

## **NSW Government Response to IPART *Review of Tow Truck Fees and Licensing in NSW***

**December 2015**

In NSW, the tow truck industry is currently regulated through the *Tow Truck Industry Act 1998* (the Act) and the *Tow Truck Industry Regulation 2008* (the Regulation).

The Act and Regulation establish a regulatory framework that includes a licensing scheme for tow truck operators and drivers; and provides for the maximum fees that licensed tow truck operators may charge for towing, salvage and storage of vehicles towed from accidents. These regulatory requirements are an important mechanism in place to provide a level of protection for the people of NSW in an often traumatic and difficult time.

Maximum fees have been prescribed by regulation since December 2009 – when the fees were incorporated into the *Tow Truck Industry Regulation 2008*. Prior to 2009 maximum fees were set by the regulator (e.g. Tow Truck Authority / Roads and Traffic Authority).

As the current regulation has been in place for many years, the Independent Pricing and Regulatory Tribunal (IPART) was asked to conduct a review and to provide recommendations on:

- Fees that reflect 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.
- 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.
- Any changes required to the regulatory framework to ensure the towing industry operates efficiently and consumers are provided adequate protections.
- Potential regulatory reforms that could provide savings to business and the community, including net benefits for NSW and regulatory burden reduction.

IPART has provided a final report to the NSW Government which sets out their findings and recommendations.

The NSW Government welcomes IPART's report, and acknowledges the work of IPART, and the contribution of tow truck operators and drivers and other stakeholders who contributed to the review, and participated in the Stakeholder Roundtable held in October 2014.

The NSW Government's response to IPART's 107 recommendations is outlined below.

	Recommendation	Response	Comments
1.	Tow truck licence plate categories should be amended to reflect the risk of detriment to consumers associated with the towing activities the truck undertakes.	Supported	
2.	Category TT2 tow truck plates should only be available to tow trucks that have the ability to safely tow a heavy motor vehicle—that is, Category TT2 plates should only be available to tow trucks that currently meet the requirements of approved Class 3 or higher conventional tow trucks, as specified in the Tow Truck Industry Regulation clause 40B.	Supported in principle	Further consultation is required to explore implications for ‘Scrap Metal Exempt’ tow trucks, plate systems, application processes and roadside identification.
3.	The Operator’s Licence Application should be amended to better facilitate operators using a combination of tow trucks with different tow truck plate categories.	Supported	
4.	For light vehicle accident and recovery towing services, prices should continue to be regulated by setting of maximum fees and charges.	Supported	<p>The NSW Government considers that regulating maximum fees for light vehicle accident towing services is the best mechanism to ensure consumer protection, while at the same time allowing industry to recover the costs of providing these services and make a margin to maintain business viability.</p> <p>Regulating fees protects consumers from unscrupulous charging behaviour and market exploitation.</p> <p>Motorists are often injured, distressed, in shock and vulnerable following an accident, and there is often pressure to move their vehicle quickly from the accident scene. Motorists are forced into a position to make a decision to enter a contract with a towing company when the motorist may not be a fit state of mind to make a rational and informed choice. The decision may have a significant financial impact.</p> <p>Motorists often do not have the opportunity in this environment to</p>

