within affiliated groups and transfers in connection with an initial public offering.

*Events which may affect the financial viability of the ITR*

If any Indiana governmental authority takes an adverse action (as defined in the ITR Concession Agreement) at any time during the concession term, ITRCC will have the right to either be compensated by the IFA or terminate the ITR Concession Agreement and receive termination compensation from the IFA.

In the instance of a force majeure event, ITRCC has the right to increase the tolls or extend the concession term for a period of time that would be sufficient to compensate ITRCC and to restore it to the same economic position as it would have been had the force majeure event not occurred. The IFA is obligated to assist the ITRCC in any administrative process necessary in order to affect a required toll increase.

The ITR Concession Agreement sets out a number of Mandatory Expansion Work ("MEW") Projects that must be completed by specified dates within the first 4.5 years of the concession term. These MEW Projects are required to be completed at or before 31 December 2010.

Under the ITR Concession Agreement, ITRCC is required to maintain a minimum level of service ("LOS") for each section of the ITR. ITRCC has certain obligations to expand sections of the ITR if the current or projected LOS drops below the minimum LOS requirements.

Under the ITR Concession Agreement ITRCC cannot carry on any business other than leasing, operating, managing, maintaining, rehabilitating and tolling the highway.

The ITR Concession Agreement does not limit ITRCC's ability to renege its debt obligations.

**8.3.5 Chicago Skyway***Overview*

The terms and conditions of the Chicago Skyway lease are set out in the CS Concession Agreement entered into by the City of Chicago and SCC dated 27 October 2004. The main terms are described below.

*Concession Period*

The Chicago Skyway is leased from the City of Chicago for a term of 99 years. The concession period began at financial close, on 24 January 2005 and ends on 23 January 2104.

At the end of the concession period, the Chicago Skyway must be returned to the City of Chicago. No compensation is payable by City of Chicago at that time.

*Tolling*

The CS Concession Agreement grants the exclusive right to use, possess, operate, manage, maintain and rehabilitate the Chicago Skyway and to collect toll revenues in consideration. The CS Concession Agreement specifies maximum tolls for car and multiple-axle vehicles over the concession term. From financial close through to 31 December 2017, maximum tolls are set per a schedule. Beginning 1 January 2018, and annually thereafter, maximum toll escalation is limited to the greater of 2.0%, CPI or Per Capita Nominal GDP growth.

*Property damage, personal injury and indemnities*

SCC bears the risk of loss or damage to the Chicago Skyway, with limited exceptions. SCC indemnifies The City of Chicago from any liability which the City of Chicago may suffer in relation to the Chicago Skyway, with only limited exceptions.

SCC must insure the Chicago Skyway against loss or damage and must repair the Chicago Skyway if it is damaged. If the insurance proceeds are less than the cost of reinstatement (for example, because SCC was not able to obtain insurance for a particular risk) then SCC must pay for the cost of the repairs.

SCC's bond holders have security over the proceeds of an insurance claim. In certain circumstances, these bond holders may be entitled to use the insurance money to repay the debt owing to them by SCC, rather than allowing SCC to spend the money to repair the Chicago Skyway.

SCC must also take out other usual forms of insurance coverage, such as commercial general liability and business interruption insurance.

#### *Operations and maintenance*

SCC is required to comply with detailed operating and maintenance standards under the CS Concession Agreement. The principal objectives of the maintenance program include, but are not limited to:

- maintaining all the Chicago Skyway features, elements, components and systems;
- improving sub-standard features;
- preserving the rights-of-way, roadway and structures; and
- identifying and correcting potentially hazardous situations and inadequate safety features.

SCC is required to submit operations and maintenance plans to the City of Chicago for approval. In addition, SCC must retain an independent engineering firm to conduct an annual inspection of the Chicago Skyway.

The City of Chicago has the right to change the operating standards in order to comply with any new applicable law or to conform them to standards generally adopted by other governmental authorities.

#### *Competition*

The main alternative to the Chicago Skyway is the route consisting of the Dan Ryan Expressway, the Bishop Ford Expressway, the Kingery Expressway and the Borman Expressway.

The CS Concession Agreement does not provide for protection against the development and construction of competing roads or facilities or improvement or modification of existing roads or facilities that might adversely affect the relative travel time savings of the Chicago Skyway as compared to competing routes. The constraints on any such actions are non-contractual in nature and only pertain to the cost and difficulty of obtaining land and permits.

#### *Default and termination of the CS Concession Agreement*

In general, SCC will be in default under the CS Concession Agreement if any one or more of the following events occur during the concession term:

- SCC fails to comply with, perform or observe any material obligation, covenant, agreement, term or condition in the CS Concession Agreement for a period of 90 Business Days (or such longer period as may be necessary to remedy as agreed with the City of Chicago);
- any portion of SCC Interest is transferred in contravention of the transfer provisions; or
- if SCC in general is unable to pay its debts as they become due.

Amongst other things, if SCC defaults, the City of Chicago may:

- terminate the CS Concession Agreement by giving 60 days' prior notice to SCC. However, SCC is allowed to cure a concessionaire default by providing the City of Chicago with a written work plan within such 60-day period outlining the actions by which SCC will ensure future compliance with the event of default;
- make payment on behalf of SCC to remedy the default, with SCC being responsible for reimbursing City of Chicago for such expenditure;
- cure SCC default, with SCC being responsible for reimbursing the City of Chicago for all costs incurred in the attempt to cure, together with an administrative fee equal to 15% of such costs;
- seek specific performance, injunction or other equitable remedies; or
- seek to recover its losses arising from SCC's default and any amounts due and payable under the CS Concession Agreement.



#### *Termination of the CS Concession Agreement by SCC*

If the City of Chicago defaults under the CS Concession Agreement by failing to comply with or observe any material obligation, covenant, agreement, term or condition in the CS Concession Agreement, SCC may terminate the CS Concession Agreement, seek to recover losses, or exercise any other rights or remedies at law in connection with such breach.

The City of Chicago is obligated to pay the Chicago Skyway concession value, or the fair market value of SCC's interest, as determined by an independent third party appraiser, which must be no less than the amount of outstanding third party debt.

#### *Dispute Resolution Process*

The CS Concession Agreement is stated to be governed by the laws of the State of Illinois. Any disputes thereunder are to be resolved by a three-step procedure within specified time periods, involving informal dispute resolution, mediation and, if any such dispute is not resolved within 15 days from a reference to mediation, arbitration in accordance with the commercial arbitration rules of the ABA.

#### *Taxes*

SCC shall pay when due all taxes that are or become payable in respect of periods during the term in respect of the operations at, occupancy of, or conduct of business in or from the Chicago Skyway and fixtures or personal property included in the Chicago Skyway facilities.

SCC shall not be liable for any tax attributable to the City of Chicago's ownership of all or any part of the Chicago Skyway, or similar tax imposed on the rent or any transfer, stamp, deed recording or similar tax payable by reason of the execution and delivery of the CS Concession Agreement.

