Peninsula Community Legal Centre

Submission to Victorian Department of Treasury and Finance

Essential Services Commission Act Review

12 August 2026

Introduction

Peninsula Community Legal Centre (PCLC) welcomes the opportunity to contribute to the Review of the Essential Services Commission Act.

PCLC is an independent, not-for-profit organisation that has been providing free legal services to vulnerable and disadvantaged people in Melbourne's outer southeast since 1977. We are one of the largest community legal centres in Australia, serving a population of over one million people across six local government areas. PCLC's head office is in Frankston, with branches in Cranbourne, Bentleigh and Rosebud, and 18 visiting services across our large catchment area. Of note for this submission, our legal work includes assisting community members with infringements and debt-related matters.

Our limited submission to this Review focuses on Question 15 of the Issues Paper**: Should any other changes to the ESC's functions, powers or to provisions of any legislation that applies to the ESC be considered?**

Nation-leading role of Victoria's Essential Services Commission

PCLC commends the Essential Service Commission (ESC) for its leadership in developing and enforcing strong consumer protection and hardship frameworks in the energy and water sectors, including rights-based and enforceable (rather than discretionary) protections for consumers experiencing hardship and vulnerabilities. We commend the consistency of approach and strong enforcement of these protections.

As a legal centre that works extensively with victim-survivors of family violence, we particularly commend the Commission's work in creating Australia's strongest regulatory protections for energy and water customers affected by family violence, including:

- **Mandatory family violence policies** (staff training and support, protecting customer privacy and confidential information, assisting customers experiencing family violence to access payment difficulty and hardship programs, reducing the need for customers to repeatedly disclose their experiences, and referring customers to appropriate support services).
- **Measures to protect against financial abuse**, with clear recognition that utility accounts, debts and billing arrangements can be used as tools of coercive control and financial abuse (including protecting account information from perpetrators, and reviewing debts and payment arrangements where family violence is a factor).
- **Access to hardship and payment support,** recognising family violence as an explicit basis for accessing assistance (including payment plans, flexible debt management arrangements and access to hardship programs).
- **Staff Training and Safe Service Delivery,** training frontline staff to recognise family violence and use trauma-informed and safety-focused responses.

We note the Commission's commitment to addressing family violence in these sectors is ongoing, including **moving beyond requiring minimum compliance with family violence policies** and supporting a "Safety by Design" approach via their Safety by Design Partnership, which would require energy and water businesses to **proactively identify and remove risks in their products, services and systems** that could enable coercive control or cause harm to victim-survivors. This approach involves embedding safety considerations into billing systems, account management, debt recovery, identity verification procedures and digital platforms[1]. The Commission's work in this regard is nation-leading, meaningful and sets a benchmark for reform across Australia.

Further evolution

We note the Issues Paper recognises the ESC's functions and powers, as well as the general operating and policy environment governing the industries it monitors and regulates, have evolved significantly since the ESC was established on 1 January 2002 (p.10). We also note the Issues Paper states, "the definition of an essential service reflects policy decisions about which sectors should be subject to economic regulation by the ESC."

In our view, the Commission's role should evolve further to protect Victorian consumers experiencing vulnerabilities and provide for further consistency in outcomes, particularly given current cost-of-living pressures. **In summary, PCLC supports recognising toll roads as an essential service for the purposes of consumer protection and hardship regulation**. As toll roads become increasingly necessary for participation in modern life, regulatory frameworks should ensure that people experiencing hardship are protected from disproportionate fees, unfair debt escalation and exclusion from essential transport infrastructure. Extending Essential Services Commission oversight to toll roads would promote fairness, consistency and better outcomes for Victorian consumers, particularly those facing financial disadvantage and/or other vulnerabilities. **We also call for ESC's functions and powers to be expanded to formally regulate local government hardship policies**.

Key points

Toll roads

- The Victorian infringements/fines system has a disproportionate and adverse impact on people experiencing vulnerability and disadvantage, including people experiencing financial hardship, family violence, homelessness, mental ill-health, disability, and/or other forms of social disadvantage.
- We know from our frontline work in Melbourne's outer southeast that **most people don't pay infringements and related penalties because they simply can't**.
- As a subset of infringements, unpaid toll fines are particularly harmful, contributing significantly to financial and legal stress in the communities we serve.

