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REVIEW OF ACCIDENT TOWING AND STORAGE FEES

FINAL REPORT

VOLUME 2 – DETAILED REASONS AND
METHODOLOGY

JUNE 2010

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ACRONYMS

AAS	Accident Allocation Scheme
ABS	Australian Bureau of Statistics
Act	<i>Accident Towing Services Act 2007</i>
Commission	Essential Services Commission (Victoria)
CPI	Consumer Price Index
CTP	Compulsory third party
DOT	Department of Transport
ESC Act	<i>Essential Services Commission Act 2001</i>
GST	Goods and Services Tax
IMA	Insurance Manufacturers of Australia
IAL	Insurance Australia Limited
LGA	Local Government Area
Minister	Minister for Roads and Ports
PwC	PricewaterhouseCoopers
RACV	Royal Automobile Club of Victoria
RTA	Road Traffic Authority (New South Wales)
Regulations	<i>Accident Towing Services Regulations 2008</i>
VACC	Victorian Automobile Chamber of Commerce
VCAT	Victorian Civil and Administrative Tribunal
VTTD	Victorian Taxi and Tow Truck Directorate

GLOSSARY

Accident Allocation Scheme	A roster based system for allocating accident towing jobs between tow truck licence holders within designated zones. Under the Accident Allocation Scheme, an accident is allocated to the licensee that has received the least number of allocations in that particular month within that particular zone.
Accident towing	The towing and storage of damaged or disabled motor vehicles from road accident scenes. Accident towing is a regulated service in Victoria.
Allocation	A right provided to a tow truck operator through the Accident Allocation Scheme to provide accident towing services at a particular accident scene within the Controlled Area. Tow truck drivers may only attend an accident scene in the Controlled Area after receiving an allocation through the Accident Allocation Scheme.
Clearway towing	Towing of vehicles illegally parked in designated clearway zones during specified times, under contract with the responsible authority. Clearway towing is not a regulated service in Victoria.
Controlled Area	The area consisting of the Melbourne metropolitan area and the Mornington Peninsula where the Accident Allocation Scheme is in operation.
Consumer Price Index (all groups)	A price index that is used to measure changes in the overall price level in Australia, by using the price of a representative basket of final goods and services.
Consumer Price Index (transport)	A price index that is used to measure changes in the overall price level in the Australian transport sector, by using the price of a representative basket of final goods and services relating to transport.

Debris removal	The removal of any glass or debris caused by a road accident. Under the <i>Accident Towing Services Regulations 2008</i> , tow truck operators are required to perform this function at a road accident scene.
Depot	A premises from which tow trucks are operated in the course of an accident towing service business. In metropolitan Melbourne, each depot is located in a designated zone within the Controlled Area. A single depot may be shared by multiple accident towing service businesses.
Dormant licence	A tow truck licence that is held by a tow truck operator but not assigned to a specific tow truck. A dormant licence still allows the tow truck operator to receive allocations through the Accident Allocation Scheme.
Driver	A person that drives a tow truck to accident scenes and performs an accident tow. Under the <i>Accident Towing Services Act 2007</i> , a driver must obtain an accident tow truck driver accreditation from VicRoads.
Economies of scale	Refers to decreases in per unit cost that result from increases in the scale of production.
Economies of scope	Exists when it is less expensive or more efficient to produce two products together than it would be to produce each one separately.
Geelong Accident Allocation Area	An area of Geelong and surrounding districts where a self-managed scheme, approved by VicRoads, is in operation. Tow truck drivers may only attend an accident scene in the Geelong Accident Allocation Area after receiving an allocation through the self-managed scheme.
Non-commercial tow	Refers to an accident where an operator is required to provide a tow despite there being little chance of being paid in full.
Operator	A person that owns or oversees the operation of a tow truck business. Under the <i>Accident Towing Services Act 2007</i> , an operator must obtain an accident tow truck operator accreditation from VicRoads.
Salvage	Services performed by a tow truck driver to move a damaged vehicle from its original

position following a road accident to one from which it may be safely towed. Salvage includes the recovery of vehicles away from the immediate road area and may involve the use of additional tow trucks or equipment.

Storage

Occurs in the event the damaged vehicle is transported to the tow truck operator's depot and stored in a secure location to await repair or towing to another location.

Trade towing

General towing and storage services that are not the immediate result of a road accident, include towing jobs between depots. Trade towing is not a regulated service in Victoria.

Typical tow

A towing job that includes 15 kilometres of towing, three days of undercover car storage and a 54 per cent chance of occurring outside of business hours. These assumptions were adopted from the results of a survey of tow truck operators.