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			shop around for the best towing deal and most would not have a good understanding of what would constitute a fair accident towing fee.
5.	For heavy vehicle accident towing services, price regulation should be removed.	Supported in principle	<p>IPART considers that the risk of detriment is lower in the heavy vehicle accident towing market compared to light vehicles as heavy vehicle drivers are more likely to be professional drivers and less vulnerable at the scene of an accident. Heavy vehicles are also more likely to be used for business purposes and have insurance arrangements in place in the case of a breakdown or accident.</p> <p>The NSW Government agrees that heavy vehicle accident towing operates in different market conditions to light vehicle towing.</p> <p>The NSW Government acknowledges that there may be benefits to industry, businesses and heavy vehicle owners associated with de-regulating heavy vehicle accident towing fees.</p> <p>However, concerns have been raised about how the consumer would be protected if they fall outside the stated parameter.</p> <p>Further consultation with industry, consumers and other stakeholders is required regarding this recommendation.</p>
6.	RMS should monitor and publish information about the number of heavy tow operators and the areas they service for a period of three years.	Supported	
7.	For heavy vehicle accident towing services, towing authorisation forms should not be required. However, operators should be required to obtain approval for accident towing work from the owner or the owner's agent (eg, the insurer or driver).	Not supported	Any new approval process would still require written authorisation to support it, otherwise it could be open to misuse.
8.	Heavy vehicle tow truck operators should not be prohibited from charging reasonable fees for: <ul style="list-style-type: none"> <li>- cleaning up an accident vehicle's load and debris</li> </ul>	Supported in principle	<p>The Act currently only relates to cleaning and salvage of debris from vehicles involved in the motor vehicle accident.</p> <p>The Act does not currently cover the cost of salvage and cleaning up of the load carried.</p>

	Recommendation	Response	Comments
	<ul style="list-style-type: none"> <li>- complying with directions from a police officer or authorised officer to move a vehicle, its load or its debris to the nearest place where it no longer causes an obstruction to traffic.</li> </ul>		
9.	<p>In both metropolitan and non-metropolitan areas, the maximum base fee for light vehicle:</p> <ul style="list-style-type: none"> <li>- accident tows should be \$235 per tow</li> <li>- subsequent tows should be \$85 per tow.</li> </ul>	Supported	
10.	<p>There should be no change to the distance and salvage allowances currently included in light vehicle accident and subsequent tow base fees.</p>	Supported	
11.	<p>The maximum fee that can be charged for recovery of a stolen light motor vehicles is:</p> <ul style="list-style-type: none"> <li>- \$155 base fee including 10 km for metro and 20 km for non-metro and 30 minutes of salvage</li> <li>- \$5.10 per km after first 10 km in metro and \$4.20 per km after first 20 km in non-metro</li> <li>- salvage at \$60 per hour for each hour after the first 30 minutes for vehicles not on a road or road-related area and an additional \$60 per hour if an assistant (either an additional certified driver or assistant) is required.</li> </ul>	Supported	
12.	<p>The maximum distance charge for light vehicle accident, recovery and subsequent tows should be:</p> <ul style="list-style-type: none"> <li>- \$5.10 per km for metropolitan areas</li> <li>- \$4.20 per km for non-metropolitan areas.</li> </ul>	Supported	

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13.	<p>The maximum light vehicle salvage charges in both metropolitan and non-metropolitan areas should be:</p> <ul style="list-style-type: none"> <li>- \$60 per hour after the first 30 minutes (applicable to off-road salvage only)</li> <li>- an additional \$60 per hour if an assistant is required.</li> </ul>	Supported	The introduction of an assistant's certificate and requirements is subject to further consideration as per 32 below.
14.	For light vehicle accidents in non-metro areas on roads with a speed limit greater than 80 km per hour, light vehicle operators should be permitted to charge a fee of \$60 per hour for clean-up of debris and loads.	Supported	The Act currently only relates to cleaning and salvage of debris from vehicles involved in the motor vehicle accident, not the vehicle load. The NSW Government agrees with IPART's recommendation that operators be required to provide suitable evidence of the additional time required to clean up debris (such as photographs), to avoid the risk of any dishonest practices and detrimental financial implications for consumers.
15.	For light vehicle accidents in non-metro areas on roads with a speed limit less than or equal to 80 km per hour, light vehicle operators should not be permitted to charge a fee for clean-up of debris and loads.	Supported	
16.	For light vehicle accidents in <b>all</b> metro areas, light vehicle operators should not be permitted to charge a fee for clean-up of debris and loads.	Supported	
17.	In metropolitan 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%.	Supported	
18.	In non-metropolitan areas, an after-hours surcharge should apply to light vehicles outside the hours of 8am to 5pm on business days, and	Supported	

