

REGULATORY IMPACT STATEMENT

**TITLE: MELBOURNE CITY LINK (PRESCRIBED
ADMINISTRATIVE COSTS) REGULATIONS 1999**

December, 1998

Submissions should be addressed to:

Chief Executive
Melbourne City Link Authority
PO Box 18185
Collins Street East
Melbourne, Vic., 8003.

Submissions must be received at the above address by 27 January, 1999.

REGULATORY IMPACT STATEMENT

Melbourne City Link (Prescribed Administrative Costs) Regulations 1999

PART A: SUMMARY

1. Objectives of Proposed Regulation

1a. General

The overall objective of the Regulation is to contribute to the operation of an efficient, equitable system for the collection of tolls from drivers of vehicles using the Melbourne City Link and Exhibition Street Extension.

1b. Specific

The specific objective is to specify the prescribed administrative costs that are to be awarded by a Court against a person found to have travelled on the Melbourne City Link or Exhibition Street Extension in a vehicle that was not registered under Part 4 of the Melbourne City Link Act 1995 to travel on those roads.

2. Alternatives

Under the **Melbourne City Link Act 1995**, it is an offence to use the Melbourne City Link or Exhibition Street Extension in a vehicle that is not registered to use those roads. The private companies operating the roads under the Act and associated Agreements administer the tolling system and may report any toll evaders to the Government nominated Enforcement Agency.

The Traffic Camera Office has been nominated as the Enforcement Agency and will follow procedures for toll evaders similar to those currently in place with respect to speeding and red light camera infringements.

If a person is found guilty of toll evasion by a Court, the Act provides that the Court is to order the evader to pay the costs incurred by the road operators in detecting and reporting the offence. The amount of these costs is to be prescribed in Regulations.

These Regulations prescribe those costs.

Under these circumstances there are no realistic options other than to specify the prescribed administrative costs in Regulations.

3. Assessment of Proposed Regulations

The proposed Regulations prescribe the administrative costs to be awarded to the Link and Exhibition Street Extension operators to reimburse them for expenses associated with detecting and reporting an offence which goes before a Court.

The prescribed cost has been estimated as \$ 40.00.

The costs that the relevant corporation estimates it will incur in preparing and presenting the necessary information to a Court has been subject to a detailed independent review and are considered to be reasonable. The collection of these costs would eliminate cross-subsidisation between paying and non-paying users of the roads and ensure that the road operators are neither subsidising nor making a profit from this activity.

However, it is proposed to review the administrative costs about one to two years after the Link is opened. At that time accurate information on costs and the proportion of violators who proceed to Court will be available. If the actual cost varies significantly from current estimates, the Regulation will be reviewed.

4. Justification for Choice of Proposed Regulation

The Act requires that these costs be prescribed. Regulations in the form proposed are the only way of achieving this requirement.

PART B. REGULATORY IMPACT STATEMENT

1. Objectives

1a. General Objective

The overall objective of the proposed Regulations is to contribute to the operation of an efficient and equitable system for the collection of tolls from drivers of vehicles using the Melbourne City Link and Exhibition Street Extension.

Equity considerations require that all users of the Link Road and Extension Road are treated equally and specifically without cross subsidies between users or between the road operators and the users.

1b. Specific Objective

The specific objective is to prescribe the administrative costs (ie. the costs incurred by the relevant corporation in connection with a Court hearing) that are to be awarded by the Magistrates Court against a person found to have travelled on the Link Road or Extension road in a vehicle that was not registered to travel on these roads (as required under Part 4 of the Act).

2. Background

2a. Melbourne City Link Project

Melbourne City Link was designed to rectify traffic problems well known to Melbourne commuters and business people who rely on road transport. Currently, four radial freeways come to an end on the city fringe spilling thousands of cars and trucks a day onto inner city roads.

By linking three of these four freeways, Melbourne City Link and Exhibition Street Extension will provide a free flowing road system into and around Melbourne's city centre. The \$2.0 billion project will include 22 km. of multi-lane roads, a major bridge over the Yarra River, and two tunnels - 3.4 km and 1.6 kms long - under the Yarra River and surrounding streets and parkland.

