

Our ref SR1611  
Your ref  
Enquiries Matthew Longland

Department of  
**Transport and Main Roads**

11 April 2016

Mr Wesley Ballantine  
Group General Manager Queensland  
Transurban Queensland  
PO Box 2125  
Mansfield Qld 4122

Dear Mr Ballantine

### **Framework for tolling compliance and enforcement**

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I refer to your draft letter dated 14 December 2015 proposing changes to the existing tolling compliance and enforcement regime. As you are aware, the State, through the Department of Transport and Main Roads (the Department) and the State Penalties Enforcement Registry (SPER), has been working with Transurban Queensland (TQ) to develop a new tolling enforcement and compliance regime with a view to achieving better outcomes through more targeted processes.

I have attached a tolling compliance and enforcement framework based on TQ's proposal and its past work with all parties (the Framework). The Framework sets out some key principles applying to the Operator Led Debt Management (OLDM) process and the State enforcement process, as well as some relevant responsibilities of each party in both processes.

Consistent with past practice, TQ will bear responsibility for compliance-related activities. TQ's concept of the OLDM process is consistent with the principle of providing the toll road operator with sufficient opportunity to collect tolling related debt prior to referral for enforcement.

In addition to the Framework, the Department notes the following:

#### **(1) TQ Customer Contact**

TQ is committing to increase its proactive efforts with regard to early contact with No Arrangement Travel (NAT) road users. The Department is in the process of making available certain further contact details of NAT road users to assist with this process. At this stage, approximately one-quarter of records in TRAILS contain elements of further contact details with this number expected to increase into the future.

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The State notes that TQ is authorising its customer service team to make settlement arrangements and is agreeing to waive fees for NAT road users opening customer accounts.

Also, the current practice of suspending customer accounts is exacerbating the number of referrals to State enforcement. The State supports TQ's efforts to better manage TQ account-holding customers in-house through minimising the practice of suspending customer accounts.

**(2) Civil Debt Recovery (CDR)**

Schedule 3, Item 10(1)(f)

The State notes that TQ intends to introduce a series of new practices with regard to CDR and requires that practices be undertaken in a manner that is consistent with:

- (a) industry guidelines and codes of practice;
- (b) relevant legislation; and
- (c) TQ's contractual obligations with the State.

TQ will manage its contracts with debt collection agencies in an efficient and appropriate manner and will take action where required.

**(3) Referral time limit**

The State, through the Department and SPER, will retain their statutory functions for toll enforcement activities. I note that TQ has requested an extension of time in which to refer expired demand notices to the Department. The State is not able to support this request as there are statutory limitation periods which apply to the State's ability to pursue offences. For this reason, TQ may only refer an expired demand notice within

Schedule 3, Item 10(1)(f)

Schedule 3, Item 10(1)(f)

However, the Department

acknowledges TQ's interest that the State continue to issue PINs in a timely manner. Therefore, the Department agrees to a review of the arrangements outlined in this letter 12 months from commencement.

**(5) Evidentiary information**

In order to maintain the integrity of the enforcement process, particularly with regard to potential prosecutions, the Department will be contacting TQ in the near future to discuss the nature and quality of evidentiary information, primarily the provision of relevant "account notes".

SPER is undertaking a modernisation program that includes targeted enforcement and increased field activity such as vehicle immobilisation, seizure and sale.

SPER monitors debt recovery performance and provides this information to PIN-issuing agencies such as the Department on a regular basis. SPER and the Department will work with TQ to determine whether, and if so how, this data can be used to optimise the effectiveness of the tolling enforcement regime.

**(6) Road Franchise Agreement**

The impact, if any, of the implementation of these arrangements on the rights and obligations of the parties under the Road Franchise Agreement for the Gateway and Logan Motorways or the AirportLink Project Deed will be assessed during the implementation of the process.

**(7) Implementation of the Framework**

This letter (including the Framework) is a statement of relevant principles and is not intended to have any legal effect. By signing below, the parties agree to work together to give effect to the principles as soon as possible following the date of this letter.

I would like to thank TQ for the support provided to the enforcement review over the past year or so. I also note TQ's further commitment to working with the Department on the process for aggregating trips on demand notices and look forward to progress on this matter in the near future.

Please contact Bradley Tubb, Director (Transport System Governance) on 3066 2852 if you require further information.