	Recommendation	Response	Comments
	this surcharge should be a maximum of 20%.		
19.	<p>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:</p> <ul style="list-style-type: none"> <li>- store vehicles in a location that is safe and secure, in accordance with a Storage Arrangements Policy issued by RMS (that will replace the current Holding Yard Policy)</li> <li>- 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).</li> </ul>	Not supported	<p>It is important for the vehicles to be stored in an area that the operator has control over in regards to access and egress. Currently a chain of responsibility exists to ensure the consumers vehicles and its contents are protected.</p>
20.	<p>RMS issue a Storage Arrangements Policy setting out the requirements for safe and secure storage. The policy should not include the following as minimum requirements:</p> <ul style="list-style-type: none"> <li>- a requirement for operators to store light vehicles in holding yards that they own or lease</li> <li>- a requirement that storage facilities can store a minimum number of cars.</li> </ul> <p>The policy should include the following as minimum requirements:</p> <ul style="list-style-type: none"> <li>- have relevant council approvals</li> <li>- not provide a public thoroughfare</li> </ul>	N/A	As per 19 above.

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	<ul style="list-style-type: none"> <li>- store vehicles behind a two metre security fence with lockable gates or garaged within a fully enclosed lockable facility</li> <li>- have a return to base security system or other appropriate security system and flood lighting</li> <li>- where the storage facility is not owned or leased by the tow truck operator or multiple operators are sharing the same facility, have an operational CCTV camera with recording capability covering the entry and exits and all vehicles stored in the facility</li> <li>- not expose stored motor vehicles to likely damage or access by unauthorised people.</li> </ul>		
21.	The discretionary grounds for refusing a licence should have regard to an operator's performance in storing vehicles.	N/A	As per 19 above.
22.	Operators must specify their proposed storage locations as part of their operator's 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.	N/A	As per 19 above.
23.	Metropolitan operators should be allowed to store light vehicles in any safe and secure location that is specified in their licence.	N/A	As per 19 above.
24.	Non-metropolitan 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.	N/A	As per 19 above.

	Recommendation	Response	Comments
25.	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.	Supported	
26.	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.	Supported	
27.	RMS should publish a simple fee calculator on its website to assist operators in calculating distance charges.	Noted	Further consultation with industry is required to canvass their views and discuss potential benefits and costs.
28.	<p>The Act and Regulation should be amended so that the maximum fees for towing and storage apply to vehicles towed from the scene of an accident. The fees should apply:</p> <ul style="list-style-type: none"> <li>- for all locations specified on an authorisation form, and any other storage locations specified by operators as part of their licence application or renewal, 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</li> <li>- 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</li> </ul>	Supported	



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	<p>location specified on an authorisation form</p> <ul style="list-style-type: none"> <li>- once a quotation for repair has been accepted no further storage or other fees can be charged.</li> </ul>		
29.	The base fee should not include 3 days of storage.	Noted	Further consultation with industry and consumer groups is required.
30.	The maximum fee for storage of all light vehicles other than motorcycles should be \$23 per day for inner-metro Local Government Areas (LGAs) shown in Table 6.1 and \$14 per day for outer-metro LGAs shown in Table 6.2 and non-metropolitan LGAs.	Supported	
31.	The daily storage fee for motorcycles should be half of the light vehicle storage fee.	Supported	
32.	<p>A towing assistant's certificate should be introduced, and holders of this certificate should be permitted to travel in all categories of tow trucks and to assist at the scene of accidents. Applicants for an assistant's certificate must:</p> <ul style="list-style-type: none"> <li>- be 17 years or over</li> <li>- hold a class C or equivalent driver's licence (except a learner's licence)</li> <li>- meet the same fit and proper person requirements as a certified tow truck driver, including the relevant criminal records checks.</li> </ul>	Supported in principle	Further consultation with industry, consumer groups and road safety experts is required and well as consideration of fees and charges.
33.	A certified towing assistant may assist in the use or operation of the tow truck while under supervision by a fully certified tow truck driver, <b>provided</b> the assistant has the necessary skills and qualifications to do so. For example, the	Supported in principle	As per 32 above.