The Melbourne City Link Project, Australia's largest urban infrastructure development, is being developed by a private company as a BOOT (Build, Own, Operate, Transfer) project on the basis of a concession granted by the State Government.

The Exhibition Street Extension is an adjunct to the City Link project and provides a long needed access road on the south-eastern edge of the CBD. This road will connect Exhibition Street to Swan Street and the southern section of the City Link by a bridge over the railway lines adjacent to Flinders Street.

Funding for the two projects is being provided largely by the private sector which will obtain a return on its investment by charging a toll on vehicles using the Link Road and the Extension Road.

These private companies hold concessions to operate and maintain the City Link and Exhibition Street Extension, and are authorised to collect tolls from road users. As administrative arrangements may change from time to time, the Act refers to the company operating either of the roads at any given time as the "relevant corporation".

Project planners recognised that, for efficient traffic flow, tolls must be managed electronically. Manual toll collection would lead to unacceptable travel time delays, operational cost burdens and more land for toll plazas.

2b. Electronic Toll Collection

The agreements between the State and the corporations requires that tolls must be collected ‘electronically’ in order to provide unimpeded traffic flow on the roads.

Because all tolls will be metered by a sophisticated scanning system, there will be no need for drivers to slow down or stop to pay tolls. The result will be fast, safe and stress-free travel for about 1 million drivers and their passengers each year.

The absence of barriers or tollgates, however, denies the operators the more conventional means of enforcing the payment of tolls. There will be no facility to pay in cash and hence no staff on the roads to accept or to enforce payment.

Section 73 of the **Melbourne City Link Act 1995** (“The Act”) creates an offence to drive on the Link road or Extension Road in a vehicle that has not been registered under Part 4 of the Act with the relevant corporation to use those roads.

Registration will be a commercial arrangement between the customer and the relevant corporation. The terms of these arrangements are a matter for the relevant corporation and its customers. The Act does not describe these arrangements although the concessions granted by the State set certain parameters.

It is currently proposed that there will be two methods of registration, each requiring payment and other conditions. For the majority of users, the preferred choice will be an account (either pre-paid or pay as you go). Account holders receive an e-Tag (transponder) which is the means of metering their use of the roads. The alternative to tag accounts is a day pass. A day pass (designed for infrequent users) buys the right to any number of trips on the roads on a nominated day.

A simple description of the operation of the major technical components of the electronic tolling system is provided in Attachment 1.

Motorists who plan to use the Link Road or Extension Road more than 6 times per year will be encouraged to take up an electronic tag (e-Tag) free of charge when they set up a toll account. The tag is carried in a special holder that is fixed to the windscreen behind the rear view mirror. Customers may replenish their toll accounts by cash, cheque, credit card, direct debit or other approved means.

As a tag equipped vehicle travels through a toll zone, an overhead scanner will detect the vehicle. A computerised visual recognition system will scan the vehicle and match its classification to the tag type. There are unique tags for vehicles of different classes. The objective of this process is to ensure that, for example, a tag for a car (for which tolls are cheaper) is not used in a truck.

Next the computer tolling system will automatically calculate the appropriate toll for the trip and deduct the amount from the user’s account. The tag will make a single beep when a valid transaction occurs. It will also warn motorists when their account balance is low by emitting two beeps.

When the system detects a vehicle with no tag, a digital image of the vehicle will be kept.

Safeguards in the tolling system will guarantee that everyone's privacy is protected. Data collected by the toll system will be secure and it is an offence for anyone to divulge or misuse information that may violate personal privacy, except as authorised by the Act.

Occasional users of the roads may purchase day passes, giving unlimited travel during that day. Day passes will be available by telephone or from designated retail outlets. The use of day passes is metered by digital cameras that scan the registration numbers of vehicles at each toll point. The registration number of a vehicle read from the digital image is checked against a file of day pass registrations for that day.