#### *Leasehold tax Imposition*

A leasehold tax Imposition refers to any action that will have the effect of causing property taxes attributable to the Chicago Skyway or SCC Interest to be levied, rated, charged, imposed or assessed against SCC.

If a leasehold tax Imposition occurs, then, subject to compliance with notice and other procedural requirements, SCC's remedy is to terminate the CS Concession Agreement and demand payment of the fair market value of the concession. This means that if a leasehold tax Imposition occurs, SCC can choose whether to terminate the concession and recover the fair market value of the concession or continue the concession but pay the tax.

#### *Change of ownership of the concession company*

SCC is not allowed to transfer any or all of its direct interests during the first 3 years of the concession. Thereafter, SCC shall not transfer any or all of its interests unless:

- the City of Chicago has approved the proposed transferee; and
- the proposed transferee enters into an agreement with the City of Chicago, where the transferee acquires the rights and assumes the obligations of SCC and agrees to perform and observe all of the obligations and covenants of SCC.

A change in control of SCC, which includes upstream ownership transfers of over 50% of the indirect ownership interests in SCC, is a transfer of SCC's interest in the Chicago Skyway.

The trading of publicly owned companies (but not mergers, consolidations, business combinations or similar arrangements) and transfers among affiliates under common control are not changes in control and therefore are not subject to transfer restrictions.

*Events which may affect the financial viability of the Chicago Skyway*

*Adverse Action*

In the event an adverse action occurs, where the City of Chicago, Cook County or the State of Illinois takes action at any time during the term and the effect of such action is reasonably expected (i) to be principally borne by SCC and not by others and (ii) to have a material adverse effect on the fair market value of SCC, SCC shall have the right to be paid compensation by the City of Chicago or terminate the CS Concession Agreement and be paid the fair market value of the concession by the City of Chicago.

*Force Majeure*

If an event of force majeure occurs that has the effect of (i) causing physical damage or destruction of the Chicago Skyway that results in the Chicago Skyway being substantially unavailable or (ii) suspending toll collection and such effect continues for a period in excess of 120 days and has a material adverse effect on the fair market value of the concession then, if insurances are insufficient, SCC has the right to increase tolls or extend the term to the extent sufficient to compensate SCC and to restore it to the same economic position as it would have been in had such force majeure event not occurred.

*Other*

*Schedule 2 Works*

There are specific required capital improvements to be completed, as outlined in Schedule 2 of the CS Concession Agreement, however a portion of this work has been deferred pursuant to a waiver obtained from the City of Chicago.



# Section 9: Additional Information





### 9.1 Documents available for Inspection

MQA will provide a copy of the following documents free of charge, to any MQA Securityholder who requests it before the Implementation Date on MQA's website at [www.macquarie.com.au/mig](http://www.macquarie.com.au/mig):

- the Constitution;
- the MQA Bermuda Bye-Laws;
- the Cooperation Deed;
- the Implementation Deed; and
- the MQA Management Agreements.

### 9.2 Rights and Liabilities attaching to MQA Securities

The rights attaching to the MQA Securities issued and transferred pursuant to this Prospectus are governed by:

- the Constitution;
- the MQA Bermuda Bye-Laws;
- the Cooperation Deed; and
- the Implementation Deed.

A summary of the more significant rights attaching to MQA Securities is set out in section 8.

### 9.3 Interests of Directors

Except as set out in this Prospectus:

- no director of MQA or proposed director of MQA holds, or has held in the two years before lodgement of this Prospectus with ASIC, an interest in the formation or promotion of MQA, the Restructure Proposal (including the Initial Issue and In-Specie Distribution), or any property acquired or proposed to be acquired by MQA in connection with its formation or promotion or the Restructure Proposal (including the Initial Issue and In-Specie Distribution); and
- no amount has been paid or agreed to be paid, and no benefit has been given or agreed to be given, to any director of MQA or proposed director of MQA, either to induce them to become, or to qualify them as, a director, or otherwise for services rendered by them in connection with the promotion or formation of MQA or the Restructure Proposal (including the Initial Issue and In-Specie Distribution);
- the directors intend to vote the MIG Securities they own or control in favour of all of the Resolutions, except where they are not permitted to cast a vote (under the voting exclusions contained in the notices of meeting);

- MQA Directors may also have an indirect interest in the outcome of the Restructure Proposal through their holding of any MIG Securities. The number of MIG Securities held by the directors of MQA Australia and MQA Bermuda either personally or beneficially as at 30 November 2009 are as follows:

Director	Number of MIG Securities	MIG Securities held through associates
Mark Johnson	811,731	811,731
David Mortimer	608,316	608,316
David Walsh	25,000	12,000
Paul McClintock*	122,428	122,428
Robert Mulderig	200,000	200,000
John Roberts	-	-
Jeffrey Conyers	-	-
Peter Dyer	-	-

\* Paul McClintock intends to retire from the board of MQA Australia.

- the holdings of all MQA Securities by the MQA Directors will be notified to the market on the implementation of the Restructure Proposal.
- the MQA Directors may also have an indirect interest in the outcome of the Required Resolutions through their holding of any Macquarie Group securities. The number of Macquarie Group securities held by the MQA Directors either personally or beneficially as at 30 November 2009 are as follows:

Director	Number of MGL securities held as at 11 December 2009
Mark Johnson	298,803
Paul McClintock*	5,856
David Mortimer	727
David Walsh	1,813
John Roberts	61,442
Robert Mulderig	-
Jeffrey Conyers	-
Peter Dyer	-

\* Paul McClintock intends to retire from the board of MQA Australia.

- The following table lists the MQA Boards' assessment of the independence of the non-executive MQA Directors and the interests of those directors in the Restructure Proposal. For each of those directors who are assessed as being independent according to the independence criteria set out in section 6.2.1.