1 INTRODUCTION

1.1 Background and context

Accident towing services arise when a damaged vehicle is towed from an accident scene by a tow truck. Damaged vehicles are then generally towed to the tow truck operator's depot and stored in a secure location to await repair or towing to another location. Accident towing and storage is a regulated service in Victoria. Under the *Accident Towing Services Act 2007 (Vic)* (the Act), a tow truck operator must be licensed by VicRoads (the industry regulator) and may not appear at an accident scene unless called upon by a designated allocation centre.

Accident towing and storage services are regulated to ensure that services are provided in a safe and timely manner, and so the impact on other vehicles is minimised. It also ensures that motorists involved in an accident do not pay excessive fees given the difficulties of negotiating a fee with multiple towing operators immediately after an accident. In addition, it minimises the possibility of intimidation and potential violence between tow truck drivers and motorists, a common problem prior to regulation.

The fees for accident towing and storage are determined by the Minister for Roads and Ports (the Minister). The Minister is required to direct the Essential Services Commission (the Commission) to undertake a review of the appropriate fee level and any other directives, before making any changes to fees.

1.2 Terms of reference for the review

The Commission received terms of reference in late 2009 from the Minister for Roads and Ports, the Hon. Tim Pallas MP for a review of accident towing and storage fees. The terms of reference required the Commission to report on:

- the appropriateness of the level of each component within the current regulated fee structure
- whether the components should be varied and the magnitude of such variations
- a potential process for dealing with future fee variations including timing of future reviews
- whether the charges for clearing a road accident scene should be regulated
- towing jobs for which a tow operator is not paid and
- whether the boundaries for the accident allocation zones are still applicable given the recent urban fringe growth of Melbourne and where the boundaries should be.

In doing so, the Commission is required to have regard to:

- the impact on Victorian business and the community, including the impact of any proposed variations to consumers
- the impact on the tow truck industry state-wide, including all stakeholders
- the benefits of the timely clearance of accident scenes

- previous Commission reports on towing and
- other State and Territory approaches to charging for accident towing services.

1.3 Previous Commission reviews

This is the third review to be undertaken by the Commission on accident towing and storage fees. The previous two reviews occurred in 2003 and 2005.

The 2003 review led to a 6.6 per cent increase in regulated fees.

In its 2005 review, the Commission recommended that:

- base towing fees, distance rates and storage fees should be increased in line with the annual rate of change in the consumer price index (CPI) in 2006-07 and 2007-08
- the Department of Transport (the Department) should collect an enhanced set of data on the accident towing industry
- the Department should request the Commission to undertake a comprehensive analysis of towing industry cost structures and fees by 30 June 2008 and
- the period over which the after hours surcharge applies should be extended to cover the period from 5pm to 8am on Monday to Friday, 5pm Friday to 8am Monday and midnight to midnight on public holidays.

The Minister implemented the final recommendation only, namely an extension of the after hours surcharge period.

1.4 The process for this review

The terms of reference require that the Commission undertake this review in accordance with the process set out in section 187 of the *Transport Act 1983*. This provides for the Commission to conduct its review in any manner it considers appropriate, including consulting with any person that it considers appropriate, holding workshops and receiving written submissions.

The Commission released an issues paper in October 2009, which identified the matters that it would review and sought input from interested stakeholders. It also invited all accident towing operators in the Controlled Area to respond to a survey regarding costs and revenue and held a workshop with the industry representative (the Victorian Automobile Chamber of Commerce - VACC) and tow truck operators. Seven submissions were received in response to the issues paper.

A draft report was released in March 2010. This report contained the Commission's preliminary assessment of accident towing and storage fees including draft recommendations. Further feedback was invited from stakeholders. Five submissions were received in response to the draft report, and the Commission also met with the VACC and insurers to discuss the draft report and their responses.

This report contains the Commission's final recommendations on accident towing and storage fees. Following the receipt of this report, the Minister will consider the recommendations and decide whether they should be adopted.

1.5 Structure of the final report

The Commission's report on the Victorian accident towing and storage industry is set out in two volumes:

- Volume I sets out the Commission's findings and recommendations for each of the matters requested by the Minister and
- This Volume (Volume II) provides the detailed reasons and methodology behind the Commission's final recommendations and discusses responses received from stakeholders to the issues paper and draft report.

For more information about this report, please contact Mr Dominic L'Huillier – Senior Regulatory Manager — Transport and Industry Sectors Branch on (03) 9651 3782.

