

# Inquiry into State Penalties Enforcement Amendment Bill 2017

---

## Submission by Toll Redress

### Table of Contents

Purpose of this submission	2
Transurban Limited	2
SPER system	3
Administration fees and their impact on SPER	8
Tolling Customer Ombudsman	10
SPER as a political football	13
Final Word	14

**Contact:** Michael Fraser and Maddison Johnstone

**Email:** [admin@tollredress.com.au](mailto:admin@tollredress.com.au)

**Website:** [www.tollredress.com.au](http://www.tollredress.com.au)

## Purpose of this submission

Toll Redress is a business entity that was formed to research tolling systems, consult with stakeholders, and assist consumers who have been affected by the tolling industry. After advocating for nearly two years on road tolling issues and encountering many consumers who had been impacted by the State Penalties Enforcement Registry (SPER), we established Toll Redress to conduct further research and provide further assistance to the thousands of people who have contacted us from around Australia.

We believe we can provide unique insight into the proposed changes to the State Penalties Enforcement Amendment Bill 2017, but also into other related matters that will be of interest to policymakers, stakeholders and consumers. These insights are drawn from extensive research and observations made from the case studies of a number of affected people in Queensland and all around Australia.

## Transurban Limited

Transurban Limited is an Australian toll road company operating in Queensland, New South Wales, Victoria and Virginia (USA)<sup>1</sup>. They have a monopoly on toll roads in Australia and are an ASX listed billion-dollar company. They began in Victoria and their longest-serving government arrangement is Melbourne's CityLink, where they entered a Public-Private Partnership (PPP) in 1995<sup>2</sup>. Along with CityLink, they operate the go via network in QLD and the Roam and RoamExpress network in NSW. Transurban operates every toll road that is in Queensland and toll debt has been a large contributor to SPER debt: 700,000 SPER debtors and the Registrar for SPER said many of these were from toll road customers.

They hold lucrative contracts with state governments and agreements with the Queensland Government are under concession until 2053 (AirportlinkM7), 2051 (Clem7), 2051 (Gateway Motorway), 2063 (Go Between Bridge), 2065 (Legacy Way) and 2051 (Logan Motorway). This is important because of the impact toll non-payment has on SPER debt, and the very real possibility that this spiralling debt will continue to 2065 and likely beyond while Transurban is at the helm.

In the State Penalties Enforcement Amendment Bill's Explanatory Notes, it failed to mention if Transurban Limited or any of its subsidiaries had been consulted about this Bill. We would encourage the Committee to ask Queensland Treasury if they did consult with them, and what the outcome of the consultation/s were.

---

<sup>1</sup>Transurban Limited, <https://transurban.com/our-operations/our-roads>

<sup>2</sup>The Age, 'Transurban the making of a monster', <http://www.theage.com.au/victoria/transurban-themaking-of-a-monster-20160512-gotjm9.html>

## SPER system

The current tolling system where toll non-payment is escalated to the Department of Transport and Main Roads (DTMR), and then SPER, is enslaving people in a vicious cycle of confusion, stress and financial strain. Through this cycle, our office hears from many debtors who experience depression and suicidal thoughts, face losing their driver's licence which puts their job at risk (further harming their ability to pay SPER), and drives them into a vulnerable financial position. Part of this cycle is exacerbated by debtors receiving penalty infringement notices (PINs) from DTMR as much as seven months after it was referred by Transurban. This raises a few concerns:

- Debtors enter into payment plans with Transurban and believe they have satisfied their debt obligations, only to receive PINs from DTMR many months later,
- It is possible debtors have since changed address - does DTMR issue the PIN to the address that was on file at the time of the offence, or at the time of issuing the PIN?