Director	Independence assessment	Status
<b>Mark Johnson</b> (Chairman MQA Australia, Director MQA Bermuda)	<p>Mr Johnson is the current Chairman of MIIML and has been appointed Chairman of the MQA Australia Board as part of the transition process under the Restructure Proposal. Mr Johnson was also appointed a director of MQA Bermuda, by MQA Australia pursuant to its rights as the holder of the MQA Bermuda A Special Share.</p> <p>Mr Johnson recently retired as deputy chairman of MGL. He has more than 40 years of experience in corporate finance and banking. He is a qualified lawyer, and has a Masters of Business Administration degree from Harvard University. He is chairman of AGL Energy and the Australian Security Policy Institute.</p> <p>Mr Johnson, the non-executive Chairman of MQA, was an executive director of Macquarie Group until 2007, and is therefore not considered independent.</p>	Not Independent
<b>Paul McClintock AO*</b> (Director MQA Australia)	<p>Mr McClintock is a principal of the private investment banking firm McClintock Associates. He is chairman of Medibank Private Limited, Thales Australia and the COAG Reform Council. From July 2000 to March 2003, he was secretary to the Cabinet and head of the Cabinet Policy Unit for the Australian Government. He graduated from Sydney University with a Bachelor of Arts and a Bachelor of Law.</p> <p>Despite these interests, the MQA Boards consider that Mr McClintock satisfies the MQA independence criteria set out in section 6.2.1.</p>	Independent
<b>David Mortimer AO</b> (Director, MQA Australia)	<p>Mr Mortimer is Chairman of Australia Post, Crescent Capital Partners and Leighton Holdings Limited, a director of Petsec Energy Limited and a governor of the Australia Israel Chamber of Commerce. He was formerly a director of the Australian Graduate School of Management and the former chief executive officer of TNT. He graduated from Sydney University with first class honours in Economics.</p> <p>Despite these interests, the MQA Boards consider that Mr Mortimer satisfies the independence criteria set out in section 6.2.1.</p>	Independent
<b>David Walsh</b> (Director MQA Australia)	<p>Mr Walsh is an experienced corporate and commercial lawyer and company director. He was a partner of the law firm Mallesons Stephen Jacques from 1962 to 2004. Currently, he is the chairman of Templeton Global Growth Fund. Mr Walsh is a former non-executive director of Dyno Nobel Ltd, PaperLinx and Asia Pacific Specialty Chemicals Ltd.</p> <p>Despite these interests, the MQA Boards consider that Mr Walsh satisfies the independence criteria set out in section 6.2.1.</p>	Independent
<b>Robert Mulderig</b> (Chairman MQA Bermuda)	<p>Mr Mulderig is the current Chairman of MIGIL and has been appointed Chairman of the MQA Bermuda Board as part of the transition process under the Restructure Proposal.</p> <p>Mr Mulderig is also a director of another Macquarie managed fund, Macquarie International Infrastructure Fund. He receives US\$40,000 per annum in director fees from MIGIL and US\$72,500 per annum in director fees from Macquarie International Infrastructure Fund.</p> <p>Mr Mulderig is chairman of the board of financial services company Woodmont Trust Company Ltd, and the Bermudan Bank of N.T. Butterfield and Son Ltd. He is a former member of the board of governors of the Bermuda Stock Exchange, and was chairman and chief executive officer of Mutual Risk Management Ltd for 20 years until 2002. He attended Columbia University and the Fordham University School of Law.</p>	Independent

Director	Independence assessment	Status
<b>Robert Mulderig</b> (Chairman MQA Bermuda) (continued)	<p>MQA's Bermuda administrative and secretarial services were provided by Butterfield Fulcrum Group, which is 40% owned by the Bermudian Bank of N.T. Butterfield and Son Ltd. Mr Mulderig is a director of Butterfield Fulcrum Group and N.T. Butterfield and Son Ltd. Neither entity is a significant supplier of MQA.</p> <p>Despite these interests, the MQA Boards consider that Mr Mulderig satisfies the independence criteria set out in section 6.2.1.</p>	
<b>Jeffrey Conyers</b> (Director MQA Bermuda)	<p>Mr Conyers began his professional career as a stockbroker in Toronto and returned to Bermuda in 1985 to join the Bank of Bermuda where his focus was investments and trusts. Mr Conyers is a founding executive council member and deputy chairman of the Bermuda Stock Exchange. Mr Conyers is the chief executive officer of First Bermuda Group Limited, which provides an advisory and execution service on worldwide offshore mutual funds to individuals and local companies based in Bermuda.</p> <p>Jeffrey Conyers is married to Ede Conyers, who is Executive Director, Chief Executive Officer and a shareholder in ISIS Fund Services Limited, a Bermuda based firm which provides company secretarial and funds administration services to various Macquarie managed vehicles. Macquarie managed funds have paid approximately US\$711,000 to ISIS Funds for services during the financial year ended 30 June 2009, and ISIS Law has been paid approximately US\$92,000 for the same period. Of this amount, MIG has paid approximately US\$31,000 to ISIS Funds and US\$9,000 to ISIS Law. Jeffrey Conyers has no involvement with the operations of ISIS Fund Services Limited but is a beneficiary of his wife's investment in the business. Ede Conyers is an independent business woman of 30 years standing as a fund administrator in Bermuda. She is not involved with the day to day provision of services to MQA. Jeffrey Conyers' appointment to the MQA board was made in view of his expertise.</p> <p>The MQA Bermuda Board has assessed Mr Conyers' limited association with ISIS Funds does not impact his independence of mind, including his ability to constructively challenge and independently contribute to the board or his ability to act in the best interests of MQA. The quantum of fees, salaries and other benefits received by Mr Conyers from Macquarie Group (excluding MQA) during the preceding 12 months was approximately US\$35,000 for acting as chairman of MAP Airports International Limited (formerly Macquarie Airports Limited) part of a fund that was until recently managed by a Macquarie Group entity.</p> <p>Despite these interests, the MQA Boards consider that Mr Conyers satisfies the independence criteria set out in section 6.2.1.</p>	Independent
<b>Peter Dyer</b> (Director MQA Bermuda)	<p>Mr Dyer was previously executive director of Kværner Corporate Development Limited (now Macquarie Infrastructure (UK) Limited). He gained extensive experience in the development of Kværner's UK-based PFI projects, including the Birmingham Northern Relief Road (now M6 Toll) and the A1-M1 Road in Yorkshire. He was employed by the Kværner Group from 1981 and became a director of Macquarie European Infrastructure plc (now replaced by IIL), following the acquisition of Kværner Corporate Development Limited.</p> <p>Mr Dyer is a Senior consultant to the Investment Committee of MEIF and has been appointed by MEIF as a non-executive director of the Kemble Water Group of companies. He receives £60,000 and £45,000 per annum respectively in respect of these two appointments.</p> <p>Mr Dyer is not independent.</p>	Not Independent

\* Paul McClintock intends to retire from the board of MQA Australia.

## 9.4 Interests of Macquarie in MQA Securities

Other than as set out below or elsewhere in this Prospectus or in section 8 of the Explanatory Memorandum, the Macquarie Group:

- does not have and did not have during the period of two years preceding lodgement of this Prospectus, any interest in the formation or promotion of MQA, or in any property of MQA acquired or proposed to be acquired by MQA in connection with the formation or promotion of MQA or the Restructure Proposal (including the Initial Issue and In-Specie Distribution); and
- has not been paid, nor agreed to have been paid any amounts, whether in cash, shares or otherwise, or any benefit given or agreed to be given for services in connection with the formation and promotion of MQA or the Restructure Proposal (including the Initial Issue and In-Specie Distribution).

### Payments to Macquarie in connection with the Restructure Proposal

If the Restructure Proposal is completed, Macquarie will receive an aggregate amount estimated to be approximately A\$103.9 million from MIG. The actual amount may be higher or lower and comprises the payments described below.

