Review of tow truck fees and licensing in NSW

Transport — Draft Report
October 2014
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Invitation for submissions

IPART invites written comment on this document and encourages all interested parties to provide submissions addressing the matters discussed.

Submissions are due by 11 November 2014.

We would prefer to receive them electronically via our online submission form <www.ipart.nsw.gov.au/Home/Consumer_Information/Lodge_a_submission>.

You can also send comments by fax to (02) 9290 2061, or by mail to:

**Review of maximum towing fees**
Independent Pricing and Regulatory Tribunal
PO Box Q290
QVB Post Office  NSW  1230

Late submissions may not be accepted at the discretion of the Tribunal. Our normal practice is to make submissions publicly available on our website <www.ipart.nsw.gov.au> as soon as possible after the closing date for submissions. If you wish to view copies of submissions but do not have access to the website, you can make alternative arrangements by telephoning one of the staff members listed on the previous page.

We may choose not to publish a submission—for example, if it contains confidential or commercially sensitive information. If your submission contains information that you do not wish to be publicly disclosed, please indicate this clearly at the time of making the submission. IPART will then make every effort to protect that information, but it could be disclosed under the Government Information (Public Access) Act 2009 (NSW) or the Independent Pricing and Regulatory Tribunal Act 1992 (NSW), or where otherwise required by law.

If you would like further information on making a submission, IPART’s submission policy is available on our website.
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Executive summary

In response to a request from the Premier of NSW, the Independent Pricing and Regulatory Tribunal (IPART) is reviewing the regulation of the tow truck industry in NSW. This regulation is established by the *Tow Truck Industry Act 1998* (the Act) and the *Tow Truck Industry Regulation 2008* (the Regulation), and is administered by Roads and Maritime Services (RMS). It includes:

- A licensing scheme that imposes requirements on tow truck operators, tow trucks and drivers, which can be enforced by RMS and Police
- maximum fees and charging arrangements that apply to accident towing services for both light and heavy vehicles (prices for trade towing services are not regulated).

The current regulatory framework was introduced in 1998 to address specific problems that existed in the industry at that time, including unacceptable and at times unlawful behaviour by a minority of tow truck operators and drivers. However, its broad objectives also include protecting the rights of consumers and the reputable majority of tow-truck drivers and operators; improving road safety and the safety of tow truck drivers; and increasing the industry’s efficiency and effectiveness.¹

We consider it is a good time to conduct a broad review of tow truck regulation. As this regulation has been in place for more than 10 years now, it is appropriate to take stock of how the industry’s performance has changed in response to the regulation, and assess whether it remains an appropriate way to achieve its objectives without imposing undue regulatory burden on the tow truck industry.

Our review includes considering whether there is still a clear need for regulation in the tow truck industry, and if so, making recommendations on efficient fees and charging arrangements and on potential reforms to the regulatory framework. Our recommendations are intended to ensure that the towing industry operates efficiently, consumers are provided with adequate protection, and unnecessary red tape is minimised.

We are currently part way through this review, and have made draft findings and recommendations. Our key findings are that licensing should continue for all segments of the tow truck industry, but price regulation should continue for the light vehicle accident segment only.

In relation to the maximum prices for light vehicle accident towing, we found that most of the current fees are close to efficient levels. The main exception is storage fees, which in some circumstances do not allow operators to recover the costs of meeting the current requirements for holding yards. We are recommending these requirements be amended so they are less prescriptive, and the level and application of storage fees be adjusted to benefit customers and operators.

In relation to the design and administration of the licensing scheme, we identified a wide range of changes likely to reduce the burden on the tow truck industry without compromising consumer protection. For example, we are recommending changes to minimise the burden of record keeping and facilitate electronic record keeping, and to remove unnecessary restrictions and overly prescriptive requirements on how operators and drivers carry out their work. We are also recommending changes to improve the efficiency and flexibility of registering and licensing activities, and increase the effectiveness and efficiency of compliance and enforcement activities.

This report explains our draft findings and recommendations, and seeks comments from stakeholders to assist us in making our final recommendations.

1.1 Licensing should continue for all industry segments but price regulation should apply only to light vehicle accident towing

We recognise that over time, the performance of the tow truck industry has improved in response to regulation. Nevertheless, we found there remains a clear need for licensing, in both the accident and trade towing markets and the light and heavy vehicles markets. In particular, it is important to ensure that operators in these markets continue to satisfy character requirements – for example, criminal records and criminal association checks should continue to be carried out, and fit and proper person requirements assessed. We consider that requiring operators to be licensed remains the most appropriate way to meet this Government objective.

We also found that the risk of detriment and the ability to make use of other tools to meet the objectives for regulation differ across towing markets and services. In particular, the risk of detriment is greater and the ability to use other tools to meet these objectives is lower for light vehicle accident towing than for all other towing markets, including heavy vehicle accident towing. We consider both the licensing and price regulation regimes should be adjusted to reflect this.
In particular, we are recommending the current tow truck categories be adjusted so only tow trucks carrying out light vehicle accident towing must have Category A registration plates. Tow trucks that only carry out trade towing and heavy vehicle accident towing can have Category B plates. In addition, we are recommending price regulation for heavy vehicle accident towing be removed, so that maximum fees apply to light vehicle accident towing services only.

1.2 **Maximum prices for light vehicle accident towing should be restructured**

Our draft recommendations on maximum fees for light vehicle accident tows are summarised on Table 1.1. The main differences between our recommended fees and the current fees are that:

- the base fee for accident tows no longer covers three days storage
- fees for recovery tows are no longer regulated
- an after-hours surcharge of 25% applies to all tows outside the hours of 7am to 7pm on business days (instead of a 20% surcharge that applies to all tows outside the hours of 8am to 5pm on business days).

1.3 **Requirements for holding yards should be less prescriptive and maximum storage fees should encourage more efficient use of storage facilities**

We consider that the maximum fee for storage of light vehicles involved in an accident should continue to be regulated. This is necessary to protect consumers who may not be able to make a decision on where their vehicle should be towed from the scene of an accident, or whose preferred smash repairer is not open at the time of the accident.

However, we found the regulations in relation to the size and location of holding yards add to the cost of providing towing services. In our view, these regulations should be amended to better facilitate the entry of new operators and assist existing operators in utilising least-cost solutions for storage, while still ensuring the safe and secure temporary storage of vehicles that have been towed from the scene of an accident. In particular, we consider that:

- the requirement that operators own or lease a holding yard that can store at least four cars should be removed and replaced with less prescriptive requirements
- metropolitan operators should be able to store light vehicles in any safe and secure location specified in their licence (as notified to RMS)
- country operators continue to be able to store light vehicles in any safe and secure location that is within 10 km of their premises and specified in their licence.
Table 1.1 Summary of draft recommendations on maximum fees for light vehicle accident towing services (other than storage) in NSW from 1 July 2015 (nominal $, ex GST)

<table>
<thead>
<tr>
<th></th>
<th>Metropolitan</th>
<th>Country</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Base fee – accident tow</strong></td>
<td>$235</td>
<td>$235</td>
</tr>
<tr>
<td>Services covered in the base fee:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distance</td>
<td>First 10km of travel (measured from vehicle to towing destination)$^a$</td>
<td>First 20 km of travel (measured from operator premises to accident site and then to towing destination)$^a$</td>
</tr>
<tr>
<td>Salvage</td>
<td>All salvage on road/road related area; first 30 minutes salvage not on road/road related area</td>
<td>As for metro</td>
</tr>
<tr>
<td><strong>Base fee – subsequent tow</strong></td>
<td>$85</td>
<td>$85</td>
</tr>
<tr>
<td>(includes first 10 km of travel, measured as for accident tow)</td>
<td>(includes first 20 km of travel, measured as for accident tow)</td>
<td></td>
</tr>
<tr>
<td><strong>Distance charge</strong></td>
<td>$5.10 per km after first 10 km (measured from vehicle to towing destination)</td>
<td>$4.20 per km after first 20 km of travel (measured from operator premises to accident site and then to towing destination)</td>
</tr>
<tr>
<td><strong>Salvage following an accident</strong></td>
<td>$60 per hour after the first 30 minutes (only applies if off-road. Included in base fee if vehicle is on road/road-related area)</td>
<td>As for metro</td>
</tr>
<tr>
<td>An additional $60 per hour if an assistant is required</td>
<td>As for metro</td>
<td></td>
</tr>
<tr>
<td><strong>After hours surcharge$^b$</strong></td>
<td>25% on all charges outside the hours of 7am and 7pm on business days.</td>
<td>As for metro</td>
</tr>
</tbody>
</table>

$^a$ Country tows are any tows that occur partly or wholly outside the Sydney metropolitan area.

$^b$ The surcharge is applied to that part of the fee that relates to work done outside the hours of 7am and 7pm on business days.

**Source:** IPART.

We also consider that the regulated price for storage should apply in all cases where an accident vehicle is stored, regardless of where it is stored (eg, at an operator’s yard or a smash repair business). In addition, this price should be set at a level that encourages more efficient use of storage facilities. To achieve this, we are recommending that storage fees apply for each day a vehicle is stored (and, as discussed above, the base fee no longer include three days of storage).\(^2\)

In setting our draft recommended storage fees, we considered storage costs and storage utilisation and how these differ between inner metropolitan and all other locations. We reached the view that a maximum daily storage fee of $23 per day

\(^2\) As discussed in Chapter 6, once a quotation for repair has been accepted no further storage fees can be charged.
for inner-metro and $12 per day for outer-metro and country locations should allow operators to recover their storage costs and encourage them to improve the efficiency of these costs.

1.4 **Design of the licensing scheme should be reformed to provide savings to business and community**

A well-designed licensing scheme ensures that the requirements and conditions of the scheme place the least possible burden on the regulated entities and the regulators, while achieving the policy objectives. We identified a range of improvements to the current design of the scheme that are likely to reduce the burden on the tow truck industry while also improving outcomes. These include changes designed to:

- better target restrictions and requirements to the riskier aspects of the industry
- allow durations for licences and certificates of up to five years
- minimise the burden of record keeping, and facilitate electronic record keeping
- enable tow truck operators to employ and train staff from a younger age, and
- make it easier for tow truck operators to dispose of unclaimed vehicles.

1.5 **Administration of the licensing scheme should be reformed to provide savings to business and the community**

A well-administered regulatory scheme ensures strong positive outcomes while imposing low compliance and administrative costs on both the regulated entities and the regulators. We identified a range of changes to the current administration of the scheme likely to improve the efficiency of the administration of the scheme, as well as improving the level of compliance in the industry. These include changes to:

- improve the efficiency and flexibility of registering and licensing activities to benefit operators and drivers
- make it easier for industry participants and other stakeholders to keep up to date about regulatory and policy changes and RMS’s compliance and enforcement activities
- streamline the information required from industry participants for licence applications, compliance investigations and audits
- enable industry participants to make complaints and enquiries online via a web-form
- improve the effectiveness of audit arrangements without adding to the cost of compliance and enforcement activities, and
- introduce timeframes for regular ongoing reviews of the Act and Regulation.
We also found that the licence fees for operator’s licences, tow truck plates, driver’s certificates and towing authorisations should be reduced. However, we note that our recommendations on the design and administration of the current licensing scheme will result in efficiency gains for RMS. As these recommendations are implemented, RMS should review the licence fees and reduce them where necessary to reflect changes in the efficient costs of administering the scheme. RMS will also require funding to implement electronic systems for administering the licensing scheme.

### 1.6 IPART seeks comment on this draft report

We are now seeking submissions on this draft report and recommendations and invite comments from interested parties. Submissions are due by 11 November 2014. Late submissions may not be accepted. All submissions accepted will be published on our website when our final report is submitted to the Minister for Roads and Ports. Details on how to make a submission can be found on page iii at the front of this report.

### 1.7 Draft recommendations in this report

**Need for ongoing regulation**

1. Tow truck licence plate categories should be amended to reflect the risk of the towing activities the truck undertakes. Specifically:
   - Category A plates should cover all types of towing including light vehicle accident towing. That is:
     - accident towing for light and heavy vehicles
     - trade towing for light and heavy vehicles.
   - Category B plates should cover all types of towing except light vehicle accident towing. That is:
     - accident towing for heavy vehicles only
     - trade towing for light and heavy vehicles.

2. The Operator’s Licence Application should be amended to better facilitate operators using a combination of tow trucks with different tow truck plate categories.

3. For light vehicle accident towing services, prices should continue to be regulated by setting of maximum fees and charges.

4. For light vehicle recovery towing services, prices should not continue to be regulated. To ensure that the owner is in a position to make an informed decision, IPART also recommends that:
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1. The police inform the owner that they are liable for payment of the towing fee.

2. The towing operator sends a quotation (including in electronic form) to the owner and proceeds with the tow only once they have received permission to do so from the owner.

For heavy vehicle accident towing services, price regulation should be removed.

For heavy vehicle accident towing services, operators should not be permitted to undertake towing work until a quotation (including in electronic form) has been approved by the owner or the owner’s agent (e.g., the insurer or driver).

Efficient costs and fees for light vehicle accident tows

In both metropolitan and country areas, the maximum base fee for light vehicle:

- accident tows should be $235 per tow
- subsequent tows should be $85 per tow.

There should be no change to the distance and salvage allowances currently included in these light vehicle base fees.

The maximum distance charge for light vehicle accident and subsequent tows should be:

- $5.10 per km for metropolitan areas
- $4.20 per km for country areas.

The maximum light vehicle salvage charges in both metropolitan and country areas should be:

- $60 per hour after the first 30 minutes (applicable to off-road salvage only)
- an additional $60 per hour if an assistant is required.

In both metropolitan and country areas, an after-hours surcharge should apply to light vehicles outside the hours of 7am to 7pm on business days, and this surcharge should be a maximum of 25%.
12 The current requirement for operators to store light vehicles in holding yards that they own or lease and that can store a minimum of four cars should be removed. A new licence condition specified in the Act should require operators to:

- store vehicles in a location that is safe and secure, in accordance with guidelines issued by RMS
- take all reasonable precautions to prevent loss of or from, or damage to, any motor vehicle that is being towed or stored by, or on behalf of, the operator until such a time as it is returned to the owner or delivered to an agent authorised by the owner (eg, insurer or designated smash repairer).

13 RMS develop guidelines to indicate how it will assess whether a storage location is safe and secure. These guidelines should not prescribe the following as being minimum requirements for safe and secure storage:

- a requirement for operators to store light vehicles in holding yards that they own or lease
- a requirement that storage facilities can store a minimum number of cars.

14 The discretionary grounds for refusing a licence should have regard to an operator’s performance in storing vehicles.

15 Operators must specify their proposed storage locations as part of their operators licence application or renewal or notify RMS at any time if they change and are not permitted to store vehicles in any locations that have not been specified.

16 Metropolitan operators should be allowed to store light vehicles in any safe and secure location that is specified in their licence.

17 Country operators should be required to store vehicles in a safe and secure location within 10 km of their place of business and specified in their licence.

18 Where a metropolitan operator is storing a vehicle because the final destination specified in the towing authorisation is not available, the distance for calculating total charges for initial and subsequent tows combined should be capped at the distance from accident to final destination via the most direct route plus 10 km.

19 Where a metropolitan operator is storing a vehicle in a location that has been specified as the final destination, no excess distance charges can be applied to the initial tow.
20  The Act and Regulation should be amended so that the maximum fee for storage applies to the storage of vehicles towed from the scene of an accident. The storage fee should apply:

- for all locations specified on an authorisation form where the vehicle is stored (for instance, in an operator's storage facility, or a smash repairer designated as the final destination by the consumer on the towing authorisation) before the vehicle is returned to the owner or owner’s agent, and

- for all persons (for instance, an operator or smash repairer) that propose to charge or charges a fee for storage of the vehicle at a location specified on an authorisation form.

- once a quotation for repair has been accepted no further storage fees can be charged.

21  The base fee should not include 3 days of storage.

22  The maximum fee for storage of all light vehicles other than motorcycles should be $23 per day for inner-metro Local Government Areas (LGAs) and $12 per day for outer-metro and country LGAs. The daily storage fee for motorcycles should be half of the light vehicle storage fee.

Reforms to the design of the licensing scheme

23  A tow truck assistant’s certificate should be introduced, and holders of this certificate should be permitted to travel in Category A tow trucks and to assist at the scene of a light vehicle accident. Applicants for an assistant’s certificate:

- should not be required to hold a driver licence

- should be 16 years or over

- should be subject to the same fit and proper person requirements as a tow truck driver.

24  Non-certified passengers should be permitted in Category B tow trucks.

25  Certified and non-certified passengers in tow trucks should be subject to the same conduct requirements as the tow truck driver.

26  If a passenger (certified or non-certified) is travelling in an operator’s tow truck, the operator should be responsible for ensuring they adhere to the relevant conduct requirements.

27  The Government negotiate mutual recognition arrangements for tow truck operator’s licences, driver’s certificates, and towing assistant’s certificates with the governments of Victoria, Queensland, South Australia and the Australian Capital Territory.
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28 Operator’s licences, driver’s certificates and assistant’s certificates should be available for three and five-year durations for those who have held the licence or certificate for a continuous period of at least three years without incident, immediately prior to the commencement of the licence or certificate being applied for.

29 Requirements on operators to maintain non-accident towing records should be removed, but tow truck drivers must be able to show that they have been authorised to tow the vehicle.

30 Requirements to maintain tow truck usage logs should be removed and replaced with a requirement that operators must be able to identify any drivers, assistants or passengers who travelled in or operated a particular tow truck at a particular time.

31 The period operators are required to retain records should be reduced from five years to two years.

32 Operators should not be required to keep paper records where the required records are kept electronically and must be made available to authorised officers or police officers on request.

33 RMS develop and implement by 30 June 2018 an electronic system that can be used by operators for the purpose of electronic record keeping and reporting to RMS, as well as for obtaining electronic towing authorisations at the scene of an accident (eg, using handheld devices).

34 Towing authorisation forms should not be required for the towing of heavy vehicles (greater than 4.5 tonnes GVM) from accident sites. However, operators should be required to obtain written authorisation for the towing job from the owner or driver of the accident vehicle, or the owner’s agent (such as the insurer). This written authorisation can be in electronic form (eg, email or SMS).

35 Operators should not be required to submit copies of the towing authorisation form to RMS within 28 days of the tow, and the towing authorisation form should be reduced to a duplicate rather than a triplicate form.

36 Tow truck drivers should be required to submit completed towing authorisations to the operator within 7 days of completing the towing job, instead of within 72 hours.

37 The towing authorisation form should be simplified and re-designed to:
   - highlight important information for the vehicle owner/driver on top of the front page (see example provided in Appendix E)
   - gather the key details regarding the tow on the front page (see example provided in Appendix E)
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– list the applicable regulated fees for either metro or non-metro (see example provided in Appendix E).

38 Books of towing authorisations should be designed and printed in a way that minimises the time tow truck drivers need to spend filling out the operator licensee’s details on every form and towing notice. For example, by giving operators the option to:

– order books of towing authorisations with the licence details already printed on the forms and towing notices

– order stamps with the licensee details (noting that this would require stamping both copies of the form and the towing notice)

– order stickers with the licensee details (noting that this would require attaching stickers to both copies of the form and to the towing notice).

39 One tonne tow trucks should be permitted as Category B tow trucks.

40 The Government amend the provisions for disposal of unclaimed vehicles in the regulations so that an operator can lawfully dispose of an unclaimed vehicle that, has a value of less than $3,000 (at the time of disposal) 30 days after a reasonable attempt has been made to notify the owner or an agent for the owner of the operator’s intention to dispose of the vehicle.

41 A vehicle should be considered to be unclaimed, and the operator should be able to begin the process of disposing of the unclaimed vehicle, when:

– the vehicle has been held in storage by the operator for at least 14 days, and

– the accrued storage fees have not been paid, and

– the owner or an agent for the owner has not contacted the operator to arrange for delivery of the vehicle or for continued storage of the vehicle.

42 The Regulation should also clearly specify:

– the minimum effort required by the operator in attempting to notify the relevant persons of the operator’s intention to dispose of the vehicle

– the ways by which the vehicle can be lawfully disposed of

– how the balance of the proceeds of sale of the vehicle (or its parts) should be dealt with

– how an operator can establish the value of an unclaimed vehicle

– any other relevant matters.

43 RMS publish a brief, practical guideline on its website that explains the process that operators must follow in order to dispose of unclaimed vehicles, and sets out the options available to operators to try to recover monies they are owed.
44 The requirements in the Regulation that tow trucks must carry a broom, a shovel and a durable rubbish container should be removed. It remains a requirement under the Act that tow truck drivers clean up and remove debris from accident scenes.

45 The requirement that tow truck drivers must wear protective clothing when driving the tow truck should be removed. However, tow truck drivers and any other employee of a tow truck operator must wear protective clothing while:
- operating or assisting in the use or operation of a tow truck on a road or road related area
- working at an accident scene or salvage site.

46 The Tow Truck Industry Protective Clothing policy should be made less prescriptive, including:
- removing the requirement for all persons to have available for their use SPF30+ sunscreen, sun protective headwear and protective sunglasses
- replacing the requirement that the lettering on the back of reflective vests must be at least 7 cm with a requirement for the lettering to be clearly legible from a minimum distance of 20 metres (this should not require operators to increase the size of existing lettering on tow trucks and reflective clothing).

47 The requirement that the licensee details displayed on the tow truck must be printed in letters and figures at least 50mm high should be replaced with a requirement for the details to be clearly legible from a minimum distance of 20 metres.

48 The requirement that drivers operating a Category B tow truck wear their driver’s certificate should be replaced with a requirement that these drivers must carry the certificate in the truck they are operating, and must present it if requested by:
- an authorised officer as specified under the Tow Truck Act
- a police officer
- the owner of the vehicle being towed
- an agent for the owner of the vehicle being towed.

49 The requirement that operators keep a photocopy of their operator’s licence in each of their tow trucks should be removed.

50 The tow truck driver training program should continue to be voluntary.

51 RMS replace the current Approved Summary of the Act and Regulation with a document that explains operators’ and drivers’ obligations in plain English.
Reforms to the administration of the licensing scheme and licence fees

52 Where a person wishes to be licensed as a tow truck operator and certified as a tow truck driver, the application and licensing processes for the licence and certificate should be combined. 106

53 The licence fees applicable for a combined operator licence and driver certificate should take into account the savings to RMS from avoided duplication of processing and administration work. 106

54 When combined, the term of the applicant’s driver’s certificate should be aligned with the term of the applicant’s operator’s licence. 106

55 Operators, drivers and assistants should be able to renew their licence or certificate by simply making the payment for the desired licence/certificate term. The current compliance and enforcement function served by the renewal process should be assigned to the recommended random auditing program (Draft recommendation 61). 107

56 Tow truck operators, drivers and assistants should be able to apply for, renew and manage their licences and certificates online, including:
   – making payments for licensing fees 108
   – updating details relevant to the licences/certificates 108
   – submitting electronic copies of documents required in relation to the licences/certificates 109
   – ordering replacement licences/certificates. 109

57 RMS notify all tow truck operators, drivers and assistants of all regulatory and policy changes that could affect them as soon as possible after the decision to make those changes is made public. The notification should also include information on how the changes might affect tow truck operators, drivers and assistants. 110

58 RMS publish news and updates regarding its compliance and enforcement activities on its website. This should include warnings and alerts regarding tow truck operators and drivers that have been convicted or found guilty of relevant offences (similar to NSW Food Authority’s “Name and Shame” register). 110

59 RMS ensures that, for the purposes of assessing applications and carrying out investigations and audits, it requests only information and documents that it does not already have on file. Among other things, a new applicant for a driver’s certificate who already holds a NSW driver’s licence should not be required to submit:
   – a photocopy of their driver’s licence 111
   – two passport photos of themselves. 111
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60 Tow truck industry participants and stakeholders should be able to submit complaints and enquiries online, via a web-form. 112

61 Every tow truck operator should be audited at least once every three years. New operators and operators found to be non-compliant should be audited more frequently, in line with a risk-based audit approach. 114

62 RMS formalise a Memorandum of Understanding with NSW Police for automatic notification of relevant information held by Police about persons in the tow truck industry. 114

63 A combined review of both the Tow Truck Industry Act and the Tow Truck Industry Regulation should be carried out as soon as practicable. The aims of this review should include: 116
   – implementing IPART’s recommendations 116
   – adopting relevant aspects of the Licensing and Registration (Uniform Procedures) Act 2002 116
   – simplifying and clarifying the legislation. 116

64 Thereafter, the Tow Truck Industry Act should be reviewed once every 10 years and the Tow Truck Industry Regulation should be reviewed once every five years. 116

65 RMS amend the fees for operator’s licences, tow truck plates, driver’s certificates and towing authorisations to the levels shown in Table 8.1. 118

66 RMS levy an additional fee of $30 (ex-GST) for incomplete applications and renewals. 118

67 RMS should review its tow truck licensing fees each year and revise them to reflect efficiency savings resulting from the changes to the design and administration of the licensing scheme. 119

Arrangements for adjusting light vehicle accident fees and licensing fees over time

68 Accident towing, accident storage and licensing fees are adjusted on 1 July each year in line with the change in the CPI (All groups, Australia) to March of that year. 129

69 A major review to reset all fees is undertaken in time for the price change on 1 July 2020. After that, a major review of fees is undertaken every five years. 130
1.8 How this report is structured

The remainder of this report discusses our review, and our draft findings and draft recommendations in detail. It is structured as follows:

- Chapter 2 sets out the context for our review and the process we followed
- Chapter 3 provides an overview of our approach and outlines the framework and principles of the regulatory red tape review, which underpin this approach
- Chapter 4 sets out our draft recommendations on the need for continued licensing of tow truck operators and drivers and whether continued price regulation is appropriate for light vehicle accident towing and heavy vehicle accident towing
- Chapters 5 and 6 explain our draft recommendations on maximum fees for light vehicle accident towing services and for light vehicle accident storage requirements and fees
- Chapters 7 and 8 discuss our draft recommendations on improving the design and the administration of the tow truck licensing scheme and licensing fees
- Chapters 9 and 10 outline the impact of our draft recommendations on customers and operators, and set out our draft recommendations on how to adjust fees over time and the frequency of major reviews.
2 | Context and process for this review

The tow truck industry plays an important part in the NSW roads and traffic network. It has the potential to influence the safety and efficiency of the network, and affect the experience of road users and other stakeholders through its business operations and conduct. It is currently regulated through the *Tow Truck Industry Act 1998* and the *Tow Truck Industry Regulation 2008*, which are administered by Roads and Maritime Services (RMS). Some towing services are also subject to price regulation.

As context for our review, the sections below provide more information on the services provided by the industry, its current regulatory framework and the level of fees for services that are subject to price regulation. The final section sets out the process we followed in conducting this review.

2.1 Services provided by the tow truck industry

The tow truck industry in NSW provides services to the public, government bodies and commercial organisations. These services fall into two main categories:

- **accident towing services**, which include towing vehicles damaged in accidents from the accident scene, and other accident-related services
- **trade towing services**, which include almost all towing services not related to accidents.

Operators can be authorised to provide both service categories and register their trucks with Category A plates (which have four digits) or trade towing services only and register their trucks with Category B plates (three digits). Only accident towing services are subject to price regulation. There is a competitive market for trade towing services and fees are not regulated.

Operators provide these services to both light and heavy vehicles. Light vehicles have a gross vehicle mass up to and including 4.5 tonnes and include cars, motorcycles and small vans. Heavy vehicles have a gross vehicle mass of more than 4.5 tonnes. There are different fees for accident towing services of light vehicles and heavy vehicles.
While the main focus of our terms of reference (see Appendix A) is on the maximum regulated prices for accident towing services, we have also looked at the trade towing market. Our terms of reference ask us to make recommendations on potential regulatory reforms for the industry as a whole. In addition, tow truck operators often provide both accident and trade towing services, so their fixed costs are often shared across both activities.

2.1.1 Accident towing services

The main accident-related towing services for which fees and charges are regulated include:

- **Accident towing** – towing a vehicle damaged in an accident from the accident scene to the initial destination requested by the vehicle owner (e.g., an insurance assessment centre, smash repairer, or the owner’s home or business).

- **Vehicle storage** – storing a vehicle in the operator’s ‘holding yard’ until it can be towed to the requested destination. Accident tow truck operators are required to have a holding yard where accident-damaged vehicles can be temporarily stored if, at the time of the accident, the owner doesn’t know where they want the vehicle towed, or the requested destination is closed.

- **Subsequent towing** – towing a vehicle from the operator’s holding yard to the requested destination.

- **Vehicle salvage** – moving an accident-damaged vehicle to a position where it can be towed.

There is also one non-accident related service for which fees and charges are regulated. This is **vehicle recovery** – towing a vehicle that has been stolen.

The main reason that fees and charges for these services are regulated is because after an accident, drivers may be distressed or in shock and unable to make rational decisions. They may have limited information as they infrequently use towing services and there is little opportunity to shop around. Depending on the location and time of day that the accident occurs, the damaged vehicle may also need to be moved quickly.

2.1.2 Trade towing services

Trade towing services include all towing work other than the services discussed in section 2.1.1 above. For example, these include:

- delivering new vehicles
- transferring vehicles between dealerships, insurers and repairers
- moving vehicles that have broken down or are illegally parked.
Fees and charges for trade towing services are not regulated as drivers are not as likely to be distressed or in shock and vehicles may not need to be moved as quickly. There is a competitive market for trade towing as any authorised tow truck operator can compete to provide these services. Vehicle owners can shop around for the best deal that meets their requirements (both price and service) and the decisions are not made when the driver is in distress at the scene of an accident. Businesses (including insurers) that require regular towing services may be able to negotiate contracts (for both price and service levels) with a preferred operator.

Unlike accident tows, many trade towing services are pre-booked. This means operators providing these services tend to be able to better utilise their tow trucks, and thus may have lower costs per tow.

Box 2.1 contains more information on how accident towing jobs are obtained.
Box 2.1 How accident towing jobs are obtained

At an accident, tow trucks compete to get the towing job. Arriving at the scene quickly is a key factor in securing the job. Anecdotally we understand that there is little competition on price and that the maximum regulated fee is commonly charged, particularly for light vehicles.

Typically, an accident towing job will be organised by the car owner and paid by their insurance company (and ultimately the policy holders). If the vehicle is uninsured, accident towing jobs are organised and paid for by the owner. Insurance companies are estimated to be responsible for 80% to 90% of smash repair work and it is likely that they are responsible for a similar proportion of accident towing work.

Police may organise some tows (eg, recovery of stolen vehicles and crashes where the police need the car for evidence or mechanical inspection) and have towing contracts with operators for towing jobs.

In the case of accidents involving heavy vehicles, drivers usually contact their employer who engages a tow operator. Often the employer has pre-existing arrangements with an insurer or a tow truck operator. Typically, a heavy vehicle is not towed to a holding yard but to the vehicle owner’s address or to a repairer with whom the owner or insurer has a relationship.

Following an accident, the vehicle driver is likely to be stressed, unfamiliar with the situation and responsive to advice provided by the tow truck driver. If they know who they are insured with, the vehicle driver may contact the insurance company for advice on where to have the car towed. Or, the tow truck driver may know the smash repairers that insurance company prefers and suggest towing to one of those smash repairers. Alternatively, the tow truck driver might encourage the vehicle driver to send the car to a smash repairer with whom the operator or driver has a relationship.

If the requested destination is not able to be accessed (eg, out of business hours) the tow truck driver will store the vehicle in their holding yard. The operator will charge a regulated initial tow fee, regulated storage fee and regulated subsequent tow fee. As noted above, the tow truck driver may also tow the vehicle to the operator’s holding yard until the owner works out where they want the vehicle repaired. In this situation, the operator will charge a regulated initial tow fee and regulated storage fee. Once the owner decides where they want the vehicle repaired, a trade tow (with an unregulated price) will be organised either with the same operator or a different operator.

In some jurisdictions accident tow jobs are allocated to trucks through a job allocation system (essentially a roster). NSW trialled a job allocation scheme in 2003 but decided against introducing it. An evaluation of the trial found that it did not improve service levels and response times were slower than anticipated and that industry reform since the proposal mitigated the need for it. See NSW Parliament, Legislative Council, Tow Truck Industry Amendment Bill 2007, Second Reading Speech, 16 November 2007.

