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Office of
State Revenue

Queensland Treasury

1 August 2017

Ms Anne Holmes
Senior Research Officer
Senate Economic References Committee
[REDACTED]

Dear Ms Holmes

I refer to your email of 20 July 2017 regarding a submission that has been made by Toll Redress to the Senate Economics References Committee Inquiry into the operation of existing and proposed toll roads in Australia.

Queensland Treasury welcomes the opportunity to assist the Committee with its consideration of this issue and to provide information to clarify the role and processes of the State Penalties Enforcement Registry (SPER) in the collection of toll related debts.

State Penalties Enforcement Registry

SPER is a division of the Office of State Revenue, which is part of Queensland Treasury. Established in November 2000 under the *State Penalties Enforcement Act 1999* (the SPE Act), SPER is responsible for the collection and enforcement of unpaid infringement notice fines, court-ordered penalties, offender levies, and offender debt recovery orders in Queensland (collectively referred to as penalty debt).

There are currently 226 issuing authorities for which SPER performs recovery action. This includes 154 individual courts and 72 infringement notice issuing agencies. Infringement notice issuing agencies for which SPER undertakes recovery action include Queensland Government departments, Queensland statutory bodies such as the Queensland Building and Construction Commission (QBCC), Hospital and Health Services, local governments and universities. SPER does not perform recovery action for private companies or commercial businesses.

SPER toll debt referrals

SPER collects unpaid fine amounts for infringement notices issued for tolling offences by the Department of Transport and Main Roads (DTMR) and the Brisbane City Council (BCC) which are referred to SPER for collection and enforcement, along with any SPER fees relating to these infringement notice fines. SPER does not collect unpaid tolls for toll road operators.

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The majority of debts relating to tolling offences that are registered with SPER relate to State-owned toll roads and were referred by DTMR. The comments in this letter relate to State-owned toll roads.

Attachment 1 provides a general overview of the toll road operation and enforcement process for State controlled roads in Queensland. This attachment was prepared for the Finance and Administration Committee of the Queensland Parliament as part of a recent inquiry into the State Penalties Enforcement Amendment Bill 2017 (SPE Amendment Bill), to which Toll Redress also made a submission. Please note that the figures included in this document were current at the time of submission to the Committee (4 April 2017). New fine and fee amounts apply from 1 July 2017 and the updated amounts can be provided if you require.

State Penalties Enforcement Amendment Bill 2017

On 2 March 2017, the SPE Amendment Bill was introduced into the Queensland Parliament to progress legislative amendments to the SPE Act that will modernise the management of penalty debts by SPER. These amendments are required to support implementation of a new service delivery model for SPER. Central to this new model is a move from a one-size-fits-all debt recovery model to a contemporary approach that uses targeted treatment strategies based on an overall view of the debtor's circumstances and payment history.

In accordance with standing orders, the Bill was referred to the Finance and Administration Committee for examination. Details about the committee's inquiry into the SPE Amendment Bill can be found at:

<http://www.parliament.qld.gov.au/work-of-committees/committees/FAC/inquiries/past-inquiries/SPERAmendmentBill2017>.

The majority of statements made in relation to SPER in the Tolling Redress submission to the Senate Economics References Committee Inquiry are based on information provided by Queensland Treasury to the Finance and Administration Committee as part of the recent inquiry into the SPE Amendment Bill. For example, the Queensland Treasury briefing note referenced on page 3 of the submission was provided as background information to assist the Finance and Administration Committee in its consideration of the SPE Amendment Bill. The statements by SPER referred to on page 4 of the submission also originated from a discussion between committee members and Queensland Treasury officers at a public briefing of the committee on 22 March 2017.

The context in which the statements were made did not specifically relate to the enforcement of unpaid tolls in Queensland but were part of a broader dialogue about the management of penalty debt by SPER. As part of a discussion of proposed legislative amendments to streamline and simplify SPER fee arrangements, the departmental briefing note stated that "SPER's current fee arrangements are complicated, inconsistent and inflexible" as these fees are presently applied differently for different types of debts and for different enforcement actions.

Similarly, the division of SPER debtors into the three categories was put forward in questions by a Committee member to Queensland Treasury officers in relation to the percentage of SPER debtors who are wilfully noncompliant.