The current system also provides little help to debtors who have been impacted by unfair practices of Transurban. SPER has said on public record that they only have three categories to place debtors in. These three categories are: happy to comply (willing to pay SPER debt), in hardship, and wilfully non-compliant. It is also a matter of public record that SPER receives withdrawal notices from organisations, where organisations have incorrectly pursued someone for a debt and it has eventually been registered as a debt with SPER. Transurban is a corporation that is known to regularly refer debt incorrectly or unfairly to the State which escalates to SPER. Despite this, SPER did not list a debtor category that reflects this, or that reflects a debt in dispute with the issuing agency. Our understanding is that those who dispute their debt are instead categorised as "wilfully non-compliant". This points to a system that does not appropriately and fairly deal with those facing unfair practices at the hands of organisations.

Our understanding of the current system with SPER is that little investigation occurs to ensure the debt is fair, valid and true. When contacted to dispute a PIN resulting from a toll debt, SPER refers debtors to either DTMR or Transurban. Transurban then refers debtors back to DTMR or SPER, and so it continues. This back-and-forth story is common, and it causes great frustration and mental anguish on people to the point that they give up. Upon talking to DTMR, we were constantly told that they are "just a processing unit" and only investigate if an infringement is disputed. If that happens, they only rely on information provided to them by Transurban. This involves trusting in Transurban's word and recording keeping that the customer was sent a 'Demand Notice', which is enshrined in legislation. We hear many instances where the customer has not received a Demand Notice and now faces unfair penalties, and it appears there is no onus of proof on Transurban to show that the customer received the Demand Notice.

Our recommendation to resolve this issue (and thus stop a lot of toll debt escalating to DTMR and SPER) would be to make it a requirement by law that Transurban sends Demand Notices and other pertinent communication by registered post to consumers who have not paid their toll road trip. This should also include a requirement that receipt of this registered delivery for each notice be supplied to DTMR as a mandatory requirement as part of their evidentiary base before issuing any PINs.

It is also our belief that all PINs issued by DTMR and pertinent notices from SPER should be issued by registered post. This will significantly reduce the number of debtors claiming they did not receive notices from DTMR and SPER, as well as acting as an early intervention to their debt escalating out of control. We find in most cases that our clients would have addressed their matter much sooner if they were made aware of it.

What is also concerning is that issuing authorities have referred debtors who wish to dispute a PIN to the Tolling Customer Ombudsman, who has no powers to intervene in debts with DTMR and SPER.

When toll road customers face administrative errors that occurred in the process of their business activities, or make an innocent mistake, SPER does appear not take this into consideration. There needs to be a better process that acknowledges that customers are not the only ones to make mistakes and that handballing between different departments does not address this.

**CASE STUDY:** A business owner/truck driver, who participated in Channel Nine's A Current Affair 'Toll Rort' program in August 2016.

Our investigation into the tolling industry was aired on ACA's Toll Rort episode<sup>3</sup>. The business owner featured in the story missed three days of tolls due to an administrative error. This business owner ordinarily paid over a hundred thousand dollars in tolls each year as the owner of a delivery business. However, he was not aware he missed three days of tolls due to poor communication from the tolling operator and their refusal to issue the tolls to the correct business name. The debt eventually escalated to SPER.

At this point, he was told he was in excess of \$60,000 debt, and had to pay or face property seizure. Despite his attempts to rectify the issue, including writing to the Commissioner of SPER, a property seizure order was issued and his B-Double truck was seized and sent to auction. This cost his business tens of thousands of dollars, caused his workers to lose shifts and therefore lose income, and rendered it difficult to fulfil his orders as a supplier. This was a huge cost to personal lives, businesses and ultimately the economy, and all because of three days of missed tolls.

---

<sup>3</sup>A Current Affair, 'Toll Rort',  
<https://www.9now.com.au/a-current-affair/2016/clip-cisjf9f6m00150hmvc7oo2u9/1724fd01-8972-4693-918f-f226b72f115d>

In any other arrangement, this occurrence would be unprecedented.

**COMPARATIVE EXAMPLE:** John is an importer in Australia.

John imports many shipping containers of goods into the country. Due to an administrative error, John failed to notice a few unpaid invoices on a small number of items within the many shipping containers of goods that he brought in. Imagine John's disbelief if the exporter then suspended all trade and issued a series of fees that amount to 50 times the unpaid invoices. And on top of all this, the exporter failed to communicate with John on a professional level as he attempted to rectify the discrepancy.