2. Context and process for this review

2.2 Regulatory framework

The Government has used a combination of licensing and maximum fees to address specific concerns about the tow truck industry prior to the introduction of regulation, including unacceptable and at times unlawful behaviour. The broad objectives of the regulatory framework are to:

- protect the rights of customers
- protect the tow truck industry’s reputable majority of tow-truck drivers and operators
- improve road safety and the safety of tow truck drivers by ensuring that tow trucks are operated safely, and that accident scenes are cleared in a safe and efficient manner
- prevent dishonest and at times unlawful behaviour previously displayed by a minority of tow truck operators and drivers
- increase industry efficiency and effectiveness through addressing the above objectives.

The Act and Regulation set out the requirements that tow truck operators and drivers must meet, and specify the business practices and behaviours that are prohibited. In addition, they provide for RMS to set maximum fees for certain towing services and the charging arrangements for these services.

The sections below provide an overview of the current licensing and price regulation arrangements.

2.2.1 Tow truck licensing framework

Any person carrying on a business as a tow truck operator must hold a tow truck operators licence. Operators can only use tow trucks that are specified in their licence or an RMS approved standby tow truck. Tow trucks authorised for accident towing have a number plate of 4 digits followed by ‘TT’. Tow trucks with 3 digits followed by TT are authorised for trade towing services only. Tow truck drivers must hold a tow truck driver’s certificate.

There are no limits on the numbers of operator licences, driver certificates or tow trucks in NSW. This contrasts with the regulation of taxis in NSW, where the
number of licences is limited and consumers pay more than the efficient costs of providing the services.8

Tow truck operator requirements

To obtain an operator’s licence a person must, among other things:

- satisfy character requirements – for example, criminal records and criminal associations checks are carried out, and fit and proper person requirements are assessed
- have a ‘holding yard’ within 10 kms of their business premises9
- hold public liability and ‘on hook’ insurance
- be the registered owner or operator of the tow trucks operated (tow trucks must have current motor vehicle registration and display tow truck licence plates)
- pay a licence fee (which varies between metropolitan and non-metropolitan areas, see Chapter 8).10

In addition, operators must comply with detailed record keeping and record retention requirements including keeping records of towing authorisations (Box 2.2), non-accident tows, vehicles held in holding yards, drivers, tow trucks, tow truck usage, towing charges and invoicing.11 They must also ensure their drivers understand their obligations under the Act, complete towing authorisations, behave appropriately and wear and use clothing and equipment that complies with RMS requirements.12 (For more detail on operators’ requirements see Chapter 8.)

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8 Because of their scarcity, taxi licences in NSW are traded or leased for significant amounts that include an ‘economic rent’. For example, in Sydney in 2011/12 taxi licence lease costs were around $29,000 p.a. IPART, Review of maximum taxi fares and review of annual Sydney taxi licences from July 2014 – Final Report and Recommendations, February 2014, p 11.

9 Tow Truck Industry Regulation 2008, cl 35. A holding yard is a place to safely keep towed vehicles. After an accident a car may be taken to a holding yard if it is unable to be delivered to the nominated address (eg, if an insurance assessment centre or smash repairer is closed). An operator that only operates tow trucks with a gross combination mass of 25 tonnes or more does not have to maintain a holding yard.

10 Roads and Maritime Services, Applying for a tow truck operators licence, Towing Industry Fact Sheet 6. ‘On hook’ insurance covers the vehicle being towed. Operators only towing vehicles for metal recycling or wrecking do not need to have on hook insurance.

11 Tow Truck Industry Regulation 2008, cls 11, 26-34, 39, 49-51.

**Box 2.2  Towing authorisation forms**

Before a vehicle can be towed from an accident, a towing authorisation must be completed and signed by the tow truck driver and the car owner/driver (or a police or authorised officer). The authorisation form provides information on the rights of the car owner (to decide who will tow, where the vehicle will be towed and the right to contact anyone before signing) and includes vehicle details, tow destination, a quotation for towing and storage fees and details of the tow truck operator and driver. See Appendix B for an example of a towing authorisation form.

The towing authorisation form aims to improve customers’ awareness of their rights and enable people to make an informed decision when choosing a towing service.\(^a\) It also provides an audit trail of towed motor vehicles which police can use when investigating vehicle theft and ‘rebirthing’.\(^b\)

Operators purchase towing authorisation forms from RMS for $23 each. In 2007 the price of authority forms was significantly increased and maximum towing fees were raised to take this into account. The revenue was intended to fund the regulation of the industry (eg, costs of investigating and mediating disputes especially related to inflated and unjustified charges).\(^c\)

\(^a\) NSW Parliament, Legislative Council, Tow Truck Industry Amendment Bill 2007, Second Reading Speech, 6 November 2007.

\(^b\) RTA, Tow Truck Industry Regulation - Regulatory impact statement, June 2008, p 28.


**Driver requirements**

Tow truck drivers must hold a full drivers licence. A drivers certificate is automatically revoked if a drivers licence is cancelled or suspended.\(^13\)

Certified drivers must comply with behavior and record keeping requirements. At an accident scene these include, behaving in an orderly manner, with civility and propriety, obtaining a towing authorisation before towing a vehicle and providing copies of the authorisation to the vehicle owner/driver and the operator, leaving an accident scene once all needed authorisations have been obtained if they have not obtained a towing authorisation and complying with reasonable requests of police and ambulance offers at the scene.\(^14\) For further information see Chapter 8.

\(^13\) **Tow Truck Industry Act 1998**, s 32.

Enforcement

RMS can take disciplinary action against an operator or tow truck driver for a range of reasons including if they have failed to comply with the Act or Regulation, provided false or misleading information regarding their application and where the RMS has determined the person is no longer fit or proper to hold a licence or certificate.15

Disciplinary action includes suspending or revoking a licence or certificate, imposing a fine, giving directions to do or not do a thing or cautioning or reprimanding the operator or driver.16

2.2.2 Price regulation arrangements for accident towing services

The prices tow truck operators charge for accident towing services have been regulated since 1991 (see Box 2.3). This regulation includes setting maximum fees for certain services, and prohibiting fees for other services. The fee structure includes a two-part tariff comprising:

- a base fee for the service, which includes a specified distance or time threshold
- a variable fee that applies once the distance or time threshold is exceeded.

Different fee levels apply for light vehicles and heavy vehicles. Table 2.1 summarises the current maximum fee levels for each vehicle type, and Box 2.4 lists the prohibited charges. Appendix C provides a comprehensive list of all regulated fees.

Fees for light vehicle towing

The base fee for light vehicle towing includes 10 or 20 km (metro or non-metro) of towing, up to 3 days of storage and all salvage work at an accident scene if the vehicle is on the road or a road-related area. Once the base fee distance threshold is exceeded, the variable fee is charged based on the distance towed. Salvage fees following an accident or recovery of a stolen vehicle can only be charged if the light vehicle is off the road, the salvage work exceeds 30 minutes, and photographs of the scene of the accident are provided.

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15 Tow Truck Industry Act 1998, s 42.
16 Tow Truck Industry Act 1998, ss 41-42, 84.
The base fee is the same in metropolitan and non-metropolitan areas. However, the distance fee in metropolitan areas is double the fee in non-metropolitan areas because of how distance is measured:

- in the Sydney metropolitan area, 10km of towing is included in the base fee and towing distance is measured from the vehicle location to the destination
- in non-metropolitan areas, 20km of towing is included in the base fee and the towing distance is measured from the operator’s business to the vehicle location and then to the final destination.

An after-hours surcharge of 20% is applied to both the base fee and variable fee if the work is undertaken outside business hours (defined as Monday to Friday 8am to 5pm). As around 52% of crashes occur outside weekday business hours,17 we estimate that the after-hours surcharge is likely to apply to about half of light vehicle accident tows.18

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17 IPART calculation based on Transport for NSW, *Road Traffic Crashes in New South Wales, Statistical Statement for the year ended 31 December 2012, 2012 Table 7(b).* Business hours for tow truck charging are weekdays 8am-5pm, but crash statistics are divided into 2-hourly time frames so we have used 8am-6pm.

18 Fees for light vehicle towing are set in the *Tow Truck Industry Regulation 2008, cls 40C-40G, 40M, 40N, 40S-40T.*
2 Context and process for this review

Box 2.3  A brief history of fees

The maximum fees set in 1991 were increased in 1992, 1995, 2000 and 2006. Since July 2006 they have been indexed to increase in line with CPI. As the figure below shows, since 1991 maximum fees for light vehicle accident towing increased at a faster rate than inflation over this period.

**Index of maximum light vehicle accident fees, NSW 1991-2013**

![Graph showing the index of maximum light vehicle accident fees from 1991 to 2013.]

**Note:** The base fee increased significantly in 2000 following passage of the Tow Truck Industry Act 1998 and inclusion of more services (eg provision of photographs of salvage operations) in the base fee. Before 2004, the base fee included 8 kms of towing but was subsequently increased to 10 kms of towing. The increase in 2007 compensated for the cost of the new towing authorisation.

**Data source:** ABS 6401, Consumer Price Index, Sydney, All Groups, RMS and IPART calculations.

Heavy vehicle towing fees

Heavy vehicle towing fees are generally higher than those for light vehicle towing and vary depending on the class of tow truck that is used to tow the vehicle. The heavy vehicle base fee includes the first 72 hours of storage and the first hour of work at an accident or recovery. The variable fee is charged per hour.
Box 2.4  Prohibited charges

Tow truck operators cannot charge for:

- moving a vehicle causing an unreasonable obstruction, at the request of a police or authorised officer
- clean-up of the accident scene
- making phone calls
- taking photographs
- preparing documents related to a tow
- notifying owner of storage fees
- transporting owner of the vehicle
- storing personal belongings
- moving a vehicle in a holding yard
- changing tyres
- providing/using gloves
- providing/using a fire extinguisher
- any other activities related to towing.

Operators cannot charge light vehicles for time spent waiting at the scene of an accident or administrative work, but these charges are regulated for heavy vehicle towing.

Source: Tow Truck Industry Regulation 2008, cls 40L, 40ZC, 40ZD.
Table 2.1  Maximum towing fees for light and heavy vehicles in NSW from 1 July 2014

<table>
<thead>
<tr>
<th>Services covered in the base fee</th>
<th>Light vehicle (ex GST)</th>
<th>Heavy vehicle (ex GST)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base fee – accident</td>
<td>$251</td>
<td>$238-$343a</td>
</tr>
<tr>
<td>Base fee – recovery</td>
<td>$230</td>
<td>$217-$322a</td>
</tr>
<tr>
<td>First 10/20 km of travel (metro measured from vehicle to towing destination/non-metro measured from operator premises to accident and then to towing destination)b</td>
<td></td>
<td>First hour of work First 72 hours of storage First 30 minutes of salvage (on or off road)</td>
</tr>
<tr>
<td>First 72 hours of storage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All salvage on road/road related area</td>
<td></td>
<td></td>
</tr>
<tr>
<td>First 30 minutes salvage not on road/road related area</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Variable fee (distance/time) – metro</td>
<td>$6.09 per km after first 10 kms (measured from vehicle to towing destination)</td>
<td>$148-$255 per hour (after first hour of work)</td>
</tr>
<tr>
<td>Variable fee (distance/time) – non-metro</td>
<td>$3.04 per km after first 20 km of travel (measured from operator premises to accident and then to towing destination)</td>
<td>$148-$255 per hour (after first hour of work) (same as for metro)</td>
</tr>
<tr>
<td>Storage fee</td>
<td>$19 per day (after first 72 hours)</td>
<td>$90 per day (after first 72 hours)</td>
</tr>
<tr>
<td>Subsequent tow</td>
<td>$88</td>
<td>NA</td>
</tr>
<tr>
<td>(includes first 10/20 kms of travel metro/non-metro, as for distance charge)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salvage following an accident</td>
<td>$60 per hour after the first 30 minutes (only applies if off-road. Included in base fee if vehicle is on road/road-related area) An additional $60 per hour if an assistant is required</td>
<td>$61 per hour after initial 30 minutes (applies to on road or off road salvage) plus $60 per hour for administrative work arranging the salvage</td>
</tr>
<tr>
<td>After hours surcharge</td>
<td>20% on all charges</td>
<td>Accident and recovery: 50% if an additional driver or administrative work is required outside business hours Salvage: 50% on all charges</td>
</tr>
</tbody>
</table>

Note: All fees are ex-GST.


a Heavy vehicle base and hourly fees vary with class of tow truck.

b Non-metro tows are any tows that occur partly or wholly outside the Sydney metropolitan area.
2.3 Process for this review

The process we followed in conducting this review includes public consultation and detailed analysis. As part of this process, we released an Issues Paper in May 2014 that outlined our proposed approach to the review, discussed the key issues to be considered, and invited all interested parties to make a submission in response to this paper. We also released an online questionnaire for tow truck operators, drivers and customers (see Box 2.5). We considered all submissions and stakeholder comments in making our draft recommendations.

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Box 2.5 Operator/driver online questionnaire

We provided an on-line questionnaire for operators/drivers on our website. The questionnaire consisted of 10 questions, covering the following topics:

- number and type of tow trucks
- number and type of tows in a typical week
- tow truck licence conditions that are a burden on the business
- holding yard utilisation
- reasons for price differences between accident tows and trade tows
- prices charged for trade tows
- any other comments.

We received more than 60 responses from operators.

We asked respondents whether we could contact them for further information. We conducted follow-up interviews with 13 respondents. During these interviews we asked a range of questions about trade and accident tows (prices and time taken), business costs, driver payment arrangements and holding yards.
3 Approach used to develop our draft recommendations

As Chapter 1 discussed, our terms of reference for this review require us to deliver two outputs. The first is recommendations on appropriate fees and charging arrangements for light and heavy vehicle towing services currently subject to price regulation. The second is advice on any changes to improve the broader regulatory framework for tow truck services in NSW. In both cases, our advice should ensure that consumers are adequately protected, that the industry operates efficiently and viably, and unnecessary regulatory red tape is avoided.

In developing these outputs, we have taken account of the principles and assessment framework we are using in a separate review of licence rationale and design (regulatory red tape review, see Box 3.1).

In general, our proposed approach reflects the view that:

- Towing services should only be regulated using maximum fees and broader licensing arrangements where there is a clear need for government intervention to address market failures.
- Price regulation should only be used where it is the most appropriate tool to achieve the Government’s objectives. Where fees are regulated, the level and structure of fees should reflect the efficient costs of providing the services.
- Licensing reforms should be implemented where they reduce red tape and provide savings to business and the community.

The sections below provide an overview of our approach for this review, then outline the framework and principles of the regulatory red tape review, which underpin this approach. Chapters 4 to 9 discuss the individual steps in the approach in more detail, including how we reached our decisions for each step.

3.1 Overview of our approach

Our approach for this review comprises four main steps:

1. **Confirm there is a clear need to continue regulating the tow truck industry in NSW – either in the form of licensing only, or a combination of licensing and maximum fees.** This involves:
   a) assessing whether there is an ongoing need to licence tow truck operators and whether licensing is the most appropriate way to meet this need
b) assessing whether there is an ongoing need to regulate prices for light vehicle accident towing and heavy vehicle accident towing by considering the market failures price regulation is intended to address, how these differ across markets and services, and whether price regulation is the most appropriate tool to address them.

2. For the markets and services where we confirm there is an ongoing need for price regulation, analyse the efficient costs of providing those services and set maximum fees that reflect those costs. We analysed the costs of towing activities and storage separately, using data from our operator/driver questionnaire and other sources. For towing activities, our analysis involved:
   a) identifying the market prices for similar services in the unregulated trade towing market
   b) estimating the hourly cost of the regulated services, and comparing this cost to the market prices to determine the efficient hourly cost
   c) setting fees and charges that reflect this efficient hourly cost.

   For storage, the analysis involved:
   a) considering and developing storage arrangements that allow the market to innovate and better utilise storage facilities
   b) setting a storage price that encourages more efficient use of storage facilities.

3. Identify other potential regulatory reforms for the whole towing industry (including accident, recovery and trade towing services) that could provide savings to business and community. This involved applying the licensing assessment framework and taking account of the principles used in our separate regulatory red tape review to develop our advice.

4. Decide how the fees should be set in future years, including how they should be adjusted from year-to-year and how often they should be subject to a major review.
Box 3.1  IPART’s regulatory red tape review

There are currently about 1,000 different types of licences in NSW, affecting individuals, businesses and the community in general. Most of these licences are administered by NSW Government departments and agencies, and about 50 are administered by local councils.

Licences can be used by government to achieve economic, social and environmental objectives. However, there must be a clear need for a licence and it must be well designed and efficiently administered, so that it achieves its objectives at least cost to society. If a licence is not justified or it is inefficiently designed or administered, it imposes unnecessary costs on business and the community.

The large number of licences in NSW suggests that significant gains could be made if unnecessary licences were removed, or the terms and conditions of excessively burdensome licences reformed. A challenge for government, business and the community therefore is to identify those licences that are unnecessary or excessively burdensome.

In 2013, the NSW Government asked IPART to assist in meeting this challenge, by reviewing a wide range of licences, and making recommendations to assist the Government meet its target of $750 million in reduced ‘red tape’ costs for business and the community by June 2015. In particular, we are reviewing NSW licences and identifying those where reform would produce the greatest reduction in regulatory burden. Our draft report was released on 22 May 2014. This is a separate review to our review of tow trucks.


3.2  Framework and principles for regulatory red tape review

IPART has conducted a separate review of licences in NSW to identify those where reform would produce the greatest reduction in regulatory burden (including red tape). As part of the red tape review, we developed a framework for assessing existing and proposed licensing schemes.

In this tow truck review, we applied the principles of the four main stages of this framework:

- Stage 1 – Is licensing an appropriate option?
- Stage 2 – Is licensing well designed?
- Stage 3 – Is licensing administered effectively/efficiently?
- Stage 4 – Is the licensing scheme the best response?
The assessment framework reflects the best practice principles outlined by the Better Regulation Office (BRO), which are:

1. The need for government action should be established.
2. The objective of government action should be clear.
3. The impact of government action should be properly understood by considering the costs and benefits of a range of options, including non-regulatory options.
4. Government action should be effective and proportional.
5. Consultation with business and the community should inform regulatory development.
6. The simplification, repeal, reform or consolidation of existing regulation should be considered.
7. Regulation should be periodically reviewed, and if necessary reformed to ensure its continued efficiency and effectiveness.\(^{19}\)

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4 Need for ongoing regulation

As noted in Chapter 2, the tow truck industry is regulated through a combination of licensing and price regulation. All tow truck operators are required to hold a licence – regardless of whether they provide accident or trade towing, or light or heavy vehicle towing. However, price regulation only applies to operators providing accident tows (for both light and heavy vehicles). The current regulatory framework was introduced to address specific problems in the industry at that time, including unacceptable and at times unlawful behaviour. The broad objectives of the framework are to:

- protect the rights of customers
- protect the tow truck industry’s reputable majority of tow-truck drivers and operators
- improve road safety and the safety of tow truck drivers by ensuring that tow trucks are operated safely, and that accident scenes are cleared in a safe and efficient manner
- prevent dishonest and at times unlawful behaviour previously displayed by a minority of tow truck operators and drivers
- increase industry efficiency and effectiveness through addressing the above objectives.²⁰

The first step in our approach for this review was to confirm that there is clear need for ongoing regulation. First, we considered whether continued licensing of tow truck operators and drivers is appropriate. Then we considered whether continued price regulation is appropriate for light vehicle accident towing and heavy vehicle accident towing. The sections below summarise our draft findings and recommendations, and then discuss them in more detail.

4.1 Overview of draft findings and recommendations on the need for ongoing regulation

We found that there is a clear need to continue licensing the tow truck industry in NSW, including both the accident and trade towing markets and both the light and heavy vehicles markets. In particular, it is important to ensure that operators in these markets continue to satisfy character requirements – for example, criminal records and criminal association checks should continue to be carried out, and fit and proper person requirements assessed. We consider that requiring operators to be licensed remains the most appropriate way to meet the objectives.

However, we also found that the risk of detriment and ability to make use of other tools to meet the Government’s other objectives differ across towing markets and services. In particular, the risk of detriment is greater and the ability to use other tools to meet these objectives is lower for light vehicle accident towing than for all other towing markets, including heavy vehicle accident towing. We consider that both the licensing and price regulation regimes should be adjusted to reflect this.

Specifically, we consider that:

- The current tow truck categories should be adjusted so only trucks providing all types of towing including light vehicle accident towing are required to be registered with Category A plates.
- Price regulation should be maintained in the light vehicle accident towing market.
- Prices for heavy vehicle accident towing should be deregulated.

4.2 Licensing should continue for all operators and drivers, but licence plate categories should be adjusted

In general, we consider where it is feasible, competition is preferable to regulation as it encourages businesses to improve their efficiency and service levels. However, previous reviews of the tow truck industry found that while deregulation is an ideal future goal, government regulation was still necessary to prevent unacceptable industry behaviour and protect consumers.21

In response to our Issues Paper, stakeholders in the insurance industry expressed strong support for continuing to regulate the tow truck industry, putting the view that this is still necessary to protect consumers from unethical behaviour and unreasonable costs. For example, Suncorp noted that while the majority of

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the towing industry treats customers fairly, a small number of unethical operators remain and can cause significant consumer detriment. It argued that both ongoing licensing of operators and drivers, as well as price regulation is needed to ensure consumer protection.\textsuperscript{22} NRMA noted that it does not support any proposal to water down or remove any regulation of the towing industry in NSW.\textsuperscript{23}

We agree that ongoing licensing of the tow truck industry is required to ensure good industry performance and to protect consumers. We consider that licensing of operators and drivers should be maintained for both trade and accident towing. In particular, criminal records and criminal association checks and the fit and proper person requirements of the current licences and certificates are an essential part of keeping undesirable persons out of the industry and should be maintained and strengthened in some areas (see Chapters 6-8 for further detail on these areas).

In addition, for light vehicle accident towing, we found that the risk of consumer detriment continues to be higher than that for trade towing. Therefore, it is appropriate that tow trucks used to carry out light vehicle accident tows continue to be registered with Category A plates (which involves more onerous requirements than Category B plates). However, for heavy vehicle accident towing we found the risk of consumer detriment is significantly lower, and is similar to the risk associated with trade towing. (Our analysis of this risk is discussed in sections 4.3 and 4.4 below.)

In line with these findings, we consider that the tow truck licensing categories should be revised so the required licence plate category reflects the risk of the activities being undertaken by the truck. Specifically, Category A plates should be required only for trucks that provide all types of towing including light vehicle accident towing. Trucks that only provide trade towing and heavy vehicle accident towing should only require Category B plates. The inclusion of heavy vehicle accident towing in Category B will allow licence requirements to be better targeted at the level of risk involved, and will allow the applicable requirements to be more easily enforced.

In addition, we consider that the licensing scheme should better facilitate operators using a combination of tow truck plate categories. Currently, a tow truck operator must nominate on their licence application (or renewal) whether or not they will carry out accident towing. Operators must list every truck that it intends to use and all trucks are attributed to the nominated category. A small number of operators use a combination of Category A plates and Category B plates, but we understand these are by exception. We also note that there is no information on RMS’s website that suggests an operator can use a combination of tow truck plate categories.

\textsuperscript{22} Suncorp submission to Issues Paper, p 1.
\textsuperscript{23} NRMA submission to Issues Paper, p 3.
Instead, we recommend that an operator should be able to choose the category for each tow truck, rather than for the operator licence overall. RMS should amend the application form for the operator’s licence to accommodate this, and provide information on its website that clearly explains how an operator can register tow trucks with different plate categories.

Draft recommendations

1. Tow truck licence plate categories should be amended to reflect the risk of the towing activities the truck undertakes. Specifically:
   - Category A plates should cover all types of towing including light vehicle accident towing. That is:
     - accident towing for light and heavy vehicles
     - trade towing for light and heavy vehicles.
   - Category B plates should cover all types of towing except light vehicle accident towing. That is:
     - accident towing for heavy vehicles only
     - trade towing for light and heavy vehicles.

2. The Operator’s Licence Application should be amended to better facilitate operators using a combination of tow trucks with different tow truck plate categories.

4.3 Price regulation should continue for light vehicle accident towing

In general, the rationale for price regulation of any service is the existence of market failures that prevent prices being set to reflect efficient costs. We consider there are several potential market failures that provide a rationale for continued price regulation of light vehicle accident towing. These include:

- Impaired decision making. As Chapter 2 noted, after an accident drivers may be distressed or in shock and so may make irrational or poor decisions.
Lack of information. Accidents are relatively infrequent occurrences for most drivers. Unlike electricity bills, drivers don’t pay accident towing fees regularly, and so don’t have the same understanding of accident towing and the associated fees. If they are insured, they also don’t have a strong incentive to shop around for a good deal before they have an accident.24

Public good. To some extent, accident towing can be considered a public good, as it can help avoid traffic congestion by having accident-damaged vehicles moved quickly.

However, as noted in our Issues Paper, the existence of these potential market failures alone does not necessarily justify price regulation (or other forms of regulation, such as licensing). Therefore, in line with the assessment framework for our regulatory red tape review (discussed in Chapter 3), we also considered the following questions:

1. Is the risk of detriment (without price regulation) high and is the ability to remedy this detriment poor?
2. Is the market unable to provide an acceptable response to the risk of detriment or remedy the detriment?
3. Is price regulation the most appropriate tool to meet the Government’s objectives?

In the case of light vehicle accident towing we consider that the answer to each of these questions is ‘yes’ and that price regulation is necessary in addition to licensing. The sections below outline our considerations on these questions.

4.3.1 Is the risk of detriment high and is the ability to remedy poor?

The risk of detriment relates to both the likelihood and the potential magnitude of detriment (in this case, excessive fees for accident towing services). As noted above, after an accident, drivers are vulnerable, as they are often in shock or distressed. They are also likely to have limited access to information to make informed decisions because they have not conducted prior research into accident towing fees and regulations. We consider that this means the likelihood of detriment is high.

24 While vehicle insurers do have an incentive to secure a good deal by contracting with a particular tow truck operator, the vehicle may not be sufficiently insured, or the driver may not know who the insurer is. For example, the driver may not be the owner of the vehicle, or the driver may be too distressed or confused to remember the name of the insurer. In addition, there is no guarantee that the tow truck operator that arrives first at the scene is the operator that an insurance company has a contract with. We also note that there may be a moral hazard concern where insured drivers have little incentive to negotiate low prices as their insurer will pay the costs of towing. We consider this to be a secondary rationale for regulation.
We also consider the potential magnitude of detriment is significant. We note that prior to the amendment of the Act and Regulation, vehicle owners were often charged inflated fees for tasks related to accident towing. As noted by Government in 2008, these have included charges of between $50 and $160 for cleaning small quantities of oil and fluids from tow truck trays, and up to $50 for sending a facsimile.\(^{25}\)

NRMA argued that in the absence of price regulation, there would be an increase in exploitative industry behaviour and treatment of consumers by way of unreasonably high and excessive fees.\(^{26}\)

Remedies relate to the avenues to repair, restore or otherwise compensate for the detriment that occurs. In the absence of price regulation, vehicle drivers and insurers would need to negotiate their own prices. If excessive fees were charged, drivers (and their insurers where relevant) would need to rely on the ability to recover any losses associated with excessive charges under general law. Suncorp and NRMA argued that general consumer protection laws and regulation do not provide sufficient consumer protection in the towing market.\(^{27}\)

Tow truck operators and drivers are subject to a range of generic or broadly applicable laws and other government actions. General consumer protection is provided under Australian Consumer Law, specifically the *Competition and Consumer Act 2010* (CCA) as well as the *Fair Trading Act 1987* (FTA). For example, the CCA prohibits a range of anti-competitive behaviours such as agreements to fix prices or to share a particular market by geography.

Our licensing framework provides guidance for considering whether generic laws are sufficient or additional measures are needed to meet government objectives. In particular, the framework notes that if the need for government action is strong, it may not be sufficient to rely on generic laws to remedy the detriment. This appears to have been the case at the time when the Act and Regulation were amended in 1998 and subsequently in 2007 and 2008.

In addition, we consider that the context in which accident-related towing services are provided strengthens the need for government action. As discussed above, drivers at an accident scene are often distressed or in shock which may make them more vulnerable than usual. This may increase the need for government action to protect them from excessive charges, rather than require them to pursue remedies under general law.


\(^{26}\) NRMA submission to Issues Paper, p 3.

\(^{27}\) Suncorp submission to Issues Paper, p 2 and NRMA submission to Issues Paper, p 3.
4.3.2  **Is the market unable to provide an acceptable response?**

To determine whether the market is unable (or unlikely) to provide an adequate response to the problems identified above, we considered the experience to date in NSW. As Chapter 2 discussed, the NSW Government has regulated maximum fees for accident towing services since 1991. Over time, this regulation has become more prescriptive. For example, one of the amendments the Government made in 2008 was to specify a list of activities for which charges are prohibited.\(^{28}\) It did this because the market’s response to the initial, less prescriptive regulation resulted in some tow truck operators charging excessive fees for these activities. We have seen no evidence to suggest that the market would not respond in this way again if fee regulation for light vehicle accident towing was relaxed.

4.3.3  **Is price regulation the most appropriate tool to meet the Government’s objectives?**

When deciding whether price or other regulation should be applied, it is important to consider what other government actions are available and whether these would better meet the Government’s objectives. In general, these options can include other changes to the regulatory framework such as additional licensing requirements for operators and drivers. They may also include other non-regulatory options such as:

- providing information through targeted information or education campaigns
- creating mechanisms that encourage (rather than mandate) certain actions, behaviours or attributes (such as industry codes of conduct or publishing benchmark ranges).

We note that there may be a role for targeted information and education campaigns. However, regardless of the level of information that drivers may have about the tow truck industry, they are still likely to be distressed or in shock following an accident and so may not be able to act on this information.

We note that a new tow truck industry code of practice was introduced in 2012. The code of practice is intended to encourage professional, safe, equitable and ethical behaviour within the industry.\(^{29}\) It is difficult to determine whether this code alone has been useful in improving behaviour as it has been accompanied by other regulatory changes in the industry (such as stricter requirements on operators and drivers). The question is whether a voluntary code of conduct sufficiently addresses the risk of drivers being charged excessive fees. It is our

\(^{28}\) Tow Truck Industry Regulation 2008, clause 40ZD.

view that the code of conduct is not sufficient and additional licensing and fee regulation are required.

4.3.4 Are the market failures consistent across individual towing services and locations?

In our Issues Paper, we noted that the potential market failures discussed above may exist to different extents across individual towing services and locations. In relation to light vehicle accident towing, we considered this issue for each service (initial towing, subsequent towing, vehicle storage and vehicle salvage) and each location (metropolitan and country areas). We concluded that the market failures are consistent and therefore maximum fee regulation should be maintained for all these services and locations.

Vehicle salvage occurs at the scene of an accident and is subject to the same market failures as the initial accident tow. Similarly, the decision on where to store a vehicle is either made at the scene of an accident or is a result of the final destination specified at the scene of the accident not being available. Where the final destination is not available, customers will incur a subsequent tow charge. Given these factors, we consider it appropriate to maintain fee regulation for salvage, subsequent tows and storage.

However, in relation to stolen vehicle recovery towing services – which are not strictly accident tows but in some circumstances are treated as such – we found the potential for market failure is much less significant. A recovery tow occurs when police notify an owner that their stolen vehicle has been located, and the owner accepts the police’s offer to organise a tow. The owner specifies the towing destination and is liable for payment of the recovery towing fee. If the vehicle is insured, we understand the insurance company generally arranges the tow, and it is treated like a normal trade tow where price is not regulated. But if the vehicle is uninsured and the owner has to organise the tow themselves, we understand it is generally treated as a recovery tow and the price is regulated.

We consider that the fee for recovery tows should not be regulated, on the grounds that the owner is in a better position to make an informed decision about the tow compared to at the scene of an accident. To ensure that owner is in a position to make an appropriate decision, we also consider that:

- the police should inform the owner that they are liable for payment of the towing fee
- the towing operator should send a quotation to the owner and proceed with the tow only once they have received permission to do so from the owner.

Draft recommendation

3 For light vehicle accident towing services, prices should continue to be regulated by setting of maximum fees and charges.
4 For light vehicle recovery towing services, prices should **not** continue to be regulated. To ensure that the owner is in a position to make an informed decision, IPART also recommends that:

- the police inform the owner that they are liable for payment of the towing fee
- the towing operator sends a quotation (including in electronic form) to the owner and proceeds with the tow only once they have received permission to do so from the owner.

### 4.4 Prices for heavy vehicle accident towing should be deregulated

The existing licence requirements that apply to the tow truck industry were intended as a way of tackling problems associated with light vehicle accident towing. However, under the current regime, the same requirements apply to operators that tow only heavy vehicles.