2c. Enforcement Issues

Because the Link Road and Extension Road implement electronic tolling in which vehicles travel throughout toll zones at appropriate speeds, efficient measures are needed to encourage toll payment and minimise toll evasion. Those measures will include convenient and simple facilities to gain registration to use the roads, sound promotions of the benefits of the roads to users and the community in general and good communication of the products and services of the operator. To complement these measures, there is a need for an effective enforcement system, particularly in relation to repeat offenders.

The enforcement regime derives its authority from the Act. The evidence for prosecution of evaders will be generated by tolling system.

Section 73 of the Act makes toll evasion an offence. There are two elements of the offence:

- the use of a vehicle in a toll zone
- the absence, at that time, of 'registration' with the operator.

A court can impose a fine of up to \$500 on a convicted evader. However, if an infringement notice is issued, the fixed penalty is \$100. While most evaders will receive an infringement notice, a small proportion of cases will be heard in open court, usually because the alleged offender decides to contest the charge.

Section 77 permits the Link and Exhibition Street Extension operators to report an offence and supply evidence to the Traffic Camera Office.

Section 78 authorises the Traffic Camera Office to prosecute an alleged offender on summons or to send, by post, an Infringement Notice to an alleged offender. Section 81 deals with the form of Infringement Notices. Section 82 prescribes a penalty of \$100 for an offence for which an Infringement Notice is issued.

These Regulations deal only with those cases heard in open court.

Section 76 provides that, if a charge against a person is found proven in a court hearing, whether or not a conviction is recorded or a penalty imposed for that offence, the Court must make an order requiring the person to pay to the relevant corporation the costs prescribed by these proposed Regulations.

These prescribed Administrative Costs are the subject of this Regulation and Regulatory Impact Statement.

3. Nature and Impact of the Regulations

3a. Authorising Power

These Regulations are made under sections 76 and 118 of the **Melbourne City Link Act 1995**.

3b. Determination of Prescribed Administrative Cost

Independent financial consultants engaged by the Melbourne City Link Authority.(Deloitte Touche Tohmatsu) have reviewed the process and the estimated associated costs incurred by the relevant corporation.

A summary of the make-up of the agreed Administrative Cost is given below.

A detailed review of these costs is given in Attachment 2.

It should be noted that the Administrative Costs have been determined using a number of assumptions relating to the process, time taken to complete each step in the process, unit costs, number of violations, etc.

A sensitivity analysis was carried out to determine variation in Administrative Cost with variations in the number of violations heard in the Magistrates Court. This study indicated that there would be insignificant change.

4 Assessment of Costs and Benefits

4a. Costs

The Administrative Cost is made up as follows:

a. Registration of request for Court proceedings	\$ 5.30
b. Certificate of vehicle identification	\$ 3.87
c. Certificate of non-registration of vehicle for use of road	\$ 5.26
d. Collation and dispatch of documents to Court	\$ 11.65
e. Overheads and general recovery	\$ 0.68
f. Feedback from Enforcement Agency	\$ 10.09
g. General finance costs	\$ 1.93
Total	\$ 38.78

The independent consultants conclude that, based on their calculations, they believe the Administrative costs to be approximately \$39 per case. However, in view of the number of assumptions made and for administrative convenience, a figure of \$40 is reasonable.

It is estimated that about one million vehicles will use the Link Road and Exhibition Street Extension each year. This is one of the first projects in the world to be based entirely on electronic toll collection. None of the overseas projects are strictly comparable. As there are no precedents, it is difficult to estimate the number of likely violators.

The proposed Regulations are aimed at the small percentage of vehicle owners/drivers who use the Link Road or Extension Road in a vehicle that has not been registered to use these roads and whose case finishes in the Magistrates Court. It is estimated that, when the roads are fully operational, only 80 cases will be heard in the Magistrates Court each year.

These costs are of necessity estimates of the likely costs involved. When the roads have been in operation for some time (say one or two years), detailed costs should be available and will be reviewed to determine whether or not the estimated costs are in line with the actual costs. If there is a significant discrepancy between these costs, the Regulations will be reviewed accordingly.

4b. Environmental Costs

The Regulations relate to Prescribed costs only. There are no environmental costs or benefits associated with the proposed Regulations.