Macquarie will receive:

- a cash payment of A\$50 million for, among other things, its role in facilitating the implementation of the Restructure Proposal and the provision of assets, services and resources to MIG; and
- a payment of approximately A\$25.6 million for the shares in MIIML. This amount is equivalent to MIIML's net assets which comprise cash balances. This amount will increase or decrease to the extent that MIIML's net assets are higher or lower than A\$25.6 million on implementation of the Restructure Proposal.

In consideration for the cash payment of A\$50 million, Macquarie has agreed to facilitate a range of outcomes in connection with the Restructure Proposal, including

- assisting Intoll with establishing an independent operation, including assisting in transfer of certain personnel, provision of premises, reimbursement of Incremental Costs (including all employment costs) and other services over a 12 month period;

- facilitating a method of implementation for the Restructure Proposal which minimises the potential for pre-emptive rights and consent rights in asset level shareholder agreements being triggered; and
- granting a licence of Macquarie intellectual property rights to Intoll.

Macquarie's obligation to provide transitional services or to reimburse Incremental Costs ceases if there is a Change of Control Event in relation to Intoll.

### Advisory Fee

MIG has appointed Macquarie as financial adviser for advice and assistance in relation to the Restructure Proposal and will pay Macquarie a fee of 1.0% of the market capitalisation of Intoll for financial advisory services in connection with the Restructure Proposal. Macquarie's financial advisory role does not extend to advice on arrangements between Macquarie Group (on the one hand) and MIG, Intoll and MQA (on the other) on which Grant Samuel advised the MIG Independent Board Committees. That fee is approximately A\$28.3 million (assuming a post implementation 30 day VWAP trading price for Intoll of \$1.25 per Intoll Security).

### MQA Securityholding

As at 11 December 2009:

- Macquarie had a Principal Holding of 317.5 million MIG Securities (14.0% of MIG Securities on issue). This Principal Holding is held by Macquarie Capital Group Limited (ABN 54 098 705 109); and
- Macquarie had a relevant interest in 398.9 million MIG Securities (17.6% of MIG Securities on issue). This includes the Principal Holding.

The above percentages have been determined on the basis that as at 11 December 2009 MIG had 2,261,732,048 MIG Securities on issue.

Immediately after implementation of the Restructure Proposal, Macquarie will have the same relevant interest in MQA as it had in MIG Securities prior to implementation of the Restructure Proposal.



## 9.5 Major Shareholders (top 20 plus any > 5% relevant interests)

To our knowledge, based on MIG Securityholder notices filed with ASX (unless indicated otherwise below), as of 11 December 2009, the following tables identify the top 20 MIG Securityholders and those MIG Securityholders who have a relevant interest in 5% or more of MIG Securities and their holdings and percentage of MIG Securities outstanding as of the date of their last respective notices. These tables substantially reflect the expected top 20 MQA Securityholders and those MQA Securityholders who will beneficially own 5% or more of MQA Securities:

**Table 1: Top 20 MIG Securityholders (as at 31 October 2009)**

MIG Securityholder	Number of MIG Securities	% of issued MIG Securities
1 HSBC Custody Nominees (Australia) Limited	482,267,582	21.32
2 National Nominees Limited	343,832,459	15.20
3 Macquarie Capital Group Ltd	317,453,867	14.04
4 JP Morgan Nominees Australia Limited	240,352,649	10.63
5 Citicorp Nominees Pty Limited	143,375,996	6.34
6 HSBC Custody Nominees (Australia) Limited	62,240,437	2.75
7 ANZ Nominees Limited	50,288,558	2.22
8 AMP Life Limited	42,316,788	1.87
9 HSBC Custody Nominees (Australia) Limited	20,098,572	0.89
10 Cogent Nominees Pty Limited	18,930,738	0.84
11 Queensland Investment Corporation	17,217,471	0.76
12 Cogent Nominees Pty Limited	13,168,000	0.58
13 Neweconomy.com.au Nominees Pty Limited	12,270,935	0.54
14 Perron Investments Pty Limited	11,035,293	0.49
15 Warnford Nominees Pty Limited	11,000,000	0.49
16 CS Third Nominees Pty Ltd	10,165,672	0.45
17 RBC Dexia Investor Services Australia Nominees Pty Limited	8,654,531	0.38
18 Macquarie Investment Limited	8,588,314	0.38
19 Macquarie Investment Management Limited	8,554,271	0.38
20 Citicorp Nominees Pty Limited	8,526,829	0.38
<b>Total</b>	<b>1,830,338,962</b>	<b>80.93</b>

**Table 2: MIG Securityholders who have a relevant interest in 5% or more of MIG Securities on issue**

MIG Securityholder	Date of most recent substantial holder notice	Number of MIG Securities	% of issued MIG Securities
Macquarie Group Limited	31 July 2008	415,203,219	17.27
Lazard Asset Management	11 February 2009	285,478,130	11.70
The AXA Group	26 June 2009	208,307,409	9.21

## 9.6 Interests of Advisers and Experts

Except as set out below:

- no person named in the Prospectus as performing a function in a professional, advisory or other capacity in connection with the preparation or distribution of the Prospectus holds, or has held in the two years before lodgement of the Prospectus with ASIC, an interest in the formation or promotion of MQA or the Restructure Proposal (including the Initial Issue and In-Specie Distribution), or any property acquired or proposed to be acquired by MQA in connection with its formation or promotion of the Restructure Proposal (including the Initial Issue and In-Specie Distribution); and
- no amount has been paid or agreed to be paid and no benefit has been given or agreed to be given to any person named in the Prospectus as performing a function in a professional, advisory or other capacity in connection with the preparation or distribution of the Prospectus, in connection with the formation or promotion of MQA or the Restructure Proposal (including the Initial Issue and In-Specie Distribution).

Mallesons Stephen Jaques has:

- acted as Australian legal adviser to MIG and MQA in connection with the Restructure Proposal (including the Initial Issue and In-Specie Distribution);
- has performed work in relation to the Australian legal due diligence enquiries on legal matters; and
- advised MIG and MQA on Australian legal matters generally in relation to the Restructure Proposal (including the Initial Issue and In-Specie Distribution).

MQA has paid or agreed to pay approximately A\$1,720,000 (including GST) in relation to these services, to the date of this Prospectus. Further amounts may be paid to Mallesons Stephen Jaques in accordance with its time-based charges.

Greenwoods & Freehills has:

- acted as Australian taxation adviser to MIG and MQA in connection with the Restructure Proposal (including the Initial Issue and In-Specie Distribution);
- has performed work in relation to the Australian taxation due diligence enquiries on taxation matters; and
- advised MIG and MQA on Australian taxation matters generally in relation to the Restructure Proposal (including the Initial Issue and In-Specie Distribution).

MIG has paid or agreed to pay approximately A\$302,500 (including GST) in relation to these services, to the date of this Prospectus. Further amounts may be paid to Greenwoods & Freehills in accordance with its time-based charges.