In our Issues Paper, we sought comment on the need to regulate maximum fees for heavy vehicles. We have considered the feedback we received, and also considered each of the questions we asked in relation to light vehicle accident towing. We concluded heavy vehicle accident towing should be re-categorised into the lower-risk towing Category B, and maximum fee regulation should be removed.

#### 4.4.1 Is the risk of detriment high and is the ability to remedy poor?

We consider that the risk of detriment is lower in the heavy vehicle accident towing market compared to light vehicles. Heavy vehicle drivers are more likely to be professional drivers. This means they are less vulnerable at the scene of an accident than, for example, a 17-year old provisional driver. Heavy vehicles are also more likely to be used for business purposes. This means drivers are highly likely to be insured, and more likely to have considered what arrangements should be in place in the case of a breakdown or accident.

Stakeholders provided mixed support for relaxing or removing fee regulation for heavy vehicles. In its submission to the Issues Paper, NRMA noted that it supported ongoing fee regulation for accident towing generally (including light and heavy vehicles).

One operator argued that light and heavy vehicles should be viewed as separate industries and regulated as such. Wagga Truck Towing made several points that we consider support fee deregulation for heavy vehicles:

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30 Examples provided in second reading speeches related primarily to light vehicle towing.
In the case of heavy vehicles, operators are not dealing with stressed individuals but rather with transport companies that have procedures in place for the recovery of vehicle loads in the event of mishaps.

There is not a ‘typical’ accident scenario for heavy vehicle accidents. The operator must have the ability to salvage and tow trailers, trucks, and loads from any situation – for example, the truck and load may need to be salvaged from over a cliff or may simply require restacking from the roadway on another truck. Operators are required to clean up the scene of an accident which could involve expensive equipment for which it is currently difficult to recover costs under the maximum fees.

In regional areas, heavy vehicle tow trucks do not race to accidents to acquire the tow as the equipment required is so variable and distances play a major factor.

To its knowledge, there have never been any problems in the heavy vehicle towing industry metropolitan areas or regional areas (in particular). 31

We also received comments from National Transport Insurance (NTI) on heavy vehicle towing. NTI is the largest insurer of heavy commercial vehicles. NTI notes that although the majority of the towing industry treats customers fairly and respectably, a small number of unscrupulous operators can cause consumer detriment. However, importantly, it considers that if prices were deregulated, market forces would more than likely see the hourly rates decrease and many of the extra equipment/service charges would cease to exist. NTI has its own service agreements in place with operators with negotiated rates. 32 We also understand that RMS has similar service agreements in place with heavy vehicle operators. 33

After considering the comments and evidence put forward by stakeholders, we reached the view that the risk of detriment in the market for heavy vehicle accident towing is low. Therefore, we consider heavy vehicle accident towing should be re-categorised into Category B and price regulation should be removed for these services. As noted by Wagga Truck Towing, in heavy vehicle accident towing, tow truck operators are not dealing with stressed individuals but rather with transport companies that have procedures in place for the recovery of vehicle loads in the event of mishaps. As part of good business practice, heavy vehicle transport operators should have these arrangements in place.

31 Wagga Truck Towing submission to Issues Paper, p 3.
32 NTI, Correspondence with IPART, 2 September 2014.
33 Information provided by RMS.
4.4.2 Is the market unable to provide an acceptable response?

Given the differences between the light and heavy vehicle accident towing markets discussed in the section above, we consider the heavy vehicle market is likely to be better able to provide alternative responses if fee regulation and licensing is relaxed or removed. We also note that accident towing fees for heavy vehicles are unregulated in Victoria.34

Unlike some markets where it is difficult for consumers to gather information and to compare prices, consumers in the heavy vehicle market are businesses that understand the costs of providing transport services. They don’t need assistance in comparing quotations, and most transport businesses should have sufficient judgement to know whether the quotations are excessive and can shop around and negotiate if they think the price is too high.

We also consider that there are a sufficient number of heavy vehicle towing operators in NSW and that competition between these operators should provide adequate protection from excessive charges. We note that NTI has run agreements in place with preferred heavy vehicle towing operators.

To protect against the potential for a small number of unscrupulous operators, we consider that operators should not be permitted to undertake towing work until a quotation (including in electronic form) has been approved by the owner or the owner’s agent (e.g., the insurer or driver). This will allow for operators to quotation on the most appropriate equipment for a job rather than being limited by an hourly rate. As noted above, NTI and RMS have already negotiated rates with preferred towing operators. As noted above, heavy vehicle tow truck operators and drivers will still be subject to the same fit and proper person requirements that are currently in place. In practice, these rates should be prearranged prior to an accident occurring, and the size and complexity of the job confirmed once the operator arrives at the scene of the accident.

4.4.3 Is price regulation the most appropriate tool to meet the Government’s objectives?

We have also considered whether it would be appropriate to recommend benchmark ranges or use market monitoring rather than maximum prices for heavy vehicle accident towing. Given the diversity of jobs and the development of new technologies for salvage, it is our view that a benchmark range (either based on an hourly or some other charging structure such as load size) would inhibit innovation in the market and lead to inefficient outcomes. Discussions with heavy vehicle towing operators have indicated that different price structures may be appropriate for different towing jobs. In some cases, it is better to charge on the basis of the weight of the vehicle being towed or tonnage per km towed, while in others an hourly rate may be appropriate. In some cases,
dangerous goods may be involved and so tow truck drivers require additional training that they should be allowed to recover through fees. We consider that market participants are better suited to negotiate the structure and level of charges and that a benchmark range may inhibit the ability of market participants to negotiate fees that are best suited to particular situations. It is also our view that market participants are sufficiently well informed to negotiate prices and as a result the benefits of market monitoring would not outweigh the costs.

Draft recommendation

5 For heavy vehicle accident towing services, price regulation should be removed.

6 For heavy vehicle accident towing services, operators should not be permitted to undertake towing work until a quotation (including in electronic form) has been approved by the owner or the owner's agent (e.g., the insurer or driver).
5 Efficient costs and fees for light vehicle accident tows

Once we reached the draft finding that price regulation continues to be necessary for light vehicle accident towing services only, our next step was to analyse the efficient costs of providing these services and recommend maximum fees that reflect these costs.

We consider that the best indicator of the efficient costs of accident tows is likely to be the fees for breakdown tows, which occur in a competitive market. Therefore, we first examined market prices for breakdown tows (and other trade tows) to estimate the efficient costs per hour. Next, we cross-checked that these costs are appropriate for accident tows by estimating the hourly cost of towing activities based on data from our operator/driver questionnaire. Finally, we used these estimates to calculate a set of accident towing fees that recover these costs. We also had regard to stakeholder comments on the current fees.

The sections below provide an overview of our draft recommendations on maximum fees for light vehicle accident towing services (other than storage), and then discuss the analysis which underpins these recommendations. Our draft recommendations on storage fees are discussed in Chapter 6.

5.1 Overview of draft recommendations on fees for light vehicle accident tows

Our draft recommendations on maximum fees for light vehicle accident tows are summarised on Table 5.1. The main differences between our recommended fees and the current fees (see Chapter 2) are that:

- the base fee for accident tows no longer includes any free storage
- fees for recovery tows are no longer regulated
- an after-hours surcharge of 25% applies to all tows outside the hours of 7am to 7pm on business days (instead of a 20% surcharge that applies to all tows outside the hours of 8am to 5pm on business days).
Table 5.1  Summary of draft recommendations on maximum fees for light vehicle accident towing services (other than storage) in NSW from 1 July 2015 (nominal $, ex GST)

<table>
<thead>
<tr>
<th></th>
<th>Metropolitan</th>
<th>Country</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Base fee – accident tow</strong></td>
<td>$235</td>
<td>$235</td>
</tr>
<tr>
<td>Services covered in the base fee:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distance</td>
<td>First 10km of travel (measured from vehicle to towing destination)(^a)</td>
<td>First 20 km of travel (measured from operator premises to accident site and then to towing destination) (^a)</td>
</tr>
<tr>
<td>Salvage</td>
<td>All salvage on road/road related area; first 30 minutes salvage not on road/road related area</td>
<td>As for metro</td>
</tr>
<tr>
<td><strong>Base fee – subsequent tow</strong></td>
<td>$85</td>
<td>$85</td>
</tr>
<tr>
<td>(includes first 10 km of travel, measured as for accident tow)</td>
<td>(includes first 20 km of travel, measured as for accident tow)</td>
<td></td>
</tr>
<tr>
<td><strong>Distance charge</strong></td>
<td>$5.10 per km after first 10 km (measured from vehicle to towing destination)</td>
<td>$4.20 per km after first 20 km of travel (measured from operator premises to accident site and then to towing destination)</td>
</tr>
<tr>
<td><strong>Salvage following an accident</strong></td>
<td>$60 per hour after the first 30 minutes (only applies if off-road. Included in base fee if vehicle is on road/road-related area)</td>
<td>As for metro</td>
</tr>
<tr>
<td>An additional $60 per hour if an assistant is required</td>
<td>As for metro</td>
<td></td>
</tr>
<tr>
<td><strong>After hours surcharge(^b)</strong></td>
<td>25% on all charges outside the hours of 7am and 7pm on business days.</td>
<td>As for metro</td>
</tr>
</tbody>
</table>

\(^a\) Country tows are any tows that occur partly or wholly outside the Sydney metropolitan area.

\(^b\) The surcharge is applied to that part of the fee that relates to work done outside the hours of 7am and 7pm on business days.

Source: IPART.

The impact of our recommended fees on accident towing bills will depend on where the accident happens, how long the vehicle is stored, where the vehicle is stored, and the total towing distance (see Chapter 9).
5.2 Why breakdown towing prices provide the best indicator of accident towing costs

In a competitive market, the price of a service is likely to be a good indicator of the efficient costs of providing that service. Businesses that charge higher prices will lose customers to those that charge efficient prices (for the same quality of service), and businesses that consistently charge below-efficient prices may not survive.

In NSW, all trade tows are provided in a competitive market (see Chapter 2 and Box 5.1). While operators must hold a licence, fees and charges for trade towing services are not regulated and any authorised tow truck operator can compete to provide these services. Vehicle owners can shop around for the best deal that meets their requirements (both price and service). Businesses (including insurers) and government agencies (eg, police, RMS) that require regular towing services may be able to negotiate contracts (for both price and service levels) with preferred operators.

While the market for trade tows covers a range of services, we consider that the prices for breakdown tows (ie, moving vehicles that have broken down on the road) provide the best indicator of the efficient costs of accident tows. Breakdown tows require the same inputs as accident tows, such as the same tow truck, driver and fuel. They also require operators to have similar standby capacity as for accident tows. This is because, unlike other towing services, neither breakdown towing nor accident towing services can be scheduled. This limits the operator’s ability to provide other trade tows and potentially increases the price they must charge per tow to fully recover costs.

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35 As discussed in Chapter 2, other trade towing services include moving vehicles illegally parked (such as clearway tows), moving vehicles between repairers, or between an insurance assessment centres and a repairer, and delivering new vehicles.

36 Other trade towing services are mostly pre-booked services, which means operators providing them are better able to arrange their towing schedules to maximise the utilisation of their tow trucks.
Box 5.1 The NSW market for accident and trade tows

As at April 2014, there are 507 tow truck operators licensed to do accident and trade tows in NSW, and around 1,220 tow trucks. A further 311 operators are licensed to do only trade tows (around 380 tow trucks). Most operators are small businesses. Of those licensed to do both accident and trade tows:

- 62% have only 1 tow truck registered to their business
- 31% have 2 to 5 trucks
- 4% have 6 to 10 trucks
- 3% have 11 or more trucks.

Our best estimate of number of tows in a year is from 2008. In that year, the Roads and Traffic Authority (RTA, now RMS) estimated that there were around 65,000 accident tows and at least 500,000 trade tows in NSW each year. This suggests that accident tows make up about 10% to 15% of all towing services.

In 2012, there were around 46 crashes per accident plate per year in the Sydney metropolitan area, and about 24 per accident plate per year in non-metropolitan areas. Most operators that do accident tows also do trade tows.

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5.3 Market prices for breakdown and other trade tows

We gathered market prices for breakdown tows though our online operator/driver questionnaire and follow-up telephone conversations with some respondents (discussed in Chapter 2). We asked respondents what they would charge for a breakdown tow and how long that tow would typically take to complete. We found that:

- in metropolitan areas, the price for a breakdown tow ranged from $80 to $140 per hour, with an average of about $100 per hour
- in country areas the price ranged $80 to $130 per hour, with an average price of about $110 per hour.

We also obtained confidential information on market prices for trade tows from insurance companies and RMS contracts for clearway tows. Insurance companies are large users of trade tows. RMS and NSW Police both purchase a large number of trade tows. They both periodically undertake a competitive tender to engage towing operators on contract where the tender determines price
and service standards. We consider that this information supports the prices for breakdown tows provided by our questionnaire respondents.

Longer tows typically cost more than shorter tows because they take more time to complete. Operators generally recover these additional costs by charging a per km charge after a certain distance (with the initial distance included in the base charge). We asked questionnaire respondents how much they charge per km for additional distance. We also obtained confidential information from insurers about their contract rates for additional distance travelled. We found that:

- in metropolitan areas, the distance charge varied between $4.00 and $6.00 per km
- in country areas, the distance charge varied between $2.00 and $5.00 per km.

### 5.4 Estimated hourly cost of light vehicle accident towing activities

To check whether the average prices for a breakdown tow of about $100 per hour in metropolitan areas and $110 in country areas are a reasonable indicator of the efficient hourly cost of providing accident towing services, we made our own estimate of this cost. We used a ‘whole of business’ approach rather than allocating a share of the total towing costs to accident towing. This is because:

- The key costs of providing towing services (the tow truck, labour and fuel) are the same regardless of the type of tow. What varies is the time to complete the tow – with accident tows taking the longest as typically there is waiting time at the scene of the accident.

- Most towing operators that do accident tows also do trade tows. Indeed, our information suggests that the majority of operators do significantly more trade tows than accident tows. The market for trade tows (including breakdown tows) is much bigger than that for accident tows (see Box 5.1, above).

- We obtained ‘whole of business’ costs from towing operators and other sources.

We used questionnaire data on the input costs and activity levels of a wide range of tow truck businesses in NSW to model the hourly cost of their towing activities. Given the variety of business models used by tow truck operators (see Box 5.2), we modelled this hourly cost for both towing-only and combined businesses. We also modelled this hourly cost for businesses with different combinations of accident and trade tows, and with different inputs costs.

In addition, we took into account that tow truck operators providing accident tows need to have ‘standby’ capacity, which lowers their tow truck utilisation rate. We did this by assuming that each truck in the business spends a limited amount of time towing in an average week. We based this assumption on information provided by questionnaire respondents about how many tows they do per week and our estimates of how long each type of tow takes to complete.
Efficient costs and fees for light vehicle accident tows

We also used RMS information on the proportion of crashes that happen during business hours\(^{37}\) to make sure that operators have sufficient standby capacity during standard business hours.

We took into account the lower number of towing jobs per operator in country areas compared to metropolitan areas by calculating towing costs for a combined country business. In a combined business, the operator can compensate for fewer tows per truck by sharing the cost of drivers across its towing and non-towing operations (Box 5.3).

For each business we modelled, we found a range for the hourly cost of towing that is broadly comparable to the hourly price of breakdown tow discussed above. Table 5.2 provides an overview of the range for the input costs we used in this modelling, and the resulting estimate of the hourly cost of accident towing. Appendix D provides more detail on our input costs.

Box 5.2 Business models in tow truck industry

In NSW, different segments of the towing market have different business models. Of businesses licensed for both accident and trade tows, some do predominately trade tows and the occasional accident and breakdown tow. Others focus mainly on breakdown tows or accident tows. In addition, some operators have towing-only businesses (especially in metropolitan areas), while others have combined businesses, such as a smash repairer who is also a tow operator (especially in country areas).

However, regardless of their business model, to run a viable towing business the amount that an operator must charge per hour of towing (of any type) depends on two things:

- The costs of the operator’s inputs – such as tow trucks, drivers and administrative support – and how efficiently they use them.
- The extent to which the tow trucks (and drivers) are utilised. The higher the utilisation rate, the less the operator needs to charge per towing hour to fully recover their costs.

\(^{37}\) RMS, Road Traffic Crashes in New South Wales, Statistical Statement for the year ended 31 December 2012, 2012, Table 7b.
Box 5.3  Driver costs for a combined business and a towing-only business

A combined towing and non-towing business responds to call-outs for tows, and for the rest of time the trucks and drivers are located at the business premises. Drivers have non-towing related duties on the premises during business hours (eg, mechanics), and do tows only when called upon to do so. This model allows the business to recover a share of the wages from towing fees.

In a towing-only business, each truck has a full-time driver during business hours and drivers do not have any non-driver related duties. The total cost of the driver must be recovered from towing fees. A towing-only business must have a higher tow truck utilisation rate than a combined business to remain viable.
Table 5.2  Ranges for the input costs used in our modelling and resulting estimate of hourly cost of accident towing ($2014/15, ex GST)

<table>
<thead>
<tr>
<th>Unit</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Vehicle purchase cost</strong></td>
<td></td>
</tr>
<tr>
<td>Purchase cost of vehicle</td>
<td>$ per truck</td>
</tr>
<tr>
<td>Interest rate</td>
<td>%</td>
</tr>
<tr>
<td>Life of truck</td>
<td>years</td>
</tr>
<tr>
<td>Annual cost of vehicle purchase</td>
<td>$ per truck per year</td>
</tr>
<tr>
<td><strong>Vehicle operating costs</strong></td>
<td></td>
</tr>
<tr>
<td>Parts, Repairs &amp; maintenance and tyres</td>
<td>$ per truck per year</td>
</tr>
<tr>
<td>Insurance</td>
<td>$ per truck per year</td>
</tr>
<tr>
<td><strong>Fuel costs</strong></td>
<td></td>
</tr>
<tr>
<td>Fuel price (diesel)</td>
<td>$ per L</td>
</tr>
<tr>
<td>Cost per 100km</td>
<td>$/100km</td>
</tr>
<tr>
<td><strong>Driver costs</strong> (standard business hours, share recovered from towing fees)</td>
<td>$ per truck per year</td>
</tr>
<tr>
<td><strong>Overhead costs</strong></td>
<td>$ per hour of towing</td>
</tr>
<tr>
<td><strong>Licensing and regulatory</strong> (excluding Towing Authorisation form)</td>
<td>$ per hour of towing</td>
</tr>
<tr>
<td><strong>Hourly cost of towing</strong></td>
<td></td>
</tr>
<tr>
<td>Metropolitan</td>
<td>$ per hour</td>
</tr>
<tr>
<td>Country</td>
<td>$ per hour</td>
</tr>
</tbody>
</table>

<sup>a</sup> Maximum life of 15 years is for a mixed business with comparatively low truck utilisation rates.

<sup>b</sup> We assumed that the parts, repair and maintenance costs increase with the age of the truck and its utilisation rate.

<sup>c</sup> Includes CTP insurance, which costs about $3,000 more in metropolitan areas than country areas. We assumed that cheaper trucks are insured for less than more expensive trucks.

<sup>d</sup> The cost per 100km depends on the cost of fuel and the fuel efficiency of the truck.

<sup>e</sup> Includes superannuation and worker’s compensation insurance. Excludes all payment for tows that occur out of standard business hours. The low end of the range is for to a mixed business that recovers only part of driver costs from towing activities.

<sup>f</sup> Based on our recommended licensing fees, as discussed in Chapter 8 plus the cost of vehicle registration.

5.5 **Recommended maximum fees for accident tows during business hours and afterhours surcharge**

The market data and our costing analysis both suggest, for businesses that do accident and/or breakdown tows, the average cost per hour of towing is $100 for a metropolitan business and $110 for a country business (business hours). Therefore, we used these hourly costs as the basis for setting our recommended maximum accident towing fees during business hours. We also had regard to stakeholder comments on the current fees, market data on distance charges and the estimated average time per tow. We then calculated:

- maximum base fees for accident and subsequent tows ($ per tow)
- maximum distance charges ($ per km in excess of the distance included in the base fee)
- maximum salvage charges ($ per hour in excess of the time included in the base fee)
- maximum surcharge for after-hours tows.

5.5.1 **Stakeholder views on current fees**

In submissions to our Issues Paper, and in discussions with tow truck operators and insurers, stakeholders generally supported the level and structure of current fees for light vehicle accident towing services. SunCorp put the view that the fees need to be high enough to encourage towing operators to remain in the industry, and to reduce incentives for them to invoice for additional consumables and services rendered (thereby circumventing fee regulation).\(^{38}\)

Stakeholders also raised issues with three aspects of the current fees:

- Towing operators are unhappy with storage arrangements and, particularly in the metropolitan area, with the level of storage fees. (This issue is dealt with in Chapter 6.)
- One country operator expressed the opinion that the distance (per km) charge for country areas is too low. This charge is currently about half the level of the metropolitan distance charge ($3.04 compared to $6.09 per km –Chapter 2). It is also lower than the amount charged by most country operators for trade tows.

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\(^{38}\) SunCorp Group submission to Issues Paper, p 2.
Suncorp argued that the after-hours surcharge should apply to a narrower range of hours than is currently the case. It suggested that the standard business hours for accident towing work should be reclassified as 7am to 7pm on business days rather than 8am to 5pm on business days. The reason they gave is because a significant portion of accident tows occur in the afternoon peak (4-7pm). Section 5.5.6 below discusses extended business hours and the after-hour surcharge.

5.5.2 Average time per tow

The cost associated with a particular tow depends on the time taken to complete the tow, as well as the cost per hour of towing services. Table 5.3 shows our estimates of the average amount of time for each type of tow, based on information provided by questionnaire respondents. It indicates that:

- A trade tow of up to 10km (measured from vehicle to destination) typically takes about one hour to complete in metropolitan areas and 50 minutes in country areas.
- The time per accident tow can vary a great deal - depending, for example, on the location, time of day, state of the vehicle and injuries sustained. However, accident tows generally take longer to complete than breakdown or trade tows, mainly due to the time spent at the accident scene. Accident tow drivers often have to wait for police attending the scene to arrive and then finish their investigation. They are required to clean up at the site, and may need to provide salvage services. They are also required to undertake additional administration compared with other types of tows. We note that from October 2014, police will no longer attend all accidents that involve towing, and this will reduce the waiting time for some accidents.

Taking into account all of these factors, we consider that an allowance of two hours and 15 minutes per accident tow (two hours in country areas) is sufficient to account for the average amount of time taken to complete accident tows.

We consider that a subsequent tow should on average take a little less time than a standard trade tow, for two reasons. Firstly, most subsequent tows begin at the operator’s own holding yard. Secondly, subsequent tows can be scheduled.

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40 The base fee includes all salvage from road or road related areas, and the first 30 minutes of off-road salvage.
41 From October 2015, police will still be required to attend accidents that involve injury, traffic hazards, suspected alcohol or drugs, heavy vehicles or failure to exchange details. See [http://www.police.nsw.goh.au/__data/assets/file/0007/305719/P4_DL_FINAL_with_date.pdf](http://www.police.nsw.goh.au/__data/assets/file/0007/305719/P4_DL_FINAL_with_date.pdf).
Table 5.3  Average time per tow

<table>
<thead>
<tr>
<th></th>
<th>Metropolitan</th>
<th>Country</th>
</tr>
</thead>
<tbody>
<tr>
<td>Breakdown and other trade tows</td>
<td>1 hour</td>
<td>50 minutes</td>
</tr>
<tr>
<td>Accident tows(^a)</td>
<td>2 hours 15 minutes</td>
<td>2 hours</td>
</tr>
<tr>
<td>Subsequent tows(^a)</td>
<td>50 minutes</td>
<td>45 minutes</td>
</tr>
<tr>
<td>Recovery tows(^b)</td>
<td>varies</td>
<td>varies</td>
</tr>
</tbody>
</table>

\(^a\) Total time to complete a tow of up to 10km tow in metropolitan areas (measured from vehicle to destination) and 20km in country areas (measured from premises to vehicle than then to destination).

\(^b\) The time per recovery tow can vary a great deal, depending on the location and state of the vehicle. Recovery tows are generally a very small part of an operator’s business. We have recommended that the fees for recovery tows are no longer regulated.

Source: Operator/driver questionnaire respondents, IPART estimates.

5.5.3  Maximum base fees for accident and subsequent tows

Base fees are the fees that apply per tow up to a specified distance for accident tows and subsequent tows (see Box 5.4). Base fees for accident tows also include some salvage. Stakeholders did not comment on the distances that are included in the base fees, or the salvage arrangements. In the absence of evidence to the contrary, we recommend no change to the distances and salvage currently included in base fees.

Box 5.4  Services included in base fees for accident and subsequent tows

Base fees for both accident and subsequent tows are for tows up to a specified distance:

- In metropolitan areas, the distance included is 10km, measured from the site of the accident to the towing destination via the most direct route.

- In country areas, this distance is 20km, measured from the operator’s premises to the site of the accident and then to the towing destination via the most direct route.

The difference in how distance is measured recognises that country operators are most likely to operate on a call-out basis, and keep their tow trucks at their business premises during business hours. Metropolitan operators, on the other hand, are more likely to have tow trucks out on the road for most of the time rather than located at their business premises.

The base fee for accident tows also includes all salvage on road/road related areas, and the first 30 minutes salvage not on road/road related areas.

We calculated the base fees for accident and subsequent tows using the hourly cost of towing activity and the average time per tow for the different types of tows in metropolitan and country areas as shown in Table 5.3 above. We added the cost of the towing authorisation form to the accident tow base fee. We also inflated the fees to 2015/16 prices, using the change in CPI as recommended in Chapter 10. Table 5.4 shows how we calculated the recommended maximum base fees.
Table 5.4  Maximum base fees for accident and subsequent tows ($ per tow for business hours, ex GST)

<table>
<thead>
<tr>
<th></th>
<th>Metropolitan Calculated $2014/15</th>
<th>Country Calculated $2014/15</th>
<th>Metro and country Recommended $2015/16a</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accident tow</td>
<td>$100/hr x 2hrs 15 mins + $7.50 = $232.50</td>
<td>$110/hr x 2hrs + $7.50 = $227.50</td>
<td>$230 x 1.023 = $235</td>
</tr>
<tr>
<td>Subsequent tow</td>
<td>$100/hr x 50 mins = $83</td>
<td>$110/hr x 45mins = $83</td>
<td>$83 x 1.023 = $85</td>
</tr>
</tbody>
</table>

a Accident tow fees rounded to the nearest $10 then inflated using forecast inflation to March 2015 of 2.3%.

Source: IPART calculations.

Draft recommendations

7 In both metropolitan and country areas, the maximum base fee for light vehicle:
   – accident tows should be $235 per tow
   – subsequent tows should be $85 per tow.

8 There should be no change to the distance and salvage allowances currently included in these light vehicle base fees.

5.5.4 Maximum distance charges

Distance charges, expressed in $/km, are levied on a towing distance in excess of the distance included in the base fee. As we did for the base fee, we reviewed market-based distance rates currently charged by operators for breakdown and trade tows. We also considered the opportunity cost of undertaking longer distance accident tows.

Operators require an incentive to make themselves available for accident tows. When they are not undertaking accident tows, operators can schedule trade tows, which is the opportunity cost of additional travel time. From an opportunity cost perspective, one hour of driving is worth as much as one hour of any towing activity (ie, $100 and $110 in metropolitan and country areas respectively).

We can convert the cost per hour of towing to a distance cost ($/km) using average travel speeds. For example:

- In metropolitan areas, the average travel speed is about 37 km per hour.42 At this speed, a distance charge of $2.70 per km would pay about $100 per hour ($2.70 $ per km x 37 km per hour = $100 per hour).
- In country areas, the average travel speed is around 50km per hour (after the first 20km, which is included the base fee). At this speed, a distance charge of $2.20 per hour would pay $110 per hour ($2.20 per hour x 50 km per hour = $110 per hour).

42 Based on average travel speed information for 2012/13 and 2013/14 provided by RMS.
However, these rates do not provide full compensation for the travel time associated with long tows. This is because operators are permitted to charge for only part of the actual additional distance travelled. Specifically, in metropolitan areas operators are permitted to charge only for the distance between the vehicle and the final destination. They are not permitted to charge for any extra time that it takes to return after a long tow or to travel to the vehicle.\textsuperscript{43} In country areas operators are permitted to charge only for the distance from their premises to the vehicle and then to the destination. They are not permitted to charge for any extra time that it takes to return to their premises after a long tow.

As previously indicated, our market evidence suggests that for metropolitan breakdown tows the distance charge is between $4.00 and $6.00 per km, and for country breakdown tows the distance charge is between $2.00 and $5.00 per km. The market appears to have included in these distance charges an allowance for the additional time taken to travel back from a long tow (or to the vehicle).

\begin{table}[h]
\centering
\caption{Maximum distance charges (\$/km, ex GST)}
\begin{tabular}{|l|c|c|}
\hline
 & Metropolitan \$/km & Country \$/km \\
\hline
Opportunity cost excluding extra travel time (2014/15\$)\textsuperscript{a} & $2.70 & $2.20 \\
Market evidence (2014/15\$) & $4.00-$6.00 & $2.00-$5.00 \\
Market median (recommended, 2015/16\$)\textsuperscript{b} & $5.00 \times 1.023$ & $4.10 \times 1.023$ \\
\hline
\end{tabular}
\end{table}

\textsuperscript{a} These \$/km charges only reflect the opportunity cost of the time taken to travel the chargeable distance (eg, for metropolitan areas only the distance from the vehicle to its destination in excess of 10km). They do not take into account any extra travel time, eg for the return trip.

\textsuperscript{b} Using forecast inflation to March 2015 of 2.3%.

\textbf{Source:} IPART calculations.

Based on the median of the market prices, we consider that a maximum distance fee of $5.10 per km for metropolitan areas and $4.20 for country areas should provide reasonable compensation for distance travelled (expressed in 2015/16 prices).

\textbf{Draft recommendation}

\textbf{9} The maximum distance charge for light vehicle accident and subsequent tows should be:

\begin{itemize}
\item $5.10$ per km for metropolitan areas
\item $4.20$ per km for country areas.
\end{itemize}

\textsuperscript{43} Travel to the vehicle is relevant in cases where the vehicle needs to be picked up far away and towed back to the business’ normal area of operation.
5.5.5 Salvage charges

A fee can be charged for salvage when a vehicle needs to be retrieved from an area that is off the road or road-related area - for example, if the vehicle has rolled down an embankment. The first 30 minutes of off-road salvage is included in the base fee.\footnote{The current rules do not permit fees to be charged for salvage from a road or road-related area regardless of how long it takes.}

Currently three charges apply to salvage operations:

- Driver time in excess of 30 minutes of actual involvement in the salvage operation ($ per hour).
- Assistant time of actual involvement in the salvage operation ($ per hour).
- Additional truck, which is charged the normal base fee for an accident tow and not considered further here.

We consider that an appropriate way to charge for driver and assistant time is to recover the cost of labour and the capital cost of the tow truck. It is appropriate to recover the capital cost of the truck because, while it is on site, the truck cannot be used for any other job. Regarding assistant time, the assistant must be a certified driver and is likely to arrive in a tow truck, which then cannot be used for another job. But even if the assistant arrives in a different vehicle, he is not available to drive another truck.

We estimate that the cost of labour time plus the capital cost of the truck, expressed in 2015/16 prices, is equivalent to current fee of $60 per hour. We therefore recommend that the current charge for driver time in excess of 30 minutes of $60 per hour be retained.

Draft recommendation

10 The maximum light vehicle salvage charges in both metropolitan and country areas should be:

- $60 per hour after the first 30 minutes (applicable to off-road salvage only)
- an additional $60 per hour if an assistant is required.

5.5.6 Maximum surcharge for after-hours accident tows

A surcharge of 20% is currently applied to all towing charges for tows that occur outside the standard business hours of 8am to 5pm business days.

SunCorp argued to extend the definition of standard business hours to 7am to 7pm weekdays, on the grounds that most accidents occur during these times. We agree with SunCorp that standard rates should apply during peak accident times on business days and therefore recommend the definition of standard business
hours be extended to 7am to 7pm weekdays. We estimate that about 40% of accidents in NSW occur during the period 8am to 5pm on business day, compared to about 56% between 7am to 7pm on business days.45

The underlying cost basis for an after-hours surcharge is that driver (labour) costs are higher outside of business hours. Tow truck operators are covered by the Vehicle Manufacturing, Repair, Services and Retail Award of 2010. In terms of the Award, drivers are entitled to higher rates of pay for work done after hours and for overtime work. For casual employees, ordinary time rates apply between 6am and 6pm on business days and higher rates apply at other times. In addition, drivers need to be given an incentive to do after-hours tows.

