

Sanral asks court to keep Cape N1 tolls secret

By [Carol Paton](#)

30 Jul 2014

The South African National Roads Agency Ltd (Sanral) will ask the Western Cape High Court next week to grant it a secrecy application, which will allow it keep details of the proposed tolling of the N1 and N2 highways confidential.



Sanral has applied to the Western Cape High Court in a bid to keep tolls on the N1 and N2 secret and not open to public scrutiny. Image: [Fast Moving](#)

This would include information on what the tariffs will be and how much revenue will be generated for the operator.

The application for secrecy on grounds of "commercial confidentiality" is highly unusual for a public entity. If successful, critical information about the costs of the project will not be heard in open court. The application is part of the continuing dispute between Sanral and the City of Cape Town, which opposes the tolling of the N1 and N2.

In May last year the city won an interdict in the Western Cape High Court, preventing Sanral from starting the tolling programme until the matter could be heard in court and decided by it. The city wants the decision to toll the roads set aside.

The mayoral committee member for transport, Brett Herron, said although the May order had compelled Sanral to provide a full set of documentation to the city to enable it to prepare court papers, the agency had delayed doing so for nine months.

Sanral's constant obfuscation

"Sanral claimed the documents were confidential. We eventually got the documents in February this year on the basis that those who had access to them signed a confidentiality agreement.

"Sanral said should any of the confidential information be included in our papers, they would apply to prevent us from filing them in open court," Herron said.

He said the supplementary papers included a range of information that Sanral has so far refused to share with the public. These include:

- How much it will cost to convert the N1 and N2 into toll roads;
- The proposed fees and the revenue the preferred bidder expects to earn from the project;
- How much of every rand collected in fees will be spent on project infrastructure and operations, as opposed to road improvements, maintenance and operational work.



Councillor Brett Herron says Sanral is deliberately trying to disclose as little information as possible, proving its lack of transparency. Image: [Brett Herron](#)

Expert reports

The papers also include a number of expert reports dealing with issues such as the economic and socio-economic effects of tolling, which the city argues will have a disproportionate effect on the poor.

Herron said the city would oppose the application, which is to be heard in camera. "The public has a right to know and no part of its court papers should be kept from the public," he said.



UCT's Perre de Voz says all court papers should be part of a public record. Image: [Centre for Law and Society](#)

University of Cape Town constitutional lawyer Pierre de Vos said there would have to be compelling reasons for the order to be granted. "The principle of open justice means papers filed in court are normally on the public record. It is only in the most extraordinary circumstances that a court will protect the secrecy of information," he said.

Sanral declined to comment saying it does not litigate through the press. It claims the matter is sub judice.

Several public interest lobby groups are considering whether to apply to the court to oppose Sanral's secrecy application.

In the case of the e-tolling in Gauteng, groups opposed to tolling have accused Sanral of obfuscation and a lack of transparency over the funding and financing arrangements.

Source: Business Day via I-Net Bridge

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