The Investigating Accountant has:

- acted as accountant in respect of the Restructure Proposal (including the Initial Issue and In-Specie Distribution);
- prepared an Investigating Accountant's Report included in this Prospectus; and
- performed work in relation to financial due diligence enquiries.

MIG has paid or agreed to pay the Investigating Accountant approximately A\$462,000 (including GST) for these services, to the date of this Prospectus. Further amounts may be paid to the Investigating Accountant in accordance with its time-based charges.

## 9.7 Consents

Each of the parties referred to as consenting parties who are named below:

- has given, and has not before lodgement of this Prospectus with ASIC, withdrawn its written consent to being named in this Prospectus in the form and context in which it is named;
- has not made any statement, that is included in this Prospectus or on which a statement made in the Prospectus is based, other than as specified below;
- to the maximum extent permitted by law, expressly disclaims and takes no responsibility for any statements in or omissions from this Prospectus, other than the reference to its name and a statement included in this Prospectus with the consent of that person as specified; and
- in the case of:
  - the Investigating Accountant has given, and has not before the lodgement of this Prospectus with ASIC withdrawn, its consent to the inclusion of its Investigating Accountant's Report in section 4 of this Prospectus in the form and context in which it is included;
  - Greenwoods and Freehills has given, and has not before the lodgement of this Prospectus with ASIC withdrawn, its consent to the inclusion of its Tax Opinion in section 9 of the Explanatory Memorandum in the form and context in which it is included.

Role	Consenting parties
Australian Legal adviser	Mallesons Stephen Jaques
Registry	Computershare Investor Services Pty Ltd
Investigating Accountant	PricewaterhouseCoopers Securities Ltd
Tax expert	Greenwoods and Freehills Pty Limited

## 9.8 ASIC Relief

ASIC has agreed to grant certain modifications of, and exemptions from, the application of certain provisions of the Corporations Act, subject to the satisfaction of certain conditions, in relation to the following matters:

- **(financial half-year)** a modification of Section 323D(5) of the Corporations Act to allow MQA Australia to end its financial half-year on 30 June 2010, instead of within 7 days of the date which is 6 months from the date of its admission to the Official List of ASX as part of MQA;
- **(application form)** a modification of Section 723(1) of the Corporations Act to allow for the Initial Issue and In-Specie Distribution without the need for an application form; and
- **(application money held on trust)** an exemption from compliance with Section 722 of the Corporations Act that requires the Issuers of the MQA Prospectus to hold any application moneys in trust until the issue or transfer of the MQA Securities;
- **(rounding of entitlement)** an exemption from compliance with Section 601FC(1)(d) of the Corporations Act so that MIIML is not required to treat all members of the same class equally in connection with any necessary rounding of MIT(II) Unitholders' entitlement to MQA Australia Shares and MQA Bermuda Shares under the Restructure Proposal; and
- **(prospectus)** a modification of Sections 708(13) of the Corporations Act to allow the Stapled Entities in MQA to make offers of the MQA Stapled Securities pursuant to a distribution reinvestment plan for MQA without the relevant issuers having to issue an additional disclosure document.

## 9.9 ASX Waivers/Confirmations

ASX has agreed in principle to grant the following waivers from the operation of the Listing Rules and confirmations and approvals under the Listing Rules in relation to the Restructure Proposal, including in relation to the application by MQA Australia and MQA Bermuda for Listing on ASX and quotation of MQA Australia Shares and MQA Bermuda Shares.

- **(appropriateness for listing)** Confirmation under Listing Rule 1.1 condition 1 that the structure of MQA is appropriate for a listed entity;
- **(asset transfers)** Confirmation that asset transfers among Stapled Entities and their subsidiaries prior to the implementation of the Restructure Proposal do not require approval under Listing Rule 10.1. A waiver is sought in relation to MQA to the extent necessary to permit the asset transfers to be effected in relation to any future transfers within MQA;
- **(nature and scale of activities)** Confirmation that the Restructure Proposal does not require approval under Listing Rule 11.1, 11.2 or 11.4;
- **(listing fees)** a waiver of Listing Rules 2.6 and 16.4 to the extent necessary so that initial listing fees are payable only on the MQA Australia Shares and MQA Bermuda Shares for which quotation is sought;
- **(Standard stapling waivers)** certain “standard” waivers applying to the Official Quotation of stapled securities, namely:
  - a waiver of condition 7 of Listing Rule 1.1 to the extent necessary to ensure compliance, given that while the value of a parcel of MQA Securities is greater than or equal to \$2,000, the component parcels of shares or units may individually have a value of less than \$2,000;
  - a waiver of condition 8 of Listing Rule 1.1 in respect of compliance with Listing Rule 1.3 on the basis that MQA as a whole will comply with the assets test even though the Stapled Entities may not individually satisfy the test;
  - confirmation that the requirements of condition 2 of Listing Rule 2.1 are satisfied on the basis that the issue price of an MQA Security exceeds \$0.20 in cash, even if the issue price attributable to each component share or unit does not exceed this amount; and
  - a waiver of Listing Rule 8.10 to the extent necessary to permit MQA Australia and MQA Bermuda to refuse to register a transfer of a share in the entity if not accompanied by a transfer of a share in the other entity;
- **(requirement to provide a reviewed pro forma balance sheet)** Confirmation that Listing Rule 1.3.5(c) applies to the issuers of this MQA Prospectus and confirmation that the provision of a separate balance sheet and review included in this MQA Prospectus is sufficient for the purposes of Listing Rule 1.3.5(c);
- **(requirements to provide 3 years of financial accounts)** Confirmation that ASX considers the reviewed financial statements as set out in section 3 are sufficient for the purposes of Listing Rule 1.3.5;
- **(consistency with Listing Rules)** Confirmation that the Constitution and the MQA Bermuda Bye-Laws are consistent with the Listing Rules for the purposes of Listing Rule 1.1 Condition 2, and confirmation that this MQA Prospectus is consistent with the Listing Rules for the purposes of Listing Rule 1.1 Condition 3;
- **(terms of securities are appropriate)** Confirmation that the terms of the MQA Securities are appropriate and equitable for the purposes of condition 1 of Listing rule 2.1 (which requires compliance with Chapter 6 of the Listing Rules);
- **(entitlements to securities in another entity)** Confirmation that the requirements of Listing Rule 7.17 are not applicable or are satisfied by the Restructure Proposal to the extent necessary to allow the securities in MQA Australia and MQA Bermuda to be issued or transferred to MIG Securityholders;
- **(escrow restrictions)** Confirmation that escrow restrictions will not apply to the MQA Securities;
- **(equity securities)** Confirmation that the MQA Securities are “equity securities” for the purposes of the ASX Market Rules and the Listing Rules; and
- **(continuous disclosure obligations)** Confirmation that the MQA Securities are treated as one security for the purposes of satisfying the disclosure obligations for each member of MQA.