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[1] See *Safety by design for essential services Discussion Paper* (May 2025) commissioned by the ESC, available at The 2025 discussion paper by Catherine Fitzpatrick, commissioned via the Essential Services Commission (Vic), focuses on stopping perpetrators from weaponizing utility infrastructure, s://www.esc.vic.gov.au/other-work/family-violence-resources-businesses/safety-by-design

- Toll debts can escalate very quickly if they are not dealt with at the toll notice stage: a toll debt of only a few dollars can ultimately become hundreds of dollars once administrative fees, infringement penalties and enforcement costs are added.
- People experiencing disadvantage or vulnerability are less likely to have the money and/or legal knowledge or support to handle their infringements at an early stage, which is why they are disproportionately affected.
- Debts linked to transport access including toll roads can become entrenched and affect vulnerable consumers **long before effective hardship assistance is offered**. We often see people when they are in crisis and their infringements debt is in the tens of thousands of dollars.
- More broadly, PCLC advocates for permanent concessional exemptions for penalty and enforcement fees for low-income fine recipients to stop infringement-related debt spirals.
- Like all systems, family violence perpetrators can misuse the Victorian toll road system as a tool of coercive control, surveillance, financial abuse and systems abuse (including registering toll accounts in the victim-survivor's name and accumulating unpaid tolls and penalties, or accessing the location of a victim-survivor).
- Toll roads should be treated as an essential service as they are relied on to access employment, education, healthcare, and other essential needs, particularly in Melbourne’s outer southeast.
- Although toll road operators in Victoria have individual hardship policies, there is no consistent framework or approach. Stronger, more proactive hardship policies for toll road operators may help prevent the kind of infringement debt crises we see in our practice.
- We advocate for the Essential Services Commission Act to be amended to specifically empower the Commission to have **oversight of and regulate toll road providers** and for **toll road users to have comparable consumer protection and hardship principles as energy and water consumers** (including a payment difficulty framework).
- With the North East Link scheduled to open in 2028 and the Victorian Government set to become a toll road operator through the North East Link State Tolling Corporation, now is an appropriate time to expand the Essential Services Commission’s remit to provide independent oversight of all three toll road operators, including the government-owned statutory corporation.

Local government

- Local government functions can have a significant impact on people experiencing financial hardship, including low-income households and victim-survivors of family violence.
- Although many councils have well-developed hardship policies for council rates and charges, historically there has been inconsistency between council hardship policies across Victoria.
- The ESC has recently been involved in work relating to rates hardship and debt management drawing on its expertise regulating hardship protections in energy and water sectors.
- The Commission's work relating to rates hardship and debt management should be expanded so that it has formal oversight and regulation of hardship standards for local councils.
- We advocate for the Essential Services Commission Act to be amended to empower the Commission to have a formal role in formulating and enforcing minimum hardship standards for

local councils, similar to its role in regulating consumer protections in the energy and water sectors.

Recommendations

Recommendation: Amend the Essential Services Commission Act to specifically empower the Commission to have oversight of and regulate toll road providers, and for toll road users to have comparable consumer protection and hardship principles as energy and water consumers (including a payment difficulty framework).

Recommendation: Amend the Essential Services Commission Act to empower the Commission to have a formal role in formulating and enforcing minimum hardship standards for local councils, similar to its role in regulating consumer protections in the energy and water sectors.

Infringements and Victorians experiencing vulnerability and disadvantage

Our frontline experience

As part of our legal services, PCLC provides advice and assistance to community members experiencing infringement-related issues, including toll road infringement debts, parking fines, public transport fines and other enforcement-related debts. Due to the overwhelming demand for our infringement services, PCLC targets our limited resources to assist the most vulnerable or at-risk community members, including people presenting with multiple complexities.

We note from our practice:

- People experiencing disadvantage or vulnerability are less likely to have the money and/or legal knowledge or support to handle their infringements problems at an early stage, leading to escalation and entrenchment of debt.
- Disadvantage is compounded when transport debt interacts with other debts, fines and cost-of-living and housing pressures.
- The concurrent cost-of-living and housing crises means that infringements debt is also beginning to have an adverse impact on people not ordinarily considered ‘vulnerable’, or ‘disadvantaged’, with an increasing number of people struggling to meet their basic needs in life.
- In other civil debt matters, many people experiencing financial hardship would be considered judgment proof under section 12 of the *Judgment Debt Recovery Act* 1984 (Vic). In our view, similar protections should apply for infringements debt.

We have included Edie’s story to highlight the often multiple and intersecting forms of disadvantage experienced by some of our community members with infringements debt.