The Queensland Treasury briefing note and public briefing transcript are both available on the Finance and Administration Committee inquiry's webpage. The SPE Amendment Bill was passed by the Queensland Parliament on 10 May 2017 and received assent on 19 May 2017.

Questions and responses

Question 1 – How SPER funds its operations: is it in any sense a 'user-pays' operation? For example, do organisations that use SPER's services such as Transurban, contribute to the cost of recovering unpaid tolls and other charges relating to them?

Response – SPER is funded through the departmental budget of Queensland Treasury. SPER does not retain any of the revenues it collects. The proceeds of fines collected by SPER are paid to the Queensland Government Consolidated Fund, except where the relevant issuing authority is an entity such as a local government or university that is entitled to retain the proceeds of the fines they impose. All revenues from SPER imposed fees are also paid to Consolidated Fund.

SPER does not impose user charges. While agencies such as local councils and universities that are entitled to retain the proceeds of fines are required to pay a SPER registration fee for each debt they refer to SPER, these fees are not a user charge as they do not reflect the costs to SPER of collecting and enforcing debts referred by those agencies. Rather, this fee serves as an incentive for fine-retaining agencies to refer debt that is recoverable, as well as to make a nominal contribution to the enforcement costs incurred by the State on their behalf.

Question 2 – What is the volume of work SPER conducts for Transurban? Has this volume has remained steady or has it fluctuated?

Response – As indicated previously, SPER does not collect unpaid tolls for toll road operators. SPER collects only the fine and associated enforcement fees that are owed to the State arising from the issue of an infringement notice for a tolling offence by DTMR. The volume of debts related to unpaid infringement notices for tolling offences referred to SPER by DTMR increased significantly during 2014-15 and 2015-16, before decreasing substantially in 2016-17.

Question 3 - Does the volume impact on SPER's ability to undertake its other work?

Response – SPER manages debts at a case level and many cases involve debts of more than one offence type. As a result, SPER is unable to ascertain the extent to which changes to the volume of tolling related fines impact on SPER's workload.

Question 4 - What is the general length of time between non-payment of fines and referral to SPER to pursue payment with Transurban fines?

Response – Under the SPE Act, if an infringement notice fine issued by DTMR is not recovered within 28 days of the notice being issued, the unpaid fine amount may be referred to SPER as a debt for collection and enforcement.

SPER's role in collecting and enforcing unpaid fines for tolling offences comes at the end of a lengthy process that typically lasts three to four months. During this time, people have generally had several opportunities to deal with their unpaid toll with the toll road operator, and the resulting fine with DTMR.

Question 5 – Are there any other toll operators using SPER's services? If so could the above questions be answered in relation to their relations with SPER?

Response – All toll roads in Queensland are operated by Transurban Queensland under concession agreements with the State and Brisbane City Council. As indicated previously, SPER does not perform recovery action for private companies or commercial businesses, including toll road operators. Both DTMR and BCC have the capacity to refer unpaid infringement notices for tolling offences to SPER. As noted above, the majority of debts relating to tolling offences that are registered with SPER were referred by DTMR.

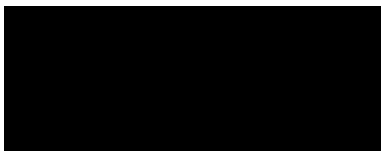
Question 6 – Does SPER collect toll fine debts from Queensland residents for Transurban operations in other states?

Response – SPER does not collect unpaid tolls for toll road operators.

Thank you again for the opportunity to provide the Senate Economics References Committee Inquiry with information about SPER's role and processes in relation to toll road operation and enforcement. I trust this information is of assistance.

If you require any further information, please contact Mr Richard Jolly, Deputy Registrar SPER at [REDACTED] or on [REDACTED]

Yours sincerely



Elizabeth Goli
Commissioner of State Revenue

General overview of the tolling enforcement process

The tolling enforcement framework for Queensland is outside the scope of the State Penalties Enforcement Amendment Bill 2017 except to the extent that tolling-related overdue fines are referred to, and managed by, SPER. Nonetheless, this general overview has been compiled by Queensland Treasury with support from the Department of Transport and Main Roads (TMR) to provide a context to the Finance and Administration Committee in which to consider the submissions that make specific mention of SPER's role in managing tolling-related debt. Requests for further information relating to tolling enforcement that is not within scope of the Bill may be directed to TMR.