### 9.10 MQA ASX Admission and Quotation

MQA Australia and MQA Bermuda will apply for admission to the Official List of ASX, and quotation of MQA Australia Shares and MQA Bermuda Shares on ASX (one MQA Australia Share will be quoted jointly with one MQA Bermuda Share as part of one MQA Security such that the securities in the Stapled Entities cannot be traded separately) within seven days after the date of this Prospectus.

### 9.11 Litigation and Claims

As far as the MQA Boards are aware, there is no current or threatened civil litigation, arbitration proceeding or administrative appeal or criminal or governmental prosecution of a material nature in which MQA is directly or indirectly concerned which is likely to have a material adverse impact on the business or financial position of MQA.

### 9.12 References to Publications

References are made in this Prospectus to material that is attributed to various sources. These references are based on statements already published in public documents or a book or journal or comparable publication. Those organisations did not prepare those materials specifically for this Prospectus and have had no involvement in the preparation of any part of this Prospectus.

### 9.13 Governing Law

This Prospectus is governed by the law applicable in New South Wales and each person relying on this Prospectus submits to the exclusive jurisdiction of the courts in New South Wales.

### 9.14 Costs of the Restructure Proposal

The costs of the Restructure Proposal include those set out in section 9.6, and any other legal, taxation, independent expert, ASX listing and stamp duty costs. If the Restructure Proposal proceeds, the costs in connection with the Restructure Proposal (including the Initial Issue, and the In-Specie Distribution but excluding the advisory fee payable to Macquarie) are budgeted to total \$7 million. If the Restructure Proposal does not proceed the total costs will be \$7 million.

Costs, including any stamp duty, connected with the Restructure Proposal (including the Initial Issue, and the In-Specie Distribution) will be borne by MIG.

### 9.15 Directors' Consents and Signature

Each director of each Issuer has given, and not withdrawn, their consent to the lodgement of this Prospectus with ASIC and its issue.

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# Section 10: Glossary

€ Euros.

£ British pounds or pence.

A\$ Australian dollars. “\$” has a corresponding meaning.

ABA American Bar Association.

US\$ US dollars or cents.

km kilometre(s).

ASBs Australian Accounting Standards.

ADT Average Daily Traffic.

AEDT Australian Eastern Daylight Time.

AFS Licence Australian financial services licence.

AIFRS Australian equivalents to International Financial Reporting Standards.

AIV Autostrade International of Virginia O&M, Inc.

Annual Return has the meaning as set out in section 6.1.5.

APRR Concession Agreements the separate concession contracts entered into between APRR and AREA and the French Government, which were approved by decrees in 1986 (APRR) and 1988 (AREA) and have since been the subject of several addendums.

ASIC Australian Securities and Investments Commission.

ASTC ASX Settlement and Transfer Corporation Pty Ltd.

ASTC Settlement Rules the settlement rules of the ASTC, as amended or replaced from time to time.

ASX ASX Limited (ACN 008 624 691) or the market operated by it, as the context requires.

ASX Corporate Governance Principles and Recommendations the set of principles and recommendations published by the ASX which are intended to provide a reference point for companies about their corporate governance structures and practices. “Principles” has a corresponding meaning.

Banking Act the *Banking Act 1959 (Cwlth)*.

Benchmark Return has the meaning set out in section 6.1.5.

Bermuda Companies Act the *Companies Act 1981 of Bermuda* as amended from time to time.

Business Day a business day as defined in the Listing Rules.

CABs capital accretion bonds.

CBD central business district.

CHES Clearing House Electronic Subregister System, operated in accordance with the Corporations Act.

CIBs current interest bonds.

Cintra Cintra Concesiones de Infraestructuras Transporte, S.A.

CNA Caisse Nationale des Autoroutes.

Code of Virginia the *1950 Code of Virginia*, as amended.

Conseil d’Etat the institution responsible for advising the French Government on the preparation of laws, which also acts as the highest administrative court in France.

Constituent Documents the constituent documents of a Stapled Entity and at the date of this Prospectus includes the Constitution, the MQA Bermuda Bye-Laws and the Cooperation Deed.

Constitution the constitution of MQA Australia, as amended from time to time.

Cooperation Deed the cooperation deed between MQA Australia and MQA Bermuda as amended from time to time.

Corporations Act the *Corporations Act 2001* (Cwlth).

CPI the Consumer Price Index - U.S. City Averages for All Urban Consumers, All Items.

CS Concession Agreement the concession and lease agreement entered between the City of Chicago and SCC on 27 October 2004.

DCF discounted cash flow.

Deed Poll Western Sydney Orbital Funding Trust Reset Convertible Notes Deed Poll.

DG Comprehensive Agreement the comprehensive agreement between VDOT and TRIP II entered into on 28 September 1993.

DSCR debt service coverage ratio.

DTR Dulles Toll Road.

**EBITDA** earnings before interest, tax, depreciation and amortisation.

**Eiffarie Senior Facilities Agreement** the facilities agreement between Eiffarie, the sole Mandated Lead Arrangers, the Agent, the sole Original Lenders and the Co-Presenting Bank, entered into on 4 November 2005 and subsequently amended.

**ETC** electronic toll collection.

**Euronext Stock Exchange Euronext N.V.** the Pan-European stock exchange based in Paris, France.

**European Commission** the Executive body of the European Union.

**European Investment Bank** the long-term lending bank of the European Union, created in 1958. It raises debt in the capital markets to lend on favourable terms to projects which further EU policy objectives.

**Explanatory Memorandum** the explanatory memorandum provided in relation to the MIT(I), MIT(II) and MIGIL extraordinary general meetings scheduled to be held on or about 1 October 2009 in connection with the Restructure Proposal.

**Exposure Period** the seven days immediately following the lodgement of the Prospectus (or 14 days if extended by ASIC) where the Stapled Entities are prohibited from accepting an application for, or issuing or transferring, MQA Securities under the Corporations Act.

**FE** Financière Eiffarie SAS.

**Financiere Eiffarie Shareholders Agreement** the shareholders agreement between FE and MAF.

**Financial Services and Markets Act** the *Financial Services and Markets Act 2000* (UK).

**FSA** Financial Security Assurance Inc.

**General Meetings** the general meetings of MIT(I), MIT(II) and MIGIL convened for the purposes of considering and, if thought fit, approving the Resolutions.

**GDP** gross domestic product.

**Grant Samuel** Grant Samuel Corporate Finance Pty Limited (ABN 84 076 176 657).

**Highways Agency** an executive agency of the UK Department for Transport responsible for operating, maintaining and improving the strategic road network in England on behalf of the secretary of state for Transport.

**Incremental Costs** any third party costs incurred by Intoll acting reasonably in the ordinary course of business that would not have been paid or payable by Intoll if Intoll was managed by Macquarie.