Edie's story:

Edie is an almost 50-year-old woman from a culturally and linguistically diverse background who had several outstanding fines and no means to resolve them. She is an asylum seeker with an uncertain visa status, holding a bridging visa while awaiting hearing of a Federal Court appeal. She lives alone and, due to complex medical issues, has been unable to work for the last two years and is not eligible for Centrelink benefits. She is battling several debilitating illnesses, one of which is terminal and others which are physically incapacitating. Edie lives from day to day with the help of different services for all of her needs, including food, petrol, medical expenses, telephone, and rent. There is always uncertainty as to where the next assistance is coming from.

Despite there being only a small number of fines and the value of the fines being under $1,000, Edie was distraught that she had no means of paying, and was worried about what would happen to her if she couldn't pay. She instructed that she felt lost and helpless. Her health was deteriorating, and she had no idea what to do. She was referred to us by a financial counsellor who had unsuccessfully applied for Edie's fines to be waived, and who also was at a loss as to how to help. We were able to make a successful application under the relatively under-used "long term circumstances" provisions of the *Fines Reform Act.* All fines were ultimately withdrawn, and Edie could concentrate on her health and daily survival without concern about Fines Victoria enforcement against her.

Toll fine debt is particularly harmful

As a subset of infringements, unpaid toll fines are particularly harmful, contributing significantly to financial and legal stress in the communities we serve. Freedom of information (FOI) data showed **40 per cent of all road toll fines issued in Victoria** in the 2022-2023 financial year were issued to residents in Melbourne's southeast, including Frankston (16,714), Casey (35,256) and the Mornington Peninsula (2754). During that same period, around **$30 million of toll fines went to the enforcement stage in our catchment area**. These figures represent a significant burden in a catchment that includes some of the most disadvantaged postcodes in Victoria. We are currently waiting to receive the equivalent 2024-2025 figures in response to a further Freedom of Information request but anticipate the data for our catchment will be similar, or even higher.

Toll road fines have a disproportionate impact on people experiencing vulnerability and disadvantage, including people on low incomes, people experiencing family violence, homelessness, mental ill-health, disability, financial hardship and other forms of social disadvantage. We note that family violence perpetrators can misuse the Victorian toll road system as a tool of coercive control, surveillance, financial abuse and systems abuse. Vehicle registration, toll accounts and infringement processes can be weaponised to perpetrate family violence against victim-survivors.

We note:

- **Toll road debt escalates rapidly and disproportionately.** A relatively small unpaid toll can attract multiple administrative fees, enforcement fees and infringement penalties, creating debts that are significantly higher than the original toll amount. It is not uncommon for some of our clients have debts in the tens of thousands of dollars when they first access our services.

- **The current system unfairly penalises financial disadvantage.** People experiencing financial hardship are more likely to miss payments, change address, have limited literacy or digital access, or struggle to engage with complex administrative processes. As a result, they are more likely to accumulate fines and enforcement costs.

- **Enforcement measures can deepen disadvantage.** Licence suspensions, vehicle sanctions and other enforcement actions can affect a person's ability to work, care for family members, attend medical appointments and maintain housing, creating a cycle of debt and disadvantage. The threat of imprisonment also hangs over some of these community members. While a current moratorium has paused the execution of arrest warrants for unpaid fines, we advocate for permanent legislative abolition of imprisonment for unpaid fines.

- **Many toll-related debts arise from vulnerability rather than deliberate non-compliance.** Factors such as family violence, homelessness, mental illness, cognitive impairment, financial abuse and language barriers can contribute to people becoming trapped in toll debt.

- **Hardship support in Victoria should be uniform and accessible.** PCLC supports accessible payment arrangements, hardship programs, debt waiver mechanisms and referral pathways before debts escalate to infringement and enforcement stages. However, consumer protection and hardship policies and procedures currently vary and many vulnerable consumers do not access them.

- **Concession holders and low-income Victorians need stronger protections.** We advocate for reduced fees, fairer penalties and targeted concessions to prevent Victoria's fines system from worsening financial and other disadvantage.

- **Alternative pathways should be expanded.** Social justice mechanisms such as family violence provisions, reviews based on special circumstances, and non-financial options for resolving debt should be more readily available and easy to access.

We often see clients once a crisis point has been reached

Despite PCLC's prevention and early intervention work, due to their vulnerabilities many clients seek assistance only after their infringement debt has become completely unmanageable and they are facing enforcement action.

By this stage:

- Hardship protections and early intervention opportunities have been missed.
- Debts have significantly increased through additional penalties and enforcement costs.
- Clients may be facing severe financial stress.
- Many clients genuinely want to pay their debts but simply cannot afford to do so.

We note that fine-related debt frequently contributes to anxiety and stress, poor mental and physical health and feelings of shame, hopelessness, and overwhelm.