4c. Social Costs

The Regulations are aimed at the very small percentage of people who drive on the Link Road or Extension Road in a vehicle that has not been registered under Part 4 of the Act to use those roads. Having received an infringement notice, a small proportion of cases will be heard in open court, usually because the alleged offender decides to contest the charge. It is only these cases which are found proven that are affected by the proposed Regulation.

It is estimated that only some 80 people per year (less than 0.008% of drivers using these roads) will fall into this category.

On this basis the social implications of the proposed Regulations are considered to be insignificant.

4d. Estimated Benefits

The major benefit of these Regulations is the specification of an Administrative cost that will be awarded by a Magistrates Court against toll violators who lose their case in such a court. The cost represents the estimated cost to the relevant corporation of procedures needed because of the Court action.

The prescribed costs ensure that there is no cross subsidy; that is, people who pay the tolls are not subsidising those who do not pay the tolls.

The costs are established so that the Link and Exhibition Street Extension Corporations are not subsidising individuals nor are they making a profit from the proceedings.

4e. Benefit/Cost Analysis

Because of the nature of the proposed Regulations, it is not possible to carry out a fully quantitative cost/benefit analysis. The proposed Regulations implement a requirement under the **Melbourne City Link Act 1995** to prescribe the costs that must be awarded by a Court if a charge against a person under section 73 of the Act is found proven.

The costs set out in the proposed Regulations and discussed in this statement ensure that drivers who pay the tolls are not subsidising those who fail to pay tolls. Similarly, the relevant corporations are not subsidising drivers who fail to pay tolls nor are they making a profit from this aspect of their operations.

5. Implications for National Competition Policy

The proposed Regulations simply prescribe the Administrative Costs that are to be awarded by the Magistrates Court against a person who is found to have travelled on the Link Road or Extension Road in a vehicle that was not registered under Part 4 of the Act to travel on those roads.

The Regulations present no restrictions on competition.

6. Alternatives and Reasons why Alternatives are not Appropriate

The **Melbourne City Link Act 1995** provides that it is an offence to use the Link road or Extension Road in a vehicle that is not registered to use those roads. Under the Act and Agreements, the relevant corporation administers the tolling system and may report any toll evaders to the Government nominated enforcement agency.

The Traffic Camera Office has been nominated as the Enforcement Agency and will follow procedures for toll evaders similar to those currently in place with respect to speeding and red light camera infringements.

If a person is found guilty of toll evasion by a Court, the Act provides that the Court is to order the evader to pay the costs incurred by the relevant corporation in detecting and reporting the offence. The amount of these costs is to be prescribed by Regulation.

In order to ensure equity in the system, it is important that the costs incurred by the relevant corporations associated with cases that go before the Magistrates' Court are clearly established and understood by all road users.

It would be possible to include such costs in the Legislation but, as the costs are likely to vary over the years, this is not considered appropriate.

The Administrative costs could be met by the relevant corporation but these would then have to be passed on to other users of the roads. This is not considered appropriate as drivers who pay the tolls would be subsidising those who do not pay tolls and take their case to Court. Alternatively the Government could meet these prescribed costs. Again this is not considered appropriate as the costs would then in effect be met by all Victorian taxpayers. These forms of cross subsidy are not considered acceptable.

Inclusion of the prescribed Administrative Costs as detailed in the proposed Regulations is considered the only satisfactory alternative to achieve the objective given the existing legislative provisions.

7. Consultation Undertaken

Consultation has taken place with:

Department of State Development - Office of Regulation Reform
Department of Premier and Cabinet
Department of Treasury and Finance
Department of Infrastructure
VicRoads
Department of Justice
Victoria Police - Traffic Camera Office
Office of the Parliamentary Counsel
Transurban City Link Ltd (Link Corporation)
Translink Operations Pty. Ltd.
RACV

All of the people consulted supported the proposed Regulations and the amount of the prescribed Administrative Costs.

8. Proposed Regulations

A copy of the proposed Regulation is attached.

