

28 July 2023

Professor Allan Fels AO
Review Chair
NSW Government 2023 Toll Review

Dear Professor Fels AO

NSW Ombudsman submission – ‘2023 Independent Toll Review’ discussion paper

I am writing to make a very brief submission to the 2023 Independent Toll Review.

I have noted the [terms of reference](#) for the review and the related [discussion paper](#). Below I provide information about:

- (a) the mechanisms relating to tolling complaints, and
- (b) an overview of the nature of tolling complaints received by my office in the last 2 years.

As you will appreciate, matters relating to competition and setting the price of tolls are outside the remit of my office. However, by providing below a short account of some of the issues that generate complaints to my office, I hope to contribute to your review to the extent that it relates to issues of service delivery.

The role of the NSW Ombudsman

The NSW Ombudsman is an independent integrity body that pursues fairness for the people of NSW. In particular, we strive to ensure that those entrusted with public power and resources fulfil their responsibilities and treat everyone fairly.

A central function of the NSW Ombudsman is to receive complaints about, to monitor, and to investigate, the conduct of NSW public authorities. This includes State Government departments and agencies, NSW statutory bodies, and local councils.

We aim to identify that public authorities are conducting themselves lawfully, making decisions reasonably, and treating all individuals equitably and fairly. When public authorities fail to do this, we may make findings that they have engaged in ‘maladministration’.¹

How tolling complaints are managed in NSW

In relation to tolling, the NSW Ombudsman can receive complaints about NSW public authorities providing relevant services to the public, including Transport for NSW (TfNSW) (which operates some

¹ More formally, section 26 conduct (referring to section 26 of the *Ombudsman Act 1974* (NSW)), which sets out the various categories of wrong conduct about which the Ombudsman may make findings.

tolled roads, including the Sydney Harbour Bridge and Tunnel), Service NSW (which administers driver licences and vehicle registration, as well as e-tags), and Revenue NSW (which is responsible for fines administration and enforcement).

The NSW Ombudsman does **not** have jurisdiction to receive or deal with complaints about the conduct of private road and toll operators such as Linkt (trademark of Transurban).

A private sector Tolling Customer Ombudsman (TCO) has been established to receive and deal with complaints about Linkt.² These may include issues relating to travel on Sydney roads owned and operated by Linkt³ and issues with Linkt accounts or passes for travel on those toll roads and others.

The TCO is not a statutory body or government agency. The TCO is not a member of the Australian and New Zealand Ombudsman Association (ANZOA).⁴

It provides free dispute resolution services for consumers in relation to toll road operators that have agreed to be part of the scheme. The TCO website states that toll road operators have agreed TCO determinations are binding on them (the operators) but not on consumers.

Complaints about TfNSW cannot be handled by the TCO and the TCO website directs those consumers to the NSW Ombudsman website.⁵ The NSW Ombudsman website includes information about which complaints can be made to the TCO.⁶

Over the past 2 financial years, at least 20%⁷ of contacts to the NSW Ombudsman about tolling issues were classified by us as ‘misdirected’ – meaning that they concerned matters outside of our jurisdiction. When the NSW Ombudsman receives a complaint about Transurban/Linkt, we will if appropriate refer that person to the TCO.

Overview of tolling complaints made to the NSW Ombudsman

In the two years 2021-22 and 2022-23, the NSW Ombudsman received 304 actionable complaints that related to tolls.⁸ In the 2021-22 financial year, the NSW Ombudsman received significantly more complaints compared to the same period in 2022-23.

The higher number of complaints in 2021-22 was primarily related to the implementation of TfNSW’s new tolling account management system, which impacted a large number of TfNSW E-Toll consumers with issues such as incorrect ‘top-up’ debits from linked bank accounts and incorrect transfer of toll fees accrued by a vehicle’s previous owner to the new owner. TfNSW apologised for the error and took action to rectify the issues.⁹

² Tolling Customer Ombudsman (Web Page) <[Home - Tolling Customer Ombudsman \(tollingombudsman.com.au\)](#)>.

³ Linkt (Web Page) <[About Sydney toll roads - Linkt](#)>.

⁴ See Schedule 1 of the ANZOA Rules <[anzoa_rules_current-at-march2022.pdf](#)>, which sets out the independence and other criteria required for recognition as an “ombudsman” eligible for admission to ANZOA.

⁵ See n 2.

⁶ NSW Ombudsman (Web Page) <[Complaints others handle - NSW Ombudsman](#)>.

⁷ The NSW Ombudsman notes the following about data referred to in this submission: searches were made for complaints including the words ‘toll’ or ‘tolling’; data for the 2022-23 financial year has not yet been finalised and is subject to change.

⁸ An actionable complaint is a complaint that we are authorised by legislation to receive and, if necessary, to investigate under the *Ombudsman Act 1974*. This may include complaints about the conduct of Transport for NSW, Service NSW and Revenue NSW. See above note 7 about data.

⁹ Transport for NSW (Web Page) <[Refunds for tolling error expedited | Transport for NSW](#)>.

In relation to that incident, TfNSW had been proactive in alerting our office and providing information about the issues and remedial actions to us. This enabled our staff to be ready to provide up-to-date information and assistance to complainants to respond to and resolve concerns. (In other contexts, we also encourage public authorities within our complaint-handling jurisdiction to proactively contact and brief us when issues or incidents arise that are likely to lead to calls and complaints to our office, so that we can be better placed to quickly and effectively respond and assist in resolving those complaints.)¹⁰

Some tolling-related complaints we receive can raise general fairness concerns about the existence of toll roads, toll increases or challenges in finding alternative (non-tolled) routes. Beyond bringing concerns to the attention of the relevant authorities, we are generally unable to assist in the resolution of these complaints, which relate to policy issues.

However, the majority of tolling-related complaints we receive are of an administrative nature, relating to issues including:

- receiving multiple toll notices for vehicles not owned by the complainant
- delays in processing refunds
- incorrect and unexpected debits from bank accounts
- incorrect and unexplained charges
- incorrect classification of vehicle
- faulty e-tags and related issues such as administration fees and charges for video matching fees
- debt collection issues
- complaint handling and customer services issues such as failure to respond and resolve
- difficulty accessing toll accounts
- difficulty understanding toll statements and details
- fines related to tolls and internal review outcomes.

The NSW Ombudsman has also received complaints about the toll relief program and cashback scheme, including concerns about eligibility, delays in receiving payments, errors and customer service concerns.

While the number of complaints received by the NSW Ombudsman is clearly very low relative to the number of tolling customers in NSW, the above provides an indication of the types of concern raised by members of the public.

¹⁰ See for example our report, '2020 Hindsight – the first 212 months of the COVID-19 pandemic', chapter 5 (Suggestions for the future): <https://www.ombo.nsw.gov.au/data/assets/pdf_file/0018/138204/2020-hindsight_the-first-12-months-of-the-COVID-19_pandemic-Special-Report.pdf>.

Please contact Christie Allan, Executive Strategy Officer at [REDACTED] if you require further information about my office or this submission.

Yours sincerely



Paul Miller
NSW Ombudsman