Maya's story: Maya came to PCLC for help with fines totalling almost $95,000. The fines were linked to tolls and other infringements accumulated over several years. She had experienced four years of family violence, which contributed to significant stress, anxiety, PTSD, and suicidal thoughts. When we first saw Maya, she had received a 7-day notice from Fines Victoria after defaulting on a payment arrangement after losing her job just before Christmas. Maya needed assistance to demonstrate how her personal circumstances, including family violence and mental health issues, affected her ability to manage the fines. The outcome was that all eligible fines, totalling almost $95,000 were withdrawn. Maya was relieved of the burden of her fines debt and can now focus on her recovery.

Louise's story: Louise is a sole parent of three children, two with disabilities. She lives on the Carers Benefit from Centrelink and is at risk of homelessness due to financial stress. Louise approached PCLC for help with a debt of just over $22,500 relating to 49 outstanding fines covering a 7-year period. Louise had received a letter from Fines Victoria threatening sanctions if action was not taken in relation to her fines, including loss of licence and cancellation of car registration. The impact of not having her own transport to care for her children would have created significant disadvantage and distress for the whole family. We immediately assisted Louise to apply for a payment plan to halt the sanctions while we could explore a plan of action to assist her. With the value of fines owing, the minimum amount Fines Victoria would accept on a payment plan was $55 per fortnight, which was a large amount for Louise as she struggled to meet medical and household expenses. We were ultimately able to reduce Louise's fines debt by over $16,000 (via direct advocacy with toll companies) and reduce the fortnightly payment arrangement to a more affordable $25 amount for the balance of the debt.

Toll Roads should be regulated as an essential service

Toll roads are increasingly critical infrastructure that many people rely on to access employment, education, healthcare, and other essential services, particularly in PCLC's catchment area in Melbourne's outer south-east where Eastlink is a vital link for many community members.

While toll roads are traditionally viewed as transport infrastructure rather than utility services, they increasingly function as an essential service for many Victorians. Access to toll roads is often necessary to:

- Travel to work, education and training.
- Attend medical and health appointments.
- Fulfil caring responsibilities.
- Access legal, social and community support services.
- Participate in economic and community life.

For residents in outer metropolitan and growth areas like PCLC's catchment avoiding toll roads may significantly increase travel times or make journeys impractical. In this context, toll roads are not simply discretionary commercial services but a necessary component of social and economic participation. As with essential utility services, consumers often do not have meaningful bargaining power and may be unable to avoid the service despite financial hardship. As such, **tolling arrangements should be subject to the same consumer protection and hardship principles that apply to other essential services**.

More prevention and early intervention required

We advocate for fines policy and frameworks to recognise vulnerability as a systemic issue**.** The Victorian infringements system does recognise that certain vulnerable people require special protections, and includes review mechanisms, work and development permits, special circumstances provisions and family violence pathways. However, these protections and mechanisms are complex and often require legal support, which can be difficult to access.

Additionally, they come **very late in the cycle of debt and penalties**, and are incredibly resource-intensive for legal assistance organisations who assist with these matters. PCLC has previously advocated for the permanent concessional exemptions for penalty and enforcement fees for low-income fine recipients to stop people falling into the infringement debt spiral.

Hardship support in Victoria should be uniform and accessible

We acknowledge that Eastlink and Linkt have developed hardship policies for toll road users (the Eastlink Hardship Policy and the Transurban Hardship Policy respectively), and we welcome these policies. As an example, EastLink's policy is a voluntary company policy which emphasises respectful treatment, flexibility and individual solutions for customers experiencing hardship (including family violence). However, the policy does not have the same level of mandatory protection or independent regulatory oversight that the energy and water sectors have. In contrast, the Victorian Payment Difficulty Framework requires energy retailers to help customers avoid debt, reduce ongoing costs, repay arrears and avoid disconnection wherever possible. It was specifically designed to ensure customers only lose access to an essential service as a measure of last resort.

Key deficiencies of voluntary toll road hardship arrangements include:

- No specialist economic regulator overseeing uniform and accessible hardship standards and compliance – inconsistency between policies.
- Customers generally need to identify they are in hardship and seek assistance.
- Potential inconsistency in the way hardship policies are applied to different customers.
- Non-payment can ultimately contribute to toll debt escalation and infringements, leading to massive debts and exposure to loss of licence and criminal sanctions (as opposed to strict rules for utility businesses where disconnection is intended to be a last resort).