Payment arrangements for tows outside of standard business hours vary, including one or a combination of:

- a stand-by rate
- an hourly rate per job
- a share of the revenue received for the tow (typically 33% to 40%)
- time-in-lieu.

We estimate that the current 20% surcharge is appropriate when standard business hours are defined as 8am to 5pm on business days. However, extending the definition of business hours to 7am to 7pm on business days means that the after-hours surcharge should increase to 25%. A higher after-hours surcharge is appropriate because average after-hour labour costs are higher under the extended definition of business hours.46

Draft recommendation

11 In both metropolitan and country areas, an after-hours surcharge should apply to light vehicles outside the hours of 7am to 7pm on business days, and this surcharge should be a maximum of 25%.

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45 TfNSW, Road traffic Crashes in NSW 2012, Centre for Road Safety TfNSW, Table 7b and Table 6; IPART calculations.
46 An operator will receive approximately the same total amount of revenue per year under the two scenarios, i.e., (a) a 20% surcharge on all tows outside of 8am to 5pm on business days, or (b) a 25% surcharge on all tows outside of 7am to 7pm on business days.
6 Light vehicle accident storage requirements and fees

Currently, unless otherwise approved or exempted by RMS, operators providing light vehicle accident towing services must own or lease a suitable holding yard. This yard must have the capacity to store at least four vehicles and be located within 10 km from their place of business. Each holding yard used by the operator must be specified in the licence, must meet the security requirements set out in the regulations, and must be accessible at all times by each of the operator’s tow trucks. The purpose of these requirements is to ensure that tow truck operators maintain premises which can provide safe and secure temporary storage of motor vehicles that have been towed under the authority of a licence.

Like those of other accident towing services, the price of storage services is regulated. Currently, operators cannot charge for the first 72 hours (or 3 days) of storage as this service is included in the base towing fee of $251 (whether the customer requires it or not). After the first 72 hours, operators can charge a maximum of $19 per day for storage.

We have reviewed both these requirements and maximum fees. The sections below provide an overview of our draft findings and recommendations, and then discuss them in more detail.

6.1 Overview of draft findings and recommendations on light vehicle accident storage

As noted in Chapter 4, we consider that the maximum fee for storage of light vehicles involved in an accident should continue to be regulated to protect consumers that may not be able to make a decision on where their vehicle should be towed from the scene of an accident. In addition, storage is often required after hours and on weekends when a consumer’s preferred smash repairer may not be open. However, we consider that the current design and application of the holding yard regulations are rigid and not the best way to achieve the intended objectives.

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47 Tow Truck Industry Act 1998, s 20(2)(c1); and Tow Truck Industry Regulation 2008, cl 35.
48 Tow Truck Industry Act 1998, s 20(d); and Tow Truck Industry Regulation 2008, cls 5(g), 36, 37, 38.
49 RMS, Tow Truck Holding Yard Policy, January 2013, p 1.
We found that the regulations in relation to the size and location of holding yards add to the cost of providing towing services – particularly if the number of accidents towing jobs makes it difficult for operators to recover their costs. In our view, these regulations should be amended to better facilitate the entry of new operators and assist existing operators in utilising least-cost solutions for storage, while still ensuring the safe and secure temporary storage of vehicles that have been towed from the scene of an accident. In particular, we consider that:

- the requirement that operators own or lease a holding yard that can store at least four cars should be removed and replaced with less prescriptive requirements
- metropolitan operators should be able to store light vehicles in any safe and secure location specified in their licence
- country operators should be able to store light vehicles in any safe and secure location that is within 10 km of their premises and specified in their licence.

We also consider that the regulated price for storage should apply in all cases where an accident vehicle is stored, regardless of where it is stored (e.g., at an operator’s yard or a smash repair business). In addition, this price should be set at a level that encourages more efficient use of storage facilities. Therefore, in setting our draft fees we recommend a change in price structure - specifically that 3 days of storage should no longer be included in the base fee. We have also taken account of storage cost and storage utilisation.

6.2 Current regulations in relation to holding yards should be amended to facilitate new entry and encourage use of least-cost storage solutions

Respondents to our operator/driver questionnaire indicated that current requirements and regulations around maintaining a vehicle holding yard are a substantial burden on their business. Generally, operators argued that current storage fees can be too low and operators are unable to recoup the costs associated with storage.50

Our analysis supports this view, and we consider the current requirement for operators to store vehicles in holding yards that can store a minimum of four cars should be removed. The current requirement that metropolitan operators store vehicles in a holding yard less than 10 km from their place of business should also be removed. These requirements should be replaced with less prescriptive requirements that still ensure the safe and secure temporary storage of motor vehicles towed from an accident. Other supporting changes should also be made to RMS guidelines and discretionary grounds for refusing licence applications and renewals.

50 IPART operator/driver questionnaire.
6.2.1 **Remove current requirement on operators to own or lease a holding yard that can store four cars**

We found that the current requirement that operators own or lease their own storage facility that can store four or more cars makes it difficult for new entrants to recover the costs of storage through the current fee structure and level (3 days included in base fee then $19 per day after this). We consider that in the long-term, this will reduce competition in the accident towing market. Removing this requirement will enable operators to source temporary storage at lower costs and may provide for better utilisation of storage yards (which affects the level of fees for storage – see below).

For example, our analysis indicates that it is difficult for operators to recover their storage costs at current fee levels. We also note that around 75% of the one-truck metropolitan operators that responded to our questionnaire indicated that their holding yards are typically less than 25% full.

We consider that the current requirements should be replaced with a new licence condition specified in the Act that requires operators to store vehicles in a safe and secure location. Similar to current requirements, operators should also be required to:

- take all reasonable precautions to prevent loss of or from, or damage to, any motor vehicle that is being towed or stored by, or on behalf of, the operator until such a time as it is returned to the owner or delivered to an agent authorised by the owner (eg, insurer or designated smash repainer)
- specify their storage arrangements as part of their licence application or renewal or notify RMS if they change.

However, there would be no limit on the number of storage facilities that an operator can use, so long as they are safe and secure. We consider that efficient operators should have these options in place ex-ante, and so it is not unreasonable to require them to notify RMS of these arrangements. Consumers also need to be aware of where their vehicle is being stored and RMS need to be able to respond to complaints from consumers.

We have also considered options for what constitutes safe and secure storage and recommend that RMS issues a revised set of guidelines based on those listed in Box 6.1. These guidelines build on the current holding yard policy requirements but do not contain some of the more prescriptive elements. We also consider that an operator’s storage arrangements should be checked against RMS guidelines as part of regular audits rather than as part of the licence application. These changes should also be accompanied by an amendment to RMS’s discretionary grounds for refusing to grant a licence – these should take account of an operator’s performance relating to storage (for example incidents of lost property).
Box 6.1 Guidelines for safe and secure storage

1. Not provide a public thoroughfare.
2. Store vehicles behind a two metre security fence with lockable gates or garaged within a fully enclosed lockable facility.
3. Have a return to base security system or other appropriate security system.
4. Be accessible by all tow trucks listed on the operator licence 24 hours a day 7 days a week.
5. Not expose stored motor vehicles to likely damage or access by unauthorised persons.

If our draft recommendations on holding yards are implemented, the options for secure storage would include (but not be limited to):

- operators owning or leasing a secure yard or garage, which does not need to have capacity to store four vehicles
- operators entering into contractual arrangements for safe and secure storage with a third party.

Under the first option operators would be able to better tailor the size of their holding yards to their expected demand for storage (based on the proportion of accident vs trade tows that they undertake). Alternatively, vehicles damaged in an accident could remain on the tow truck overnight so long as the tow truck is parked in an area that meets the guidelines for safe and secure storage and any other insurance requirements (e.g., behind a secure fence or garaged within a fully enclosed lockable facility). This will minimise excess capacity in holding yards across the industry. Large operators that tend to have higher utilisation of their holding yards could continue with minimal interruption to their operations.

Under the second option, operators could enter into contractual arrangements for safe and secure storage with third parties such as storage operators, other tow truck operators with holding yards or insurance companies (if they chose to provide their own storage). They could also enter into storage arrangements with multiple third parties so that they can service different areas of Sydney – this will encourage greater competition. Currently operators tend to be more localised as they are required to have storage within 10 km of their place of business.
We also note that in the event that there is loss of or damage to a vehicle that an operator has stored and the operator has failed to exercise due care, the operator may be ordered by NSW Civil and Administrative Tribunal (NCAT) Consumer and Commercial Division to pay compensation or repair damaged goods. This Division currently resolves a wide range of everyday disputes involving the supply of goods and services including motor vehicles.

We consider that both options would facilitate operators using least-cost options for storage by allowing better utilisation of holding yards. For example, multiple operators could use the same holding yard and insurers could enter into the storage market if they consider that they can develop their own least-cost solutions.

Draft recommendations

12 The current requirement for operators to store light vehicles in holding yards that they own or lease and that can store a minimum of four cars should be removed. A new licence condition specified in the Act should require operators to:

- store vehicles in a location that is safe and secure, in accordance with guidelines issued by RMS
- take all reasonable precautions to prevent loss of or from, or damage to, any motor vehicle that is being towed or stored by, or on behalf of, the operator until such a time as it is returned to the owner or delivered to an agent authorised by the owner (eg, insurer or designated smash repairer).

13 RMS develop guidelines to indicate how it will assess whether a storage location is safe and secure. These guidelines should not prescribe the following as being minimum requirements for safe and secure storage:

- a requirement for operators to store light vehicles in holding yards that they own or lease
- a requirement that storage facilities can store a minimum number of cars.

14 The discretionary grounds for refusing a licence should have regard to an operator’s performance in storing vehicles.

15 Operators must specify their proposed storage locations as part of their operators licence application or renewal or notify RMS at any time if they change and are not permitted to store vehicles in any locations that have not been specified.

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51 Under the Consumer Claims Act 1998 (NSW). NCAT has jurisdiction to make orders up to and including $40,000 regarding the amount of compensation to be paid and the value of work to be performed: Consumer Claims Regulation 2014, clause 4.
6.2.2 **Remove current requirement for metropolitan operators to store vehicles in a holding yard within 10 km from their place of business**

Operators have tended to service areas around their place of business. The current requirement for an operator to have a holding yard within 10 km of this place was originally intended to protect consumers from operators using holding yards located a significant distance away and then charging excessive per km fees as part of both the initial tow and subsequent tow.

However, the current requirement does not prevent operators charging excessive km fees if they store the vehicle some distance away from the accident or final destination (for example, a vehicle involved in an accident in Bondi with final destination in Maroubra can still be stored in Penrith – incurring a distance charge of around 80 km for both the initial and subsequent tow).

To assess this requirement for metropolitan areas, we considered two typical storage scenarios:

- **Scenario 1** is when the final destination specified in the towing authorisation is not available. In this case, the operator charges the regulated initial tow fee, regulated storage fee and regulated subsequent tow fee.52

- **Scenario 2** is when a consumer is unable to decide where the vehicle should be ultimately towed to, so the final destination specified in the towing authorisation is the operator’s storage location. The consumer is charged the regulated initial tow fee and the regulated storage fee. When the consumer decides where they want the vehicle towed to, the next tow is a trade tow and is not subject to the regulated subsequent tow fee.

We also took into account:

- data from Suncorp that indicates that around one-third of all accidents that require a tow occur in the same postcode as the consumer’s home address53

- data released by insurance companies around the world that generally suggest that up to 80% of crashes occur within 25 km or less of a driver’s home54

- under our draft recommendations on initial and subsequent towing fees, operators cannot start charging per km fees unless the distance exceeds 10 km as this cost is included in the base fee.

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52 The Regulation defines a subsequent tow as the case where a light vehicle has been involved in an accident or has been stolen and has been towed by the operator from a temporary location to which is had been previously stored to another place for storage or repair as specified on the towing authorisation. We are not recommending a change to this definition.

53 Information provided by Suncorp, 1 September 2014.

For tows where the final destination is not available (Scenario 1), we consider that a cap on the total number of kilometres that can be charged as part of either the initial or subsequent tow will better protect consumers from excess distance charges due to the location of the operator’s holding yard, while at the same time providing operators with sufficient operational flexibility. Figure 6.1 explains how such a cap would apply to various storage options for a tow that is 20 km from accident to destination.

Recall that our draft recommendations are that the:

- base fee for an initial tow is $235 which includes up to 10 km and then $5.10 per km for each km after this, and
- base fee for a subsequent tow is $85 which includes up to 10 km and then $5.10 per km for each km after this.
So our proposed maximum chargeable distance for a tow requiring storage can be expressed as:

\[
\text{Distance accident to destination} + \text{Maximum additional km that can be charged} = \text{10 km deviation allowance} - \text{20 km already included in initial and subsequent tow}
\]

For the example in Figure 6.1, the total maximum charge would be:

Total charge = Initial tow (includes 10 km) + subsequent tow (includes 10 km) + per km charge × maximum additional km

Total charge = $235 + $85 + $5.10/km × 10 km
= $235 + $85 + $51 = $371

In this example, because the initial and subsequent tow already include 10 km each (total of 20 km), the maximum additional km that can be charged is equal to 10 km.

For tows where the final destination specified is the storage location (and the tow the next day is an unregulated trade tow), we consider that operators should not be able to charge any excess km charges (there is 10 km included in the base fee). We consider there to be sufficient competition for towing jobs in metropolitan areas and this will provide the operator with incentives to put in place appropriate storage options in areas it wishes to service and prevent consumers being charged excess km charges.

For country areas, we recommend maintaining the current 10 km from the operator’s place of business rule. Accidents in non-metropolitan areas are either located within the central area of country towns or on highways or other major arterial roads that can be some distance out of the town. This means that the metropolitan requirement to have storage within 10 km within the accident scene or final destination is not practical for country areas.

Draft recommendations

16 Metropolitan operators should be allowed to store light vehicles in any safe and secure location that is specified in their licence.
Country operators should be required to store vehicles in a safe and secure location within 10 km of their place of business and specified in their licence.

Where a metropolitan operator is storing a vehicle because the final destination specified in the towing authorisation is not available, the distance for calculating total charges for initial and subsequent tows combined should be capped at the distance from accident to final destination via the most direct route plus 10 km.

Where a metropolitan operator is storing a vehicle in a location that has been specified as the final destination, no excess distance charges can be applied to the initial tow.

6.3 The regulated storage fee should apply in all cases where storage is provided

In their submissions to the Issues Paper, the Insurance Council of Australia, Insurance Australia Group and Suncorp Group all raised the issue of tow truck operators being able to circumvent regulated storage fees by storing vehicles at an allied smash repair business. Specifically, this practice involves an accident towing operator towing a vehicle from the scene of an accident to a vehicle holding yard operated by a smash repair business. This holding yard will often be operated under a smash repair business held by the same entity that holds the towing operator’s licence. Once the vehicle has been towed to this yard, the towing operator/smash repairer commences charging vehicle storage at a rate higher than the regulated maximum. The submissions highlighted that the operator’s ability to ‘capture’ the vehicle allows them to make exorbitant demands of the customer and insurer in order to secure the vehicles release.

We consider that the regulated storage price should apply to any vehicle involved in an accident that requires storage, regardless of where it is stored (eg, in a holding yard or a smash repairer or the one of the other storage options that we have recommended above). The Act and Regulation should be amended to reflect our revised storage arrangements and protect customers at the scene of an accident.

We note that while a vehicle is being stored, the owner or insurer is able to seek quotes in the competitive market for smash repairs. Once a quote for repairs has been accepted, storage fees should not be charged.

Draft recommendation

20 The Act and Regulation should be amended so that the maximum fee for storage applies to the storage of vehicles towed from the scene of an accident. The storage fee should apply:

See ICA submission to Issues Paper, p 2; IAG submission to Issues Paper, p 5; Suncorp Group submission to Issues Paper, p 3.
– for all locations specified on an authorisation form where the vehicle is stored (for instance, in an operator’s storage facility, or a smash repairer designated as the final destination by the consumer on the towing authorisation) before the vehicle is returned to the owner or owner’s agent, and
– for all persons (for instance, an operator or smash repairer) that propose to charge or charges a fee for storage of the vehicle at a location specified on an authorisation form.
– once a quotation for repair has been accepted no further storage fees can be charged.

6.4 Recommended storage fees

In our view, the price for storage should be set at a level that encourages more efficient use of storage facilities. In setting our draft recommended fees for storage, we have taken into account several factors – including the price structure (specifically whether three days of storage should be included in the base fee), the cost of storage in different areas, and the utilisation of storage yards.

We reached the view that a maximum daily storage fee of $23 per day for inner-metro and $12 per day for outer-metro and country locations should allow operators to recover their storage costs and encourage them to improve the efficiency of these costs.

6.4.1 Price structure

Respondents to our operator/driver questionnaire noted that storage fees are too low and operators are unable to recoup their costs associated with storage. One operator noted that insurers tend to use its yard for up three days, and therefore do not incur any per day storage fees. This is because under the current price structure, the base fee for accident towing includes three days storage.

It is our view that the current base fee is unlikely to recover the costs of three days of storage, particularly in inner-metro locations. We also consider it more appropriate for consumers that use storage facilities to pay for the associated costs, rather than all consumers paying regardless of whether they use storage.

This will also provide incentives for insurers to better utilise storage arrangements. We understand that in many cases consumers do not call their insurer from the scene of an accident and as a result many cars are put into storage until the consumer can talk to their insurer and make arrangements for repairs. We consider that there is a role for insurers to provide more information to consumers about towing arrangements in the event of an accident prior to the accident occurring.
6.4.2 The cost of storage in different areas

We have undertaken analysis of appropriate storage costs in different areas of Sydney using data on land values from NSW Land and Property on small industrial sites and estimated costs of ensuring safe and secure storage. As expected, these costs differ throughout Sydney – for example, the average annual cost of industrial land in Marrickville (inner-west of Sydney) is more than double Campbelltown ($126/m² compared to $55/m²). These costs have been calculated by converting valuations for small industrial sites into an annual cost assuming a loan taken over 15 years at 7% and including an allowance for security and operating costs. We note that the typical land sizes for these small industrial sites are 2,000-3,000 m² which would be able to store around 75-100 vehicles. Land of this size is currently only used by large operators with more than 10 trucks. However, the resulting costs are comparable to typical rental costs of smaller sized available land and current costs incurred by a sample of respondents to our questionnaire.

We also considered other benchmarks for storage costs. Prices for outdoor long-term parking in inner-metropolitan Sydney range from around $13 to $50 per day for stays of 1 day and around $12 to $25 per day for stays of 5 days. The majority are long-term parking businesses that are based in the inner city – specifically near Sydney Airport (Mascot and Wolli Creek). We note that commercial parking businesses tend to have pricing schedules that encourage longer stays. In addition, tow truck storage yards require more space per vehicle storage bay to enable damaged vehicles to be moved in to the storage space. However, these prices do not include discount rates (such as early pre-booking, package deals or block pricing). In addition, locations with high demand for parking are able to charge higher rates to maximise profit.

Utilisation of storage yards

As noted above, utilisation of current holding yards varies across operators depending on their size and location, with smaller operators tending to have lower utilisation. We consider our draft recommendations on amending the requirements in relation to holding yards should enable operators, in particular small operators, to tailor their storage arrangements so they can achieve better utilisation rates.

It is our view that a price of $23 per day for inner-metro and $12 per day for outer-metro storage will provide operators with incentives to do this. These daily storage fees are consistent with an average utilisation of around 45% for metro and outer metro and 20% to 30% for country.

For metro and outer metro areas, more efficient utilisation of storage should mean that vehicles in an accident on a week night (including Friday) would only need to be in storage for one day. Accidents that occur on the weekend would require storage until Monday. This means that the storage requirements are
likely to be greatest on a Sunday evening, when vehicles that have been involved in an accident over the weekend are being held until Monday. Using data from RMS on when accidents occur, our analysis indicates that these more efficient storage arrangements result in an average utilisation of around 40% to 50%. Given that the storage requirements we are recommending should encourage more efficient utilisation of storage, we consider an average utilisation rate of 45% is reasonable for metro and outer metro.

For country areas, we consider that the lower volume and location of accidents mean that a utilisation of 20% is more appropriate. However, in Newcastle, the Central Coast and Wollongong we consider a utilisation of 30% would be efficient.

We note that the level of fee depends on the utilisation that can be achieved through more flexible storage arrangements. For example, if more rigid arrangements were maintained such that an average utilisation 25% was achieved, the daily storage fee would need to increase to $42 in metro areas.

While some operators have argued that they are not able to recover their storage costs from current fees ($19 per day after the first 72 hours), we consider that this is more likely a result of not being able to charge for the first 72 hours of storage and having to lease or own a holding yard of a certain size.

We also note that the storage space required for motorcycles is smaller than cars. We consider it reasonable that the storage fee for motorcycles is half that of other light vehicle storage fees.

Draft recommendations

21 The base fee should not include 3 days of storage.

22 The maximum fee for storage of all light vehicles other than motorcycles should be $23 per day for inner-metro Local Government Areas (LGAs) and $12 per day for outer-metro and country LGAs. The daily storage fee for motorcycles should be half of the light vehicle storage fee.
Table 6.1 Estimated storage costs and recommended fees by LGA ($2015/16 ex-GST)

<table>
<thead>
<tr>
<th>Area/LGA</th>
<th>Annual cost $/m²</th>
<th>No accidents</th>
<th>Storage costs at 45% average utilisation ($/day)</th>
<th>Recommended storage fee ($/day)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Inner metropolitan</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ashfield&lt;sup&gt;a&lt;/sup&gt;</td>
<td>126</td>
<td>254</td>
<td>22</td>
<td></td>
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<tr>
<td>Botany Bay City</td>
<td>123</td>
<td>352</td>
<td>21</td>
<td></td>
</tr>
<tr>
<td>Burwood&lt;sup&gt;a&lt;/sup&gt;</td>
<td>126</td>
<td>242</td>
<td>22</td>
<td></td>
</tr>
<tr>
<td>Canada Bay City&lt;sup&gt;a&lt;/sup&gt;</td>
<td>126</td>
<td>441</td>
<td>22</td>
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<tr>
<td>City of Sydney</td>
<td>157</td>
<td>1,040</td>
<td>27</td>
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<td>Hunters Hill&lt;sup&gt;b&lt;/sup&gt;</td>
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<td>33</td>
<td>24</td>
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<tr>
<td>Lane Cove&lt;sup&gt;b&lt;/sup&gt;</td>
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<td>24</td>
<td></td>
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<tr>
<td>Leichhardt&lt;sup&gt;a&lt;/sup&gt;</td>
<td>126</td>
<td>251</td>
<td>22</td>
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<tr>
<td>Manly</td>
<td>128</td>
<td>170</td>
<td>22</td>
<td></td>
</tr>
<tr>
<td>Marrickville</td>
<td>126</td>
<td>545</td>
<td>22</td>
<td>23</td>
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<td>Mosman&lt;sup&gt;b&lt;/sup&gt;</td>
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<td>North Sydney&lt;sup&gt;b&lt;/sup&gt;</td>
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<td>309</td>
<td>24</td>
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<tr>
<td>Randwick City&lt;sup&gt;c&lt;/sup&gt;</td>
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<td>Warringah</td>
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<td>Waverley&lt;sup&gt;d&lt;/sup&gt;</td>
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<td>Willoughby</td>
<td>141</td>
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<tr>
<td>Woollahra&lt;sup&gt;d&lt;/sup&gt;</td>
<td>157</td>
<td>263</td>
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<tr>
<td><strong>Weighted average</strong></td>
<td></td>
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<td></td>
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</table>

<sup>a</sup> Data from Marrickville LGA was used as a proxy for these areas as data on the value of small industrial sites in these areas was unavailable.

<sup>b</sup> Data from Willoughby LGA was used as a proxy for these areas as data on the value of small industrial sites in these areas was unavailable.

<sup>c</sup> Data from Botany LGA was used as a proxy for this area as data on the value of small industrial sites in these areas was unavailable.

<sup>d</sup> Data from Sydney City LGA was used as a proxy for these LGAs as data on the value of small industrial sites in these areas was unavailable.
### Table 6.2 Estimated storage costs and recommended fees by LGA ($2015/16 ex-GST)

<table>
<thead>
<tr>
<th>Area/LGA</th>
<th>Annual cost $/m²</th>
<th>No accidents</th>
<th>Storage costs 45% average utilisation ($/day)</th>
<th>Recommended storage fee ($/day)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Outer metropolitan</strong></td>
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<tr>
<td>Auburn</td>
<td>79</td>
<td>761</td>
<td></td>
<td>14</td>
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<tr>
<td>Bankstown City</td>
<td>85</td>
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<td></td>
<td>15</td>
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<td>Baulkham Hills</td>
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<td>806</td>
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<td>Blacktown City</td>
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<td>Camden</td>
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<td></td>
<td>11</td>
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<tr>
<td>Campbelltown City</td>
<td>55</td>
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<td></td>
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<tr>
<td>Camden</td>
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<td></td>
<td>11</td>
</tr>
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<td>Fairfield City</td>
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<td>1,235</td>
<td></td>
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<td>Holroyd City</td>
<td>62</td>
<td>825</td>
<td></td>
<td>11</td>
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<td>Hornsby</td>
<td>68</td>
<td>826</td>
<td></td>
<td>12</td>
</tr>
<tr>
<td>Hurstville City</td>
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<td></td>
<td>15</td>
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<tr>
<td>Kogarah</td>
<td>85</td>
<td>297</td>
<td></td>
<td>15</td>
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<tr>
<td>Ku-ring-gai</td>
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<td>577</td>
<td></td>
<td>12</td>
</tr>
<tr>
<td>Liverpool City</td>
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<td></td>
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</tr>
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<td>Parramatta City</td>
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<td>1,174</td>
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</tr>
<tr>
<td>Penrith City</td>
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<tr>
<td>Pittwater</td>
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<tr>
<td>Rockdale City</td>
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<td>15</td>
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<td>Ryde City</td>
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<tr>
<td>Sutherland</td>
<td>105</td>
<td>803</td>
<td></td>
<td>18</td>
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</tbody>
</table>

**Weighted average**: 12

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*a* Data from Canterbury LGA was used as a proxy for this area as data on the value of small industrial sites in these areas was unavailable.

*b* Data from Hornsby LGA was used as a proxy for these LGAs as data on the value of small industrial sites in these areas was unavailable.

*c* Data from Liverpool LGA was used as a proxy for this area as data on the value of small industrial sites in these areas was unavailable.

*d* Data from Hurstville LGA was used as a proxy for these LGAs as data on the value of small industrial sites in these areas was unavailable.

*e* Data from Auburn LGA was used as a proxy for this area as data on the value of small industrial sites in these areas was unavailable.
### Table 6.3 Estimated storage costs by NSW town

<table>
<thead>
<tr>
<th>Area/LGA</th>
<th>Annual cost $/m²</th>
<th>Storage costs by average utilisation ($/day)</th>
<th>Recommended storage fee ($/day)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>20%</td>
<td>30%</td>
</tr>
<tr>
<td><strong>Newcastle, Central Coast &amp; Wollongong</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cardiff</td>
<td>40</td>
<td>16</td>
<td>10</td>
</tr>
<tr>
<td>Carrington</td>
<td>49</td>
<td>19</td>
<td>13</td>
</tr>
<tr>
<td>Gosford</td>
<td>43</td>
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<td>11</td>
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<tr>
<td>North Wollongong</td>
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<td>13</td>
</tr>
<tr>
<td>Unanderra</td>
<td>43</td>
<td>17</td>
<td>11</td>
</tr>
<tr>
<td><strong>Average</strong></td>
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<td>12</td>
</tr>
<tr>
<td><strong>Regional NSW</strong></td>
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<tr>
<td>Albury</td>
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<td>12</td>
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</tr>
<tr>
<td>Armidale</td>
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</tr>
<tr>
<td>Ballina</td>
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<td>13</td>
</tr>
<tr>
<td>Bathurst</td>
<td>23</td>
<td>9</td>
<td>6</td>
</tr>
<tr>
<td>Bomaderry</td>
<td>25</td>
<td>10</td>
<td>6</td>
</tr>
<tr>
<td>Coffs Harbour</td>
<td>35</td>
<td>14</td>
<td>9</td>
</tr>
<tr>
<td>Dubbo</td>
<td>29</td>
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</tr>
<tr>
<td>Goulburn</td>
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<td>6</td>
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<tr>
<td>Griffith</td>
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<td>7</td>
</tr>
<tr>
<td>Lismore</td>
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<tr>
<td>Moree</td>
<td>20</td>
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<td>5</td>
</tr>
<tr>
<td>Muswellbrook</td>
<td>22</td>
<td>9</td>
<td>6</td>
</tr>
<tr>
<td>Murwillumbah</td>
<td>25</td>
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<td>7</td>
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<tr>
<td>Queanbeyan</td>
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<td>Tamworth</td>
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<td>Taree</td>
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<tr>
<td>Wagga Wagga</td>
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<td>12</td>
<td>8</td>
</tr>
<tr>
<td><strong>Average</strong></td>
<td></td>
<td><strong>12</strong></td>
<td><strong>8</strong></td>
</tr>
</tbody>
</table>
Once we had set recommended prices for light vehicle accident towing and storage services, our next step was to identify other potential regulatory reforms for the towing industry overall. First, we focused on the design of the tow truck licensing scheme. We examined the various requirements imposed on the industry through the tow truck industry legislation, to identify opportunities for reforms that could provide savings to the business and community. This involved applying the principles of Stage 2 of our licensing assessment framework by considering following questions:

- Is the coverage of the licensing scheme the minimum necessary?
- Is the duration of licences the maximum possible?
- Are record-keeping requirements the minimum necessary?
- Are conduct rules the minimum necessary?
- Are mandatory attributes the minimum necessary?

The sections below provide an overview of our draft findings and recommendations, and then discuss them in more detail.

### 7.1 Overview of draft findings and recommendations on licensing design

A well-designed licensing scheme ensures that the requirements and conditions of the scheme generate the least possible burden on the regulated entities and the regulators, while achieving the policy objectives. We identified a range of improvements to the design of the scheme that will reduce the burden on the tow truck industry while also improving outcomes. These include changes designed to:

- better target restrictions and requirements to the riskier aspects of the industry
- allow durations for licences and certificates of up to five years
- minimise the burden of record keeping and facilitate electronic record keeping
- enable tow truck operators to employ and train staff from a younger age
- make it easier for tow truck operators to dispose of unclaimed vehicles.
7.2 Is the coverage of the regulatory scheme the minimum necessary?

In relation to the tow truck industry, the coverage of a regulatory scheme refers to which entities are required to be licensed and/or comply with the regulatory requirements in the Act and Regulation. Appropriate coverage occurs when the coverage and the regulatory requirements achieve the regulatory objectives in the most efficient way.

We identified two areas where the coverage of the licensing scheme appears to be greater than necessary. These include restrictions on passengers in tow trucks, and on NSW based businesses operating in other states and territories. We consider these areas should be addressed by:

- introducing tow truck assistant certificates and permitting certified passengers in Category A tow trucks and permitting non-certified passengers in Category B trucks
- negotiating mutual recognition arrangements of NSW operator’s licences, driver’s certificates and tow truck assistant certificates with adjoining states.

7.2.1 Introducing tow truck assistant certificates for Category A towing and permitting non-certified passengers in Category B tow trucks

Currently, a passenger who does not hold a driver’s certificate is not permitted to travel in a tow truck.\(^{56}\) This passenger restriction was introduced to prevent unscrupulous tow truck operators and drivers from bringing passengers to the scene of accidents that would use threats, intimidation or coercion to help the certified driver secure a towing job.\(^{57}\)

To be certified, a tow truck driver is required to hold a full NSW driver licence. This means that tow truck operators are currently unable to train staff under 21 years of age to operate and drive a tow truck. We consider that it would be valuable for the tow truck industry to be able to attract and train staff under 21 years of age. This would be particularly useful to the heavy vehicle towing industry, where a wide range of equipment and skills need to be learned.

Operators involved in heavy vehicle towing have also submitted that, due to the great distances often involved in heavy vehicle towing (both accident and trade), the current restriction on carrying a passenger increases the risk of driver boredom and fatigue.\(^{58}\) The Centre for Accident Research and Road Safety in Queensland found that the risk of fatigue crashes increases when a driver is

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\(^{56}\) Except if the passenger was the driver of, or a passenger in, the accident vehicle. See *Tow Truck Industry Act 1998* (NSW), s 67.