TMR manages the policy and legislative framework for toll roads in Queensland under the provisions of the *Transport Infrastructure Act 1994* (TIA). All toll roads in Queensland are operated by Transurban Queensland under concession agreements with the State (Gateway and Logan Motorways and Airportlink) and Brisbane City Council (Legacy Way, Clem 7 and Go Between Bridge). The comments below relate to the State's toll roads.

Legal Environment

Tolling compliance and enforcement is governed by a suite of legislation and agreements:

- the TIA
- the Road Franchise Agreement (Gateway and Logan Motorways)
- The Airport Link Project Deed
- Agreement for Provision of Vehicle Registration Information for Toll Compliance (TRAILS agreement)
- the *State Penalties Enforcement Act 1999* (SPE Act) and the associated *State Penalties Enforcement Regulation 2014*

Transport Infrastructure Act 1994

The TIA is the key legislative instrument with respect to toll roads.

Chapter 6, Part 7 of the TIA sets out the legislative framework for tolling compliance and enforcement for the State's toll roads and is applicable to all motorists who elect to use the toll roads. (Note: a separate Part 8 applies to local government toll roads.)

Section 99 (3) of the TIA establishes the offence of failing to comply with a notice of demand (issued by the toll road operator (TRO) for an unpaid toll), unless the registered operator has a reasonable excuse. Section 99 of the TIA provides for the process to be used by a registered owner to make a driver nomination to the toll road operator as a response to a request for payment by the TRO.

Toll Road Declarations

The Minister for Main Roads may make a declaration under the TIA that a toll is payable for the use of a franchised road. Current declarations are in place for the Gateway and Logan motorways and AirportLinkM7 and include notice of matters mentioned in Schedule 5 of the TIA. Among other matters, the declarations include information on the maximum tolls for each vehicle class, the maximum user administration charge (for example, the video matching fee) and maximum administration charge for issuing a demand notice for unpaid tolls, methodology for annual CPI increases and a description of available payment arrangements.

Road Franchise Agreement – Gateway and Logan motorways

The Road Franchise Agreement (RFA) between the State and the franchisees (Queensland Motorways Pty Limited, Gateway Motorway Pty Limited and Logan Motorways Pty Limited) came into effect on April 1, 2011. The RFA sets out the rights and obligations of the parties in relation to the operation and maintenance of the Gateway and Logan motorways for the duration of the 40 year concession period, ending 2051.

The RFA identifies the requirement for the State to undertake enforcement services for the Gateway and Logan motorways.

Airport Link Project Deed

In 2008, the State (acting through the then Minister for Transport and Main Roads) entered into a Road Franchise Agreement (in this instance, part of a Project Deed) with Brisconnections under the TIA, for the Airport Link project. The Project Deed authorised the construction of infrastructure for the Airport Link works (including the tollroad) and granted a 45 year concession to Brisconnections Trustee and Brisconnections Operations (collectively referred to as 'Brisconnections') to:

- design, construct and commission the AirportLink project, and

- operate, maintain and repair the tollroad.

The Project Deed contains a similar provision to Queensland Motorways' RFA with respect to enforcement. However, the State's enforcement regime applicable to toll roads in 2008 pre-dated the removal of toll booths and the introduction of free-flow tolling in July 2009. At that time, fewer demand notices and referrals to TMR for the issue of a penalty infringement notice (PIN) were progressed as the toll booths provided motorists with an "on-road" method (and subsequent barrier) for paying the toll. The Project Deed concession period ends in 2053.

Agreement for Provision of Vehicle Registration Information for Toll Compliance (TRAILS agreement)

TMR collects and maintains a register of Vehicle Registration Information under the *Transport Operations (Road Use Management - Vehicle Registration) Regulation 1999*. Toll road operators require access to the vehicle registration information for the purposes of enforcing toll compliance.

TMR provides toll road operators with select information collected in its motor vehicle registration database (TRAILS) for a fee.

The motor vehicle registration information is used by TROs for two specific purposes:

Information	Specific Use
Vehicle details (make, model, weight, number of axles and purpose of use)	To help calculate the correct toll for motorists
Name, street address, email address and telephone number of the registered operator	To follow-up with motorists who have not made an arrangement to pay for use of the toll roads.