In our view, the staggering level of toll debt in Victoria confirms the current infringements system is not working. The system currently favours escalation and punishment over early intervention and support for Victorians experiencing vulnerabilities and disadvantage. It is both wasteful and harmful for the Victorian Government to expend resources pursuing people for money they simply do not have. **Prevention and early intervention in the form of robust consumer protection and proactive hardship policies (like in the energy and water sectors) are needed to ease the burden on community members and prevent inefficient use of resources – this is in the public interest.** The Essential Services Commission is best placed to bring about sensible transformation and regulation of this sector.

We note that another toll road, and more indebted vulnerable customers, is coming. With the North East Link scheduled to open in 2028 and the Victorian Government set to become a toll road operator through the North East Link State Tolling Corporation, this presents an appropriate opportunity to expand the Essential Services Commission's remit to provide independent oversight of all three toll road operators, including the government-owned statutory corporation.

Applying a consumer protection model to toll debts could:

- **Create consistent hardship standards** across Victoria, rather than relying on individual toll operators' policies.
- **Reduce escalation of debt**, where relatively small unpaid tolls can grow significantly through fees, infringements and enforcement processes.
- **Improve outcomes for vulnerable consumers**, including people experiencing family violence, financial abuse, homelessness, mental illness, or other forms of disadvantage.
- **Provide independent oversight and accountability** of hardship practices, complaints handling and debt collection conduct.

Specific consumer protections for toll road customers under Essential Services Commission regulation could include:

Mandatory hardship obligations

- Requiring toll operators to maintain accessible hardship policies, including proactive identification of customers experiencing payment difficulty.
- Ensuring tailored payment plans are available before debt and penalty escalation occurs.
- Recognising vulnerability factors including family violence, homelessness, disability, mental ill-health and financial crisis.

Fair fee and debt recovery practices

- Limiting excessive administrative charges and late fees.
- Introducing **proportionality requirements** so additional charges do not vastly exceed the original toll debt.
- Requiring debt collection activity to be reasonable and consistent with consumer protection principles.

Consumer accountability and transparency

- Mandating clear information about toll charges, account management and available hardship assistance.
- Improving notice requirements before debts are referred for enforcement.
- Ensuring consumers can easily identify and challenge errors.

Independent oversight

- Empowering the Essential Services Commission to monitor compliance and take enforcement action against toll road operators for breaches.

Local government

Essential Services Commission regulation of local government hardship policies

Local government functions can have a significant impact on people experiencing financial hardship, including low-income households and victim-survivors of family violence. Although many councils have well-developed hardship policies for council rates and charges, there is a history of inconsistency between council hardship policies across Victoria. We have seen this in our catchment area where clients have sought assistance with debts arising from rates and other local council charges. These clients may need assistance with the payment of rates and charges due to a range of factors including prolonged hardship or unforeseen circumstances such as loss of employment, illness, and change of family circumstances. PCLC has six local government areas within our catchment, with six different hardship policies.

We recognise the ESC’s recent valuable work to **strengthen and standardise how councils support ratepayers experiencing hardship**, including the ESC's involvement in the development of Ministerial Guidelines[2] relating to payment of rates and charges for local government. The Guidelines provide direction to Councils to review and update (as necessary) their existing hardship and debt management policies in relation to the payment of rates and charges, with the objectives of:

- encouraging a more consistent approach across local government policies relating to debt management for the payment of rates and charges.
- providing guidance and support to Councils and ratepayers in relation to hardship and financial hardship; and
- empowering Councils to recover debt from unpaid rates and charges in a fair and equitable way, consistent with Victorian Government, community and stakeholder expectations.

We note that the new Guidelines contain matters that must be considered in a Council’s policy formation, whilst not being prescriptive about models for implementing council policies. While we

[2] Victoria State Government *Ministerial guidelines relating to payment of rates and charges*, December 2025, available at https://www.localgovernment.vic.gov.au/__data/assets/pdf_file/0024/222468/Appendix-One-Ministerial-guidelines-relating-to-payment-of-rates-and-charges-December-2025.pdf

look forward to seeing a more consistent approach in Council hardship policies, in our view there is still considerable room for an inconsistent, more discretionary approach.

Given the ESC already has an established policy interest and expertise in council hardship practices, PCLC advocates for the Commission to be given formal responsibility for regulating and enforcing local government hardship programs in the same way it regulates and enforces energy and water hardship frameworks. Specifically, we call for the Essential Services Commission Act to be amended to empower the Commission to have a formal role in formulating and enforcing minimum hardship standards for local councils.

Further information

Thank you for considering PCLC's submission. For further information, please contact:

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