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	<p>assistant may be permitted to:</p> <ul style="list-style-type: none"> <li>- operate winches and cranes and other machinery attached to the tow truck <b>provided</b> they hold the necessary high-risk work licence</li> <li>- drive the tow truck <b>provided</b> they hold the appropriate heavy vehicle licence.</li> </ul>		
34.	<p>Non-certified passengers should:</p> <ul style="list-style-type: none"> <li>- <b>not</b> be permitted in <b>Category TT1</b> tow trucks</li> <li>- be permitted in <b>Category TT2</b> and in <b>Category TT3</b> tow trucks</li> <li>- <b>not</b> be permitted in <b>Category TT4</b> tow trucks.</li> </ul>	Supported	
35.	<p>A non-certified passenger employed by an operator may assist in the use or operation of the tow truck while under supervision by a fully certified tow truck driver <b>provided</b> the passenger has the necessary skills and qualifications to do so. For example, the non-certified passenger may be permitted to:</p> <ul style="list-style-type: none"> <li>- operate winches and cranes and other machinery attached to the tow truck <b>provided</b> they hold the necessary high-risk work licence</li> <li>- drive the tow truck <b>provided</b> they hold the appropriate heavy vehicle licence.</li> </ul>	Not supported	<p>There would be significant liability issues if an incident occurred due to the non-certified passengers negligence.</p> <p>RMS would be unable to determine whether the passenger has the necessary skills and qualifications as the person would not be subject to any application process.</p>
36.	The Government negotiate mutual recognition arrangements for tow truck operator licences, driver certificates, and towing assistant certificates	Supported	

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	with the governments of Victoria, Queensland and South Australia.		
37.	Recognition of interstate tow truck operator licences, driver certificates and assistant certificates should require fit and proper person checks equivalent to those required in NSW, including appropriate criminal records checks.	Supported	
38.	Section 56 of the Act, which provides for the Regulation to explicitly prohibit certain classes of tow trucks, should be deleted. Instead, minimum requirements in relation to the design, construction and equipment of tow trucks should be set out in the Regulation as provided by Section 55 of the Act.	Supported	
39.	Where appropriate, RMS should continue to exempt particular tow trucks that do not meet the minimum requirements specified in the Regulation. Such exemptions should specify the conditions under which the exempted tow trucks are permitted to be used.	Supported	
40.	Tow truck operator licences, driver certificates and assistant 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.	Supported in-principle	<p>The Act and the Regulation provide for applications for operator licences and driver certificates to be refused on certain grounds, for example if the operator or driver has been convicted of particular offences or the applicant is not, in the opinion of RMS, a fit and proper person to hold a licence or certificate.</p> <p>The renewal process triggers these criminal history and fit and proper checks and extending the time between renewals may increase the risk of unscrupulous persons operating in the industry, to the detriment of consumers.</p> <p>To extend the duration of licences and certificates and mitigate the above risk, changes to the Act and Regulation may be required to</p>

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			<p>provide Roads and Maritime with the authority to conduct criminal history and fit and proper checks at any time, in addition to the renewal process, with the appropriate consent of the licence or certificate holder.</p> <p>Roads and Maritime will also work with the NSW Police Force to improve the reporting of criminal convictions of licence and certificate holders.</p>
41.	The Regulation should specify the <b>minimum</b> information required to be recorded in relation to non-accident tows, but not the form in which the operator is to keep these records.	Supported	
42.	Operators should be able to decide on the form in which they keep the necessary non-accident towing records, without requiring prior approval from RMS.	Supported	
43.	If requested by RMS or Police, operators should be required to collect and present all the required information in relation to non-accident tows, in a manner that is clear and unambiguous.	Supported	
44.	If a tow truck carrying a non-accident vehicle is pulled over by RMS or Police, the tow truck driver must be able to produce evidence of authorisation for the tow.	Supported	
45.	Operators must maintain records that identify the drivers and passengers that were travelling in or operating a tow truck at any particular time. Operators should be able to decide on the form in which they keep these records.	Supported	
46.	If requested by RMS or Police, operators must present a complete and clear summary of all	Supported	