**Implementation Date** 2 February 2010 or such other date as is determined in accordance with the Implementation Deed.

**Initial Issue** the initial issue of MQA Australia Shares to MIT(II) Unitholders or the initial issue of MQA Bermuda Shares to MIGIL Shareholders (as the case may require).

**In-Specie Distribution** the in-specie distribution of MQA Australia Shares to MIT(II) Unitholders and the distribution of MQA Bermuda Shares to MIGIL Shareholders on the basis of one MQA Australia Share and one MQA Bermuda Share for every one MIG Securities held by a MIG Securityholder on the Record Date.

**International Accounting Standards** a set of international financial reporting standards developed by the International Accounting Standards Board.

**International Accounting Standards Board** the organisation responsible for the development and publication of the International Accounting Standards.

**Intoll** following the implementation of the Restructure Proposal, MIIML (as responsible entity of MIT(II)) and MIT(II), MIGIL and any subsidiary of any such entity.

**Intoll Security** following the implementation of the Restructure Proposal, a stapled security comprising one unit in MIT(I), one unit in MIT(II), one share in MIGIL.

**Investigating Accountant** PricewaterhouseCoopers Securities Ltd (ABN 54 003 311 617 (AFS Licence Number 244572).

**Investigating Accountant's Report** the report prepared by the Investigating Accountant set out in section 4 of this Prospectus.

**IRR** internal rate of return.

**Issuers** the issuers of this Prospectus, being MQA Australia, MQA Bermuda, and MIIML as responsible entity of MIT(I) and MIGIL. Each of these entities is an “Issuer”.

**ITRCC** Indiana Toll Road Concession Company LLC.

**ITR Concession Agreement** the concession agreement between ITRCC and the IFA entered on 12 April 2006.

**Land Compensation Act** the *Land Compensation Act 1973* (UK).

**LOS** level of service.

**Listing** MQA Australia or MQA Bermuda (as the case may require) being included on the Official List of ASX. “Listed” has a corresponding meaning.

**Listing Date** the date of MQA Australia or MQA Bermuda (as the case may require) being included on the Official List of ASX.

**Listing Rules** the ASX Listing Rules and any other rules of ASX which are applicable while the Stapled Entities are admitted to the Official List of ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX.

**M6 Toll Concession Agreement** the concession agreement for the Birmingham Northern Relief Road (now known as the M6 Toll) executed on 28 February 1992 between The Secretary of State for Transport and Midlands Expressway Limited.

**M6 Toll FSA** the second supplemental agreement to the concession agreement for the Birmingham Northern Relief Road (now known as the M6 Toll) executed on 26 September 2000 between The Secretary of State for the Environment, Transport and the Regions and Midlands Expressway Limited.

**M6 Toll Funding Agreement** the facilities agreement executed 23 August 2006 for Macquarie Motorways Group Limited, with Calyon acting as agent.

**M6 Toll SSA** the second supplemental agreement to the concession agreement for the Birmingham Northern Relief Road (now known as the M6 Toll) executed on 26 September 2000 between The Secretary of State for the Environment, Transport and the Regions and Midlands Expressway Limited.

**Macquarie** Macquarie Capital Group Limited (ABN 54 096 705 109) and, where the context requires, includes a reference to Macquarie Capital Group Limited acting through one or more of its wholly owned subsidiaries.

**Macquarie Group** MGL and/or its subsidiaries or, when referring to a time prior to 13 November 2007, MBL and/or its subsidiaries.

**MAF** Macquarie Autoroutes de France SA.

**MAF Advisory Agreement** The agreement between MCFEL as advisor, MAF and its shareholders MIG and MEIF, which governs the duties of MCFEL as advisor to MAF and the fees which become payable by MAF in certain circumstances. The terms were agreed on 4 November 2005.

**MAF Finance** MAF Finance Sarl.

**Market Value** means the aggregate of the market value of the MQA Securities calculated on the basis of the average number of MQA Securities in issue during the last 10 trading days of the ASX in the relevant calendar quarter multiplied by the VWAP of all MQA Securities over those 10 trading days.

**MBL** Macquarie Bank Limited (ABN 46 008 583 542).

**MCAL** Macquarie Capital Advisers Limited (ABN 79 123 199 548).

**MCFEL** Macquarie Capital Funds (Europe) Limited (registered number 3976881), a wholly owned subsidiary of Macquarie and currently the adviser to MIGIL.

**MEI** Macquarie European Infrastructure Limited.

**MEIF** Macquarie European Infrastructure Fund.

**MEL** Midway Expressway Limited.

**MEW Projects** the ITR mandatory expansion works required in the ITR Concession Agreement.

**MGL** Macquarie Group Limited (ABN 94 122 169 279).

**MIG** Macquarie Infrastructure Group, comprised of MIIML (as responsible entity of MIT(I) and MIT(II)) and MIGIL.

**MIG Independent Board Committees** the independent board committees of MIIML and MIGIL which are comprised of the MIG Independent Directors.

**MIG Independent Directors** the independent directors of the board of directors of each of MIIML (being Paul McClintock, David Mortimer and David Walsh) and MIGIL (being Robert Mulderig and Jeffrey Conyers), as the context requires. The independent of the MIG Independent Directors is determined in accordance with the Macquarie Fund Policy as described in Macquarie's Corporate Governance statement under Principle 2 which can be found on MIG's website [www.macquarie.com.au/au/mig](http://www.macquarie.com.au/au/mig).

**MIGIL** Macquarie Infrastructure Group International Limited (ARBN 112 684 885) (to be renamed Intoll International Limited).

**MIGIL Shares** shares in MIGIL.

**MIG Management** the current executive members of MIG's management team.

**MIG Portfolio** the assets of MIG which are interests in toll road concessions, being M6 Toll, 407 ETR, APRR, Westlink M7, Dulles Greenway, Chicago Skyway, Indiana Toll Road, Warnow Tunnel and South Bay Expressway.

**MIG Securities** the one unit in MIT(I), one unit in MIT(II) and one share in MIGIL stapled together, such that these securities can not be traded separately.

**MIG Securityholders** holders of MIG Stapled Securities with respect to the In-Specie Distribution, on the Record Date.

**MIIML** Macquarie Infrastructure Investment Management Limited (to be renamed Intoll Investment Management Limited) (ABN 67 072 609 271) (AFS Licence Number 241405) as responsible entity of each or both of MIT(I) and MIT(II) (as the case requires).

**MIP** Macquarie Infrastructure Partners.

**MIT(I)** Macquarie Infrastructure Trust (I) (ARSN 092 863 780).

**MIT(I) Unit** a unit in MIT(I).

**MIT(II)** Macquarie Infrastructure Trust (II) (ARSN 092 863 548).

**MIT(II) Unit** a unit in MIT(II).

**MIT(II) Unitholder** the registered holder of a MIT(II) Unit.

**MMG** Macquarie Motorways Group Limited.

**MQA** following the implementation of the Proposal, MQA Australia and MQA Bermuda and any subsidiary of any such entity.