An amendment to the State Penalties Enforcement Bill needs to include an overhaul of the tolling system. Increasing powers that SPER already has does not necessarily put debtors in a better position.

According to the information provided to us by SPER, each fine attracts a registration fee. This currently sits at \$65.20 (as of 1 July 2016. \$63 for previous year). At the first reading of the Bill, Treasurer Pitt said "Our aim is to reduce the overall SPER debt".

As of 28 February 2017, the SPER debt pool sits at \$1.18 billion, with 4.2 million debts, 700,000 debtors and an average of 6 debts per person.

An interesting observation can be made when estimating the percentage of SPER debt in the debt pool that was created out of SPER's registration fees. To do this, we first calculate the percentage of the SPER registration fee that was applied to all toll and parking infringements for 2015 - 2016.

**Toll infringement example:** \$164 (infringement) + \$63 (SPER registration fee) = \$227.  
SPER registration fee equates to 27.75% of the total amount.

**Parking infringement example:** \$88 (infringement) + \$63 (SPER registration fee) = \$151.  
SPER registration fee equates to 41.72% of the total amount.

Although the current SPER registration fee sits at \$65.20, we recognise that the total SPER debt pool is made up from previous years where the registration fee was lower. \$63, \$60.90 and so on.

A conservative estimation of SPER's contribution to the entire debt pool via their registration fees can be done by multiplying the current total number of debts (4.2 million) by \$60 (conservative registration fee average) which comes to \$252 million, or 21.35% of the debt pool. In reality this is likely to be higher. Due to the limited information that SPER makes available to the public, it is hard to know for sure. Note: These figures exclude the enforcement fee that SPER charge in some cases, as no reliable data was available. The enforcement fee currently sits at \$109.10.

In the briefing document that SPER supplied to the Finance and Administration Committee on 22 March 2017, they referred to their current fee arrangements as “complicated, inconsistent and inflexible”<sup>4</sup>.

If what we have gleaned from SPER’s documentation and comments to the committee is correct, they intend to start charging a registration fee per case, in place of charging per fine. This will significantly help to reduce the financial burden that per fine registration fees put on people who have a number of fines.

There is currently 700,000 debtors and an average of 6 debts per person, and given that SPER appears to recognise that fees should be case-based, and not applied per fine, we think they should look at retroactively applying this approach to the current debt pool.

We have estimated that there is \$252 million of registration fees currently in the debt pool based on a average of \$60 per fine registration fees. However, if a \$60 registration fee was instead applied to each of the 700,000 debtors, the registration fees would only come to \$42 million. Reducing the \$252 million by \$210 million and the total debt pool from \$1.18 billion down to \$970 million.

Queensland Treasury and SPER appear to be placing too much focus on casting debtors with large debts that they have not, or cannot pay, as delinquents, and placing less focus on why the debt pool is as high as it is.

**CASE STUDY:** Brisbane man with \$30,000 in SPER debt and a suspended driver's licence as a result of unpaid toll infringements.

Due to poor communication from the tolling operator (Transurban, go via) the customer’s tolling account was suspended, and subsequent toll charges (\$4.39) incurred a \$23.46 administration fee per unpaid toll. The customer became aware when a bundle of approximately 30 toll invoices arrived in the mail. The amount of unpaid tolls was about \$130, but the administration fees added an additional \$700 to the total bill. There were 30 separate invoices, but Transurban insisted that he could not pay his unpaid tolls or get an account until the administration fees were paid in full. The customer had the money for the unpaid tolls, but could not afford the administration fees. They refused to let him pay the tolls.

The customer needed to use the toll road to get to work, or travel 2 and a half times the distance to work, which he could not afford. Many times he tried to rectify the situation but they were unhelpful. Transurban started referring his unpaid tolls to the Tolling Offence Unit (TOU) at DTMR. Due to DTMR’s delayed batch processing of infringements the customer started receiving bundles of infringements in the mail at a later date.