Yours sincerely

Not Relevant

Not Relevant

Matthew Longland  
Deputy Director-General (Policy, Planning  
and Investment)  
Department of Transport and Main Roads

Natalie Barber  
Registrar  
State Penalties Enforcement Registry

The terms of this letter are hereby acknowledged and agreed to:

Not Relevant

Wesley Ballantine  
Group General Manager Queensland  
Transurban Queensland

	Process	Application	Responsibility
<p><b>Operator Led Debt Management</b></p> <p><b>Overview:</b> Operator Led Debt Management (OLDM) allows Transurban Queensland (TQ) to use a measured response to cater for the differing needs of customers. The staged OLDLM processes range from education to court action, depending on debt level and cooperation from the motorist. OLDLM gives TQ the opportunity to communicate with the customer, provide options for ongoing and future travel and help the customer avoid further fees and penalties.</p> <p>TQ may engage Debt Collection Agencies (DCAs) to assist in the conduct of processes under the OLDLM process. Schedule 3, Item 10(1)(f)</p> <p>TQ manages the DCAs in accordance with its contractual obligations with the Department of Transport and Main Roads (TMR), industry guidelines and codes of practice and the relevant legislative framework. Stages in the OLDLM framework are outlined below.</p>			
1	TQ Customer Contact - Customer service team will proactively contact customers with outstanding debt to request full payment or entry into payment plan	<ul style="list-style-type: none"> <li>Early contact will initially be directed toward go via account holders but extended to No Arrangement Travel (NAT) road users as additional contact details become more widely available from TMR.</li> </ul>	TQ
2	DCA Contact – DCA may make contact through less formal channels such as phone calls, SMS messages, email to request full payment or entry into a payment plan	<ul style="list-style-type: none"> <li>Schedule 3, Item 10(1)(f)</li> <li>TQ must have systems in place to monitor DCA activities to ensure compliance with contractual and legislative obligations and industry guidelines.</li> </ul>	TQ and DCA
3	DCA Formal correspondence – DCA to send a letter of demand. May be followed by a letter from DCA's legal firm	<ul style="list-style-type: none"> <li>Schedule 3, Item 10(1)(f)</li> <li>TQ must have systems in place to monitor DCA activities to ensure compliance with contractual and legislative obligations and industry guidelines.</li> </ul>	TQ, DCA and DCA legal firm
4	DCA Field Call, where required, to make customer aware that debt is owing and to request contact with the DCA to resolve.	<ul style="list-style-type: none"> <li>Schedule 3, Item 10(1)(f)</li> <li>TQ must have systems in place to monitor DCA activities to ensure compliance with contractual and legislative obligations and industry guidelines.</li> </ul>	TQ and DCA
5	Legal proceedings to recover outstanding toll-related debt	<ul style="list-style-type: none"> <li>Schedule 3, Item 10(1)(f)</li> <li>TQ will instruct the legal representatives of the DCAs.</li> </ul>	TQ, DCA and DCA legal firm

	Process	Application	Responsibility
		<ul style="list-style-type: none"> <li>Should the courts award costs against the motorist, DCA legal representatives may recover these costs on TQ's behalf.</li> <li>TQ may not refer a demand notice for enforcement after commencing legal proceedings.</li> </ul>	
<p><b>State Enforcement</b></p> <p><b>Overview:</b> <i>The State provides enforcement for tolling-related infringements described under section 99(3) Transport Infrastructure Act 1994.</i> <span style="border: 1px solid black; padding: 2px;">Schedule 3, Item 10(1)(f)</span></p>			
6	Penalty Infringement Notices (PINs) to be issued by TMR on behalf of the State for TQ referrals of demand notices that have not been addressed within the required timeframe	<ul style="list-style-type: none"> <li>Schedule 3, Item 10(1)(f)</li> <li></li> <li></li> <li></li> <li></li> </ul>	TQ and TMR
7	SPER institutes recovery action for unpaid PINs referred from TMR	<ul style="list-style-type: none"> <li>SPER undertakes enforcement action consistent with requirements under the <i>State Penalties Enforcement Act 1999</i>.</li> <li>SPER enforcement activities may include targeted enforcement and increased field activity such as vehicle immobilisation, seizure and sale.</li> </ul>	SPER

	Process	Application	Responsibility
<b>Review</b>			
8	Review at 12 months after date of implementation	State and TQ retain the right to request periodic reviews every 12 months.	TQ, TMR, SPER
9	Data review	TQ and the State will work together to analyse data to optimise the effectiveness of the tolling compliance and enforcement regime.	TQ, TMR, SPER

Released under RTI - DTMR