DRAFT

STATUTORY RULES 1999

S. R. No. xx/1999

Melbourne City Link Act 1995

Melbourne City Link (Prescribed Administrative Costs) Regulations 1999

The Governor in Council makes the following Regulations:

Dated:

Responsible Minister:

ROBERT MACLELLAN
Minister for Planning and Local Government

Clerk of the Executive Council

1. *Objective*

The objective of these Regulations is to prescribe administrative costs to be paid under a court order made under section 76 of the **Melbourne City Link Act 1995**.

2. *Authorising provisions*

These Regulations are made under sections 76 and 118 of the **Melbourne City Link Act 1995**.

3. *Prescribed administrative costs*

For the purposes of section 76 of the **Melbourne City Link Act 1995**, the prescribed administrative costs are \$40.00 in respect of each charge found proven.

Attachment 1

The Electronic Tolling System

The enforcement procedure operates by a number of steps that, in the great majority of cases, follow the same sequence. In this document, the main stream is discussed from end to end before the exceptions are detailed.

The tolling system is designed to identify vehicles using the Link Road and Extension Road and to debit the relevant customer account with the appropriate amount of toll.

The tolling system also contains records of customers, their vehicles, their accounts and the credit transactions recording payments, refunds, etc. and the debit transactions recording tolls and fees associated with their usage of the roads.

When the relevant operator detects usage of the road by a vehicle not registered to use the roads, it investigates the incident for potential enforcement action. Because a day pass may be bought until noon of the day following the day of travel, this investigation cannot be completed before that time.

If the relevant corporation alleges an offence to the Enforcement Agency, it must submit the evidence relevant to the two elements of the offence. The presence of the vehicle on the road is established by the digital image of the vehicle showing a registration plate and sufficient of the vehicle to enable the Traffic Camera Office to verify the make and model. The time, place and direction of travel are also recorded at the toll point by the tolling system. The absence of registration to use the road for that vehicle is obtained by ascertaining the absence of the registered number of the vehicle in the tolling system which exhaustively records the particulars of all vehicles registered. The identity of the owner of the vehicle is determined by the Traffic Camera Office.

The digital image is produced by a prescribed device, as are the record of time, place and direction of travel and these data, together with a checksum, are combined at the toll point, into a computer file. The checksum conforms to a rigorous international standard and ensures that any subsequent changes to the file may be detected and highlighted. The absence of registration is established by a certificate issued following the completion of a prescribed process.

The checksum ensures that an image survives intact and untouched through the many transmissions and processes to which it may be subjected. Every time an image file is output to any display device such as a computer screen or a printer for enforcement purposes, the checksum ensures that it is true to the original. The slightest change to even a single picture element, such as might occur by accidental corruption during transmission over a communication network, is sure to be detected and alerted.

For enforcement purposes, the checksum process ensures the accuracy and providence of the evidence to a standard impossible to achieve in the analogue world of films, for example. The merest dust speck or flyspot or physical deterioration from exposure to light or the passage of time might result in lessening quality of print from film. A digital image file is not prone to errors from these sources. While a digital image file might be damaged or altered by corruption, deliberate or accidental, the checksum procedures ensure that any change, however slight, for whatever reason, is detected.

Image files will only be used in evidence in court proceedings if the checksum procedures verify that data in the file has not been altered in any way.

Attachment 2

Detailed Review of Administrative Cost

(Prepared by Deloitte Touche Tohmatsu)

VIOLATION COST RECOVERY COURT PROCEEDINGS
--

Item	Description	Calculation			Cost Recovery
A	Register Request for Court Proceedings				
1	Intake of mail and distribution (60 secs per request)	0.01666	hrs @	\$23.97	\$0.40
2	Manually record request into register for "Violations Court Proceedings" and distribution	0.05000	hrs @	\$23.97	\$1.20
3a	Telephone calls - 2 calls (2 calls @ 3 mins per call)	0.10000	hrs @	\$34.53	\$3.45
3b	Line cost	1.00000	Unit	\$0.25	\$0.25
	TOTAL A				\$5.30
B	Certificate - Vehicle Identification				
1	Manually re-verify and print images (90 secs per image x 1 image)	0.02500	hrs @	\$23.97	\$0.60
2	Collate and label image print (4 mins per violation trip)	0.06666	hrs @	\$23.97	\$1.60
3	Print check by supervisor (90 secs per image x 1 image)	0.02500	hrs @	\$28.57	\$0.71
4	Certify print as true and correct (100 secs per print x 1 image)	0.02777	hrs @	\$34.53	\$0.96
	TOTAL B				\$3.87
C	Certificate - No Account/Cancelled Account				
1	Extract evidence for "no account" (5 mins per account)	0.08333	hrs @	\$28.57	\$2.38
2	Certify account evidence as true and correct (5 mins per verification)	0.08333	hrs @	\$34.53	\$2.88
	TOTAL C				\$5.26