<sup>4</sup>Queensland Treasury, ‘Briefing Note for Finance and Administration Committee’, <http://www.parliament.qld.gov.au/documents/committees/FAC/2017/SPERAmendmentBill2017/bp-15Mar2017.pdf>

Not only did he not know what exactly was happening, he also didn't know who to speak to so he could sort it out. For a while it overwhelmed him and while facing other life challenges with a young child, he could not always mentally process what was happening.

Eventually he had Transurban chasing him for over \$7,000 (\$6,000 in administration fees), Transurban's debt collector for over \$5,000, DTMR for some infringements, and SPER for a large number of infringements relating to the unpaid tolls as well. He tried appealing to SPER and SPER had DTMR respond. DTMR said they were just relying on what Transurban sent them. DTMR then sent him back to SPER. Transurban sent him back to DTMR. All his appeals were denied with Transurban, DTMR and SPER, and he felt absolutely helpless. His SPER debt was now \$30,000 and he owed Transurban \$6,000 in administration fees for \$1,200 worth of tolls. SPER suspended his licence and he was about to lose his job and go bankrupt.

At this point the customer became aware of our work and contacted us. We familiarised ourselves with his case and informed him that what happened to him is very common. At this point we assisted him in further communication to Transurban and provided him a few paragraphs to include in his communication:

*Your company have escalated my Demand Notices to the TOU and SPER as a result of me not being able to pay the many hundreds of dollars in administration fees applied to my unpaid tolls.*

*It is my understanding that the administration fees charged to me by your company are to reflect the actual cost of issuing invoices. Can you please confirm to me in writing for and on behalf of Transurban Limited and Go Via that the many hundreds of dollars of administration fees charged to me by your company reflect the actual cost associated with issuing the Invoices/Notices to me, and would withstand an external audit, forensic analysis, legal challenge or Government inquiry?*

Just as we predicted, Transurban had someone from head office contact him and they immediately waived all the administration fees totalling \$6,000.

We then suggested that he raise with a senior executive how them refusing to accept payment for tolls did not appear to be part of their terms and conditions or written in the legislation, and by not allowing him to pay the tolls effectively made Transurban the engineers of his State debt. Despite Transurban constantly saying that they can not withdraw infringements, the executive called the customer ASAP and told him they have asked for all the infringements to be withdrawn. The customer tells us that the executive did not want to put it in writing, but told him he should check with SPER in 24 hours.

The end result was that the customer had all administration fees wiped and all toll infringements withdrawn, plus his licence was reinstated. If the customer did not know the right questions to ask, he would still represent \$30,000 of SPER's debt pool and he would be in the category of wilfully non-compliant, and attracting the negative stigma that the Treasury and SPER attach to these people.

The involvement of SPER in the tolling system has seen many people disadvantaged like the Brisbane man above. They are often time-poor, financially strained and do not understand what is happening or why it is happening to them. Some early research on their part directs them to us, but given we are contacted by thousands of people, we cannot keep up with the amount of people who need help. Those who claim to have been burdened by unfair Transurban practices often cannot solve the issue - this would make up a large amount of SPER debt. If Treasurer Curtis Pitt's statement is true -- that Treasury's aim "is to reduce the overall SPER debt", then calling an immediate inquiry into Road Tolling in Queensland is a necessary first step.

## Administration Fees and their impact on SPER

In 2001, Transurban increased their administration fee for non-payment of tolls in Victoria. They did this without seeking permission from the State<sup>5</sup>. Customers were overcharged \$1.3 million and Transurban did not have to pay this back. In 2002, the Victorian Government engaged an accounting firm which found a cost-based fee of between 28 and 93 cents could be justified<sup>6</sup>. They then agreed that the Administration Fee no longer had to be cost-based and that it should be set at a level which acts as a deterrent for toll road users who fail to carry their e-tags<sup>7</sup>.