The TRO conducts initial compliance activities including the issue of unpaid toll invoices. The invoice charges are identified as user administration charges (video matching fees and casual user invoice fees) under the toll road declarations. Where an invoice is unpaid, the toll road operator may issue a demand notice.

State Penalties Enforcement Act 1999 (SPE Act) and the State Penalties Enforcement Regulation 2014

The State Penalties Enforcement Registry (SPER) operates under the SPE Act and the *State Penalties Enforcement Regulation 2014*.

Part 3 of the SPE Act provides the legislative basis and supporting framework that enables administering authorities such as TMR to issue a PIN, commonly known as a fine or ticket, including specification of what must be included in the infringement notice. The remainder of the SPE Act deals with centralising and executing the collection and enforcement of unpaid fines and court ordered amounts which are referred to SPER.

The *State Penalties Enforcement Regulation 2014* is subordinate legislation that:

- sets out the offence provisions (across all Acts that define offences) that are prescribed as infringement notice offences for which PINs may be issued;
- prescribes the administering authorities and the authorised persons for infringement notice offences;
- prescribes particulars that must be included in infringement notices and details that an administering authority must provide to SPER regarding an unpaid PIN; and
- prescribes fees and other monetary amounts relevant to the administration, collection and enforcement of unpaid amounts.

Schedule 1 of the *State Penalties Enforcement Regulation 2014* reflects inclusion of the offence specified in Section 99 (3) of the TIA as a penalty infringement notice (PIN) offence with a value of 1²/₅ penalty units. The current value of a penalty unit is specified as \$121.90 in the *Penalties and Sentences Regulation 2015*. The current value for a tolling-related PIN is \$170.

Current process

Since July 2009, Queensland toll roads use free-flow (electronic) tolling, which means that there is no need to stop and pay the toll while using the road. Instead, motorists who do not have a payment arrangement must contact Transurban Queensland (through *go via* – Transurban Queensland's toll payment provider) to arrange toll payment within 3 days of travel.

The escalation process for an unpaid toll after three days is reflected in the chart on the last page of this attachment. Of particular note are the following:

- Due to the high volume of transactions (more than 300,000 trips per day), compliance with timeframes for payment and driver nominations are critical for efficient processing. The window for a road user to negotiate with the toll road operator closes with the referral of the unanswered demand notice to TMR for consideration of issuing a PIN. At that point, the toll road operator stops pursuing the revenue (i.e. it writes off the specific debt). Legislation and other agreements governing the processes used by the toll road operator are administered by the Minister for Main Roads.
- It is TMR's current practice to accept statutory declarations in relation to not being the driver of the vehicle as a valid response to a PIN.
- Further, the SPE Act enables an administering authority to withdraw a PIN at any time before it is fully paid, including after referral to SPER. This provides a mechanism for TMR to accommodate exceptional circumstances, the facts of which may emerge after referral of a PIN or multiple PINs to SPER. For example, the registered operator may write to the Director (Central Operations and Support) and provide proof:
 - they were away from their residence or outside of Australia at the time of the demand notice being issued,
 - they had sold the registered vehicle prior to the toll travel occurring, yet TMR records did not reflect this at the time of demand notice issue, or
 - the registered operator provides supporting evidence of an exceptional circumstance for failing to comply with the demand notice, satisfying the “reasonable excuse”.
- PINs issued by TMR are in relation to a single demand notice and a single tolling event.
 - Under the proposed amendments (Clause 26, proposed section 38 (6)), individual PINs can be aggregated on a single SPER enforcement order, to which a single fee will apply. This means that when multiple tolling PINs for the same person are referred by TMR in a single batch, these will be aggregated by SPER for the purpose of issuing an enforcement order, and a single fee applied.
- Neither SPER nor TMR collect unpaid tolls. TMR and SPER collect only the fine (and associated enforcement fees in the case of SPER) that are owed to the State arising from the issue of a PIN by TMR. The TRO writes off revenue for each trip that is referred to TMR for a PIN, and receives no financial benefit from any subsequent PIN payment.
- The fine value for “failure to respond to a demand notice” is a matter of Government policy.
- SPER's role in enforcing tolling fines comes at the end of a lengthy process that typically lasts three to four months, during which people have had several opportunities to deal with their unpaid toll (with the TRO) or the resulting fine (with TMR).
- The TRO, TMR and SPER are critically reliant on contact details in the TMR database being current. If a person does not update their mailing address with TMR, the person will not receive any of their notices (invoice and demand notice from the toll road operator, penalty infringement notice from TMR or enforcement order from SPER). They may not be aware they are under enforcement until SPER undertakes data enrichment (to source a new address when notices come back to SPER as “return to sender” for example) and eventually makes contact with them or when pulled over by police while driving and are advised that their licence is suspended. Whilst some notices genuinely get lost in the mail, in most cases where people did not receive their notices, this is due to out of date address details in TRAILS.
 - There are provisions in the current Act (sections 55 -60) and proposed amendments (Clause 37) that enable people to apply to restart the PIN process (and cancel enforcement and reverse enforcement fees) if they did not receive their PIN. Proposed section 56 (6) re-enacts the existing