	Recommendation	Response	Comments
	drivers and passengers who travelled in a particular tow truck in the period specified in the request.		
47.	The current requirement on operators to make and keep a fully itemised record of charges levied in relation to a towed vehicle (clause 50 in the Regulation), should only apply when the charges are subject to price regulation.	Not supported	If this was implemented RMS would have no way to verify what was charged when investigating a complaint. Complete records are also required for auditing purposes.
48.	The current requirements in relation to the information included in invoices for towing work (clause 51 in the Regulation) should only apply when the services are subject to price regulation.	N/A	As per 47 above.
49.	The period operators are required to retain records for the purpose of tow truck industry regulation should be reduced from five years to two years.	Not supported	Records are required for investigative and administrative purposes.
50.	Operators should not be required to keep paper records where they already keep the required records electronically. However, they must be able to make the required records, whether electronic or paper-based, available to RMS or Police on request.	Supported	
51.	RMS should 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).	Supported in principle	Further consultation with industry is required to canvass their views and discuss potential benefits and costs.
52.	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	Supported in principle	As per 51 above.

	Recommendation	Response	Comments
	triplicate form.		
53.	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.	Supported in principle	It is noted that if an electronic system was to be introduced, submission of completed towing authorisations would occur more quickly.
54.	The towing authorisation form should be simplified and re-designed to: <ul style="list-style-type: none"> <li>- highlight important information for the vehicle owner/driver on top of the front page (see example provided in Appendix E)</li> <li>- gather the key details regarding the tow on the front page (see example provided in Appendix E)</li> <li>- list the applicable regulated fees for either metro or non-metro (see example provided in Appendix E).</li> </ul>	Supported	
55.	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: <ul style="list-style-type: none"> <li>- order books of towing authorisations with the licence details already printed on the forms and towing notices</li> <li>- order stamps with the licensee details (noting that this would require stamping both copies of the form and the towing notice)</li> <li>- order stickers with the licensee details (noting that this would require attaching</li> </ul>	Supported in part	The recommendation for books is not supported as books of towing authorisations are printed by RMS and it would be cost prohibitive to have this option.  The recommendations for stamps and stickers are supported.

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	stickers to both copies of the form and to the towing notice).		
56.	Certified and non-certified passengers in tow trucks should be subject to the same conduct requirements as the certified tow truck driver.	Supported	
57.	Tow truck operators should be responsible for ensuring that towing assistants and non-certified passengers adhere to the relevant conduct requirements.	Supported	
58.	Any certified tow truck driver or assistant must wear protective clothing at all times while operating, assisting in the use or operation of, or being a passenger in a <b>Category TT1 or TT4</b> tow truck on a road or road-related area. This includes while travelling in the tow truck.	Supported	
59.	Any person driving or being a passenger in a <b>Category TT2 or Category TT3</b> tow truck should <b>not</b> be required to wear protective clothing while travelling in the tow truck. However, the person must wear protective clothing at all other times while operating or assisting in the use or operation of a tow truck on a road or road related area.	Supported	
60.	Any person carrying out or assisting with the salvage of a vehicle must wear protective clothing while working at the salvage site.	Supported	
61.	The requirements in the protective clothing policy for all persons to have available for their use SPF30+ sunscreen, sun protective headwear and protective sunglasses should be removed.	Supported	

	Recommendation	Response	Comments
62.	At the scene of a heavy vehicle accident, a non-certified passenger who is not the employee of an operator must wear reflective clothing that complies with the standards specified in RMS's protective clothing policy, and with appropriate labelling as determined by RMS.	N/A	As per 35 above.
63.	Certified tow truck drivers and assistants in Category TT1, TT3 and TT4 tow trucks must wear their certificates at all times.	Supported	The introduction of an assistant's certificate and requirements is subject to further consideration as per 32 above.
64.	Tow truck drivers and assistants in Category TT2 tow trucks must wear their certificates when arriving at the location of a towing job (whether accident or trade) and when presenting themselves to authorised officers or police officers, or to the owner or an agent for the owner of the vehicle to be towed. However, they should not be required to wear their certificates while: <ul style="list-style-type: none"> <li>- driving or being a passenger in the tow truck</li> <li>- salvaging a vehicle or its load</li> <li>- preparing the vehicle and/or load for towing</li> <li>- cleaning up the scene of an accident.</li> </ul>	Supported	The introduction of an assistant's certificate and requirements is subject to further consideration as per 32 above.
65.	A certified tow truck driver or assistant operating a tow truck, assisting with a towing job, or being a passenger in a tow truck, must if requested present his or her certificate to an authorised officer, police officer, or to the owner or an agent for the owner of the vehicle being towed.	Supported	The introduction of an assistant's certificate and requirements is subject to further consideration as per 32 above.
66.	A non-certified passenger operating a tow truck, assisting with a towing job, or being a passenger	N/A	As per 35 above.