Contrary to this, in Queensland, the Transport Infrastructure Act (TIA) says "an Administration Charge ... for a toll must not be more than reasonable cost ... of issuing a notice for, and collecting the unpaid toll and administration charge for the toll."<sup>8</sup> Transurban also made acknowledgment of this on a national level in August 2016 - "These fees are required to reflect the actual cost associated with issuing these Invoices/Notices..."<sup>9</sup>

<sup>5</sup>Auditor General Victoria, 'Report on Public Sector Agencies', 2003-2004, page 60,  
<http://www.audit.vic.gov.au/publications/2004/20040526-Financial-Statement-and-other-audits-forBalance-Dates-other-than-30june-2003.pdf>

<sup>6</sup>Auditor General Victoria, 'Report on Public Sector Agencies', 2003-2004, page 67,  
<http://www.audit.vic.gov.au/publications/2004/20040526-Financial-Statement-and-other-audits-forBalance-Dates-other-than-30june-2003.pdf>

<sup>7</sup> Auditor General Victoria, 'Report on Public Sector Agencies', 2003-2004, page 60,  
<http://www.audit.vic.gov.au/publications/2004/20040526-Financial-Statement-and-other-audits-forBalance-Dates-other-than-30june-2003.pdf>

<sup>8</sup>Transport Infrastructure Act 1994, Section 93, page 104,  
<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/T/TranstlnfA94.pdf>

<sup>9</sup>Tolling Ombudsman, 'Reference: TCO Review 1st September 2015 - 29th February 2016' (page 2),  
<http://www.tollingombudsman.com.au/TU%20Response%20-%20Sep%2015%20to%20Feb%2016.pdf>

The Administration Fees gazetted in Queensland sit at \$23.46 per unpaid toll<sup>10</sup>. Further to this, Transurban sometimes issue over 100 unpaid tolls - each with an administration fee - in the same letter, causing the administration fees to run into thousands of dollars. The question needs to be asked how it costs Transurban thousands of dollars to issue invoices in one envelope. And, if it does not reflect "reasonable cost ... of issuing a notice for, and collecting the unpaid toll and administration charge for the toll", then immediate action should be taken to a) stop Transurban from charging their current administration fees, and b) immediately withdraw all PINs with DTMR and SPER that arose from the administration fees that were against the TIA. This would see an immediate drop in debt held with SPER.

On top of this, since 2002, there have been great advancements in technology which have led to a reduction in the cost of communicating with customers and issuing notices electronically. Yet, even if we were to disregard the technological advancements and were to apply the CPI to the administration fee, an administration fee surely would not cost anymore than a maximum of \$5. Clearly, the toll road operators are abusing the administration fee provisions available to them and misusing the legislation by issuing many administration fees at once, which any reasonable person would conclude is many times the true cost.

**CASE STUDY:** Brisbane man experiences malfunctioning e-Tag. Pursued by debt collector and could not rectify the issue.

A Brisbane man experienced a faulty go via e-Tag and phoned in to resolve the issue. He was told it was due to the metallic film in his windscreen, and they informed him they would source his toll road use using photographic means which would eliminate the e-Tag malfunctioning problem. However, he continued to receive toll non-payment notices, each with an administration fee. Believing he had already rectified the issue, he phoned Transurban again (being placed on hold for lengthy periods of time) stating he was happy to pay for the tolls but believed it unfair to be charged the administration fee considering the photographic arrangement they had organised.

The issue remained unresolved and the toll non-payment notices continued to arrive. Transurban's debt collectors then began chasing him for the amounts (including administration fees). They threatened legal action if he refused to comply. He again insisted he was happy to pay for the tolls, just not the administration fees. They would not accept this and continued to chase him. They were chasing him for over \$9,000 - of which just over \$1,000 were for tolls (the rest were administration fees). He faced plenty of stress over this and sometimes felt it was beyond his ability to manage. For three years, he tried to rectify the issue that all began with Transurban's poor record keeping and unfair administration fees process.