Item	Description	Calculation			Cost Recovery
D	Despatch Court Package				
1	Record despatch into Violations Court Proceedings register. <i>(180 sec per request)</i>	0.05000	hrs @	\$23.97	\$1.20
2	Prepare documents for despatch <i>(5 min per request)</i>	0.08333	hrs @	\$23.97	\$2.00
3	Prepare cover letter <i>(6 min per letter)</i>	0.10000	hrs @	\$23.97	\$2.40
4	Courier documents to EA	1.00000		\$5.00	\$5.00
5a	Phone call to courier <i>(2 min per call)</i>	0.03333	hrs @	\$23.97	\$0.80
5b	Line cost	1.00000	line @	\$0.25	\$0.25
	TOTAL D				\$11.65
E	Overheads and General Recovery				
1	Computer systems & Miscellaneous costs				
1a	Computer system, stationery, forms etc	1.00000	unit @	\$0.68	\$0.68
1b	Management maintenance of certification authorities	1.00000	unit @	\$0.00	\$0.00
	TOTAL E				\$0.68
F	Feedback from Enforcement Process				
1a	Telephone calls - 3 calls <i>(3 calls @ 4 min per call)</i>	0.20000	hrs @	\$34.53	\$6.91
1b	Line cost (1 incoming, 1 outgoing call)	1.00000	line @	\$0.25	\$0.25
2	Update CTCS with result <i>(3 mins per request)</i>	0.05000	hrs @	\$34.53	\$1.73
3	Update Violations Court Proceedings Register (3 mins per request)	0.05000	hrs @	\$23.97	\$1.20
	TOTAL F				\$10.09
	TOTAL PER COURT FILE, A - F				\$36.85

Item	Description	Calculation	Cost Recovery
G	General Recovery		
1	Overheads: already allocated to infringement costs based on total staff of 21 (being 20.3 for infringements and .05 for court proceedings).	0.00 @ \$0.00	\$0.00
	TOTAL G		\$0.00
	TOTAL PER COURT FILE (A-G)		\$36.85
	TOTAL PER COURT FILE A - G		\$36.85

Item	Description	Calculation	Cost Recovery
H	General Recovery		
1	Finance cost: 11/12 of year @ 7.2% overdraft rate on Standard Case violation. (As per the Commonwealth Bank Interest Rates Directory published in the Australian Financial Review dated 14/9/98)	6.60% @ \$2.46	\$0.16
2	Finance cost: 8/12 of year @ 7.2% overdraft rate on Court Proceedings costs. (As per the Commonwealth Bank Interest Rates Directory published in the Australian Financial Review dated 14/9/98)	4.80% @ \$36.85	\$1.77
TOTAL H			\$1.93
GRAND TOTAL			\$38.78

CONCLUSION:

Based on the above calculation, we believe the administrative costs associated with the processing of a violation which eventuates as a court case to be approximately \$39 per case. However, in view of the number of assumptions made and for administrative convenience, a figure of \$40 is reasonable. In so far as our work related to estimates, we reviewed their compilation to enable us to report that they have been prepared on the basis of the underlying assumptions. These assumptions are the sole responsibility of Transurban. We have commented on the assumptions, but accept no responsibility for them or the ultimate accuracy of the estimate of the administrative costs as calculated above. Furthermore, you should note that there will usually be differences between the estimate and the actual costs, as events and circumstances frequently do not occur as expected. Those differences may be material.