	Recommendation	Response	Comments
	in a tow truck, must if requested present valid photo identification (eg, driver licence) to an authorised officer, police officer, or to the owner or an agent for the owner of the vehicle being towed.		
67.	The requirement that operators keep a photocopy of their operator's licence in each of their tow trucks should be removed.	Not supported	This requirement should remain as it is a way to determine if the licence is current and that the tow truck appears on the licence, particularly for Police as they don't have access to current information.
68.	The requirements in the Regulation that tow trucks must carry a broom, a shovel and a durable rubbish container should be removed. It should remain a requirement under the Act that tow truck drivers clean up and remove debris from accident scenes.	Not supported	Past history indicates that when specific equipment is not required, clean ups did not occur properly leaving debris on the road and causing safety hazards and the potential for another accident to occur.
69.	The Regulations should be amended 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 reasonable attempts have been made to notify the owner or an agent for the owner of the operator's intention to dispose of the vehicle.	Noted	Further investigation is required to ensure that this change would not be in conflict with other NSW legislation that deals with the disposal of goods, for example the <i>Storage Liens Act 1935</i> .
70.	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: <ul style="list-style-type: none"> <li>- the vehicle has been held in storage by the operator for at least 14 days, and</li> <li>- the accrued storage fees have not been paid, and</li> <li>- the owner or an agent for the owner has not contacted the operator to arrange for</li> </ul>	Supported	

	Recommendation	Response	Comments
	delivery of the vehicle or for continued storage of the vehicle.		
71.	<p>The Regulation should also clearly specify:</p> <ul style="list-style-type: none"> <li>- the minimum effort required by the operator in attempting to notify the relevant persons of the operator's intention to dispose of the vehicle</li> <li>- the ways by which the vehicle can be lawfully disposed of</li> <li>- how the balance of the proceeds of sale of the vehicle (or its parts) should be dealt with</li> <li>- how an operator can establish the value of an unclaimed vehicle</li> <li>- any other relevant matters.</li> </ul>	Supported	
72.	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, and sets out the options available to operators to try to recover monies they are owed.	Supported	
73.	Tow truck operators should be provided with an auxiliary licence plate for each licenced tow truck, to be attached to the vehicle being towed if the rear licence plate on the tow truck is obscured. Auxiliary tow truck plates should be of a different colour to the normal tow truck plates, so they can easily be differentiated.	Supported	
74.	The tow truck driver training program should continue to be voluntary.	Supported in-principle	The tow truck driver training program is aimed at improving services, standards and safety for the public and the tow truck industry.

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			Roads and Maritime is continuing to engage with industry about the benefits of the tow truck driver training program, particularly to new entrants to the towing industry, to drive take up as much as possible. Positive feedback has been received from a number of tow truck drivers who have recently undertaken the training program.
75.	The current 'Approved summary of the Act and Regulation' should be replaced by: <ul style="list-style-type: none"> <li>- a plain English document that explains the obligations on tow truck operators, and</li> <li>- a plain English document that explains the obligations on those employed by a towing business, including certified tow truck drivers and assistants, and other employees involved with towing work.</li> </ul>	Supported	
76.	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.	Supported	
77.	The licence fees applicable for a combined operator's licence and driver's certificate should take into account the savings to RMS from avoided duplication of processing and administration work.	Supported	
78.	When combined, the term of the applicant's driver's certificate should be aligned with the term of the applicant's operator's licence.	Supported	
79.	Provisional tow truck driver certificates and assistant certificates should be available prior to the completion of national and overseas criminal	Not supported	There would be legal ramifications if certificates are granted and then have to be revoked, and additional costs incurred to undertake activity by RMS staff.