2.1 Rationale for regulation

The objective of accident towing regulation in Victoria is to promote the safe, efficient and timely provision of accident towing and storage services. Prior to regulation, it was typical for multiple tow truck drivers to arrive at an accident scene and compete for a towing job. This often delayed the time it would take to remove the damaged vehicle from the road causing additional congestion for other motorists.¹

Towing businesses are granted a monopoly entitlement to attend an accident scene within the Controlled Area. The Controlled Area consists of the Melbourne metropolitan region and the Mornington Peninsula. Tow trucks in this area are allowed to attend an accident scene to remove damaged vehicles with a gross vehicle mass of less than four tonnes after receiving the job from the Accident Allocation Centre, which is operated by the Royal Automobile Club of Victoria (RACV) under contract from VicRoads.

The allocation system is designed to allocate the job to the depot in the immediate region that has the least number of allocations in the given month. This effectively attempts to distribute the number of accident towing jobs relative to the number of licences.

In the absence of regulated fees, monopoly entitlement of accident tow jobs would most likely result in excessive prices. The following points support the need for regulation in the accident towing industry:

- motorists that are involved in an accident could be under significant stress and anxiety or possibly severely injured
- tow truck businesses possess a significant information advantage over motorists regarding what a competitive price would be
- motorists are generally involved in a small number of accidents throughout their lifetime. As a result, tow truck businesses have little incentive to offer low cost, quality service in the hope of obtaining repeat business and
- the moral hazard² associated with vehicle owners that have comprehensive vehicle insurance provides them little incentive to negotiate with tow truck drivers for the lowest fees because they are not directly paying for the service.

¹ There are social and environmental costs associated with increased traffic congestion. For example, the Bureau of Infrastructure, Transport and Regional Economics (BITRE) has estimated the economic cost of traffic congestion in Melbourne at \$3 billion per annum, while the Victorian Competition and Efficiency Commission (VCEC), in 2007, estimated between \$1.3 and \$2.6 billion.

² An economic term that means the lack of any incentive to guard against a risk when you are protected against it (say by insurance).

Regulation within the accident towing industry is more likely to lead to prices equalling the cost of accident towing service provision in an environment where consumers' ability to negotiate is substantially curtailed.

2.2 Price regulation

There are two competing objectives of price regulation namely to:

- ensure that businesses generate sufficient revenue to recover the costs incurred in providing the service in order to maintain their viability into the future and
- provide adequate incentives for businesses to improve efficiency, which can then be shared with consumers through reduced prices.

The first objective is important for the Government's policy of ensuring that towing businesses can respond to accident allocations within 30 minutes. Insufficient revenue could result in towing businesses leaving the market and so reducing the market's capacity to maintain an adequate response time.

The second objective is an important element to cost minimisation, which can result in lower prices for consumers. In other regulated industries, this is often achieved through some prescribed productivity adjustment.

The Commission is familiar with determining efficient prices through its role as price regulator in other industries including water, insurance, taxi fares and previously gas and electricity distribution.

2.3 History of changes to regulated accident towing and storage fees

When regulated accident towing fees were first introduced in 1982, they were set at \$63.50 plus \$1.00 for each kilometre beyond eight kilometres. By 1989 the fees had been increased to \$84.00 and \$1.35 per kilometre.

Fees were increased again in 1991, 1992 and 1997. Fees were increased twice in 2000, once in July to account for the introduction of the GST and again in December following the release of a regulatory impact statement by the Department of Infrastructure. The second of these increases was intended to restore the real value of the fees to the level set in 1982. At that time, an after hours surcharge of \$54.00 was introduced for all tows allocated between 7pm and 7am.

In 2003, fees were increased by 6.6 per cent. Fees have not been adjusted since then, although the period over which the after hours surcharge applies was extended in 2005, to include the period from 5pm to 8am on Monday to Friday, 5pm Friday to 8am Monday and midnight to midnight on public holidays. This change resulted in an estimated 7.5 per cent increase in industry revenue.

A summary of previous accident towing fees is contained in the table below.

Table 2.1 History of regulated accident towing fees

	<i>Base fee^a</i>	<i>Additional per kilometre charge</i>	<i>After hours surcharge</i>
1982	63.50	1.00	-
1989 ^b	84.00	1.35	-
1991	93.00	1.50	-
1992	95.00	1.55	-
1997	100.00	1.60	-
2000 (July)	109.45	1.70	-
2000 (Dec)	158.00	2.50	54.00
2003	168.45	2.65	57.55

Notes: ^a Base fee includes first 8 km of travel by tow truck. ^b Data on fee levels between 1983 and 1988 are not available. All fees GST inclusive.