---

<sup>10</sup>Queensland Government, Queensland Government Gazette (page 507), <https://publications.qld.gov.au/dataset/9bb0d005-e583-442d-aa4d-26879250e105/resource/9985c1bd-0fa4-403b-ab9d-83b5c372b475/download/08.04.16--combined.pdf>

Eventually, he asked us to help him. We suggested he write his story to Transurban and directed him to ask them to justify the over \$8,000 in administration fees. After just one email, a Transurban representative immediately wiped all of the administration fees. On top of this, infringements sat with DTMR/SPER and these had to be withdrawn. This man was facing upwards of \$9,000 combined in fees and penalties, for an issue he believed had already been rectified, and an issue that stemmed from a malfunctioning go via e-Tag. He was forced to find help outside of the company, and only then was he able to find a positive result (which was what he was asking for the entire time).

This is a common story - time-poor toll road consumers try to sort out their toll matter but end up giving up, which can result in spiralling debt, or them paying unfair fees. The question that needs to be asked is, how many other Australians are out there who have faced unfair practices at the hands of Transurban, and have refused to pay unfair administration fees? How many Australians have had Transurban refer that disputed debt to the government? How much disputed debt is currently being enforced unfairly by DTMR and SPER? And how many toll road customers have given up and paid the debt they want to dispute?

## Tolling Customer Ombudsman

The Tolling Customer Ombudsman (TCO) service is meant to provide an independent service to disaffected toll road customers who wish to dispute a decision made by a toll road operator. It is important to note that the TCO does not have the same powers as other ombudsmen services - once an unpaid toll escalates to the state government, the TCO has no powers to intervene or freeze further escalation. This raises several questions about the viability of the TCO considering many toll road disputes involve DTMR and SPER, and this is where the disputes most in need of investigation sit.

The implementation of the TCO service and the legitimacy of its current operation have raised concerns, and further points to a problematic tolling system in need of review.

Over the past 12 years, the TCO service has never been a member of the Australia New Zealand Ombudsman Association (ANZOA), which is Australia's peak body of ombudsmen<sup>11</sup>. In a publication written by ANZOA, they reference concern about "ombudsman" bodies that do not conform to the accepted model and are inappropriately described as an ombudsman office.

---

<sup>11</sup>The Scandal, 'The need to establish an official tolling ombudsman service', <http://thescandal.com.au/news/transurban/the-need-to-establish-an-official-tolling-ombudsman-service- 31-8-2016>

The policy statement reads:

"Our view is that a body should not be described as an Ombudsman unless it complies with six essential criteria addressing independence, jurisdiction, powers, accessibility, procedural fairness and accountability."<sup>12</sup>

Our understanding is that the TCO is not responsible to an independent board of industry and consumer representatives and that it operates as a for-profit organisation (as it operates under Lorimax Pty Ltd – a business that the lead Ombudsman is a director of), it appears the TCO would not meet Independence and Accountability criteria. These must be considered very important criterion in order for consumers to trust the service, and if the TCO as it currently stands does not meet them, an urgent review needs to be conducted. If Australia's peak body of Ombudsmen would not describe the TCO as a legitimate Ombudsman, it cannot be expected that Australian toll road customers trust this service.

Further to missing key criteria of ANZOA's policy statement, the implementation and history of the TCO raise pertinent questions about the agenda behind the TCO service and its independence.

According to the TCO's September 2012 - February 2013 Review, the TCO was the idea of a Transurban's spokesperson, who was a driving force in its establishment<sup>13</sup>. This spokesperson had previously worked as a spin doctor for a former Victorian Premier<sup>14</sup>. The agenda behind creating the TCO service is clear, given it was 'driven' by someone whose job it is to be concerned with media and public image, rather than with disaffected customers experiencing poor service and unfair practices at the hands of the toll road operator.