\(^{58}\) For example: G. Inwood submission to Issues Paper, 30 June 2014, p 1.
driving alone.\textsuperscript{59} In addition to delaying the onset of boredom and fatigue in the first place, a passenger could help to look out for signs of fatigue the driver may not yet have noticed. The NZ Transport Agency specifically recommends that drivers bring a passenger to help prevent fatigue.\textsuperscript{60}

To address the concerns raised by operators, we recommend that the passenger restriction for Category B tow trucks (for trade towing and heavy vehicle accident towing) should be removed. However, given that light vehicle accidents often involve particularly vulnerable customers, it should be a requirement that a person attending or assisting at the scene of a light vehicle accident holds certification to ensure:

- the person is a fit and proper person
- RMS has a record of the individual, including which operator he/she is employed by
- police and authorised officers are able to identify the person at the scene of the accident.

We therefore recommend that a tow truck assistant certificate should be introduced, which allows the holder to travel in Category A tow trucks and to assist at the scene of a light vehicle accident. Such assistant/trainee certificates are already offered in Queensland and Victoria.\textsuperscript{61} The applicant for an assistant certificate:

- should \textbf{not} be required to hold a driver licence
- should be 16 years or over
- should be subject to the same fit and proper person requirements as that of a tow truck driver.

These recommended changes would remove the barrier faced by operators in attracting and training young staff, and would provide further employment opportunities for the 16-21 age group. They also permit heavy vehicle tow truck drivers to bring along a passenger to reduce the risk of boredom and fatigue. The recommendations reflect our findings, discussed in Chapter 4, that customers of Category B towing are typically a lot less vulnerable than those that require a light vehicle accident tow.


We consider if these changes are introduced, several other adjustments to the legislation should be made to ensure adequate consumer protection:

- First, as certified assistants may attend scenes of light vehicle accidents, the conduct rules that currently apply to certified drivers will need to be extended so they also apply to certified assistants. For example, the Regulation currently requires tow truck drivers to behave in an orderly manner with civility and propriety while operating the tow truck or attending the scene of an accident.62

- Second, we consider it appropriate that these conduct rules also apply to passengers in Category B tow trucks, even though they will not be attending light vehicle accidents.

- Third, we consider if a passenger or certified assistant is travelling in an operator’s tow truck, the operator should be responsible for ensuring they adhere to the relevant conduct requirements. The Regulation currently provides that operators must ensure that their drivers adhere to the conduct requirements.63 We consider it appropriate that this provision is extended to apply also to non-certified passengers or certified assistants.

We note that operators will also be responsible for ensuring that any passenger (whether certified or not) that assists a tow truck driver in carrying out a towing job adhere to occupation health and safety requirements, and has the necessary skills and qualifications (eg, high-risk work licences) to carry out the job.

In response to our questionnaire, one operator commented that it is difficult for an operator to be responsible for drivers’ actions.64 We recognise that an operator cannot guarantee that a driver will always comply with the relevant conduct requirements. Nevertheless, the onus should be on the operator to ensure to the best of his or her ability that employees are dependable and honest. This is also in the best interest of the operator, not only because such employees are more productive, but also because employers can be held liable for employees’ actions under common law.65

We also note that it would be up to the operator to decide who a driver could take along as a passenger. The operator would have the ability to refuse any person from being a passenger in a tow truck registered under his or her licence. And if the operator was concerned that a passenger may not comply with the conduct requirements, the operator would be responsible for ensuring that the passenger does not travel in the tow truck.

62 Tow Truck Industry Regulation 2008 (NSW), cl 48(1).
63 Tow Truck Industry Regulation 2008 (NSW), cl 48(2).
64 IPART operator/driver questionnaire.
Draft recommendations

23 A tow truck assistant's certificate should be introduced, and holders of this certificate should be permitted to travel in Category A tow trucks and to assist at the scene of a light vehicle accident. Applicants for an assistant’s certificate:

- should not be required to hold a driver licence
- should be 16 years or over
- should be subject to the same fit and proper person requirements as a tow truck driver.

24 Non-certified passengers should be permitted in Category B tow trucks.

25 Certified and non-certified passengers in tow trucks should be subject to the same conduct requirements as the tow truck driver.

26 If a passenger (certified or non-certified) is travelling in an operator's tow truck, the operator should be responsible for ensuring they adhere to the relevant conduct requirements.

7.2.2 Negotiating mutual recognition

In response to our questionnaire, some operators have submitted that NSW legislation allows interstate tow truck businesses to operate in NSW, while NSW tow truck business are not permitted to operate interstate, due to the laws that apply in those states.66

We also note that other states (such as Queensland) have different fit and proper person requirements to NSW.67 This potentially means that an operator could have an application rejected in NSW, but then apply for and receive a licence in Queensland, which is then recognised in NSW.

We consider that fair mutual recognition arrangements should be negotiated with the adjoining states and the ACT, with the aim to resolve the above issues highlighted by operators and by RMS.

Draft recommendation

27 The Government negotiate mutual recognition arrangements for tow truck operator’s licences, driver’s certificates, and towing assistant’s certificates with the governments of Victoria, Queensland, South Australia and the Australian Capital Territory.

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66 IPART operator/driver questionnaire.
67 Eg, compare Tow Truck Industry Act 1998 (NSW), s 18 with Tow Truck Act 1973 (QLD), s 6.
7.3 Is the duration of licences the maximum possible?

Currently, tow truck operator licences and tow truck driver certificates are granted for a maximum of three years before the licence or certificate needs to be renewed. Three-year licences are only available to operators or drivers with a proven track record. In particular:

- an operator must have held a licence for a continuous period of at least three years immediately prior to the commencement of the licence being applied for
- a driver must have held a certificate for a continuous period of at least five years immediately prior to the commencement of the licence being applied for
- the applicant must not be under investigation by RMS at the time of the application (when the applicant is an operator, this applies also to the applicant’s close associates)
- in the five years before the application is made, the applicant must not have:
  - had the licence or certificate suspended or revoked
  - been disqualified from holding a licence or certificate
  - engaged in conduct that RMS would consider sufficient to refuse the application, suspend or revoke a licence or certificate, or disqualify the applicant from holding a licence or certificate.

In line with our licensing framework, we consider that durations for licences and certificates should be the maximum possible, limited by the likelihood of material, relevant changes occurring over time.

In our recent review of licensing in NSW, we recommended 10-year durations for car and motorcycle driver licences (classes C and R) for drivers aged between 21 and 44 years. We did not find compelling reasons for limiting the durations of these licences to five years, but beyond 10 years, people’s appearance changes sufficiently to warrant new photographs to be taken.

Driving or operating a tow truck would often require a heavy vehicle licence, a high-risk work licence, or both, depending on the size of the truck and the type of equipment being used. Due to the high-risk activities these licences relate to, the maximum duration of these licences is five years. Therefore, there is little reason to extend the duration for a tow truck driver certificate beyond five years.

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68 Tow Truck Industry Act 1998 (NSW), ss 22, 31.
69 When the applicant is an operator, these criteria also apply to the applicant’s close associates.
70 PwC, A best practice approach to designing and reviewing licensing schemes – Guidance material, March 2013, p 44.
We also consider 10 years to be a relatively long time to be in the same occupation. This is particularly true for the tow truck industry, where the skills are highly transferrable (for example to various freight industries and other industries that require the ability to drive a heavy vehicle or operate cranes or winches). Rather than making operators, drivers and assistants terminate their licences or certificates early and request refunds if they wish to change occupation, it is easier to require licences and certificates to be renewed after a shorter period.

We have also considered the additional risk to customers of allowing a five-year operator’s licence. For example, during the term of a five-year licence and operator may:

- cancel their insurance mid-way through the period
- sell the licensed tow trucks to different operators
- let the registration of their tow trucks lapse
- sell the licensed towing business to an unknown party
- go into liquidation or have the licence controlled by an administrator.

We consider that there are fairly strong incentives for operators not to behave in these ways. If detected, the operator may have their licence revoked, be disqualified from holding a licence, and face financial penalties or possibly prosecution. Further, in some of the proposed scenarios, such as when towing jobs would be carried out without insurance, the operator would take on serious liability risk – as would any person carrying out towing jobs without a licence or with a vehicle that is not licensed to be operated as a tow truck by that person.

In addition, we note that if the towing business went into liquidation or the licence was controlled by an administrator, towing jobs would no longer be carried out so it would not pose a risk to customers. We note also that RMS would be fully aware when the registration of a tow truck has lapsed, or if a tow truck has been sold with the appropriate paperwork. And there’s a strong incentive for an operator who sells a tow truck to ensure that RMS is notified of the sale, as they can otherwise be held liable for offences involving the truck.

We acknowledge that these incentives do not guarantee that all operators act lawfully at all times, and that there is a need for a mechanism to detect when an operator is not acting in accordance with the Act and Regulation. But rather than relying on the renewal process to provide this mechanism, we consider a random audit program would be more effective without impose additional costs.

As Chapter 8 will discuss, we are recommending that RMS implement a random audit program. Under this program, well-performing operators would be

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73 RMS currently carries out some compliance checks as part of its assessment process for renewals, and we understand that more comprehensive audits are done as part of investigations into compliance breaches.
Reforms to the design of the licensing scheme

audited at least once every three years, while new operators and operators who have been found to be non-compliant would be audited more often. Such a program would be more effective in encouraging compliance and detecting non-compliance because:

▼ the timing of audits is unpredictable, and operators are constantly under the threat of being audited

▼ an operator that is found non-compliant risks more frequent audits, which is burdensome for the operator and increases the likelihood of being caught again.

In addition, as discussed in Chapter 8, we are recommending RMS formalise a Memorandum of Understanding (MoU) with NSW police so it is automatically informed if an operator, driver or assistant commits a relevant offence, or is found to be a member or associates with members of a declared criminal organisation. This criminal records check is one of the checks that RMS currently carries out during a licence renewal. In combination, the random audit program and the MoU with NSW Police could completely replace the compliance checks and criminal records checks that currently make up the existing renewal assessment process.

In light of the above, we consider that tow truck operators, drivers and assistants should be given the option of a five-year duration for their licence or certificate, in addition to the three-year option. We also consider that the three- and five-year durations should be made available to drivers and assistants who have held a certificate for a continuous period of at least three years. This is lower than the current restriction on three-year driver’s certificates, which require the applicant to have held a certificate for a continuous period of at least five years.

The other current restrictions on offering three-year licence or certificate durations should be maintained and should also apply to five-year durations. For tow truck assistants, the restrictions on three and five-years certificates should be the same as those that will apply for drivers.

Draft recommendation

28 Operator’s licences, driver’s certificates and assistant’s certificates should be available for three and five-year durations for those who have held the licence or certificate for a continuous period of at least three years without incident, immediately prior to the commencement of the licence or certificate being applied for.

7.4 Are record-keeping requirements the minimum necessary?

Tow truck operators are currently required to maintain a range of detailed records, both in relation to accident tows and trade tows, and to the usage of a
tow truck whether it involves towing a vehicle or not. All records need to be kept for five years, and must be made available on request to authorised officers or police officers. While operators are allowed to maintain records electronically, they are also required to print and store hardcopies of these records on a weekly basis.

There is a lot of duplication between records, and tow truck operators and drivers have criticised the burdensome nature of record keeping. In response to our questionnaire, 40% of metropolitan and around 60% of non-metropolitan respondents indicated this was the largest burden on their business. In submissions to the Issues Paper, operators raised the “endless repetition of paper entries” as an area in need of urgent attention.

We note that the majority of the record-keeping requirements were developed prior to the widespread use and familiarity of electronic systems such as computers and handheld devices. We also note that the current record keeping requirements are highly input focussed rather than outcomes focussed. That is, the requirements are focussing on operators maintaining very specific records, rather than on the operators’ ability to verify their contribution towards the outcomes that the regulatory regime is intended to promote (eg, protecting the rights of customers).

We have identified a range of measures to enable operators to verify compliance with legal requirements in a manner that is most appropriate for their business practices. These measures aim to reduce the effort associated with maintaining records by facilitating the adoption of electronic technology and by avoiding duplication of records. The measures we have identified include:

- removing the requirement to maintain non-accident towing records
- removing the requirement to maintain tow truck usage logs
- reducing the minimum period operators are required to keep records to two years
- removing the requirement to keep paper records where electronic records exist
- developing an electronic system for capturing towing authorisations

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74 For example, see: Tow Truck Industry Act 1998 (NSW), s 60; Tow Truck Industry Regulation 2008 (NSW), cls 39, 49, 50.
75 For example, see: Tow Truck Industry Act 1998 (NSW), s 60; Tow Truck Industry Regulation 2008 (NSW), cls 34(2), 49, 50(3).
77 IPART operator/driver questionnaire; and G. Inwood submission to Issues Paper, 30 June 2014, p 1.
7 Reforms to the design of the licensing scheme

- removing the requirement for towing authorisations for heavy vehicle accident towing
- relaxing reporting requirements in relation to towing authorisations for light vehicle accident tows
- improving the design of towing authorisation forms.

7.4.1 Removing requirement to maintain non-accident towing records

The non-accident towing records are used to record the details of who has authorised a non-accident tow, and when and where the towing job was carried out. The purpose of this record is for authorised officers or police officers to be able to verify that the tow truck driver was authorised to tow a non-accident vehicle to a specific destination.

First, we note that the non-accident towing record is not required to be kept in the tow truck and is therefore not necessarily available to police or authorised officers to check on the spot. We also note that police have access from within police vehicles to a database of stolen and otherwise suspect vehicles, which they can use to check the status of the vehicle being towed.

Despite the ability of police to check the status of the towed vehicle, we consider that a tow truck driver must be able to show that he or she has been given authorisation to carry out a particular non-accident tow. However, we consider it likely that many operators and drivers already have records that could verify this without the need for maintaining non-accident towing records.

Firstly, it is generally good business practice for operators to keep records of the vehicles they tow, both for internal business use as well as to potentially protect themselves against false claims from the owners or insurers of vehicles. Secondly, under the Australian Consumer Law, a business is required to provide proof of sales to customers of $75 or more, and in response to our questionnaire, only four respondents submitted that they sometimes charge less

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78 Tow Truck Industry Regulation 2008 (NSW), cl 49(1).
79 The non-accident towing record is required to be kept at the operator’s place of business. See: Tow Truck Industry Regulation 2008 (NSW), cl 49(3).
than $75 for a light vehicle trade tow of up to 20 kms.\textsuperscript{82, 83} Businesses must also keep records of all sales transactions under Australian tax law.\textsuperscript{84}

In light of the above, we consider that maintaining a non-accident towing record should not be required. This requirement is unnecessarily burdensome, given it is likely that in most cases, honest operators would already maintain other records that have the potential to serve the same purpose. Dishonest operators are also more likely not to maintain such records regardless of any regulatory requirement to do so.

Draft recommendation

29 Requirements on operators to maintain non-accident towing records should be removed, but tow truck drivers must be able to show that they have been authorised to tow the vehicle.

7.4.2 Removing the requirement to maintain tow truck usage logs

According to the Act, operators that are licensed to carry out accident tows must keep a record of each occasion that a tow truck is used, regardless of whether it was used for an accident tow, a non-accident tow, or no tow at all (eg, a driver attended an accident scene but did not get the towing job).\textsuperscript{85} We understand that the intent of these logs is to assist RMS and police investigate reported incidents involving tow truck drivers. When maintained correctly, the logs would allow RMS and police to identify who has been operating a tow truck, and at what time and location.

First, we note that the current requirement for operators to maintain tow truck usage logs duplicates the requirements for accident towing authorisations and non-accident towing records, which record much of the same information required in tow truck usage logs. In addition, some operators employ electronic systems that record which driver is attending a particular job, and some also utilise GPS technology to track the tow trucks.\textsuperscript{86} In these cases, the requirement to also maintain a tow truck usage log in the form prescribed by RMS places an unnecessary burden on the operators and their drivers.

\textsuperscript{82} IPART operator/driver questionnaire.

\textsuperscript{83} Under the Australian Consumer Law, a business is still required to provide proof of the transaction when under $75 if it is requested by the customer. See: Fair Trading NSW, \textit{Receipts}, at http://www.fairtrading.nsw.gov.au/Businesses/Selling_goods_and_services/Sales_methods/Receipts.html, accessed 9 October 2014.


\textsuperscript{85} \textit{Tow Truck Industry Act 1998} (NSW), s 60.

\textsuperscript{86} For example, one operator informed us that it uses GeoOp, which is a job management system that keeps track of which employee is carrying out which job, and it also allows GPS tracking of vehicles. See http://geoop.com/geoops-features/, accessed 8 October 2014. In addition, several tow truck operators equip their tow trucks with GPS tracking systems.
Both RMS and police have powers that, at least in part, address the objectives of the tow truck usage log. For example, if demanded by an authorised officer or police officer, an operator must provide the name and address of any tow truck driver employed by the operator.\textsuperscript{87} Police also have additional questioning and investigative powers and could use these to require the operator to identify who was driving a particular tow truck.\textsuperscript{88}

We also note it is a requirement under the Regulation for the operator to ensure that each of their drivers behaves in “an orderly manner with civility and propriety” while operating the tow truck or while attending an accident scene. Penalty provisions can apply to the operator if one of its drivers does not behave in such way.\textsuperscript{89}

Although the requirement for the tow truck usage log is onerous, we consider it important that RMS and police are able to easily obtain the identity of a tow truck driver if needed. Therefore, we consider operators should not be required to maintain tow truck usage logs in the form prescribed by RMS, but must be able to identify any drivers, assistants or passengers who travelled in or operated a particular tow truck at a particular time. How an operator chooses to ensure compliance with this requirement should be the operator’s own decision.

Draft recommendation

30 Requirements to maintain tow truck usage logs should be removed and replaced with a requirement that operators must be able to identify any drivers, assistants or passengers who travelled in or operated a particular tow truck at a particular time.

7.4.3 Reducing the minimum period operators are required to keep records to two years

Currently operators are required to keep copies of all records for at least five years. We consider this retention period is excessive. Records in paper form are not readily accessible or searchable, and a busy operator could accumulate many records over a five-year period, adding to their business storage costs. In Victoria and Queensland, the retention period for towing authorisations is one year.\textsuperscript{90}

We consider a one-year retention period would be too short to ensure that records are available if a complaint processes or an investigation were to take a long time to complete. Therefore, we consider that operators should be required to retain records for a minimum of two years. We also note that allowing all records to be kept electronically – as discussed in section 7.4.4 below – would

\textsuperscript{87} Tow Truck Industry Act 1998 (NSW), s 60(6).
\textsuperscript{88} For example, under the Law Enforcement (Powers and Responsibilities) Act 2002 (NSW).
\textsuperscript{89} Tow Truck Industry Regulation 2008 (NSW), cl 48.
\textsuperscript{90} Tow Truck Regulation 2009 (QLD), cl 26; and Accident Towing Services Regulation 2008 (VIC), cl 14.
significantly reduce the burden of retaining records, and would likely result in a number of tow truck operators retaining records for longer than the minimum period required. Electronic record keeping would have numerous additional benefits.

Draft recommendation

31 The period operators are required to retain records should be reduced from five years to two years.

7.4.4 Removing the requirement to keep paper records where electronic records exist

Under the existing Act and Regulation, tow truck operators are not prevented from maintaining their records electronically. However, operators can only do so as long as copies contain the information required in the approved form and are printed periodically (weekly).91

We consider that operators should be able to maintain all records electronically, including electronic copies of physical records such as signed towing authorisations or the tow truck driver register.92 And the operator should not be required to also keep paper records where they are already maintaining electronic records.

However, an operator that chooses to maintain electronic records in place of paper records must ensure that the records can be made available to an authorised officer or police officer upon request. If requested by RMS to supply records, the operator should be able to submit these electronically – for example, via email or via an RMS web-portal.

Table 7.1 lists some of the likely benefits to tow truck operators of moving from paper-based records to a simple electronic record keeping system.

Allowing records to be kept electronically may encourage tow truck operators to adopt electronic systems that can assist in streamlining other business processes as well. For example, some operators might choose to implement systems that can assist with job scheduling and invoicing, and with monitoring and reporting on business performance.


92 Tow truck operators must maintain a record of all tow truck drivers employed. See: Tow Truck Industry Act 1998 (NSW), s 60(2)(a).
Draft recommendation

32 Operators should not be required to keep paper records where the required records are kept electronically and must be made available to authorised officers or police officers on request.

Table 7.1 Benefits to tow truck operators from keeping electronic records instead of paper records

- Improved business processes through faster access to and retrieval of information
- Better-informed decision-making through quicker access to all of the right information
- Better service delivery because relevant information can be located easily
- Less staff time spent looking for information
- Potential for re-use of information
- Lower compliance costs and enhanced ability to provide accurate, timely and transparent responses to legislative and regulatory requirements
- Mitigation of business and reputational risk and improved business continuity
- Cost savings from less creation, storage, retrieval and handling of paper records


7.4.5 Developing an electronic system for capturing towing authorisations

As mobile technology has matured and become widespread, it is a natural next step for tow truck operators to increasingly integrate this technology into the way they carry out their business activities. We therefore consider it appropriate that RMS develop a system that would allow tow truck drivers to capture towing authorisations electronically at the scene of an accident, for example through the use of handheld devices like tablets.

When completed, the electronic towing authorisation could automatically be submitted to RMS via the mobile network. The system could also be designed to connect in real-time (where a mobile connection is available) to RMS’s database, which could simplify the process of filling in the towing authorisation by automatically filling in certain details and checking that inputs are valid. For example, the address of the driver of the accident vehicle could be completed automatically when his or her driver licence number is entered. The live connection to RMS’s database could also be used to verify that the tow truck driver’s certificate is valid. A copy of the completed authorisation could be sent to the towing customer via email or SMS, or be printed on a small portable printer like those used by parking officers or in taxis.

We still consider that towing notices (green stickers) would need to be purchased from RMS and be uniquely numbered.93 The unique sticker number could

93 Among other things, unique numbering will more easily allow identification of a vehicle where the registration plates may have been destroyed or lost in the crash
simply be entered into the electronic authorisation system to ensure that the towing authorisation and the towing notice are linked.

Table 7.2 lists some of the potential benefits to stakeholders of completing towing authorisations electronically and automatically submitting them to RMS.

To further reduce the burden of record keeping both for operators and for RMS, the system could also be designed so it could replace operators’ registers of accident vehicles in storage (ie, formerly the “holding yard register”) and the tow truck driver registers, and so that these details are also stored in RMS’s system. Finally, we consider the system should be designed so that it can link with or export to electronic record keeping or accounting systems commonly used in the tow truck industry.

In our view, RMS should develop and implement such an electronic system by 30 June 2018. This should provide time for it to plan for, develop, test and implement the proposed system. It should also provide sufficient time for RMS to incorporate the development of the system into its ICT plans, and flexibility if other projects need to be prioritised. We also note that RMS will require funding to develop this system.

Until the system has been adopted by all operators and drivers, operators should continue to be able to obtain uniquely numbered physical towing authorisations and notices from RMS.

Draft recommendation

33 RMS develop and implement by 30 June 2018 an electronic system that can be used by operators for the purpose of electronic record keeping and reporting to RMS, as well as for obtaining electronic towing authorisations at the scene of an accident (eg, using handheld devices).
Table 7.2  Potential benefits from an electronic system for capturing towing authorisations

**Prevent dishonest or incomplete information presented to driver of accident vehicle**
- Present and highlight important information regarding accident towing (eg, encourage the driver to contact their insurer if insured – see example of a redesigned towing authorisation form in Appendix E)
- Show photo of tow truck driver from RMS’s licensing database, so that the driver of the accident vehicle can verify the identity of the tow truck driver
- Automatically verify the validity of the operator’s licence, the driver’s certificate and the tow truck’s registration and insurance details
- Present authorising person (eg, driver) with list of approved storage locations/holding yards to choose from, including the travel distance from the current location.

**Complete towing authorisation quickly and accurately, and without confusion**
- Guide the user step-by-step through completing the authorisation, showing only the relevant fields
- Automatically complete some fields (eg, the driver of the accident vehicle’s address)
- Automatically validate inputs (eg, ensuring the right number of digits in a licence number)
- Automatically calculate an estimate of the expected charges
- If charges for salvage is added, automatically request photos to be captured using the same handheld device
- Ensure that all required information is completed

**Ensure there’s an audit trail**
- Automatically submit completed towing authorisations to RMS
- All records backed up regularly by RMS
- Limit operators/drivers ability to falsify or modify completed towing authorisations
- Send copy of towing authorisation to customer’s email or on SMS, or print on the spot

**Improve efficiency for both tow truck operators and drivers**
- Faster and easier completion of towing authorisations
- No need to store physical copies of towing authorisations
- No need to store and back-up electronic copies of towing authorisations
- No need to locate and manually send copies of towing authorisations to RMS
- No lost towing authorisations
- Ability to quickly search for and find past towing authorisations if needed

**Improve efficiency for RMS**
- Completed towing authorisations could be collected automatically, so there’s no missing or incomplete records
- No need for RMS to request records for auditing and investigative purposes
- Up-to-date data always available for policy analysis and development
- Minimal processing time
- No legibility issues

**Benefits to police**
- Easier and faster to complete towing authorisations at the scene of accidents
- Accident scenes are easier to manage if those involved are less confused as a result of clear instructions when completing towing authorisations
- Automatically notify police if stolen, uninsured or unregistered vehicles are involved in accidents when police are not at the scene of the accident
7.4.6 Removing the need for towing authorisations for heavy vehicle accident towing

As Chapter 4 discussed, the risk of heavy vehicle accident towing customers being exploited at the scene of the accident is minimal. These customers are commonly businesses, they hold insurance, and often also have arrangements in place in case of breakdowns and accidents. Therefore, we consider that accident towing authorisation forms should not be required for heavy vehicle accident towing.

Instead, we consider it sufficient that towing operators obtain some form of written authorisation for the towing job from the owner or driver of the accident vehicle, or the owner’s agent (e.g., insurer). This written authorisation should be allowed in electronic form, such as email or SMS. As written authorisations are likely to already be standard when a booking for a heavy vehicle accident tow is made – especially considering the significant costs that these can incur – this requirement should not be onerous.

We also note that aspects of heavy vehicle accident tows make towing authorisations particularly burdensome or sometimes impossible to complete in accordance with the regulations. For example:

- If the accident happens in a remote location (as often is the case), it could take many hours to get the right trucks and equipment to the accident scene. By the time the tow truck arrives, the driver of the vehicle would often have left the scene, and there will be no police officers or authorised officers to sign the towing authorisation form.

- There may be several sections or parts to the accident vehicle which need to be towed separately. The tow truck driver will need to fill out a separate authorisation form for each section or part.

- If the registration number is not available, it can take a very long time to find the VIN which is then required instead.

Draft recommendation

34 Towing authorisation forms should not be required for the towing of heavy vehicles (greater than 4.5 tonnes GVM) from accident sites. However, operators should be required to obtain written authorisation for the towing job from the owner or driver of the accident vehicle, or the owner’s agent (such as the insurer). This written authorisation can be in electronic form (e.g., email or SMS).
7.4.7 Relaxing reporting requirements in relation to towing authorisations for light vehicle accident towing

We consider that tow truck operators should not be required to submit copies of the towing authorisations to RMS within 28 days of the tow. Instead, RMS should use its powers to request records when these are needed for audits or investigations. This would mean the towing authorisation form could be reduced from a triplicate to a duplicate form, which is easier to complete and cheaper to print.

We also note that tow truck drivers are required to submit towing authorisations to their operators within 72 hours of the tow. In response to our questionnaire, one driver commented that since the trucks are generally kept moving and busy all day, it is difficult to comply with this requirement. This would be particularly true in those cases where the driver is not based in the proximity of the operator’s place of business. We consider this requirement is unnecessarily restrictive, and would preclude tow truck operators and drivers from maximising the number of towing jobs they could do without adding much benefit. We therefore recommend that completed towing authorisations should be delivered to the operator within seven days of the tow, rather than within 72 hours.

Draft recommendations

35 Operators should not be required to submit copies of the towing authorisation form to RMS within 28 days of the tow, and the towing authorisation form should be reduced to a duplicate rather than a triplicate form.

36 Tow truck drivers should be required to submit completed towing authorisations to the operator within 7 days of completing the towing job, instead of within 72 hours.

7.4.8 Improving the design of the towing authorisation form

Until all tow truck operators and drivers have adopted the recommended RMS-developed electronic system for capturing accident towing authorisations (discussed above), the operators should be able to continue to obtain uniquely numbered physical towing authorisations and notices from RMS.

However, the design of the form should be improved to quickly provide the owner or driver of the vehicle with key information that they need to know before completing and signing a towing authorisation. The form should also be designed so that important details regarding the tow are shown on the front page along with both the tow truck driver’s and the authorising person’s signatures.

94 Currently required under Tow Truck Industry Regulation 2008 (NSW), cl 34(1).
95 Tow Truck Industry Regulation 2008 (NSW), cl 32(1)(b).
96 IPART operator/driver questionnaire.
These details include the vehicle details, the towing destination and the charges for the tow. We have provided an example of a redesigned towing authorisation form in Appendix E.

Furthermore, tow truck operators should be able to order books of towing authorisations with the operator’s licence details already pre-filled, or with the option of stamping or attaching stickers with these details. This would save the tow truck driver from having to complete these details every time, and it would ensure that these details are complete, accurate and legible.

**Draft recommendations**

37 The towing authorisation form should be simplified and re-designed to:

- highlight important information for the vehicle owner/driver on top of the front page (see example provided in Appendix E)
- gather the key details regarding the tow on the front page (see example provided in Appendix E)
- list the applicable regulated fees for either metro or non-metro (see example provided in Appendix E).

38 Books of towing authorisations should be designed and printed in a way that minimises the time tow truck drivers need to spend filling out the operator licensee’s details on every form and towing notice. For example, by giving operators the option to:

- order books of towing authorisations with the licence details already printed on the forms and towing notices
- order stamps with the licensee details (noting that this would require stamping both copies of the form and the towing notice)
- order stickers with the licensee details (noting that this would require attaching stickers to both copies of the form and to the towing notice).

**7.5 Are conduct rules the minimum necessary?**

Conduct rules require or prohibit certain activities or behaviours, and are intended to improve outcomes by preventing undesirable behaviour and/or encouraging desirable behaviour. To be the minimum necessary, conduct rules should be outcomes focussed, should not duplicate other regulatory obligations, and should be enforceable with appropriate sanctions.

We consider the current conduct rules place several unnecessary restrictions on tow truck operators, which should be removed. In particular:

- restrictions on operating one tonne trucks should be removed for Category B towing
the process in relation to disposing of unclaimed vehicles and recovering charges associated with these vehicles should be simplified

- a range of highly prescriptive requirements should be relaxed

- requirements that drivers of Category B tow trucks wear their driver’s certificate should be removed

- requirements that tow trucks carry a copy of the operator’s licence should be removed.

### 7.5.1 Removing restrictions on one tonne tow trucks for Category B towing

Tow truck operators are currently not permitted to operate one tonne tow trucks except with special permission from RMS. The intent of this restriction was to prevent tow truck drivers from racing to the scene of an accident with the lighter and faster one-tonne tow trucks in order to secure the job, when these trucks were often too small for the job.

Since the basis for this restriction pertains only to light vehicle accident towing, we consider one-tonne tow trucks should be permitted as Category B tow trucks. In particular, we see no reason why one-tonne tow trucks should be prohibited for light vehicle trade and breakdown towing. We note that currently when RMS permits an operator to use a one-tonne tow truck, the operator can only use this truck for trade towing when all other approved tow trucks licensed to the operator are not suitable for the job (eg, in car parks where larger tow trucks cannot fit).

Under our recommendations, one-tonne tow trucks could be used for such light vehicle trade tows without operators first having to seek special permission for each one-tonne tow truck. We note that one-tonne tow trucks would still need to be licensed and meet the relevant vehicle standards. And drivers will still be required to ensure that the type of tow truck being used to tow a vehicle is suitable for towing that vehicle.

#### Draft recommendation

39 One tonne tow trucks should be permitted as Category B tow trucks.

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97 Tow Truck Industry Regulation 2008 (NSW), cl 53.
99 Under Tow Truck Industry Regulation 2008 (NSW), cl 20(b), it is a condition of the driver certificate that the driver ensures that the type of tow truck intended to be used for a towing job is suitable for that towing job.
7.5.2 Making it easier for operators to dispose of and recover charges associated with unclaimed vehicles

In our questionnaire, a number of operators indicated that unclaimed accident vehicles often pose a problem for them. In particular, they expressed frustration with:

- the majority of unclaimed vehicles being uninsured and not worth repairing
- owners refusing to pay towing and storage charges for their unclaimed vehicles
- having to wait a long time before they can legally dispose of an unclaimed vehicle
- unclaimed vehicles “clogging up” their holding yards
- rarely being able to sell unclaimed vehicles as they are not worth much if anything at all
- the burdensome process for disposing of unclaimed vehicles
- incurring further costs when disposing of an unclaimed vehicle, and not being able to recover these costs either.