	Recommendation	Response	Comments
	<p>records checks where:</p> <ul style="list-style-type: none"> <li>- the applicant signs a statutory declaration to the effect that he or she has not been convicted or found guilty of any relevant offence in Australia or overseas</li> <li>- RMS is able to verify that the applicant has no record of being convicted or found guilty of a relevant offence in the Computerised Operational Policing System (COPS) maintained by NSW Police</li> <li>- the applicant meets all other requirements for certification.</li> </ul>		
80.	RMS should make a decision on whether to grant a full or provisional certificate, or to decline the application, within 10 working days after receiving an application for a certificate.	Not supported	Application processing timeframes are dependent on volume, whether additional information needs to be obtained from the applicant, and current staffing levels. Provisional certificates are not supported as per 79 above.
81.	<p>A provisional certificate should be valid until the earliest of:</p> <ul style="list-style-type: none"> <li>- such time as RMS has sufficient information to make a decision about whether to grant a full certificate</li> <li>- six months after the provisional certificate was issued.</li> </ul>	N/A	As per 79 above.
82.	If RMS has not made a decision about whether to grant a full certificate before the expiry of the provisional certificate, the applicant could apply to renew the provisional certificate for a second term.	N/A	As per 79 above.
83.	If RMS decides to grant a full certificate, the full certificate should be valid for 12 months after the date on which the first provisional certificate was	N/A	As per 79 above.

	Recommendation	Response	Comments
	issued.		
84.	Applicants for tow truck driver certificates or towing assistant certificates should not be required to nominate an employer in their application.	Not supported	It is currently an offence for an employer to engage an uncertified driver and penalties apply. RMS needs to be able to identify and notify the employer if the driver's certificate or licence is cancelled or suspended so that they can take the necessary action and not risk committing an offence.
85.	Tow truck operators should be required to inform RMS also of any non-certified persons that are engaged to assist with towing services.	N/A	As per 35 above.
86.	Operators, drivers and assistants should be able to renew their licences and certificates 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 (Recommendation 93).	Not supported	RMS considers that evidence of insurances, registration papers, criminal checks etc should remain part of the renewal process. A criminal record or "incidents" are grounds for mandatory refusal.
87.	Tow truck operators, drivers and assistants should be able to apply for, renew and manage their licences and certificates online, including: <ul style="list-style-type: none"> <li>- making payments for licensing fees</li> <li>- updating details relevant to the licences/certificates</li> <li>- submitting electronic copies of documents required in relation to the licences/certificates</li> <li>- ordering replacement licences/certificates.</li> </ul>	Supported in principle	Further consultation with industry is required to canvass their views and discuss potential benefits and costs.
88.	If a certified tow truck driver or assistant has his or her driver licence temporarily suspended, the driver's certificate or assistant's certificate should not be revoked unless the driver/assistant also	Not supported	If a tow truck driver no longer holds a driver licence they are unable to legally drive and must also hand in their driver's certificate to RMS. If the certificate is not revoked, there is the potential for drivers to continue driving and undertake towing work unlicensed.

	<b>Recommendation</b>	<b>Response</b>	<b>Comments</b>
	does no longer meet the other requirements to hold the certificate.		<p>Once the driver regains their driver licence, they must re-apply for their driver's certificate and this triggers criminal history and fit and proper checks and legal grounds for refusal.</p> <p>This is an important consumer protection and road safety mechanism.</p> <p>The introduction of an assistant's certificate and requirements is subject to further consideration as per 32 above.</p>
89.	If a certified tow truck driver or assistant has his or her driver licence temporarily suspended, restrictions should be placed on the certificate to not allow the driver/assistant to drive a tow truck. But he or she should still be permitted to travel as a passenger in a tow truck, attend accident scenes and assist with towing jobs.	N/A	As per 32 and 88 above.
90.	When the driver licence suspension period ends, and if the person still meets all the requirements for the tow truck driver's certificate or assistant's certificate, the restrictions on the certificate should automatically be lifted, rather than requiring the person to re-apply for his/her certificate.	N/A	As per 32 and 88 above.
91.	RMS should 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 notifications should also include information on how the changes might affect tow truck operators, drivers and assistants.	Supported	
92.	RMS should publish news and updates regarding its compliance and enforcement activities on its website. This should include warnings and alerts	Supported in part	The concept of publishing news, updates and information on the RMS website is supported.