2.4 Current regulated fees and charges

The current regulated accident towing and storage fees are outlined in the table 2.2 below.

Table 2.2 Regulated fees and charges as at 1 January 2009^a

<i>Fee or charge</i>	<i>\$</i>
Towing fees	
Base fee (including first 8km travel by tow truck)	168.45
Additional per kilometer charge beyond 8km	2.65
After hours surcharge	
- 5pm to 8am Monday to Friday	
- 5pm Friday to 8am Monday	
- Midnight to midnight on public holidays	57.55
Storage fees (charge per day)	
Car - under cover	12.90
Car - in locked yard	8.60
Motorcycle - under cover	4.35
Motorcycle - in locked yard	2.80

Notes: ^a Fees and charges include GST. Source: VicRoads

2.5 Structure of the industry

Accident towing businesses are structured in a number of ways and there is no typical business or business arrangement in the Victorian accident towing industry. However business arrangements usually comprise three participants: depots, operators and drivers.

Depots

Towing businesses operate out of depots. In metropolitan Melbourne, each depot is located in a designated zone in the Controlled Area. A recent trend appears to be for a number of businesses to aggregate their operations in a single depot, thereby sharing costs such as rent and other overheads.

In other situations, a single business may operate out of more than one depot, depending on the geographic restrictions on the licences it owns.

Operators and drivers

An individual business may consist of an operator (that oversees and/or owns the business) and a driver or number of drivers that hold the necessary licence to drive a tow truck (a driver accreditation). A business may also employ a depot manager, depending on its individual characteristics. A larger business that also performs other functions might have both an operator and depot manager. In other cases, the operator may also be the depot manager or a group of businesses operating out of a single depot may employ a depot manager.

There is no formal mechanism by which data or information about the characteristics of businesses holding accident towing licences is collected. This includes information about costs and revenues, as well as matters such as the degree of integration with other services or industries. The Commission also identified this shortcoming in its previous reviews.

2.5.1 Allocation scheme

Accidents that occur within the Controlled Area are allocated to particular towing businesses through a centralised accident allocation scheme. This scheme is designed to ensure that tow truck operators are likely to arrive at the accident scene within 30 minutes of being allocated a towing job. Tow truck operators that are licensed to operate in other areas of Victoria may attend an accident outside the Controlled Area or self-management area without an allocation. The fees that tow truck operators can charge are regulated inside the Controlled Area, but not in the self managed area.

2.5.2 Diversity within the Controlled Area

Estimating a single towing and storage fee for such a geographically diverse service area is challenging. While mostly urban, the Controlled Area has varying degrees of population density and daily traffic levels.

Likely implications of this diversity include:

- probable differences in cost structures and individual cost items, such as rent
- disparity in the predictability of accidents. For example, businesses located near the CBD will recognise the relatively high traffic levels during peak periods and therefore schedule other towing work accordingly. Businesses located in rural

service areas with less predictable traffic flows may have less flexibility in this regard. These factors could influence the extent of idle capacity within an accident towing business.

- accident towing businesses located in more densely populated areas will receive allocations in a relatively narrow geographic region in order to ensure that the 30 minute response time is achieved and
- businesses in less densely populated areas are likely to have fewer competitors for accident towing and related services such as trade towing and smash repair.

These factors indicate likely differences in the business structures among accident towing businesses in terms of truck utilisation and the ratio of licences to trucks. A single fee should be viewed as an average within the Controlled Area that will under-recover the costs for some operators and over-recover for others.

2.5.3 Administration of accident towing licences

Accident towing licences enable businesses to generate revenue from providing accident towing and storage services. The licences are administered by VicRoads. Providing a uniform response time of 30 minutes or less across the Controlled Area is one of the primary objectives of the licensing scheme. While the transfer of licences is permitted, VicRoads may prevent this if it is expected to have a negative impact on the response time in any particular allocation zone.

VicRoads staff analyse the allocation statistics across the Controlled Area to ensure that each licence holder can be allocated approximately the same number of accidents. This can result in ad hoc changes to the zones within the Controlled Area. It may also mean that licence holders cannot automatically transfer, aggregate or move licences across the zones in the Controlled Area in response to changing traffic conditions or simply to improve efficiency. Rather, they must seek permission from VicRoads.

VicRoads does not mandate that each licence has its own tow truck associated with it. In practice, businesses are able to create efficiency gains by increasing the number of licences per truck. In doing so, businesses can increase their annual allocation of accidents per truck and so increase revenue, while operating costs remain virtually fixed. VicRoads statistics indicate that the ratio of licences to trucks within the Controlled Area ranges from 4:1 to 1:1, with an average ratio of 1.9:1.