Until recently, the 'independent' TCO website was also owned by Transurban Limited. Transurban was listed as the Domain Registrant, while the Registrant was a Transurban employee. The TCO website ([www.TollingOmbudsman.com.au](http://www.TollingOmbudsman.com.au)) only changed ownership once a 'cease and desist' request was sent to Transurban Limited (who were the owner of the website at the time) as they were using the business name Tolling Customer Ombudsman despite it being registered to our entity, Tolling Customer Ombudsman Pty Ltd (TCOPL).

Transurban Limited never responded to the cease and desist request, but promptly transferred ownership of the website over to the TCO who engaged Gilbert + Tobin lawyers. The TCO then pursued TCOPL through the World Intellectual Property Organisation, but ultimately lost on all accusations. The judgment is published on AUSTLII<sup>15</sup>.

<sup>12</sup>Australia New Zealand Ombudsman Association, 'ESSENTIAL CRITERIA FOR DESCRIBING A BODY AS AN OMBUDSMAN', [http://www.anzoa.com.au/assets/anzoa-policy-statement\\_ombudsman\\_essentialcriteria.pdf](http://www.anzoa.com.au/assets/anzoa-policy-statement_ombudsman_essentialcriteria.pdf)

<sup>13</sup>Tolling Ombudsman, 'TCO Review', <http://www.tollingombudsman.com.au/TCO%20Review%20-Sep%202012%20to%20Feb%2013.pdf>

<sup>14</sup>The Sydney Morning Herald, 'Yes it's a tough job but someone has to sell it', <http://www.smh.com.au/national/yes-it-is-a-tough-job-but-someone-has-to-sell-it-20100106-lubz.html>

<sup>15</sup>AUSTLII, <http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/AUDND/2016/26.html?stem=0&>

The fact that in its 12 year operating history, the TCO never registered “Tolling Customer Ombudsman” and “Tolling Ombudsman” as business names is startling, and should raise many questions over the processes followed by the TCO in all aspects of the service it purports to provide consumers.

While the current ombudsman service maintains a close relationship with toll operators and does not have legitimate ombudsman powers, we protected the name “Tolling Customer Ombudsman” by registering it with ASIC. Our intention is to pass this name onto a legitimate, government-approved, new and overhauled independent ombudsman service. However, until this service is established, we launched a website ([www.TollingCustomerOmbudsman.com.au](http://www.TollingCustomerOmbudsman.com.au)) to give disaffected toll road consumers an opportunity to notify their elected representatives and public servants of their toll road complaint, as well as informing the Group General Manager of Customer Operations at Transurban.

If the TCO was truly independent of Transurban, their publications might provide more critical discussion and informative data. The TCO's six-monthly reviews provide minimal detail that is hard to follow and understand. When looking at the reports published by the TCO, the quality of information, formatting and discussion appears to be equivalent to that of a Grade 8 student's attempt at a report. When comparing the TCO's reports<sup>16</sup> to legitimate ombudsman service reports from similar industries, the TCO's pales in comparison (see the Public Transport Ombudsman of Victoria's annual report)<sup>17</sup>. This is especially concerning considering the TCO's service covers all of Australia, not just one state. It is important that any and all data that could point toward identifying the overarching cause of tolling problems be made publicly available. And it seems that the TCO does not publish semantic and critical data on toll road complaints to ensure the government and stakeholders are able to identify the root of the problem.

The TCO also does not have a dedicated fax machine, and instead uses the one at the Hawthorn Post Office. If a customer wishes to call the TCO, a 1800 number is supplied but operating hours are not referenced on the website. Our understanding is that when calling this 1800 number, it goes to voicemail where you have to leave your contact details. The TCO also does not publish an office address online and when asked for it by customers, does not usually provide it.