We consider the burden of unclaimed vehicles on operators can be eased while maintaining robust customer protection. Currently, when an unclaimed vehicle is worth less than $500, the earliest time the operator can dispose of it is two months after the vehicle has entered the holding yard. If the unclaimed vehicle is worth $500 or more, the operator cannot dispose of it until 7.5 months after it was placed in storage. This is because when the vehicle is worth $500 or more, the Warehousemen’s Liens Act 1935 (NSW) applies.

It is important to allow generous time for owners to collect their vehicles in case they were critically injured in the accident, and cannot be notified or are unable to recover the vehicle. However, we consider 7.5 months is likely to be excessive for most unclaimed vehicles, and would only be justified when the vehicle is particularly valuable. Therefore, in our view operators should be able to dispose of unclaimed vehicles valued under $3,000 after a minimum period in storage of 1.5 months. For unclaimed vehicles valued at $3,000 or above, the Warehousemen’s Liens Act should continue to apply.

Table 7.3 shows the differences in the minimum storage period allowed before an operator can dispose of an unclaimed vehicle under the current rules and under our recommendations. It also shows the minimum charges that the owner of the vehicle would owe a metropolitan-based operator at the end of these periods.

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100 IPART operator/driver questionnaire.
101 28 days + 28 days = 56 days. See Tow Truck Industry Regulation 2008 (NSW) cls 52(2), 52(4).
102 6 months + 1 month + 14 days ≈ 180 days + 30 days + 14 days = 224 days. See Warehousemen’s Liens Act 1935 (NSW), s 6.
Note in particular that under the current rules, an operator is not able to recover the charges owing unless an unclaimed vehicle is worth around $5,400. And the vehicle would need to be worth more for the operator to be able to recover additional costs incurred in the process of disposing of the vehicle, or any further charges owing, such as salvage fees or excess km towing fees.

However under our recommendations, an operator would be able to recover the charges owing if the unclaimed vehicle is worth between $1,250 and $3,000, and when the vehicle is worth more than $5,400. Also, if the vehicle is worth less than $1,250, the operator will be able to dispose of the vehicle a little sooner (12 days earlier) than under the current rules.

### Table 7.3 Ability for metro operators to recover outstanding charges when disposing of an unclaimed vehicle

<table>
<thead>
<tr>
<th>Value of vehicle</th>
<th>$&lt;500</th>
<th>$500–$3,000</th>
<th>$&gt;3,000</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Current rules</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum time before disposal</td>
<td>56 days (~ 2 months)</td>
<td>224 days (~7.5 months)</td>
<td>224 days (~7.5 months)</td>
</tr>
<tr>
<td>Minimum charges owing&lt;sup&gt;a&lt;/sup&gt;</td>
<td>$235 towing fee + $1,288 storage fee = $1,523</td>
<td>$235 towing fee + $5,152 storage fee = $5,387</td>
<td>$235 towing fee + $5,152 storage fee = $5,387</td>
</tr>
<tr>
<td><strong>Recommended rules</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum time before disposal</td>
<td>44 days (~1.5 months)</td>
<td>44 days (~1.5 months)</td>
<td>224 days (~7.5 months)</td>
</tr>
<tr>
<td>Minimum charges owing&lt;sup&gt;a&lt;/sup&gt;</td>
<td>$235 towing fee + $1,012 storage fee = $1,247</td>
<td>$235 towing fee + $1,012 storage fee = $1,247</td>
<td>$235 towing fee + $5,152 storage fee = $5,387</td>
</tr>
</tbody>
</table>

<sup>a</sup> Using our recommended metro accident towing fee of $235 and daily storage fee of $23

Currently, where the proceeds of the sale of an unclaimed vehicle exceed the charges owing and any costs incurred in carrying out the sale, the original vehicle owner has first claim to the difference.<sup>103</sup> We consider similar provisions should apply under our recommended rules. The Regulation should also include provisions to ensure that the operator takes reasonable steps to maximise the sale price.

We also consider that RMS should publish a brief, practical guideline on its website that explains the process that operators must follow in order to dispose of unclaimed vehicles. The guidelines should explain how an operator can establish the value of an unclaimed vehicle, so that he or she can know which

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<sup>103</sup> Tow Truck Industry Regulation 2008 (NSW), cl 52(5); and Warehousemen’s Liens Act 1935 (NSW), s 8(1).
rules of disposal apply. In addition, the guidelines should set out the options available to operators to try to recover money they are owed.104

Draft recommendations

40 The Government amend the provisions for disposal of unclaimed vehicles in the regulations so that an operator can lawfully dispose of an unclaimed vehicle that, has a value of less than $3,000 (at the time of disposal) 30 days after a reasonable attempt has been made to notify the owner or an agent for the owner of the operator’s intention to dispose of the vehicle.

41 A vehicle should be considered to be unclaimed, and the operator should be able to begin the process of disposing of the unclaimed vehicle, when:

– the vehicle has been held in storage by the operator for at least 14 days, and
– the accrued storage fees have not been paid, and
– the owner or an agent for the owner has not contacted the operator to arrange for delivery of the vehicle or for continued storage of the vehicle.

42 The Regulation should also clearly specify:

– the minimum effort required by the operator in attempting to notify the relevant persons of the operator’s intention to dispose of the vehicle
– the ways by which the vehicle can be lawfully disposed of
– how the balance of the proceeds of sale of the vehicle (or its parts) should be dealt with
– how an operator can establish the value of an unclaimed vehicle
– any other relevant matters.

43 RMS publish a brief, practical guideline on its website that explains the process that operators must follow in order to dispose of unclaimed vehicles, and sets out the options available to operators to try to recover monies they are owed.

7.5.3 Highly prescriptive requirements should be relaxed

In responding to our questionnaire, a number of operators complained that there are certain highly prescriptive requirements that, in their view, have resulted in infringement notices being issued for relatively trivial breaches. For example, the

Regulation requires accident tow trucks to carry a broom, shovel and durable rubbish container to remove accident debris, and specifies that:\(^{105}\)

- a broom is defined as a brush or similar implement of bristles, nylon or twigs with a handle at least 1.2 metres long
- a shovel is defined as an implement consisting of a broad metal blade or scoop attached to a handle least 1.2 metres long and designed for taking up and removing loose matter (e.g., earth, snow, coal).

RMS has also issued a Protective Clothing Policy, which includes requirements that all persons must:\(^{106}\)

- wear protective and reflective clothing at all times when driving, operating or assisting in using a tow truck on a road or road-related area or when working at an accident scene or salvage site
- have available for their use:
  - protective sunscreen lotion, cream or spray with a minimum SPF rating of \(30^+\)
  - headwear that provides sun protection

RMS also requires all drivers of (current) Category A tow trucks to have “TOWING” printed in block letters at least 7cm high on the back of their reflective clothing,\(^{107}\) and all tow trucks must have the licensee’s details printed in block letters at least 50mm high.\(^{108}\)

We agree with the operators that the above requirements are highly prescriptive, and are tightly specifying inputs rather than focussing on the desired outcomes. Such prescriptive requirements add to the regulatory burden on operators (for example where an ‘off the shelf’ product does not meet the specifications), and is also conducive to ‘over-enforcement’.

We recognise the importance of being able to identify towing personnel at the scene of an accident. However, rather than specifying a minimum height of the lettering on clothing and on tow trucks, we recommend that it be a requirement that these details should be clearly legible from a distance of 20 metres. This corresponds to the requirement in NSW transport legislation that vehicle licence

\(^{105}\) Tow Truck Industry Regulation 2008 (NSW), cls 44-45.
\(^{108}\) Tow Truck Industry Regulation 2008 (NSW), cl 45.
plates be visible from at least 20 metres away.\textsuperscript{109} This should not require operators to increase the size of existing lettering on tow trucks and reflective clothing.\textsuperscript{110}

In relation to the protective clothing policy, operators and drivers have highlighted that wearing protective clothing at all times (including steel capped boots) can result in considerable discomfort when driving long distances.\textsuperscript{111} We consider it should be sufficient to require tow truck drivers and assistants to wear protective clothing when working outside the tow truck, but not when driving the truck.

Finally, we note that it is a requirement under the Act that tow truck drivers clean up and remove debris in relation to towing a vehicle from an accident scene.\textsuperscript{112} This requirement necessitates that, before an operator or driver accepts an accident towing job, they must ensure they have the equipment necessary to clean up the accident scene. Therefore, the requirement for tow trucks to carry a broom, a shovel and a durable rubbish container is redundant, and should be removed.

Draft recommendations

44 The requirements in the Regulation that tow trucks must carry a broom, a shovel and a durable rubbish container should be removed. It remains a requirement under the Act that tow truck drivers clean up and remove debris from accident scenes.

45 The requirement that tow truck drivers must wear protective clothing when driving the tow truck should be removed. However, tow truck drivers and any other employee of a tow truck operator must wear protective clothing while:

– operating or assisting in the use or operation of a tow truck on a road or road related area
– working at an accident scene or salvage site.

46 The Tow Truck Industry Protective Clothing policy should made be less prescriptive, including:

– removing the requirement for all persons to have available for their use SPF30+ sunscreen, sun protective headwear and protective sunglasses
– replacing the requirement that the lettering on the back of reflective vests must be at least 7 cm with a requirement for the lettering to be clearly legible

\textsuperscript{109} Road Transport (Vehicle Registration) Regulation 2007 (NSW), sch 2, cl 61(2)(c).
\textsuperscript{110} For example, the US National Cooperative Highway Research Program recommends adopting a maximum Legibility Index (LI) of 40 (ft/in) or 4.8 (m/cm). At 20 metres, this equates to a minimum lettering size of 4.2 cm. See: National Cooperative Highway Research Program, Report 600: Human Factors Guidelines for Road Systems, Second Edition, 2012, p 13-10.
\textsuperscript{111} IPART operator/driver questionnaire; and G. Inwood submission to Issues Paper, 30 June 2014, p 2.
\textsuperscript{112} Tow Truck Industry Act 1998 (NSW), s 65.
from a minimum distance of 20 metres (this should not require operators to increase the size of existing lettering on tow trucks and reflective clothing).

47 The requirement that the licensee details displayed on the tow truck must be printed in letters and figures at least 50mm high should be replaced with a requirement for the details to be clearly legible from a minimum distance of 20 metres.

7.5.4 Removing the requirement that drivers operating Category B tow trucks wear their driver’s certificate

It is a requirement under the Act that a tow truck driver wears his or her driver certificate while:

- at or in the vicinity of an accident scene
- driving or standing a tow truck on a road or road related area
- carrying out or attempting to obtain any towing work
- travelling in a tow truck as a passenger
- otherwise using or operating the tow truck.

We consider this requirement was put in place to enable verification of a tow truck driver’s identity and the validity of his or her driver certificate, in particular at the scene of an accident.

In response to our questionnaire, drivers that carry out heavy vehicle towing have submitted that, while climbing over and under plant and trucks, the certificate regularly gets caught and falls off.

We consider the requirement for drivers to wear their driver certificates remains essential to ensure consumers are protected at the scene of light vehicle accidents. However, as discussed in Chapter 4, there is considerably less need for strong customer protection at the location of a Category B tow, since these tows are usually arranged before the tow truck arrives to the towing location.

We therefore recommend that when operating a Category B tow truck, the tow truck driver should not be required to wear the driver certificate. However, the driver certificate must be carried in the truck being operated, and must be presented if requested by:

- an authorised officer
- a police officer
- the owner of the vehicle being towed
- an agent for the owner of the vehicle being towed.

113 Tow Truck Industry Act 1998 (NSW), s 69.
114 IPART operator/driver questionnaire.
Draft recommendation

48 The requirement that drivers operating a Category B tow truck wear their driver’s certificate should be replaced with a requirement that these drivers must carry the certificate in the truck they are operating, and must present it if requested by:

- an authorised officer as specified under the Tow Truck Act
- a police officer
- the owner of the vehicle being towed
- an agent for the owner of the vehicle being towed.

7.5.5 Removing the requirement that tow trucks carry a copy of the operator’s licence

Currently, operators are required to keep a photocopy of their operator’s licence in each of their tow trucks. We consider that authorised officers and police officers should be able to use mobile technology to verify the validity of the operator’s licence. Therefore, we consider this requirement should be removed. The officers should be able to verify the licence by cross-checking any of the following:

- the driver’s certificate number
- the operator’s licence number printed on the tow truck
- the tow truck licence plates
- for Category A trucks, the uniquely numbered towing authorisation books.

We also consider that checking the validity of the operator’s licence directly with an up-to-date database is more reliable, and should ensure that the officer is immediately aware of any issues relating to the operator’s licence (for example, if the operator’s licence was recently suspended or cancelled, or if there have been any issues related to the operator’s or driver’s performance or conduct).

Draft recommendation

49 The requirement that operators keep a photocopy of their operator’s licence in each of their tow trucks should be removed.

7.6 Are mandatory attributes the minimum necessary?

In 2013, RMS introduced a voluntary tow truck driver training program, with the expectation that the program would be made mandatory in future. The program is designed to improve the quality of service provision and to help improve the profile of the industry among the general public and for potential employees. It
was developed with input from industry stakeholders, and covers four competencies: \textsuperscript{115}

\begin{itemize}
  \item follow occupational health and safety procedures
  \item apply customer service skills
  \item manage the operation of a tow truck
  \item set up and secure a towing situation.
\end{itemize}

RMS has indicated that 90 experienced drivers underwent training in two pilots of the program and the feedback was “overwhelmingly good with many experienced drivers commenting they were skeptical about what they could learn and surprised at the new skills and information they received”.\textsuperscript{116}

However, in responses to our questionnaire, several operators argued that they are themselves best-placed to train their drivers and ensure that they have the right mix of skills for the individual business’ needs. These operators consider that making the RMS training program mandatory would be wasteful and add unnecessary burden on the industry.\textsuperscript{117}

We note it is in operators’ own interest to ensure that their drivers are appropriately skilled. We consider that the benefits from making the training program mandatory would be outweighed by the burden this would impose on the industry, particularly on smaller operators. In addition, it would create a barrier for new drivers entering the industry.

In our view, the training program should remain voluntary. This allows operators and insurers and other purchasers of towing services to decide whether they want to only engage or employ drivers who have completed the training. It also allows operators to decide how they want to position themselves in the market. For example, the National Roads & Motorists’ Association, one of the larger purchasers of towing services in the state, will require its preferred towing providers to have completed the program.\textsuperscript{118}

With a voluntary program, operators would still have to meet their occupational health and safety obligations. However, if they choose, they can internalise their driver training costs and reduce these costs through on-the-job training and training during down time.

We also consider there is significant opportunity for improving industry participants’ understanding of the rules and regulations that govern the industry.


\textsuperscript{117} IPART operator/driver questionnaire; and G. Inwood submission to Issues Paper, 30 June 2014, p 1.

\textsuperscript{118} Information provided by the National Roads & Motorists’ Association, 10 October 2014.
by improving RMS’s approved summary of the Act and Regulation. It is currently a condition that operators explain the provisions of the Act and Regulation to their drivers and allow the drivers to read the approved summary. However, the existing summary consists of extracts from the Act and Regulation without any explanatory or interpretive material.

Therefore, we consider RMS should replace the current Approved Summary of the Act and Regulation with a document that explains operators’ and drivers’ obligations in plain English.

Draft recommendations

50 The tow truck driver training program should continue to be voluntary.

51 RMS replace the current Approved Summary of the Act and Regulation with a document that explains operators’ and drivers’ obligations in plain English.

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119 Tow Truck Industry Regulation 2008 (NSW), cl 11.
8 Reforms to the administration of the licensing scheme and licence fees

In addition to reviewing the design of the tow truck licensing scheme (see Chapter 7), we examined the administration of the scheme and the licensing fees to assess their efficiency and effectiveness, and to identify reforms that could provide savings to business and the community. This involved applying the principles of Stage 3 of our licensing assessment framework by considering the following questions:

- Are registering and licensing activities efficient?
- Are stakeholders well informed?
- Is collecting information targeted?
- Is receiving and responding to complaints optimal?
- Is monitoring and enforcing compliance best practice?
- Is the scheme subject to ongoing review?
- Are licensing fees and charges appropriate?

The sections below provide an overview of our draft findings and recommendations, and then discuss them in more detail.

8.1 Overview of draft findings and recommendations on licensing fees and administration

A well-administered regulatory scheme ensures strong positive outcomes while imposing low compliance and administrative costs on both the regulated entities and the regulators. We identified a range of changes to the current administration of the scheme that would improve the efficiency of the administration of the scheme, as well as improving the level of compliance in the industry. These included changes to:

- improve the efficiency and flexibility of registering and licensing activities to benefit operators and drivers
- make it easier for industry participants and other stakeholders to keep up to date about regulatory and policy changes and RMS’s compliance and enforcement activities
streamline the information required from industry participants for licence applications, compliance investigations and audits

- enable industry participants to make complaints and enquiries online via a web-form

- improve the effectiveness of audit arrangements without adding to the cost of compliance and enforcement activities, and

- introduce timeframes for regular ongoing reviews of the Act and Regulation.

We also found that the licence fees for operator’s licences, tow truck plates, driver’s certificates and towing authorisations should be reduced. However, we note that our recommendations on the design and administration of the current licensing scheme will result in efficiency gains for RMS. As these recommendations are implemented, RMS should review the licence fees and reduce them where necessary to reflect changes in the efficient costs of administering the scheme. In addition, we note that RMS will require additional funding to implement electronic systems for administering the licensing scheme.

8.2 Are registering and licensing activities efficient?

Registering and licensing activities include the processes for applying for operator’s licences or driver’s certificates, and for renewing or managing those licences and certificates, as well as RMS’s processes for assessing those applications. Based on our examination of the current processes and our consideration of stakeholder comments, we identified a range of inefficiencies and changes to address these inefficiencies. In particular:

- where a person wants to apply for both an operator’s licence and a driver’s certificate, both the application and assessment processes involve duplicated effort, which should be eliminated by enabling combined applications

- the renewal processes for an operator’s licence and driver’s certificate are unnecessarily detailed, and should be simplified

- the processes for applying for, renewing and managing an operator’s licence and driver’s certificate are currently all paper based, and a more efficient online system should be introduced.

8.2.1 Combining application and assessment processes for applicants who want both an operator’s licence and a driver’s certificate

Currently, a tow truck operator who also wants to be certified to drive a tow truck (or vice versa) is required to submit separate applications for an operator’s licence and a driver’s certificate, and pay the licence fees for both. Since the application for an operator’s licence captures all the details required in an application for a driver certificate (except for the requirement for a driver
Reforms to the administration of the licensing scheme and licence fees

licence), this practice unnecessarily duplicates work for both the applicant and RMS.

Instead, where the applicant already holds either an operator’s licence or a driver’s certificate, the assessment process should as far as possible rely on the assessment that has already been completed. We also consider that the term of the driver certificate should be aligned with the term of the operator licence, to simplify the renewal process in the future.

The licence fees charged should reflect the resulting savings to RMS in terms of application processing time, as well as the reduced time required for licence administration. Specifically, we consider that:

▼ If a person wishes to apply for an operator’s licence and a driver’s certificate at the same time, the applicant should be able to indicate as part of the application for the operator’s licence whether he or she also wishes to be certified to drive a tow truck. If approved, the licence fee charged should only be the fee for the operator’s licence.

▼ If an existing operator wishes to become certified to drive a tow truck, he or she should be able to do so at any time provided the applicant holds a full NSW drivers licence or equivalent. The term of the driver’s certificate should be aligned with the remaining term of the operator’s licence, so they expire on the same date. The fee for this addition should only be the licence amendment fee.

▼ If an existing driver wishes to become licensed as an operator, he or she should submit the application for an operator’s licence, indicating the he or she wishes to (continue to) be certified as a driver. The term of the driver’s certificate should be aligned with that of the operator’s licence. The fee charged should be the operator licence fee, less the fee already paid for the driver certificate on a pro rata basis.

Draft recommendations

52 Where a person wishes to be licensed as a tow truck operator and certified as a tow truck driver, the application and licensing processes for the licence and certificate should be combined.

53 The licence fees applicable for a combined operator licence and driver certificate should take into account the savings to RMS from avoided duplication of processing and administration work.

54 When combined, the term of the applicant’s driver’s certificate should be aligned with the term of the applicant’s operator’s licence.
8.2.2 Simplifying the operator’s licence and driver’s certificate renewal process

Currently, tow truck operators or drivers renewing their licence or certificate are required to submit the same application as someone applying for a new licence or certificate. We understand that RMS treats every renewal application the same as a new application. It also uses the renewal process to carry out limited compliance checks. For example, in the case of an operator, this would include checking the addresses of holding yards, that these yards meet the security requirements (on the basis of photographs), and that the operator holds valid insurance. For both operators and drivers, the renewal process also involves a criminal records check.\textsuperscript{121}

We consider that the renewal process is unnecessarily detailed and should be simplified. In addition, the associated compliance checks should not be carried out as part of the renewal process, but instead included in a random risk-based audit program (discussed below). We consider that such an audit program would reduce the need for a comprehensive renewal application process.

Given this, we consider operators, drivers and assistants should be able to apply for renewal of their licence or certificate by simply paying the relevant renewal fee.

Draft recommendation

55 Operators, drivers and assistants should be able to renew their licence or certificate by simply making the payment for the desired licence/certificate term. The current compliance and enforcement function served by the renewal process should be assigned to the recommended random auditing program (Draft recommendation 61).

8.2.3 Introducing an online system for the application for, renewal of and management of licences and certificates

The process for applying for and assessing tow truck operators’ licences and drivers’ certificates is currently completely paper based process – the applicant needs to either post or deliver in person a physical copy of the application to RMS, which RMS then assesses.\textsuperscript{122} This process would be improved by allowing applications to be submitted in electronic form online. For example:


• Currently, if an application is incomplete, RMS sends a letter to the applicant to explain what is missing. RMS cannot commence the assessment process until it has received the complete application. Conversely, an online system would be able to notify the applicant immediately if the application is not complete.

• The RMS officer processing the applications currently has to manually enter the application details into the relevant system. This is a slow and error prone process. Allowing applications to be submitted online would nearly eliminate errors, and would save time for both RMS and applicants.

Operators have highlighted that RMS can take a very long time to process an application for a driver’s certificate. One operator explained that he has been forced to employ other drivers instead, as a result of the long processing times for driver certification. We consider that moving to an online application system would significantly improve application processing times.

An online application and licence management system should also allow applicants and holders of licences and certificates to:

• renew their licences and certificates (simply by paying the renewal fee)
• make (or apply for) amendments to licences and certificates
• attach electronic copies of supporting documents where required
• order replacement licences/certificates
• pay licence fees.

We note that RMS already provides some of these options for certain licences (not related to the tow truck industry) via the Service NSW website.

Draft recommendation

56 Tow truck operators, drivers and assistants should be able to apply for, renew and manage their licences and certificates online, including:

– making payments for licensing fees
– updating details relevant to the licences/certificates

125 IPART operator/driver questionnaire.
126 For example, see: Service NSW, Change a Residential or Mailing Address with RMS (Individuals), at http://www.service.nsw.gov.au/transaction/change-residential-or-mailing-address-rms-individuals, accessed 9 October 2014.
8.3 Are stakeholders well informed?

Ensuring that industry participants and other stakeholders are well informed of all relevant aspects of the regulatory environment can be an effective way to boost compliance. For example, unintentional non-compliance can occur when tow truck operators or drivers are unfamiliar with certain requirements, in particular if the requirements have been updated recently.

Operators have submitted that they would like more timely updates about regulatory changes that affect the towing industry. Similarly, the ICA submitted that it and its members (vehicle insurers) support increased transparency regarding sanctions, enforcement and cancellations. A number of operators and drivers have also expressed frustration over what they consider to be inadequate or inconsistent enforcement. Complaints include:

- spotters fees and drop fees being paid
- unlicensed operators and drivers carrying out tows
- inadequate response from RMS when informed of unlicensed operators and drivers
- inconsistent and conflicting enforcement by RMS officers and police officers.

RMS generally keeps operators and drivers informed of regulatory changes and other industry news via email or post. Nevertheless, we support operators’ proposal for timely provision of information about regulatory changes. We also support the proposal to increase transparency in relation to enforcement activities. We consider that RMS should implement these proposals as soon as possible, as these are low-cost ways of improving the performance of the industry. We would expect their implementation to result in enhanced compliance, greater protection for customers, and stronger confidence in the regulatory regime by:

- assisting tow truck operators, drivers and assistants, and customers of tow truck services (eg, insurers) stay abreast of regulatory developments
- increasing awareness of compliance and enforcement activities and outcomes.

RMS should also include a section on its website similar to the “Name and Shame” register that the NSW Food Authority has for businesses that breach

127 For example, see: G. Inwood submission to Issues Paper, 30 June 2014, p 2.
129 IPART operator/driver questionnaire.
food safety laws, but specifically for the tow truck industry.\textsuperscript{130} This would provide a very transparent way of reporting on tow truck operators and drivers that have been found to engage in dishonest practices, and would benefit both the industry itself and customers of towing services. We note that NSW Fair Trading also has a section with “Public warnings”\textsuperscript{131} that serve a similar purpose, and that it too is introducing a name and shame register for dealers and repairers that have had disciplinary action or offences recorded against them.\textsuperscript{132}

Draft recommendations

57 RMS notify all tow truck operators, drivers and assistants of all regulatory and policy changes that could affect them as soon as possible after the decision to make those changes is made public. The notification should also include information on how the changes might affect tow truck operators, drivers and assistants.

58 RMS publish news and updates regarding its compliance and enforcement activities on its website. This should include warnings and alerts regarding tow truck operators and drivers that have been convicted or found guilty of relevant offences (similar to NSW Food Authority’s “Name and Shame” register).

8.4 Is collecting information targeted?

In line with best regulatory practice, a regulator should not request information and documents that it already has on file, to avoid any unnecessary duplication of work both for it and the regulated entities. Under RMS’s existing application and renewal processes, tow truck operators and drivers are often required to submit information that RMS already has on file. As discussed above, this is particularly true for renewals as the operator or driver is currently required to submit the same comprehensive application as that required for the initial licence or certificate.

To address this, we have made a draft recommendation (above) that operators, drivers and assistants be able to renew their licence or certificate by simply paying the renewal fee, and that the associated compliance and enforcement function be incorporated in a random, risk-based audit program. This will eliminate much of the duplicate information RMS currently requires. However, there are also further opportunities to reduce unnecessary information requests. For example, a new applicant for a driver’s certificate who already holds a NSW driver’s licence should not be required to submit:

\begin{itemize}
\end{itemize}
Reforms to the administration of the licensing scheme and licence fees

8.5 Is receiving and responding to complaints optimal?

RMS receives a number of complaints and enquiries over the phone as well as via email and letters. In relation to complaints, RMS will only consider complaints that are submitted in writing, and it therefore encourages callers to send RMS their complaints via post or email.¹³³

To encourage and facilitate complaints and enquiries to be submitted in writing, RMS should provide online forms for these purposes on its website. We note that RMS already has a web-form available on its recently updated website for the purposes of complaints and enquiries, but users cannot select tow trucks as a category.¹³⁴ In addition, the tow truck industry section of the website only states that complaints and enquiries can be made via the telephone.¹³⁵

It should be relatively straightforward for RMS to allow enquiries and complaints in relation to the tow truck industry to also be submitted via the existing web-form.

8.4 Reforms to the administration of the licensing scheme and licence fees

Draft recommendation

60 Tow truck industry participants and stakeholders should be able to submit complaints and enquiries online, via a web-form.

8.6 Is monitoring and enforcing compliance best practice?

A robust approach to monitoring and enforcing compliance is vital for a regulatory scheme to achieve its objectives. The approach needs to be coordinated and risk-based to ensure that compliance activities are targeted to where they are needed the most, and that they do not impose undue burden on the well-functioning aspects of the industry.

We consider the current approach to compliance monitoring and enforcement in the tow truck industry can be improved by RMS introducing a random, risk-based audit program, and formalising a Memorandum of Understanding (MoU) with NSW police so that it is automatically informed when an operator, driver or assistant is found guilty of a relevant offence. We also emphasise the importance of well-coordinated compliance and enforcement activities and of appropriate fee levels to support effective compliance.

8.6.1 Introducing a random risk-based audit program

As discussed above, we consider that RMS should introduce a random, risk-based audit program. In our view, this would provide a more effective way to ensure compliance without adding to the cost of compliance and enforcement activities. Specifically, we consider that every tow truck operator should be audited at least once every three years. New operators and operators found to be non-compliant should be audited more frequently, in line with a risk-based approach.

RMS currently carries out some compliance checks as part of its assessment process for renewals, and we understand that more comprehensive audits are done as part of investigations into compliance breaches.

We consider the recommended random audit program would be more effective in encouraging compliance and detecting non-compliance because:

- the timing of audits is unpredictable, and operators are constantly under the threat of being audited
- an operator that is found non-compliant risks more frequent audits, which is burdensome for the operator and increases the likelihood of being caught again.

We also consider the recommended random audit program would not impose additional costs on RMS or well-performing operators, because:
Reforms to the administration of the licensing scheme and licence fees

- it should encourage a greater level of compliance, so should lead to fewer investigations
- it should completely replace the relatively burdensome renewal process that exists currently
- operators found to be non-compliant and thus subject to more frequent audits are likely to be the same operators that currently cause investigations
- when an investigation is triggered on the basis of information RMS receives outside of an audit, the investigation would replace the audit.

The scope of the random audits should include considering records and other relevant information available to RMS to determine whether there is any reason for RMS to take disciplinary action against an operator. As set out in section 42 of the Act, reasons for such disciplinary action include:136

- any reason for which the operator would not have been granted the licence initially
- if the operator has knowingly supplied false or misleading information in the application for the operator licence
- the operator has contravened any provision of the Act or the Regulation
- the operator has not complied with a licence condition
- RMS is of the opinion that the operator is no longer a fit and proper person to hold a licence
- the operator failed to specify the name of each close associate in the application for the licence
- the operator has, in the opinion of RMS, engaged in fraudulent or dishonest conduct or activity in connection with the tow truck business
- the operator has become bankrupt or the tow truck business is under official management
- the operator has, for a continuous period of one month or more, ceased to carry on business as a tow truck operator.

These audits should also include conducting checks on the drivers and assistants employed by the operators. For example, RMS should check that the details it has recorded for drivers and assistants are accurate, and that the drivers and assistants hold valid licences for the types of activities they engage in (eg, high-risk work licences). RMS may also choose to combine the audits with inspections of tow trucks and/or of the locations nominated by operators for storage of accident vehicles.

In its submission, Suncorp suggested that when an insurer is investigating an operator for civil fraud, this should be used by RMS as an indicator that the

136 Tow Truck Industry Act 1998 (NSW), s 42.
operator needs to be investigated by RMS.\textsuperscript{137} We note that there is nothing in the Act or Regulation that prevents RMS from doing so, if an insurer lodges a formal complaint against an operator. However, the investigation activities undertaken by RMS need to be prioritised on a risk-basis.

**Draft recommendation**

61 Every tow truck operator should be audited at least once every three years. New operators and operators found to be non-compliant should be audited more frequently, in line with a risk-based audit approach.

**8.6.2 Formalising a Memorandum of Understanding with NSW Police**

As part of the assessment for initial or renewal applications for operator’s licences and driver’s certificates, RMS carries out criminal records checks on the applicant and the applicant’s close associates. These checks inform RMS if the applicant or their close associates have in the previous 10 years been convicted or found guilty of a relevant criminal offence, or if the applicant is a member or associates with members of a declared criminal organisation. The checks are an important part of the fit and proper person test of the tow truck industry licensing scheme.

However, we consider the current processes related to these checks would be improved if RMS formalised automatic notification of any relevant changes to the criminal records of tow truck operators, driver and assistants through a Memorandum of Understanding (MoU) with NSW Police. Such an MoU would provide several other benefits, including:

- RMS would only need to request a criminal records check for initial applications for licences and certificates
- RMS processing of initial and renewal applications would be much faster.

**Draft recommendations**

62 RMS formalise a Memorandum of Understanding with NSW Police for automatic notification of relevant information held by Police about persons in the tow truck industry.