	Recommendation	Response	Comments
	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).		
93.	RMS should ensure 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: <ul style="list-style-type: none"> <li>- a photocopy of their driver's licence</li> <li>- two passport photos of themselves.</li> </ul>	Noted	This would require significant system and process changes. Further consultation with industry is required to canvass their views and discuss potential benefits and costs.
94.	Tow truck industry participants and stakeholders should be able to submit complaints and enquiries online, via a web-form.	Supported	
95.	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.	Supported	
96.	RMS should formalise a Memorandum of Understanding with NSW Police for mutual information sharing arrangements that can aid in more effective and efficient enforcement of tow truck industry regulation. This should include NSW Police automatically notifying RMS of relevant information held about persons employed in the tow truck industry.	Supported	
97.	A combined review of both the Tow Truck Industry Act and the Tow Truck Industry Regulation should	Supported	Transport for NSW will commence a review of the Act and

	Recommendation	Response	Comments
	<p>be carried out as soon as practicable. The aims of this review should include:</p> <ul style="list-style-type: none"> <li>- implementing IPART's recommendations</li> <li>- adopting relevant aspects of the Licensing and Registration (Uniform Procedures) Act 2002</li> <li>- simplifying and clarifying the legislation.</li> </ul>		<p>Regulation in 2015/16.</p> <p>As part of the review process, Transport for NSW will take into account the relevant principles of the Licensing and Registration (Uniform Procedures) Act 2002 and the IPART Licensing Framework and Licensing Guide.</p> <p>The review will also consider opportunities to simplify and clarify the legislation where possible.</p> <p>Significant stakeholder consultation will be required in regards to any proposed changes to the Act and supporting Regulation.</p>
98.	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.	Supported	Transport for NSW will review the Act and Regulation, as appropriate, as part of the normal statutory review process and timeframes for regulatory instruments.
99.	RMS should amend the fees for operator licences, tow truck plates, driver certificates and towing authorisations to the levels shown in Table 8.1.	Noted	RMS will review and amend fees from time to time.
100.	Fees for towing assistant certificates should be discounted by 50% relative to the fees for tow truck driver certificates, as shown in Table 8.1.	Noted	Introduction of assistant's certificate and requirements subject to further consideration as per 32 above.
101.	RMS should levy an additional fee of \$30 (ex-GST) for incomplete applications and renewals	Supported	
102.	The licence fee for an initial provisional certificate should be the same as the fee for a 1-year duration of the certificate being applied for, as shown in Table 8.1.	N/A	As per 79 above.
103.	If RMS has not made a decision on whether to grant a full certificate by the time the initial provisional certificate expires, and if the applicant chooses to apply to renew the provisional	N/A	As per 79 above.



	Recommendation	Response	Comments
	certificate for another six months, the renewal fee should be \$30, as shown in Table 8.1.		
104.	If RMS decides to grant a full certificate within 12 months of issuing the initial provisional certificate, the fee for converting to a full certificate should be \$30, as shown in Table 8.1.	N/A	As per 79 above.
105.	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.	Supported	
106.	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.	Supported	Licensing and maximum towing fees are already adjusted annually on 1 July, in line with movements in the Consumer Price Index (Sydney). This is consistent with price adjustments for other transport related fees, such as driver licence fees, Authorised Inspection Station fees, Driving instructors licence fees etc.
107.	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.	Supported	Reviewing fees every five years is an appropriate approach.