

7 August 2018

Committee Secretary
Transport and Public Work Committee
Parliament House
George Street
Brisbane QLD 4000

By email: tollroads@parliament.qld.gov.au

Dear Committee,

Inquiry into the operations of toll roads in Queensland

Caxton Legal Centre thanks you for the opportunity to provide this submission to the Transport and Public Work Committee Inquiry into the operations of tolls roads in Queensland.

Background

1. Caxton Legal Centre (**Caxton**) is Queensland's oldest community legal centre. We provide a wide range of legal advice, representation services and social work supports to low income and disadvantaged people.
2. Caxton currently employs 20 lawyers and 5 social workers. We also have approximately 200 solicitors and barristers who volunteer their time to provide advice to our clients at our evening advice sessions.
3. In the 2016/2017 financial year Caxton provided 9226 legal advices to 4864 clients and we also acted in 1160 cases.
4. Our experience in assisting clients with tolling matters suggests that changes to the current tolling system in Queensland are required.
5. Caxton Legal Centre has had the opportunity to contribute to and review the submission to this Inquiry authored by the Queensland Council of Social Service (**QCROSS**). We broadly support QCROSS' submission. This submission focuses on the main issues that our clients and workers have experienced when dealing with toll disputes.

Escalation and enforcement of unpaid tolls

6. A toll road user has three days to pay a toll. If the toll is not paid within that time Transurban Queensland sends a toll invoice to the registered operator of the vehicle, which incurs an administrative charge of \$8.50. If the invoice is not paid, a demand notice for non-payment of the toll is then sent, which incurs a further administrative charge of \$23.81.
7. It is an offence under the *Transport Infrastructure Act (TIA)* to fail to comply with a demand notice unless the registered operator of the vehicle has a reasonable excuse. If a demand notice is not paid, Transurban Queensland may refer the matter to the Department of Transport and Main Roads or local government who issue a Penalty Infringement Notice (**PIN**). If the PIN is not paid, the Department of Transport and Main Roads or the local government refers the matter on to the State Penalties Enforcement Registry (**SPER**) for enforcement action.
8. The way that unpaid toll debts are enforced raises two main issues.
9. Firstly, unpaid toll debts are not always referred to the state or local government. Transurban Queensland can also choose to collect unpaid tolls as a debt. This is often done by way of private debt collection agents and can result in the commencement of court proceedings against toll users.
10. In our experience, it is unclear when an unpaid toll will be pursued privately (and result in the commencement of civil proceedings), and when it will be referred to SPER. It is also possible for toll users to simultaneously have unpaid tolls that are sitting with Transurban Queensland (and may even be the subject of civil legal proceedings), while the non-payment of other tolls have already been referred to SPER.
11. The lack of uniformity in the enforcement process for unpaid tolls is confusing for many people and can lead to further escalation of toll debts as toll users often struggle to know how to manage those debts.

Recommendation: We recommend that there be one uniform process for the collection of unpaid tolls and that this be clearly communicated to toll road users.

12. Secondly, the total amount of the toll debt increases exponentially as it progresses through the enforcement process. We regularly see toll debts that consist largely of fees and charges that have accumulated on multiple toll trips. We have seen many clients with toll debts of tens of thousands of dollars.
13. The TIA was amended in March 2018 to allow for the aggregation of multiple tolls into the one notice. This means there is potential for unpaid tolls to incur reduced

administrative fees and charges. We understand that notices are now aggregated to include all tolls incurred in a three day period. We believe that further aggregation of unpaid tolls is necessary.

Recommendation: Tolls be aggregated on a monthly basis to reduce the exponential increase of toll debt due to administrative fees and charges.

Complaints process

14. As with the way in which toll debts escalate, the process for disputing tolling debts is also confusing for many people.
15. The stage in the enforcement process of a particular toll debt will determine where a complaint about that toll can be made. If a toll is being collected privately, a toll user can make a complaint directly to Transurban Queensland, and then to the Tolling Customer Ombudsman. The Tolling Customer Ombudsman cannot consider disputes after a PIN has been issued. Once a toll is referred to a State or local government, or to SPER, a toll user may be able to lodge a dispute with the government department that issued the PIN, SPER or the Queensland Ombudsman.

Recommendation: Ensure that the complaints process is clearly communicated to toll users on all notices and letters that are sent in relation to toll debts.

Recommendation: Ensure all complaints about toll related disputes are dealt with by one independent ombudsman service, regardless of where the debt is in the enforcement process.

16. We note that the Tolling Customer Ombudsman does not meet a number of the standards set out in the Benchmarks for Industry Based Customer Dispute Resolution and related Key Practices, as published by the Commonwealth Treasury.¹ As such, its suitability as an external dispute resolution service in its current structure is questionable.

Recommendation: Ensure that the ombudsman service responsible for all tolling disputes is independent and operates in accordance with best practice guidelines published by Treasury.

Billing and Financial Hardship

17. Our view is that roads are essential community infrastructure and access to those is important regardless of income. With an increase in population and development there

¹ <https://treasury.gov.au/publication/benchmarks-for-industry-based-customer-dispute-resolution/>

will undoubtedly be increased congestion, which should be planned for appropriately by government. Planning driven by market-led proposals in respect of public infrastructure such as toll roads risks priority being placed on profitability instead of the needs of the community.

18. Many aspects of tolling, including inflexibility in the setting and collection of tolls, unfairly impacts on vulnerable people in our community, especially those who do not have access to reasonable alternatives to using a toll road. This is particularly the case for users of the Logan Motorway and the Gateway Bridge.
19. We support the recent implementation of a financial hardship policy by Transurban Queensland, however we note that wide communication of the policy is critical to ensuring its accessibility by those who need it most. In addition, we believe that further steps are required to reduce the unfair impacts that tolling has on vulnerable clients.

Recommendation: Ensure there is clear communication to toll users about the availability of financial hardship provisions at all stages of the enforcement process and on all notices or letters that are sent in relation to toll debts.

Recommendation: Allow tolling concessions for people on low income.

Recommendation: The requirement to consider circumstances of financial hardship in respect of toll debts be enshrined in legislation.

Recommendation: Expressly include disputes involving the application for hardship assistance within the jurisdiction of an ombudsman service.

20. We note that the requirement to pay a toll within 3 days is an extremely short billing cycle, after which extra fees and charges are incurred. This has an unfair impact on vulnerable people who may not have ready access to finances within such short time frames.

Recommendation: Tolls be billed monthly, in line with many other services.

21. We also note that in our experience, many vulnerable clients, including elderly people, manage their finances by paying their bills in person. Tolls can only be paid in person once a toll invoice has been issued, however this includes a substantial administrative fee when compared with the amount of the toll. There are limited payment options for tolls prior to an administrative charge being incurred. This unfairly impacts on vulnerable people who often have limited access to the internet or phone, or who prefer to manage payment of their bills in person.

Recommendation: Toll users be provided with a mechanism to pay toll debts in person, without incurring administrative charges.

Conclusion

Thank you for providing us with the opportunity to make this submission. This submission was prepared by, Yatarla Clarke, Senior Lawyer, Human Rights and Civil Law Practice.

Should you wish to discuss any aspect of this submission, please do not hesitate to contact Ms Clarke by telephone to [REDACTED]

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Klaire Coles', is written over a light blue circular stamp.

Caxton Legal Centre Inc.

Klaire Coles - Coordinating Lawyer
Human Rights and Civil Law Practice