**8.6.3 Ensuring fines provide appropriate incentive for compliance**

Reviewing the level of fines is outside the scope of this review. However, we note the important role of fines and other penalties in creating incentives for compliance with the regulatory scheme. We also note that some of the costs associated with administering the scheme are recovered through fines. This is

\textsuperscript{137} Suncorp Group Ltd submission to Issues Paper, 4 July 2014, p 3.
appropriate, since it is largely because of the non-compliant industry participants that the regulatory scheme is needed in the first place.

8.7 Is the scheme subject to ongoing review?

Transport for NSW has informed us that the Tow Truck Industry Regulation is scheduled for review in 2015.\textsuperscript{138} However, a number of our recommendations will require changes to the Act as well as to the Regulation. We therefore consider that the next review of tow truck industry legislation should include a review of both the Tow Truck Industry Act and the Tow Truck Industry Regulation.

We also consider there is scope to simplify the Act, including removing unnecessary duplication and moving some of the detail contained in the Act to the Regulation. This would clarify and make the Act easier to understand, and it would provide a greater level of flexibility to make adjustments to the regulatory scheme.

The combined review of the Act and the Regulation should also adopt any relevant aspects of the Licensing and Registration (Uniform Procedures) Act 2002. This Act establishes standardised best-practice procedures with respect to the administration of certain licensing and registration schemes. Its purpose is to ensure a greater level of consistency across the various Government licensing schemes, which in turn enables the adoption of a single integrated system for administering licensing schemes.\textsuperscript{139}

Adopting the relevant aspects of the Licensing and Registration (Uniform Procedures) Act would assist with:

- simplifying the tow truck industry legislation
- aligning the administration processes for the tow truck industry licences with those of other NSW Government licences
- adopting a single integrated system across NSW Government licensing schemes, including the tow truck industry licences.

To ensure that the tow truck industry regulatory regime continually adapts to changes in the tow truck industry, we also consider it appropriate to review the legislation regularly.

\textsuperscript{138} Information provided by Transport for NSW, 10 October 2014.  
Draft recommendations

63 A combined review of both the Tow Truck Industry Act and the Tow Truck Industry Regulation should be carried out as soon as practicable. The aims of this review should include:

- implementing IPART’s recommendations
- adopting relevant aspects of the Licensing and Registration (Uniform Procedures) Act 2002
- simplifying and clarifying the legislation.

64 Thereafter, the Tow Truck Industry Act should be reviewed once every 10 years and the Tow Truck Industry Regulation should be reviewed once every five years.

8.8 Are licensing fees and charges appropriate?

Tow truck operators and drivers are required to pay a range of licence fees and charges. The current levels of licence fees vary, depending on the location of the business and the type of towing the operator undertakes. In addition, the current fee for towing authorisation forms is $471 for a book of 20 forms or $118 for a book of 5 forms, although this cost is effectively passed on to consumers through the base fee for accident tows.\(^{140}\) (A full list of current licence fees is contained in Appendix F.)

As noted in the Issues Paper, it is our view that the fees and charges imposed should not recover more than the efficient costs associated with administering the licensing scheme and undertaking compliance and enforcement activities.

Tow truck licensing functions were previously administered by a standalone unit within RMS. Recently, RMS has restructured all of its licensing activities (including for tow truck, taxi and bus licences) into three areas – Enrolment Processing, Accreditation (Scheme Management) and Compliance Investigations.

We engaged the Centre for International Economics (CIE) to estimate the total efficient costs of administering the current licensing scheme and undertaking compliance and enforcement activities, and to recommend licence fees that reflect these efficient costs. CIE has conducted a ‘bottom-up’ cost build-up using publicly available information, and information provided by RMS on its licensing activities and costs.

CIE also considered which of the existing licence fees (operator’s licences, tow truck plates, driver’s certificates and towing authorisations) different costs should be allocated to. A copy of CIE’s draft report is available on our website and we welcome comments from stakeholders on this report.\(^{141}\) For most

\(^{140}\) Including GST.

\(^{141}\) The CIE, *Costs of administering RMS licensing schemes for tow trucks*, 19 September 2014.
activities, CIE found there is a clear allocation of activities to each licence type. In particular:

- activities related to licensing drivers are allocated to the driver’s certificate fee
- activities related to licensing operators are allocated to the operator’s licence fee
- truck inspections are allocated to the truck licence fee.

However, it found that the allocation of costs from tow truck investigations is not so clear. These costs could be allocated to:

- Operators or drivers that caused the investigation activity to be required. In this case, this may be through fines or penalties arising from investigations.
- Towing authorisations. This could be appropriate under an impactor pays principle if operators (or drivers) that undertake more tows generate more investigative activity. Or it could be appropriate under a beneficiary pays principle if operators (or drivers) that undertake more tows benefit more from the presence of the regulation. However, we note that the fee for a towing authorisation is currently paid by the owner or insurer of the vehicle being towed from the accident scene, through the accident towing fee.
- Operator’s licence fees or driver’s certificate fees. This would be appropriate under an impactor pays principle if the cost of investigative activity is driven mainly by the number of operators or drivers.

CIE concluded that investigation costs should be shared between operator’s licence fees (20%), driver’s certificate fees (20%) and licences specific to accident tows – that is Category A plate fees and towing authorisations (60%), with most of the costs allocated to towing authorisations. This allocation means that operators that undertake few accident tows bear less of the costs. This is likely to be particularly relevant for operators mainly undertaking trade tows and for operators in country areas.

CIE also found that the licence fees for operator’s licences, tow truck plates, driver’s certificates and towing authorisations should be reduced. We agree with CIE’s recommendations and consider that the licence fees in Table 8.1 should apply.

CIE’s other key findings were that:

- Licence fees should not distinguish between metropolitan and country locations. If the costs of administration of the tow truck licensing scheme (licensing, accreditation and enforcement activities) are different then this may justify having different fees. However, it is unclear that these costs are higher or lower in the country given the following factors.
  - It is more costly to conduct an investigation in the country. RMS is based in Sydney, and there are travel costs associated with conducting investigations in country areas. However, if RMS decides to conduct an
investigation in a given country town, a general investigation program is undertaken in that area in order to reduce the cost per investigation.

- There is a lower incidence of non-compliance in country areas. Operators in metropolitan areas compete within the same geographical locations, and this may lead to more behaviour necessitating action by RMS.

- An additional fee should be levied for incorrectly completed applications. These costs are estimated at $30 and reflect time to go back to drivers and $60 to go back to operators to seek additional information.

- There is a lower cost for licence renewals than there is for new licences. For drivers, new certificates cost $30 more than renewals. For operators, the additional cost of a new licence is estimated at $60.

- The fee for a stand-by tow truck should be reduced from $342 to $30 reflecting the cost of processing the application.

- The fee for amending an operator’s licence should be reduced from $52 to $15 to reflect the minor administrative cost associated with making amendments.

- The scrap metal exemption authority imposes a lower level of investigative activities and audits and should be reduced to $180 (ex-GST).

As discussed in Chapter 7, we recommend that RMS introduce a tow truck assistant certificate. We note that this certificate is likely to be taken up by people under the age of 21 or those wanting to gain some experience in the industry and recommend that the fee for this certificate be set at half of the driver’s certificate fee, as shown in Table 8.1.

We note that our recommendations on the design and administration of the current licensing scheme will result in long-term efficiency gains for RMS. However initially, RMS will need to incur expenditure to implement some of these recommendations. Once implemented, RMS should review the licence fees and reflect changes in the efficient costs of administering the scheme in the fees.

Draft recommendations

65 RMS amend the fees for operator’s licences, tow truck plates, driver’s certificates and towing authorisations to the levels shown in Table 8.1.

66 RMS levy an additional fee of $30 (ex-GST) for incomplete applications and renewals.

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142 A stand-by tow truck can be used when a licenced tow truck is off the road for repair or alteration for a period of less than one month. To use a stand by tow truck an operator sends in a one page application to RMS and one of the plates of the tow truck that is off the road. RMS issues a sign, which must be shown on the stand by tow truck, along with the second number plate of the vehicle that is off the road. The approval of a stand by tow truck requires in the order of half an hour to process. See The CIE, Costs of administering RMS licensing schemes for tow trucks, 19 September 2014, p 24.
RMS should review its tow truck licensing fees each year and revise them to reflect efficiency savings resulting from the changes to the design and administration of the licensing scheme.

Table 8.1  Recommended licence fees from 1 July 2015 (nominal $, ex GST)

<table>
<thead>
<tr>
<th>Fee item</th>
<th>Cost 1-year term</th>
<th>Cost 3-year term</th>
<th>Cost 5-year term</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operator’s licence (metro and country)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New application</td>
<td>487</td>
<td>na</td>
<td>na</td>
</tr>
<tr>
<td>Renewal</td>
<td>427</td>
<td>915</td>
<td>1,404</td>
</tr>
<tr>
<td>Incomplete application</td>
<td>60</td>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>Tow truck plate (metro and country)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Category A</td>
<td>51</td>
<td>153</td>
<td>256</td>
</tr>
<tr>
<td>Category B &amp; C</td>
<td>32</td>
<td>97</td>
<td>161</td>
</tr>
<tr>
<td>Stand-by tow truck</td>
<td>30</td>
<td>na</td>
<td>na</td>
</tr>
<tr>
<td>Drivers certificate</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New application</td>
<td>161</td>
<td>na</td>
<td>na</td>
</tr>
<tr>
<td>Renewal</td>
<td>131</td>
<td>222</td>
<td>313</td>
</tr>
<tr>
<td>Incomplete application</td>
<td>30</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>Tow truck assistant certificate</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New application</td>
<td>81</td>
<td>na</td>
<td>na</td>
</tr>
<tr>
<td>Renewal</td>
<td>65</td>
<td>112</td>
<td>157</td>
</tr>
<tr>
<td>Incomplete application</td>
<td>30</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>Towing authorisation</td>
<td>7.70</td>
<td>na</td>
<td>Na</td>
</tr>
<tr>
<td>Licence amendment fee</td>
<td>15</td>
<td>na</td>
<td>na</td>
</tr>
<tr>
<td>Scrap metal exemption authority</td>
<td>180</td>
<td>na</td>
<td>Na</td>
</tr>
</tbody>
</table>
Impacts on customers and operators

The impact of our recommended maximum fees on bills for accident tows will depend on:

- where the accident happens (metropolitan or country)
- the distance towed, and
- if storage is required, how long the vehicle is stored, and where the storage yard is located (as Chapter 6 discussed, our recommended fees for storage are $12 per day for outer metropolitan and country areas and $23 per day for inner metropolitan areas).

Our analysis suggests that overall, maximum bills for short accident tows (initial tow) will be about the same or lower than they are currently under our recommended fees. The main exception to this is when the vehicle needs to be stored for three or more days, particularly in an inner metropolitan holding yard. For these short inner metropolitan tows including three or more days storage, bills will be $53 or more higher than currently (Table 9.1).

For long tows, bills for initial tows will generally be lower in metropolitan areas unless vehicles are stored for three or more days in an inner metropolitan area. However, such bills will be higher in country areas, reflecting the recommend changes in the maximum distance charges (Table 9.2).

For subsequent tows, maximum bills will generally be about the same or lower than currently. The exception is for long subsequent tows in country areas, which will be higher because maximum distance charges are higher (Table 9.3).

From the perspective of operators, their cost per accident tow will fall by about $14 per tow due to the cheaper Towing Authorisation form (see Chapter 8). Consequently, the net revenue per tow for the initial tow will fall by less than the bill per tow (or increase by more). Net of the Towing Authorisation form cost, operators will receive less revenue for some initial tows and more for other tows. For example, net revenue per tow will be the same for short tows with no storage, but will generally be higher when vehicles are stored. Net revenue for long tows will go up for country operators, and may go up or down for metropolitan operators depending on the number of days the vehicle requires storage and where the vehicle is stored (Table 9.1 and Table 9.2).
### Table 9.1 Maximum bills for short initial tows (up to 10km), with and without storage (nominal $, excl GST)

<table>
<thead>
<tr>
<th></th>
<th>Current bill</th>
<th>Proposed bill</th>
<th>Change in bill</th>
<th>Change in operator revenue&lt;sup&gt;a&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Inner metropolitan</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No storage</td>
<td>251</td>
<td>235</td>
<td>-16</td>
<td>-2</td>
</tr>
<tr>
<td>Days storage = 1</td>
<td>251</td>
<td>258</td>
<td>7</td>
<td>21</td>
</tr>
<tr>
<td>Days storage = 3</td>
<td>251</td>
<td>304</td>
<td>53</td>
<td>67</td>
</tr>
<tr>
<td>Days storage = 5</td>
<td>289</td>
<td>350</td>
<td>61</td>
<td>75</td>
</tr>
<tr>
<td><strong>Outer metropolitan</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No storage</td>
<td>251</td>
<td>235</td>
<td>-16</td>
<td>-2</td>
</tr>
<tr>
<td>Days storage = 1</td>
<td>251</td>
<td>247</td>
<td>-4</td>
<td>10</td>
</tr>
<tr>
<td>Days storage = 3</td>
<td>251</td>
<td>271</td>
<td>20</td>
<td>34</td>
</tr>
<tr>
<td>Days storage = 5</td>
<td>289</td>
<td>295</td>
<td>6</td>
<td>20</td>
</tr>
<tr>
<td><strong>Country</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No storage</td>
<td>251</td>
<td>235</td>
<td>-16</td>
<td>-2</td>
</tr>
<tr>
<td>Days storage = 1</td>
<td>251</td>
<td>247</td>
<td>-4</td>
<td>10</td>
</tr>
<tr>
<td>Days storage = 3</td>
<td>251</td>
<td>271</td>
<td>20</td>
<td>34</td>
</tr>
<tr>
<td>Days storage = 5</td>
<td>289</td>
<td>295</td>
<td>6</td>
<td>20</td>
</tr>
</tbody>
</table>

<sup>a</sup> The change in the operator’s revenue is the change in the bill net of the $14 reduction in the cost of the Towing Authorisation form.

**Source:** IPART calculations.
### Table 9.2 Maximum bills for long initial tow (10km to accident site, 30km to destination), with and without storage (nominal $, ex GST)

<table>
<thead>
<tr>
<th>Inner metropolitan</th>
<th>Current bill</th>
<th>Proposed bill</th>
<th>Change in bill</th>
<th>Change in operator revenue$^a$</th>
</tr>
</thead>
<tbody>
<tr>
<td>No storage</td>
<td>373</td>
<td>337</td>
<td>-36</td>
<td>-22</td>
</tr>
<tr>
<td>Days storage = 1</td>
<td>373</td>
<td>360</td>
<td>-13</td>
<td>1</td>
</tr>
<tr>
<td>Days storage = 3</td>
<td>373</td>
<td>406</td>
<td>33</td>
<td>47</td>
</tr>
<tr>
<td>Days storage = 5</td>
<td>411</td>
<td>452</td>
<td>41</td>
<td>55</td>
</tr>
<tr>
<td>Outer metropolitan</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No storage</td>
<td>373</td>
<td>337</td>
<td>-36</td>
<td>-22</td>
</tr>
<tr>
<td>Days storage = 1</td>
<td>373</td>
<td>349</td>
<td>-24</td>
<td>-10</td>
</tr>
<tr>
<td>Days storage = 3</td>
<td>373</td>
<td>373</td>
<td>0</td>
<td>14</td>
</tr>
<tr>
<td>Days storage = 5</td>
<td>411</td>
<td>397</td>
<td>-14</td>
<td>0</td>
</tr>
<tr>
<td>Country</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No storage</td>
<td>312</td>
<td>319</td>
<td>7</td>
<td>21</td>
</tr>
<tr>
<td>Days storage = 1</td>
<td>312</td>
<td>331</td>
<td>19</td>
<td>33</td>
</tr>
<tr>
<td>Days storage = 3</td>
<td>312</td>
<td>355</td>
<td>43</td>
<td>57</td>
</tr>
<tr>
<td>Days storage = 5</td>
<td>350</td>
<td>379</td>
<td>29</td>
<td>43</td>
</tr>
</tbody>
</table>

$^a$ The change in the operator’s revenue is the change in the bill net of the $14 reduction in the cost of the Towing Authorisation form.

**Source:** IPART calculations.
### Table 9.3  Maximum bills for subsequent tows (nominal $, ex GST)

<table>
<thead>
<tr>
<th></th>
<th>Current bill</th>
<th>Proposed bill</th>
<th>Change in bill</th>
<th>Change in operator revenue(^{a})</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Short tow (10km from storage to destination)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Metropolitan(^{a})</td>
<td>88</td>
<td>85</td>
<td>-3</td>
<td>-3</td>
</tr>
<tr>
<td>Country(^{b})</td>
<td>88</td>
<td>85</td>
<td>-3</td>
<td>-3</td>
</tr>
<tr>
<td><strong>Long tow (25km from storage to destination)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Metropolitan (15km chargeable distance)(^{a})</td>
<td>$179</td>
<td>$162</td>
<td>-18</td>
<td>-18</td>
</tr>
<tr>
<td>Country (5km chargeable distance)(^{b})</td>
<td>$103</td>
<td>$106</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td><strong>Long tow (allowable distance of 30km from storage to destination)</strong>(^{c})</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Metropolitan (20km chargeable distance)(^{a})</td>
<td>210</td>
<td>187</td>
<td>-23</td>
<td>-23</td>
</tr>
<tr>
<td>Country (10km chargeable distance)(^{b})</td>
<td>118</td>
<td>127</td>
<td>9</td>
<td>9</td>
</tr>
</tbody>
</table>

\(^{a}\) In metropolitan areas the first 10km is included in the base charge.

\(^{b}\) In country areas the first 20km is included in the base charge. Assumes the holding yard is at the business premises.

\(^{c}\) In metropolitan areas the allowable distance might be shorter than actual distance from storage to destination, depending on the location of the storage facility. See Chapter 6.

**Source:** IPART calculations.
Arrangements for adjusting light vehicle accident fees and licensing fees over time

The recommended maximum fees for light vehicle accident towing and storage, and for tow truck licensing – developed through the methodologies discussed in the previous chapters – reflect the estimated efficient cost of providing these services in 2015/16. Therefore, they need to be adjusted annually to ensure they continue to reflect efficient costs.

Our typical approach to adjusting prices for regulated businesses is to make annual adjustments each year, and undertake major reviews on a less frequent basis. This keeps the administrative and regulatory costs of price adjustments relatively low. We consider this to be an appropriate approach for adjusting towing fees.

For this review, we reached our draft recommendation on how maximum fees for accident towing and licensing fees should be adjusted over time, by considering stakeholder comments and analysing the options discussed in our Issues Paper. We reached our recommendation on the frequency of major reviews, considering what timeframe would balance the administrative burden that a review involves and the risks that the annual fee adjustments do not reflect changes in efficient costs.

The sections below provide an overview of our draft recommendations, then discuss them in more detail.

10.1 Overview of draft recommendations adjusting fees and periodic reviews

On balance, we found that the change in the Consumer Price Index (CPI) for Australia is most appropriate for adjusting accident towing fees, and accident storage fees and tow truck industry licensing fees in the years between major reviews to reset those fees. We consider that these fees should continue to be adjusted annually on 1 July.

In relation to periodic reviews, we found that these fees should be reviewed together in time for the price change on 1 July 2020. This should provide sufficient time for RMS to implement changes and for stakeholders (in particular the towing industry and insurance companies) to adapt to our recommended changes. We note that it may take some time for storage arrangements to change
if, for example, tow truck operators have signed leases for a fixed period. After 1 July 2020, a major review of fees should be undertaken every five years.

10.2 Stakeholder comments

In submissions to our Issues Paper, only SunCorp addressed annual fee adjustments and the length of the review period. It supported the ongoing review of fees and regulation, and referred favourably to the Victorian approach of annual fee adjustments and a review of fees every three years. SunCorp also suggested encouraging efficiency in the industry by allowing increases ‘below inflation’. However, the submission made no comment on how inflation should be measured.143

10.3 Annual adjustments to fees

In the Issues Paper, we presented three mechanisms to guide annual price adjustments:

- the change in the CPI
- the change in a sub-component of the CPI
- a cost index specific to the industry.

Currently in NSW, maximum fees for accident towing and storage and tow truck industry licensing fees are increased by the change in CPI each year. In Victoria, accident towing and storage fees are reviewed every three years and are increased annually between reviews by the change in CPI (Melbourne, Transport) less a productivity factor which is currently 0.5%.144

We considered the advantages and disadvantages of the above mechanisms for each of the fees – accident towing, storage and licensing fees. We concluded that the change in the CPI for Australia is the most appropriate mechanism for adjusting all of these fees in the years between major reviews. In our view, the change in CPI best meets the criteria for an approach to annual fee adjustments, namely that it should:

- rely on independent and verifiable data that is publicly available
- be based on a reasonable estimate of the annual cost changes in the industry, taking into account changes in both input costs and productivity
- represent a reasonable balance between simplicity and transparency on the one hand and accuracy on the other hand.

143 SunCorp submission to Issues Paper, July 2014, p 2.
144 Essential Services Commission, Periodic review of accident towing and storage fees, Final Report, July 2013, pp 77 and 81.
10.3.1 Adjusting accident towing fees by the change in the CPI

The CPI measures the change in the prices paid by consumers for a basket of products. This change reflects economy-wide wage outcomes, changes in other input costs, changes in productivity and changes in the exchange rate.\textsuperscript{145}

We consider that using this measure to adjust accident towing fees has benefits in terms of its independence, transparency, simplicity and widespread acceptance. In addition, as explained in the sections below, the change in CPI will estimate annual cost changes in the industry as well as, or better than, any alternative measures.

In response to SunCorp’s submission, we note that the change in CPI already incorporates economy-wide changes in productivity. In recommending fees, we based our analysis on market data for breakdown tows, and we do not believe there are grounds for making any additional productivity adjustments for the towing industry.

We recommend measuring the change in CPI as follows, for adjustments to towing fees on 1 July in year $t$

\begin{equation}
\text{March CPI (All groups, Australia)}_t / \text{March CPI (All groups, Australia)}_{t-1} - 1
\end{equation}

Sub-component of CPI relevant to accident towing

As the basket of products used for the CPI is clearly very different from the ‘basket’ of inputs used by the accident towing industry, we investigated whether there is a sub-component of the CPI that better measures changes in accident towing costs (excluding storage).

The most suitable sub-component of CPI to measure changes in towing costs is the ‘private motoring’ sub-component. This sub-component includes costs such as vehicle acquisition, fuel, maintenance and running costs. However, vehicle costs (including fuel) comprise only around 40% to 60% of total business costs (see Appendix D). Annual adjustments based only on this sub-component of the CPI are therefore unlikely to perform better than adjustments based on the CPI (and may indeed perform more poorly).

\textsuperscript{145} One disadvantage of using the change in CPI is that it reflects prices for imported and Australian produced goods and services. This could mean, for example, that a falling exchange rate increases imported prices by more than the prices of non-traded goods and services such as towing. However, the impact of this is likely to be small. The Reserve Bank of Australia estimates that a 10% increase in the exchange rate typically results in a 1% reduction in consumer prices spread over 3 years (Chung, E., M. Kohler and C. Lewis, The exchange rate and consumer prices, Reserve Bank of Australia Bulletin, September 2011, p 9.)
Industry-specific cost index for accident towing

We also considered developing an industry-specific cost index. Such indices are most useful when the costs include significant volatile components (such as fuel), or when an industry’s costs tend to increase at a different rate to general prices in the medium term. However, even if these conditions are present, a cost index will only perform better than a CPI-based inflator if the cost index weights and inflators accurately capture underlying costs and changes in productivity.

In principle, towing industry-specific cost index could be constructed to reflect the cost structure of towing operators. There would be two parts to such an index:

- a list of costs faced by a typical accident tow truck operator and their relative importance (weightings)
- an estimate of how each of these costs changes over time (inflators) including scope for productivity improvements.

We can identify a sensible set of cost categories for an industry-specific cost index (driver costs, vehicle costs and other costs). For each of these cost categories, we can identify a sensible inflator. However, there are two disadvantages associated with this approach compared to adjusting fees annually using the change in the CPI:

- Towing businesses’ cost structures differ depending on their business model – for example, whether they are a towing-only business or a combined business (see Chapter 5). This means that no single set of weights – and therefore no single cost index - would adequately capture the change in costs for all towing businesses (Table 10.1).

- The change in the Wage Price Index (WPI) component (for driver costs) does not capture changes in productivity. We would need to make a judgement about (driver) labour productivity to make provision for efficiency gains. (To do this, we could use our standard approach to adjusting for productivity gains in industries we regulate using cost indices.)

An industry-specific cost index is not only more complex than the change in the CPI, but is also unlikely to perform much (if any) better than the latter in capturing the change in towing operators’ costs on an annual basis.
10. Arrangements for adjusting light vehicle accident fees and licensing fees over time

### Table 10.1 Towing industry cost index for a towing only and a combined business (% change)

<table>
<thead>
<tr>
<th>Inflator Productivity adjustment</th>
<th>Weights for: Towing only business</th>
<th>Combined business</th>
</tr>
</thead>
<tbody>
<tr>
<td>Driver costs</td>
<td>2.5%</td>
<td>-0.5%</td>
</tr>
<tr>
<td>Vehicle costs</td>
<td>2.7%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Other costs</td>
<td>3.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td><strong>Annual increase</strong></td>
<td><strong>2.4%</strong></td>
<td><strong>2.6%</strong></td>
</tr>
</tbody>
</table>

**Source:** ABS, 6401.0 - Consumer Price Index, Australia, Tables 1 and 2; Table 11, ABS, 6345.0 Wage Price Index, Australia. IPART calculations.

10.3.2 Adjusting accident storage fees by the change in the CPI

The underlying costs of storage are very different from the underlying costs of towing activities. For storage, the single biggest cost is land for the holding yard – typically between 60% and 80% of the total cost. To adjust storage fees annually, we considered two alternative mechanisms to adjusting by the change in the CPI to see if they better reflect changes in storage costs. Specifically, we looked at:

- the ‘rents’ sub-component of the CPI (which measures the change in residential rental payments), and
- an industry-specific cost index for storage.

**‘Rents’ sub-component of the CPI**

There are two disadvantages associated with using the change in the ‘rents’ sub-component of the CPI to adjust storage fees. First, it is not clear that changes in residential rents are necessarily a good indicator of changes in holding yard land costs. The ABS appears not to have a measure of changes in the rent/values for non-residential land. Second, under this approach all non-land costs would be indexed at the same rate as land costs. Since land and non-land costs are unlikely to increase at the same rate, this measure is unlikely to perform better than the change in CPI in capturing changes in storage costs.

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146 Estimated using information provided by questionnaire respondents. Other costs include, for example, insurance, security, utilities and general overhead costs.
Industry-specific cost index for storage

A cost index may perform better than the change in CPI in capturing changes in storage costs if we had a good measure of how holding yard land costs change. However, in the absence of such a measure, a cost index is unlikely to perform better than the change in CPI in capturing changes in storage costs.

Unless rents increase substantially faster than the CPI before fees are reviewed, there is unlikely to be a material difference in storage fees under the two approaches (i.e., storage cost index versus the change in the CPI). We estimate that storage fees in 2019/20 may be around $1 higher under a cost index approach compared to the change in CPI.

10.3.3 Adjusting licensing fees by the change in the CPI

The main cost associated with administering licensing fees is labour costs. Therefore, as an alternative to changes in the CPI, we considered constructing a cost index that uses changes in the WPI (public sector, NSW) for labour costs and the change in CPI for all other costs. However, there are two disadvantages associated with using the change in the WPI as the main component of an industry-specific cost index:

- The change in the WPI may not reflect changes in RMS’s wages and salaries.
- As previously discussed, the change in the WPI does not capture changes in productivity. We would need to make a judgement about (RMS) labour productivity to make provision for efficiency gains.

On balance, we consider that changes in the CPI will capture changes in the costs of licensing activities at least as well as changes in a cost index - if not better. We therefore recommend that licensing fees are updated on 1 July each year using changes in the CPI.

Draft recommendation

68 Accident towing, accident storage and licensing fees are adjusted on 1 July each year in line with the change in the CPI (All groups, Australia) to March of that year.

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147 An example of a simple cost index that uses the ‘rents’ subcomponent of CPI as a proxy for holding yard land costs is:

\[ 70\% \times \text{change in ‘rents’ sub-component of CPI} + 30\% \times \text{change in CPI}, \]

where 70% is the share of land costs and 30% is the share of all other costs. However, this cost index may not perform better than changes in CPI because it uses residential rents which are not necessarily a good indicator of holding yard land costs.

148 We estimated a cost index for the period 2014/15 to 2019/20 using the methodology set out in the footnote above. As proxies, we use the change in the CPI and the ‘rents’ component of the CPI between March 2009 and March 2014.
10.4 Periodic reviews of fees

Even with annual adjustments, our recommended fees may diverge from efficient costs over time. This may be because the cost inputs (like wages or fuel) change at different rates to the CPI. Or it may be because the type and relative size of the cost inputs change – for example, due to innovation in towing vehicles or storage arrangements.

In other industries we regulate, we typically conduct a major review to reset prices to reflect efficient costs every three to five years. We think this approach and timeframe is appropriate for reviewing and resetting accident towing and storage fees.

The choice of timeframe for a review of fees should reflect a balance between the administrative burden a review involves and the risks that the annual fee adjustments do not reflect changes in efficient costs. In considering an appropriate review period, we need to be mindful of the potential impact of our recommendations on the towing industry. In particular:

- If the Government accepts our recommendations about storage arrangements, the market will need time to adjust to these new arrangements (see Chapter 6).
- We have recommended that RMS implement changes to reduce red tape, including implementing an electronic system by 1 July 2018. It would be appropriate to review the licensing fees after the implementation of these changes.

We consider it appropriate that accident towing, accident storage and licensing fees be reviewed together in time for the price change on 1 July 2020. This should provide sufficient time for RMS to implement changes and for stakeholders (in particular the towing industry and insurance companies) to adapt to our recommended changes. It may take some time for storage arrangements to change if, for example, tow truck operators have signed leases for a fixed period.

After 1 July 2020, a major review of fees should be undertaken every five years. A longer review period would increase the risk that the annual fee adjustments do not adequately reflect changes in efficient costs.

Draft recommendation

69 A major review to reset all fees is undertaken in time for the price change on 1 July 2020. After that, a major review of fees is undertaken every five years.
Appendices
Arrangements for adjusting light vehicle accident fees and licensing fees over time

IPART Review of tow truck fees and licensing in NSW
A Terms of Reference

Review of Maximum Towing Fees - (Light and Heavy Vehicles)

I, Barry O’Farrell, pursuant to Section 9 of the Independent Pricing and Regulatory Tribunal Act 1992, request that the Independent Pricing and Regulatory Tribunal (IPART) conduct an investigation into the maximum fees and charging arrangements for towing services under Section 54 of the Tow Truck Industry Act 1998 and provided for in Part 4A of the Tow Truck Industry Regulation 2008.

In conducting its review IPART should recommend fees that reflect:

1. The efficient cost of providing the services by tow truck operators and the need for greater efficiency in the supply of services so as to reduce costs for the benefit of consumers.

2. An appropriate fee structure and charging arrangements for towing services for both light and heavy towing to ensure adequate protections for consumers at accident scenes.

3. Any changes required to the regulatory framework to ensure the towing industry operates efficiently and consumers are provided adequate protections.

IPART should also recommend an appropriate approach for updating fees on an annual basis.

In providing recommendations IPART should have regard to:

1. The effect any recommendations may have on the viability and sustainability of the provision of towing services, in particular in remote regions of NSW

2. Whether there should be different charging schedules and arrangements for towing light and heavy vehicles

3. Maintaining or improving the standards of quality, reliability and safety of the services provided by the towing industry

4. Recommendations for potential regulatory reforms that could provide savings to business and the community, including net benefits for NSW, regulatory burden reduction and budget implications for Government.
IPART should undertake public consultation. A draft report should be publicly released for comment within eight months of receiving this Terms of reference. A final report should be provided to the Minister for Roads and Ports four months after release of the draft report.

The Hon Barry O'Farrell MP

Premier

Minister for Western Sydney

Dated at Sydney 25 March 2014
B Current towing authorisation form

From: TA20-1xxxxxxx To: TA20-1xxxxxxx

example only

TOWING AUTHORISATION BOOK

Operators licence number: ______________________
Tow Truck registration number: ______________________
Start Date: ______________________
End Date: ______________________

Issued under the Tow Truck Industry Act 1998

If found please return to:
Roads & Traffic Authority
Tow Truck Licensing & Compliance
Locked Bag 5054
PARRAMATTA NSW 2124
New Towing Authority Form – Instructions for use

On 1 September 2007 a new towing authorisation form was introduced. From this date the new form must be used for all motor vehicles towed when undertaking accident towing work (as defined in section 3 of the Tow Truck Industry Act 1998).