**MQA Australia** Macquarie Atlas Roads Limited (ACN 141 075 201).

**MQA Australia Management Agreement** the management agreement between MQA Australia and the MQA Manager, a member of the Macquarie Group.

**MQA Australia Board** the board of directors of MQA Australia.

**MQA Australia Shares** ordinary shares in MQA Australia.

**MQA Bermuda** Macquarie Atlas Roads International Limited (Registration No. 43828).

**MQA Bermuda Board** the board of directors of MQA Bermuda.

**MQA Bermuda Bye-Laws** the bye-laws of MQA Bermuda, as amended from time to time.

**MQA Bermuda Advisory Agreement** the advisory agreement between MQA Bermuda and the MQA Manager.

**MQA Bermuda Shares** ordinary shares in MQA Bermuda.

**MQA Boards** the MQA Australia Board and the MQA Bermuda Board.

**MQA Concession Agreements** the M6 Toll Concession Agreement, APRR Concession Agreements, ITR Concession Agreement, CS Concession Agreement, DG Comprehensive Agreement, and the SBX Franchise Agreement, as the context requires.

**MQA Directors** the directors of MQA Australia and MQA Bermuda.

**MQA Independent Directors** the independent directors of the MQA Boards.

**MQA Management** the team of Macquarie Group executives responsible for managing MQA.



**MQA Management Agreements** the MQA Australia Management Agreement and MQA Bermuda Advisory Agreement.

**MQA Manager** Macquarie International Advisory Services Pty Limited (ABN 84 127 735 960) (AFS License Number 318123) in its capacity as manager of MQA Australia, and advisor to MQA Bermuda.

**MQA Portfolio** the assets of MQA which will be interests in international toll road concessions, being the M6 Toll, APRR, the Chicago Skyway, the Indiana Toll Road, South Bay Expressway, Dulles Greenway and the Warnow Tunnel.

**MQA Security** following the implementation of the Restructure Proposal, a security comprising one share in MQA Australia and one share in MQA Bermuda.

**MQA Securityholder** the registered holder of an MQA Security.

**MWAA** Metropolitan Washington Airports Authority.

**MWAA Agreement** the agreement between the Metropolitan Washington Airports Authority and the Toll Road Corporation of Virginia on 2 July 1992.

**New Roads and Street Works Act** the *New Roads and Street Works Act 1991* (UK).

**Notice of Meetings** the notices of the General Meetings of MIT(I), MIT(II) and MIGIL scheduled to be held on or about 22 January 2010 in connection with the Restructure Proposal.

**NPV** net present value.

**OECD** Organisation for Economic Co-operation and Development.

**Official List** has the meaning given to the term in the Listing Rules.

**Officially Quoted** quoted on the official list of ASX.

**O&M Agreement** the operations and maintenance agreement entered into between TRIP II and AIV on 29 April 1999.

**ORT** open road tolling systems.

**pcp** prior corresponding period.

**Per Capita Nominal GDP** U.S. Annual Per Capita Gross Domestic Product (in current dollars).

**PLCR** project life coverage ratio.

**Portfolio Reorganisation** the reorganisation of the MIG Portfolio to form the MQA Portfolio and Intoll Portfolio.

**Principal Holding** MIG Securities held by Macquarie Capital Group Limited ABN 54 096 705 109 in respect of which Macquarie Capital Group Limited is able to control the exercise of voting rights attaching to those MIG Securities.

**Privacy Act** the *Privacy Act 1988* (Cwlth).

**Prospectus** this document (including the electronic form of this document), and any supplementary or replacement prospectus in relation to this document.

**Real GDP** the Annual Real Gross Domestic Product as reported by the U.S. Department of Commerce, Bureau of Economic Analysis.

**ReCNs** Reset Convertible Notes.

**Record Date** 1 February 2010 or such other date as is determined in accordance with the Implementation Deed.

**Registry** Computershare Investor Services Pty Ltd (ABN 48 078 279 277).

**Required Resolutions** a Resolution required to give effect to the Restructure Proposal as determined in accordance with the Implementation Deed, being Resolution 1 for the meetings of each of MIT(I), MIT(II) and MIGIL.

**Resolutions** the resolutions proposed to be put to MIG Securityholders as set out in the Notices of Meeting.

**Restructure Proposal** means the arrangement by which MIG will be reorganised into two separate ASX listed entities, Intoll and MQA.

**RSR** revenue stabilisation reserve.

**SCC** Skyway Concession Company LLC.

**SCCH** Skyway Concession Company Holdings LLC.

**Skyway Concession Company Holdings LLC Agreement** the limited liability company agreement between MIG Chicago Holdings LLC (now Chicago Skyway Partnership) and Cintra Skyway LLC as of 21 January 2005.

**SFA** *Securities and Futures Act* (Chapter 289, 2002 Revised Edition), Singapore.

**SGC** Shenandoah Greenway Corporation.



**S&P** Standard & Poor's.

**Statewide Mobility Partners LLC Agreement** the limited liability company agreement between MIG Indiana Holdings LLC and Cintra ITR LLC as of 19 January 2006.

**Stapled** the linking together of securities so that one security may not be issued, transferred or otherwise dealt with without a corresponding and simultaneous issue, transfer or dealing of the other securities and which securities are quoted on ASX jointly as a "stapled security" or such other term as ASX permits. "Stapling" and "Stapled Security" are to be construed accordingly.

**Stapled Entity** at any time any Australian or overseas established company, trust, corporation or managed investment scheme whose securities are then Stapled and at the date of this Prospectus means MQA Australia and MQA Bermuda (in relation to MQA).

**Stapling Provisions** the provisions relating to Stapling contained in the schedule to each Constituent Document, as the same may be amended or added to from time to time in accordance with that schedule.

**Tax Opinion** the tax opinion provided by Greenwoods & Freehills.

**TIFIA** the *Transportation Infrastructure Finance and Innovation Act of 1998* (US), as amended.

**Transtoll** Transtoll Pty Limited (ABN 14 077 591 381).

**TRIP II** Toll Road Investors Partnership II, L.P. TRIP II currently consists of AIE LLC, Shenandoah I LLC, Shenandoah Limited Partnership, Shenandoah Greenway Corporation, and Dulles Greenway Partnership.

**TRIP II Partnership Agreement** Agreement of limited partnership of Toll Road Investors Partnership II, L.P. as of September 29, 1993.

**USDOT** United States Department of Transportation.

**VDOT** Virginia Department of Transportation.

**U.S. Securities Act** the *United States Securities Act of 1933* (US), as amended.

**VHCA** the *Virginia Highways Corporation Act of 1988* (US), as amended.

**VSCC** Virginia State Corporations Commission.

**VWAP** volume weighted average price.

**WQG** Warnowquerung GmbH & Co. KG.

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