provision to enable multiple PINs to be aggregated into one application. There is also a specific proposed amendment (Clause 37, proposed sub-sections 57(3) and (4)) that will require a person to update their address details with TMR before their application will be considered (if the reason they did not receive their PIN was because their address was not current).

- SPER does not treat tolling debt differently to other penalty debt. Rather, SPER's case management approach focusses on the total debt owed by the debtor in determining an appropriate treatment strategy.

ESCALATION PROCESS FOR UNPAID TOLLS, FINES & FEES¹

Toll Road Operator (TRO)

DTMR OR BCC

SPER

VEHICLE INCURS TOLL	UNPAID TOLL INVOICE (OPTIONAL)	DEMAND NOTICE	INFRINGEMENT NOTICE	UNPAID FINE REGISTERED WITH SPER
<p>Vehicle passes through toll point.</p>	<p>If the vehicle is not linked to an active video or tag account and no arrangement to pay is made within 3 days, a toll invoice is issued to the registered operator.</p> <p>If the registered operator was not the driver when the toll was incurred, the registered operator may nominate the driver to the TRO before the invoice due date.</p> <p>The invoice includes the amount of the unpaid toll/s, plus an admin fee and/or an image processing fee.</p>	<p>If the invoice is not addressed by the due date, the TRO may issue a Demand Notice (DN) to the registered operator of the vehicle or the nominated driver.</p> <p>The registered operator may nominate the driver to the TRO before the demand notice due date.</p> <p>The TRO issues a separate DN for each unpaid toll.</p>	<p>The relevant enforcement agency (e.g. BCC³ or TMR) may issue a PIN.</p> <p>The PIN is issued for failing to comply with the DN within the required timeframe unless the registered operator has a reasonable excuse.</p> <p>(TMR accepts statutory declarations for driver nomination at this stage.)</p>	<p>The overdue PIN is registered with the State Penalties Enforcement Registry (SPER). SPER issues an enforcement order.</p> <p>The SPER compliance process is used to collect the infringement notice debt (not the unpaid toll or TRO fees).</p>
<p>TOLL (example only – Class 2 at Murrarie) \$4.39</p>	<p>DEBT (example only) \$ 4.39 \$ 0.47 video matching fee (VMF) \$ 8.21 invoice fee \$13.07 owing</p>	<p>DEBT (example only) \$ 4.39 \$23.46 admin fee \$27.85 owing</p>	<p>The penalty amount is payable to either TMR or BCC. The TRO does not receive any of the penalty proceeds from TMR issued PINs. TRO writes off revenue for each trip that is referred to TMR for a PIN.</p>	<p>DEBT \$170.00 fine \$ 65.20 SPER registration fee \$235.20 owing</p>
<p>DUE Within 3 days of passing through toll point</p>	<p>DUE 14 days</p>	<p>DUE 30 days</p> <p>If the DN remains unpaid², TROs may refer the DN to TMR or BCC for consideration of a penalty infringement notice (PIN).</p> <p>The TRO writes-off the associated revenue when a trip is referred for a PIN.</p>	<p>DEBT \$170.00 infringement penalty</p> <p>DUE 28 days</p>	<p>DUE 28 days</p>

Notes:

1. Fee and fine values are indicative and subject to indexation.
2. For State-controlled roads, the TRO may engage approved external debt recovery agencies to pursue debtors whose debt has reached a nominated value.
3. BCC's PIN management strategy is a matter for BCC. BCC has the option of registering overdue PINs with SPER in accordance with arrangements for fine-retaining agencies.