All sections of the form, including the quotation and towing notice, must be completed as far as is practicable. Part 3 of the Tow Truck Industry Regulation 1999 details procedures for dealing with towing authorisations and penalties that may be imposed for failure to comply with all requirements in completing the towing authorisation.

The cost of the towing authorisations have been incorporated in the maximum tow fee to enable tow truck operators to recoup the cost of purchase.

Page 1
Contains the rights of the owner/driver of the towed vehicle and a quotation for towing services.

The quotation must be completed with all fees and charges explained to the motorist. This section is used when towing a motor vehicle not having a gross vehicle mass in excess of 4 tonnes only.

Tow truck drivers must sign and acknowledge that they have advised the owner/driver of their rights in relation to the towing work and provided an estimate of the subsequent charges (please note that this quotation is part of the approved towing authorisation form and must be completed when towing a motor vehicle not having a gross vehicle mass in excess of 4 tonnes).

Page 2
Found on the reverse of page 1 and contains information for consumers on their responsibilities. Tow truck drivers must explain the contents to the motorist prior to signing the acknowledgement on page 1. Also contains contact details for major insurers.

Page 1 & 2 are to be removed from the book and provided to the motorist.

Page 3 to Page 5
The new towing authorisation form in triplicate, tow truck drivers must complete all applicable sections of the form (page 4 & 5 are carbon copies). Please ensure the cardboard insert is placed after the towing authorisation notice to ensure information is not transferred onto the following group of forms, rendering them illegible.

- Page 3 (white copy) is to be detached and forwarded to the tow truck operator within 72 hours
- Page 4 (blue copy) is to be detached and provided to the motorist
- Page 5 (pink copy) is to remain in the book

Page 6
After completing the towing authorisation form tow truck drivers must complete all details on the towing notice (green sticker) and attach it to the motor vehicle to be towed.

PLEASE NOTE:
A towing authorisation must be obtained prior to completing (in the approved manner), and attaching the towing notice (green sticker) to the motor vehicle to be towed. [see cl 43 of the Regulation]. The maximum penalty is $5500.

The towing notice (green sticker) is now numbered the same as the towing authorisation and can only be used in conjunction with that authorisation so only complete and attach to the vehicle after authority to perform the tow has been obtained.
Quotation for Towing Services

* Base tow fee
* Second tow fee (if applicable)
* Excess kilometres (if applicable)

After hours surcharge
Outside of 8am to 5pm Mon to Fri excluding public holidays 20%

GST 10%

TOTAL

Storage Fees** - per day after 72 hours

* Towing fees must not exceed those prescribed in the schedule of Maximum Tow Fees
** Safe storage of your vehicle in an approved holding yard for the first 72 hours are at no cost. Storage fees after 72 hours must not exceed the prescribed maximum storage fee.

Rights - Owner / Driver of towed vehicle

If you need a tow truck to assist you when you are involved in:
- decide where your vehicle will be towed
- decide who will tow your vehicle
- contact anyone prior to signing this form for assistance on the right place to tow the vehicle to (some contact numbers for insurers provided on the back of this page)
- refuse to accept a tow for any reason (e.g. if the tow truck is not suitable)
- receive a copy of the towing authorisation form containing contact details for the tow truck operator who will be towing your vehicle.

I acknowledge that I have advised the owner / driver of their rights in respect to this towing work, and that all charges for towing, storage and salvage have been explained.

SIGNATURE (Tow Truck Driver) DATE TIME

OWNER / DRIVER COPY

TA20-1xxxxxxxx

RTA - TOW TRUCK LICENSING & COMPLIANCE
Phone: (02) 8889 5200  Fax: (02) 8889 5200
E-mail: towtruckinfo@rtta.nsw.gov.au
Mail: Locked bag 8064, Parramatta NSW 2124

Review of tow truck fees and licensing in NSW IPART 137
Responsibilities - Owner / driver of towed vehicle

1. As the owner / driver your main responsibility is to authorise the tow truck driver to tow your vehicle and report the accident to the Police immediately. Make sure that:
   - the place that you want your vehicle towed to is shown on the form and all other details are correct
   - you sign the Towing Authorisation form
   - the tow truck driver has completed all sections of the form and has also signed the form and provided you with a copy to keep
   - all of the costs involved are explained to you (tow fee, excess km, salvage, storage and the surcharge outside business hours). A summary of the current maximum towing fees is available on our website at www.towtrucks.nsw.gov.au
   - you are also given the quotation for towing services by the tow truck driver towing your vehicle. This quotation will provide you with an estimate of the towing and storage fees

2. If your vehicle is covered by a comprehensive insurance policy, claims may be covered in your claim. However, you should contact your insurer and provide them with some contact numbers (if you are unable to give this authorisation, a Police Officer or other authorised officer will be able to authorise the towing of your vehicle. (An authorised officer will have a photo ID card)

3. It is your right to choose who will tow your vehicle and to authorise the tow truck driver to tow your vehicle. In certain circumstances where you are unable to give this authorisation, a Police Officer or other authorised officer will be able to authorise the towing of your vehicle. (Police Assistance Line 131 444)

Check your Driver's Credentials

All accredited tow truck drivers in NSW must have a drivers certificate in their possession:

Check the Tow Truck

A NSW based accident towing tow truck should have a "TT" number plate with 4 numbers before the "TT" An interstate tow truck will have a registration plate issued in their home state

NOTE: If this is not the case, do not allow the tow truck to tow your vehicle.

Contact numbers for major insurers

<table>
<thead>
<tr>
<th>Insurance</th>
<th>Contact Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>AAMI</td>
<td>13 22 44</td>
</tr>
<tr>
<td>Allianz</td>
<td>131 000</td>
</tr>
<tr>
<td>NRMA</td>
<td>131 123</td>
</tr>
</tbody>
</table>
**Review of tow truck fees and licensing in NSW**

**IPART**

---

**Current towing authorisation form**

**TA20-1xxxxxxxx**

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<table>
<thead>
<tr>
<th><strong>R T A</strong></th>
</tr>
</thead>
</table>

---

**Towing Authorisation Number:**

**Date/Time:**

**Tow Truck Registration No.:**

**Operators Licence No.:**

---

### 1 TOW TRUCK OPERATOR / DRIVER DETAILS

<table>
<thead>
<tr>
<th>License Name:</th>
<th>Contact Phone No:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
<td></td>
</tr>
<tr>
<td>Tow Truck Driver Name (print):</td>
<td>Tow Truck Driver's Signature:</td>
</tr>
<tr>
<td>Drivers Certificate No:</td>
<td></td>
</tr>
</tbody>
</table>

---

### 2 VEHICLE / OWNER / DRIVER DETAILS

<table>
<thead>
<tr>
<th>Drivers Name:</th>
<th>Phone No:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drivers Address:</td>
<td></td>
</tr>
<tr>
<td>Vehicle Owners Name:</td>
<td>Phone No:</td>
</tr>
<tr>
<td>Vehicle Owners Address:</td>
<td></td>
</tr>
<tr>
<td>Registration No:</td>
<td>Make/Model of Vehicle:</td>
</tr>
</tbody>
</table>

---

### 3 TOWING DETAILS

**Towed From:**

**Towed To:**

**Second Tow Destination (only applicable if towing destination isn’t accessible at time of first tow):**

---

I _________ (towed vehicle owner / driver) have been provided with a copy of my rights in respect to this towing work, and an estimate of the charges for towing, storage and salvage. I acknowledge that this is the location I want the vehicle towed to and authorize the towing of this vehicle. I also acknowledge that I am required to report this accident to the Police immediately.

**Owner / Driver Signature:**

**Date / Time:**

---

### 4 POLICE / AUTHORISED OFFICER AUTHORISATION

**POLICE TO PAY**

**OWNER TO PAY**

Reason for owner to pay tow:

This authorisation has been completed and authorised by:

**Police / Authorised Officer:**

**Name / Number (print):**

**Capacity:**

**LAC Phone No:**

**Signature:**

---

**TOW TRUCK OPERATOR COPY**

**Forward to operator’s place of business**

---

**RTA - TOW TRUCK LICENSING & COMPLIANCE**

**Phone:** (02) 8096 6900  **Fax:** (02) 8096 6366

**E-mail:** towtrucks@rtt.nsw.gov.au

**Mail:** Locked Bag 5004, Paramatta NSW 2134
B Current towing authorisation form

<table>
<thead>
<tr>
<th>Towing Authorisation Number:</th>
<th>TA20-xxxxxxx</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date/Time:</td>
<td></td>
</tr>
<tr>
<td>Tow Truck Registration No.</td>
<td></td>
</tr>
<tr>
<td>Operators Licence No.</td>
<td></td>
</tr>
</tbody>
</table>

1 TOW TRUCK OPERATOR / DRIVER DETAILS

- Licensee Name: [Field]
- Contact Phone No: [Field]
- Address: [Field]

<table>
<thead>
<tr>
<th>Tow Truck Driver Name (print):</th>
<th>Tow Truck Driver's Signature:</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Field]</td>
<td>[Signature]</td>
</tr>
<tr>
<td>Drivers Certificate No:</td>
<td></td>
</tr>
</tbody>
</table>

2 VEHICLE / OWNER / DRIVER DETAILS

- Drivers Name: [Field]
- Phone No: [Field]
- Driver Address: [Field]

<table>
<thead>
<tr>
<th>Vehicle Owners Name:</th>
<th>Phone No:</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Field]</td>
<td>[Field]</td>
</tr>
<tr>
<td>Vehicle Owners Address:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Registration No.</th>
<th>Make/Model of Vehicle:</th>
<th>Colour:</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Field]</td>
<td>[Field]</td>
<td></td>
</tr>
</tbody>
</table>

3 TOWING DETAILS

- Towed From: [Field]
- Towed To: [Field]
- Second Towed To: [Field]

I ______________________ (towed vehicle owner / driver) have been provided with a copy of my rights in respect to this towing work, and an estimate of the charges for towing, storage and salvage. I acknowledge that this is the location I want the vehicle towed to and authorise the towing of this vehicle. I also acknowledge that I am required to report this accident to the Police immediately.

- Owner / Driver Signature: [Signature]
- Date / Time: [Field]

4 POLICE / AUTHORISED OFFICER AUTHORIZATION

- POLICE TO PAY [ ]
- OWNER TO PAY [ ]
- Reason for owner to pay tow:

- This authorisation has been completed and authorised by:

<table>
<thead>
<tr>
<th>Police / Authorised Officer Name</th>
<th>Number (print):</th>
<th>LAC:</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Field]</td>
<td>[Field]</td>
<td>[Field]</td>
</tr>
</tbody>
</table>

- Capacity: [Field]
- LAC Phone No: [Field]
- Signature: [Signature]

OWNER / DRIVER COPY

Provide to the owner / driver of the vehicle

IPART  Review of tow truck fees and licensing in NSW
<table>
<thead>
<tr>
<th><strong>TOW TRUCK OPERATOR / DRIVER DETAILS</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Licence Name:</td>
</tr>
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<tr>
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<td>Drivers Certificate No:</td>
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<table>
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<tr>
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<tr>
<td>Vehicle Owners Name:</td>
</tr>
<tr>
<td>Vehicle Owners Address:</td>
</tr>
<tr>
<td>Registration No:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>TOWING DETAILS</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Towed From:</td>
</tr>
<tr>
<td>Towed To:</td>
</tr>
<tr>
<td>Second Tow Destination (only applicable if desired destination isn’t accessible at time of first tow):</td>
</tr>
</tbody>
</table>

I, (towed vehicle owner / driver) have been provided with a copy of my rights in respect to this towing work, and an estimate of the charges for towing, storage and salvage. I acknowledge that this is the location I want the vehicle towed to and authorise the towing of this vehicle. I also acknowledge that I am required to report this accident to the Police immediately.

Owner / Driver Signature: Date / Time: 

<table>
<thead>
<tr>
<th><strong>POLICE / AUTHORISED OFFICER AUTHORISATION</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>POLICE TO PAY</td>
</tr>
<tr>
<td>OWNER TO PAY</td>
</tr>
</tbody>
</table>

This authorisation has been completed and authorised by:

Police / Authorised Officer

Name / Number (print): LAC:

Capacity: LAC Phone No: Signature:

**RETAIL WITH BOOK**

RTA - TOW TRUCK LICENSING & COMPLIANCE
Phone: (02) 8830 6200 Fax: (02) 8830 6205
E-mail: towtruck@rtta.nsw.gov.au
Mail: Locked Bag 0604, Panorama NSW 2124

Review of tow truck fees and licensing in NSW | IPART | 141
C Schedule of current regulated towing fees
<table>
<thead>
<tr>
<th>Service</th>
<th>Light vehicle</th>
<th>Fee regulated/prohibited</th>
<th>Fee structure and level</th>
<th>Heavy vehicle</th>
<th>Fee regulated/prohibited</th>
<th>Fee structure and level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accident towing</td>
<td>Regulated</td>
<td>Base fee $251, then</td>
<td>Metro: $6.09 per km after 1st 10 km(^b)</td>
<td>Regulated</td>
<td>Base fee $238-$343 for 1st hour then variable fee of $148-$255 per hour.(^a)</td>
<td>Base fee $251, then</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Non-metro: $3.04 per km</td>
<td>after 1st 20 km(^b)</td>
<td></td>
<td></td>
<td>Regulated, then variable fee of $148-$255 per hour.(^a)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>If a second driver is needed, an additional fee of $60 per hour.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Administrative work to arrange tow or freight salvage, an additional fee of $60 per hour.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Additional equipment required arranged and paid for by driver/operator, 110% of the cost of use of the equipment.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Second driver, administrative work and additional equipment fees as for heavy vehicle accident tows (above).</td>
</tr>
<tr>
<td>Recovery of stolen vehicle not involved in an accident</td>
<td>Regulated</td>
<td>Base fee $230, then km rates as for accident tows</td>
<td>Regulated</td>
<td>Base fee $217-$322 for 1st hour then variable fee of $148-$255 per hour.(^a)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subsequent tow (after initial tow from accident scene/location of stolen vehicle)</td>
<td>Regulated</td>
<td>Base fee $88 for first 10 km, then per km rates as for accident tows</td>
<td>Not regulated</td>
<td></td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>Storage (following an accident or recovery of stolen vehicle)</td>
<td>Prohibited for the 1st 72 hours, then regulated</td>
<td>1st 72 hours of storage is included in base fee, then $19 per day</td>
<td>Prohibited for the 1st 72 hours, then regulated</td>
<td>1st 72 hours storage is included in base fee then $90 per day</td>
<td>1st 72 hours of storage is included in base fee, then $90 per day</td>
<td></td>
</tr>
<tr>
<td>Service</td>
<td>Light vehicle</td>
<td>Fee regulated/prohibited</td>
<td>Fee structure and level</td>
<td>Heavy vehicle</td>
<td>Fee regulated/prohibited</td>
<td>Fee structure and level</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>---------------</td>
<td>--------------------------</td>
<td>-------------------------</td>
<td>---------------</td>
<td>--------------------------</td>
<td>-------------------------</td>
</tr>
<tr>
<td>Salvage from a road or road related area following an accident at accident scene</td>
<td>Fee prohibited</td>
<td>NA</td>
<td>Regulated</td>
<td></td>
<td>As for salvage from a road or road related area (above).</td>
<td></td>
</tr>
<tr>
<td>Salvage not from a road or road related area following an accident at accident scene</td>
<td>Regulated</td>
<td>No charge for 1st 30 minutes, then $60 per hour. If an assistant is required, $60 per hour. If an additional tow truck is required, base and variable fees as for accident towing work.</td>
<td>Regulated</td>
<td></td>
<td>As for salvage from a road or road related area (above).</td>
<td></td>
</tr>
<tr>
<td>Time spent waiting/Stand by time</td>
<td>Fee prohibited</td>
<td>NA</td>
<td>Regulated</td>
<td></td>
<td>For accident towing: Base fee of $119-171.50 for first hour then hourly rate $74-$127.50. For salvage work standby time: $40.50 per hour.</td>
<td></td>
</tr>
<tr>
<td>Service</td>
<td>Light vehicle</td>
<td>Fee regulated/prohibited</td>
<td>Fee structure and level</td>
<td>Heavy vehicle</td>
<td>Fee structure and level</td>
<td></td>
</tr>
<tr>
<td>-----------------------------------------------------</td>
<td>---------------</td>
<td>--------------------------</td>
<td>-------------------------</td>
<td>--------------</td>
<td>------------------------</td>
<td></td>
</tr>
<tr>
<td>Travel to the accident scene</td>
<td>Metro: fee prohibited. Non-metro: max fee regulated</td>
<td>In non-metro areas if travel from the operator’s business to the accident and then to the destination on the towing authorisation exceeds 20kms, then the relevant per km charges as for non-metro accident towing.</td>
<td>Regulated</td>
<td>Hourly rate as for accident towing applies to any time involved in travelling from operator’s place of business to the accident scene and then to destination on towing authorisation.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Travel to location of stolen vehicle being recovered</td>
<td>Metro: fee prohibited. Non-metro: max fee regulated</td>
<td>In non-metro areas if travel from the operator’s business to the initial location of the vehicle and then to the destination specified by the owner exceeds 20 kms, then the relevant per km charges as for non-metro accident towing.</td>
<td>Regulated</td>
<td>Hourly rate as for recovery towing. Fee can be charged from operator’s business to the stolen vehicle being recovered and back to the operator’s business.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Out of hours surcharge</td>
<td>Regulated</td>
<td>20% applied to all charges (except storage).</td>
<td>Regulated</td>
<td>50% surcharge applied to second driver and administrative work charges for accident and recovery tows. 50% surcharge applied to hourly rate and administrative work charges for salvage work.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Complying with police or authorised officer direction to move a vehicle causing an unreasonable obstruction</td>
<td>Fee prohibited</td>
<td>Fee prohibited</td>
<td>Fee prohibited</td>
<td>Fee prohibited</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Second tow truck driver for an accident tow</td>
<td>N.A</td>
<td>Regulated</td>
<td>$60 per hour</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Administrative work in towing/salvaging load or freight</td>
<td>Fee prohibited</td>
<td>Regulated</td>
<td>$60 per hour</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Schedule of current regulated towing fees

<table>
<thead>
<tr>
<th>Service</th>
<th>Light vehicle</th>
<th>Heavy vehicle</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relocating or removing a vehicle in a holding yard</td>
<td>Fee prohibited</td>
<td>Fee prohibited</td>
</tr>
<tr>
<td>Providing vehicle owner with out of business hours access to vehicle in a holding yard</td>
<td>Fee prohibited unless prior notification given</td>
<td>Fee prohibited unless prior notification given</td>
</tr>
<tr>
<td>Fuel</td>
<td>Separate fee prohibited</td>
<td>Separate fee prohibited</td>
</tr>
<tr>
<td>Cleaning glass or debris from an accident scene</td>
<td>Separate fee prohibited</td>
<td>Separate fee prohibited</td>
</tr>
<tr>
<td>Cleaning a tow truck or spills from the towed vehicle</td>
<td>Separate fee prohibited</td>
<td>Separate fee prohibited</td>
</tr>
<tr>
<td>Disconnecting the battery of a towed vehicle</td>
<td>Separate fee prohibited</td>
<td>Separate fee prohibited</td>
</tr>
<tr>
<td>Making phone calls</td>
<td>Separate fee prohibited</td>
<td>Separate fee prohibited</td>
</tr>
<tr>
<td>Taking or producing photographs</td>
<td>Separate fee prohibited</td>
<td>Separate fee prohibited</td>
</tr>
<tr>
<td>Preparing/sending documents related to a tow (eg invoices, towing authorisations)</td>
<td>Separate fee prohibited</td>
<td>Separate fee prohibited</td>
</tr>
<tr>
<td>Notifying owner of storage fees</td>
<td>Separate fee prohibited</td>
<td>Separate fee prohibited</td>
</tr>
<tr>
<td>Other administrative work</td>
<td>Separate fee prohibited</td>
<td>Separate fee prohibited</td>
</tr>
<tr>
<td>Transporting owner of or passenger in the vehicle</td>
<td>Separate fee prohibited</td>
<td>Separate fee prohibited</td>
</tr>
<tr>
<td>Salvaging the load of a vehicle involved in an accident</td>
<td>Separate fee prohibited</td>
<td>Separate fee prohibited</td>
</tr>
<tr>
<td>Storing personal belongings</td>
<td>Separate fee prohibited</td>
<td>Separate fee prohibited</td>
</tr>
<tr>
<td>Changing tyres</td>
<td>Separate fee prohibited</td>
<td>Separate fee prohibited</td>
</tr>
<tr>
<td>Service</td>
<td>Light vehicle</td>
<td>Fee structure and level</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>----------------------------------------</td>
<td>-------------------------</td>
</tr>
<tr>
<td>Providing/using a fire extinguisher or gloves</td>
<td>Separate fee prohibited</td>
<td>Fee prohibited unless:</td>
</tr>
<tr>
<td>Any other activities required to undertake towing work or any other work done as a result of a requirement of the Act or Regulation</td>
<td>Separate fee prohibited</td>
<td>• a written quote is provided, and</td>
</tr>
<tr>
<td></td>
<td>Any other fee related to towing, salvage or storage of an accident damaged vehicle or recovered stolen vehicle</td>
<td>• the fee is explained before the service is provided, and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• the service involved use of equipment owned by someone other than the operator or a service provided by someone other than the operator and the fee charged is not more than the operator paid for the equipment or service, and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• the service is separately itemised in the invoice, and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• records of the service (receipts, photographs etc) accompany the invoice, and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• the records that support the charge are available on request to the vehicle owner or insurer.</td>
</tr>
</tbody>
</table>
a Heavy vehicle tow trucks are classified as Class 3, 4A, 4B, 4C tow trucks based on their gross mass and safe working load. Different maximum fees apply to each class of tow truck.

b In the metropolitan area the distance charge is calculated from the scene of the accident to the destination on the towing authorisation. In non-metropolitan areas the distance charge is calculated from the operator’s place of business to the accident scene and then the destination on the towing authorisation.

More detail on how we estimated the hourly cost of accident towing

As Chapter 5 discussed, to check whether the prices charged for breakdown tows are a reasonable indicator of the efficient cost of providing accident towing services, we modelled these costs using questionnaire data and a ‘whole of business’ approach. We estimated the cost per hour of towing for both towing-only and mixed businesses. We also estimated the costs for businesses with different combinations of accident and trade tows and with different inputs costs.

For each business we modelled, we found a range for the hourly cost of towing that is broadly comparable to hourly price of breakdown tows. Table 5.2 provides an overview of the range for the input costs we used in this modelling, and the resulting estimate of the hourly cost of accident towing. The sections below provide more detail on our input cost assumptions.

**Overview of input costs used in our modelling**

We focused on the following six cost categories:

- Vehicle financing costs.
- Vehicle operating costs excluding fuel.
- Fuel costs.
- Driver labour costs.
- Business overhead costs.
- Licensing and regulatory costs.

We also allowed a 10% profit margin to provide an allowance for a return on assets (mainly the trucks) and as an incentive to the operator to provide towing service.

Figure D.1 shows the input costs as a percentage of our estimated hourly cost of accident towing for a towing-only metropolitan business and mixed country business.
More detail on how we estimated the hourly cost of accident towing

**Figure D.1  Cost per hour of towing services during standard business hours**

<table>
<thead>
<tr>
<th>Metropolitan (towing only business)</th>
<th>Country (mixed business)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business overhead costs 12% 1%</td>
<td>Business overhead costs 13% 2%</td>
</tr>
<tr>
<td>Licencing &amp; regulatory 43%</td>
<td>Licencing &amp; regulatory 27%</td>
</tr>
<tr>
<td>Fuel cost 14%</td>
<td>Fuel cost 14%</td>
</tr>
<tr>
<td>Vehicle operating 16%</td>
<td>Vehicle operating 22%</td>
</tr>
<tr>
<td>Vehicle financing 15%</td>
<td>Vehicle financing 21%</td>
</tr>
</tbody>
</table>

*15% 21% 16% 22% 14% 27% 14% 22% 43% 27% 1% 2% 12% 13%*

**Note:** The country business is mixed business with a lower truck utilisation rate, and therefore higher vehicle costs than the metropolitan business. But the country business has lower driver costs because drivers also have non-towing duties in the mixed business and drive a tow truck only when called upon to do so. Totals may not add due to rounding.

**Data source:** IPART calculations.

**Vehicle costs**

For the annual cost of purchasing a tow truck, we used the annual repayment on a loan that is paid off over the (remaining) useful life of the truck. We assumed that the useful life of a truck depends on its utilisation rate, and whether or not it is purchased new or second-hand. Second hand trucks are cheaper but have a shorter useful remaining life. Based on these assumptions, we estimated that the cost of a tow truck ranges between $9,000 per year (for a second-hand cradle truck with a low utilisation rate) and $24,000 per year (for a top-of-the-range tilt tray truck with a higher utilisation rate).

The lower annual capital cost of older, cheaper trucks will be to some extent offset by higher maintenance and fuel costs. Older (cheaper) trucks tend to require more repair and maintenance, and are less fuel efficient than newer models. But older trucks are likely to be insured for less than newer, more expensive trucks.

Given these offsetting factors, our modelling suggests that the nature of the tow truck does not have a very large impact on differences in hourly costs between businesses – between $2 and $9 per hour. Tow truck utilisation rates – ie, demand factors – have a far greater impact on the hourly cost than the type of tow truck.
More detail on how we estimated the hourly cost of accident towing

Fuel accounts for around 15% of the towing cost on an hourly basis (Figure D.1). Varying fuel costs by +/- 10% changes the hourly cost by around $1 to $2 per hour.

**Driver costs**

We calculated the cost to the operator of having a driver available for each truck. During standard business hours, we assumed that drivers are paid a wage to be on duty at all times. As discussed in Chapter 5, a towing-only business must recover from towing activities all wages paid to drivers during standard business hours. A mixed business, on the other hand, shares cost of (employees that are also) drivers between its towing business and other business activities.

Outside of standard business hours, we are advised by operators that drivers are paid a combination of a standby amount and an amount per tow. All operators recover the total cost of after-hour wages from tows.

Wages are based on the *Vehicle Manufacturing, Repair, Services and Retail Award 2010*, and the total cost includes superannuation and Worker’s Compensation Insurance. The hourly wage is higher for tows outside the hours of 6am and 6pm on business days. Higher driver costs outside of these hours are mainly recovered through a surcharge on fees for standard hours. The surcharge is discussed in Chapter 5.

Varying wages by 20% changes the hourly cost of towing by about $9 in a towing-only business and $6 in a mixed business (for standard business hours).

**Business overhead costs**

Business overhead costs includes items such as administrative staff, office rental and insurance, telephone and internet costs, utility bills, bank charges, professional services etc. We estimated that overhead costs add between $6 and $21 to the hourly cost of towing, depending for example on how many administrative staff the business employs.

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150 The total cost to the operator is not the same as the amount received by an employee, firstly because the cost includes superannuation and Worker’s Compensation Insurance. Secondly, the operator may employ more than one person per truck working shifts.
Licensing and regulatory costs

Licensing and regulatory costs (other than the Towing Authorisation form) add only about $1 to $2 per hour to the total cost of towing activities. The cost of the Towing Authorisation form is added to the base price of an accident tow because it is specific to accident tows (see Chapter 5). Our recommended licence fees are discussed in Chapter 8 of this report.

Profit margin

We added a 10% profit margin to provide an allowance for a return on assets (mainly the trucks) and as an incentive to the operator to provide towing service. We chose 10% based on ABS information for the ratio of operating profit to total income for comparable industries between 2007/08 and 2012/13. ABS data indicate a ratio of:

- 9% to 10% for Transport, Postal and Warehousing
- 11% to 12% for Road Transport, and
- 10% to 12% for all selected industries.151

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### Example of redesigned towing authorisation form

#### Towing Authorisation

<table>
<thead>
<tr>
<th>Field</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Towing authorisation no.</td>
<td>[Pre-filled by RMS]</td>
</tr>
<tr>
<td>Licensee name</td>
<td>[Pre-filled by RMS]</td>
</tr>
<tr>
<td>Operator licence no.</td>
<td>[Pre-filled by RMS]</td>
</tr>
<tr>
<td>Operator address</td>
<td>[Pre-filled by RMS]</td>
</tr>
<tr>
<td>Operator phone no.</td>
<td>[Pre-filled by RMS]</td>
</tr>
</tbody>
</table>

#### Call your insurance company.
- Understand your rights in relation to having your vehicle towed. See the next page.
- You can refuse a tow for any reason. You decide who will tow your vehicle.
- You decide where your vehicle will be towed.

#### Tow truck and driver details

<table>
<thead>
<tr>
<th>Item</th>
<th>Quantity</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base tow fee</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Second tow fee (if applicable)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Excess kms (if applicable)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>After hours surcharge (outside of hours: 6pm Monday to Friday and on public holidays)</td>
<td>25%</td>
<td></td>
</tr>
<tr>
<td>GST</td>
<td>10%</td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### Vehicle driver details

- Driver licence no.
- The owner was the driver of the vehicle?
  - no
  - yes  now go to 9
- Driver name
- Driver residential address
- Driver phone no.
- State
- Postcode

#### Towing destination

- Primary destination
- Destination if primary destination is not accessible

#### Police/authorised officer details

- Police/authorised officer name
- Police/authorised officer no.
- LAC
- LAC phone no.
- Capacity
- Police or owner to pay for the tow?
  - police
  - owner
- Reason for owner to pay tow

#### Tow truck driver’s signature

#### Authorising person’s signature

#### Date and time

If you experience difficulties or have any questions regarding the towing of your vehicle, contact Roads & Maritime Services.
F  Current licence fees

The levels of licence fees currently vary depending on the location of the business and the type of towing that the operator undertakes. Table F.1 and Table F.2 set out the current fees. In addition, the current fee for towing authorisation forms is $471 for a book of 20 forms or $118 for a book of 5 forms. We note however that when the fee for this form was introduced, the accident towing fee was increased, effectively meaning that this cost is passed through to consumers.

Table F.1  Tow truck operator licence fees ($2014/15)

<table>
<thead>
<tr>
<th>Fee item</th>
<th>Cost 1-year term</th>
<th>Cost 3-year term</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operator's licence – metro</td>
<td>$1,009</td>
<td>$2,576</td>
<td>Includes $354/$636 non-refundable administration fee</td>
</tr>
<tr>
<td>Operator's licence – country</td>
<td>$649</td>
<td>$1,507</td>
<td>Includes $345/$620 non-refundable administration fee</td>
</tr>
<tr>
<td>Tow truck plate – metro – category A</td>
<td>$378</td>
<td>$1,127</td>
<td>Per plate, per term</td>
</tr>
<tr>
<td>Tow truck plate – metro – category B &amp; C</td>
<td>$360</td>
<td>$1,073</td>
<td>Per plate, per term</td>
</tr>
<tr>
<td>Tow truck plate – country – category A</td>
<td>$150</td>
<td>$447</td>
<td>Per plate, per term</td>
</tr>
<tr>
<td>Tow truck plate – country – category B &amp; C</td>
<td>$144</td>
<td>$427</td>
<td>Per plate, per term</td>
</tr>
<tr>
<td>Licence amendment fee</td>
<td>$52</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Replacement operator's licence</td>
<td>$30</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reissue conditional operator's licence</td>
<td>$30</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stand-by tow truck application fee</td>
<td>$342</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Re-application for expired conditional operator's licence (within 5 days)</td>
<td>$312</td>
<td>If expired more than 5 business days, full re-application fee applies</td>
<td></td>
</tr>
</tbody>
</table>

### Table F.2  Tow truck drivers certificate fees ($2014/15)

<table>
<thead>
<tr>
<th>Fee item</th>
<th>Cost 1-year term</th>
<th>Cost 3-year term</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drivers certificate</td>
<td>$198</td>
<td>$447</td>
<td>Includes $118/$212 non-refundable administration fee</td>
</tr>
<tr>
<td>Replacement driver certificate</td>
<td>$30</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reissue conditional drivers certificate</td>
<td>$30</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Re-application for expired conditional drivers certificate (within 5 days)</td>
<td>$108</td>
<td></td>
<td>If expired more than 5 business days, full re-application fee applies</td>
</tr>
</tbody>
</table>