<sup>16</sup>TCO Review, 1 March 2016 - 31 August 2016,

<http://www.tollingombudsman.com.au/TCO%20Review%20-%202011%20March%20to%2031%20August%202016.pdf>

<sup>17</sup>Public Transport Ombudsman Victoria, 'Public Transport Ombudsman Victoria Annual Report 2016',

[http://www.ptovic.com.au/images/PDFs/2016\\_PTO\\_Annual\\_Report\\_Web.pdf](http://www.ptovic.com.au/images/PDFs/2016_PTO_Annual_Report_Web.pdf)

A Brisbane City councillor wrote to Transport and Main Roads Minister Mark Bailey, seeking an independent ombudsman service in place of the existing TCO. On 25 October 2016 in council proceedings, Councillor Amanda Cooper said:

"I myself wrote to Minister Mark Bailey on 9 September, so more than six weeks ago, and sought his support for the appointment of a tolling ombudsman that is independent of the commercial toll operators and independent of government. Unfortunately, I did this because I think this is a genuine issue. We certainly have determined that the existing Tolling Customer Ombudsman who operates is actually paid for by Transurban, which may be perceived to be somewhat of a conflict of interest for them to be operating in this particular space. I suggested in my correspondence to the Minister that this role could be a role very similar to that of the Queensland Ombudsman. Unfortunately, six weeks later, he still has not responded to my letter to him."<sup>18</sup>

Considering all of the concerns outlined above, we would support the appointment of a new, overhauled tolling ombudsman service that is entirely independent of the commercial toll operators. As part of this reform, we would encourage the new ombudsman service to have standard ombudsman powers which would enable them to pause matters during the course of an investigation and freeze further escalation through DTMR and SPER.

This could allow fewer toll debts to sit in the SPER debt pool, and could see a sizeable reduction in SPER debt. However, as the tolling ombudsman service currently stands, we will not see any debt reduction with SPER.

## **SPER as a political football**

When questioned about the large amount of toll debt escalating to SPER, the current Labor Government refers the Australian public to a policy agenda implemented by the previous LNP Government.

Treasurer Pitt's office has said on a number of occasions "unpaid penalties registered with SPER passed the \$1 billion mark last year as a result of the LNP's policy agenda while in office. The LNP's decision to automatically refer all toll fines to SPER saw fines worth \$124 million added to SPER's books in 2014..."

---

<sup>18</sup>Brisbane City Council, 'Minutes of Proceedings', 25 October 2016,  
<https://www.brisbane.qld.gov.au/sites/default/files/20161102-council-minutes-post-recess-25-october- 2016.doc>

However, independent media publication The Scandal asked the previous Transport and Main Roads Minister and current Shadow Treasurer Scott Emerson if he had any comment to provide. He said that “the processes and arrangements in relation to the operation of Queensland toll roads were established by the Bligh Government in 2011 just before the motorways were privatised. Those arrangements, executed while Annastacia Palaszczuk was transport minister, were not changed by the LNP government.”

This committee hearing is an encouraging step forward to understand why Australians have incurred a large amount of SPER debt. However, it is harmful for effective discussion if SPER is used as a political football, and blame is passed from one party to another. For efficient change to be made, the tolling arrangements with DTMR and SPER needs urgent and thorough parliamentary discussion and investigation.

Under the previous LNP Government, Premier Campbell Newman requested an “investigation into current tolling arrangements” be undertaken<sup>19</sup>. This was after DTMR received 53 toll complaints in a six-month period. Since Transurban acquired all toll roads in Queensland, we would expect DTMR to have received more than 53 complaints within a similar period. Over a two year period, the vast majority of the thousands of toll road complaints our office has received have been from Queensland. We would suggest the Committee recommend an inquiry into tolling arrangements in Queensland to help further understand the complications toll debt has on SPER.

## Final Word

Inquiries such as these present a preliminary opportunity to understand the consequences tolling arrangements have had on SPER debt. Giving SPER more power will potentially only put more people in hardship, given that the current system allows unfair, invalid or untrue toll debt to escalate to SPER. It is concerning that the people proposing a legislative solution to SPER’s debt pool problem, have given little or no consideration to the overwhelming data that is a significant contributor to the cause.

---

<sup>19</sup>Transport and Main Roads, RTI Meeting Minutes, <https://www.tmr.qld.gov.au/-/media/aboutus/rti/disclog/2015/13503724.pdf?la=en>