2.5.4 Links between accident towing and other industries

There is a link between accident towing and other services, such as trade towing, heavy vehicle accident towing and smash repair. The same tow trucks that are used for accident towing may be used for trade towing, which was deregulated in 2007 and is flexible in terms of scheduling.

Integration with other services is common in the Victorian accident towing industry. VicRoads and the Victorian Automobile Chamber of Commerce (VACC) suggests that standalone accident towing businesses are increasingly rare.

Arrangements differ across the accident towing industry, ranging from common ownership through to implied or informal agreements. An individual business may concentrate solely on towing and salvage activities. Others may perform accident and trade towing, in addition to smash repair. Other arrangements might involve

commissions or other payments to the accident towing business by a smash repair business to which a damaged vehicle is towed.

Integration can improve the efficiency of a business or number of businesses by generating economies of scope or facilitating cost sharing. The ability to share costs such as rent, tow truck purchase, maintenance and repairs, cleaning, insurance and other overheads such as office and administration costs reduces the per-unit cost of each accident towing business and can improve overall efficiency.

In addition, synergies between towing activities can allow businesses to employ their resources more efficiently. For example, scheduling and dispatch systems can allow towing businesses to conduct trade towing work – which is not usually time-critical and can be scheduled to suit business capacity – around accident towing work. That is, businesses may perform trade towing work, which may use the same trucks and staff, during ‘down time’ in accident or other towing work and thereby minimise any under-utilisation of resources (trucks and drivers).³

2.5.5 Accident towing and smash repairs

Accident towing can also perform what are described as a ‘marketing function’ for trade towing and smash repair businesses. Historically, this has provided a strong incentive for related businesses, particularly smash repairers, to undertake accident towing or to make arrangements with accident towing businesses. The tow truck driver is often the first point of contact after an accident. While the Act prohibits tow truck drivers from touting for repair work at an accident scene, drivers are not prevented from providing advice or information, or responding to queries.

Estimates of the extent of integration between accident towing and smash repairs and how it has changed over time vary. However, it is likely that between 30 and 45 per cent of the accident towing licences are currently held by businesses that also provide smash repair or panel beating services.⁴ This estimate may however understate the relationship between the two industries as formal or informal affiliations may exist between the remaining accident towing companies and smash repairers.

2.5.6 Accident towing and insurance

Recent developments in the smash repair industry, including growing market concentration under a common brand or chain, and the current practices of insurance providers have reduced the likelihood of smash repair work being secured through accident towing. Insurance providers account for up to 75 per cent of smash repair industry revenue.⁵ In circumstances where preferred repairer schemes exist, there may be a lesser incentive for accident towing businesses to integrate with smash repairers.

³ Some degree of vehicle under-utilisation or ‘down time’ will necessarily occur by virtue of accident towing operators being obliged to maintain the ability to respond to an accident in 30 minutes.

⁴ Based on a review of publicly available accident allocation data on VicRoads’ website.

⁵ IBISWorld, *Industry Report:G5323 Smash Repairing in Australia*, 2008.

Around 30 per cent or more of smash repair work is not purchased by motor vehicle insurance companies. As a result, smash repairers may retain a certain proportion of the smash repair work associated with accidents for which they provide accident towing services on the basis that they are a member of the relevant insurer's preferred repairer network.

In this respect, integration with an accident towing business could provide a competitive advantage to that repairer as against other preferred repairers in the area. They may also have a small cost advantage, as a secondary tow may not be required if they perform the smash repair work. The Commission's 2005 Final Report suggested that the proportion of accident towing jobs that a business retains for repair work ranged from 14 to 20 per cent.

In determining the appropriateness of the current fees, it is important to review the adequacy of revenue generated through regulated fees relative to the cost of providing the regulated service. A related issue is how common costs may be allocated between regulated accident towing services and other competitive or unregulated services such as trade towing or smash repairs.

3.1 The Commission's approach to estimating costs and revenues

It is difficult to obtain reliable estimates of the costs and revenues associated with the various components of accident towing. This is because:

- there is a large number of tow truck operators in Victoria and
- there are currently no requirements for towing businesses to report cost and revenue information and to maintain separate accounting records for their regulated accident towing and storage services from other competitive services such as trade towing and smash repair.

As a result, the Commission has relied on a number of different sources of information to form a view about the costs and revenues that a typical tow truck operator might be expected to face in providing accident towing and storage services. Specifically, it has had regard to:

- the information presented in the Commission's previous reviews of tow truck fees (undertaken in 2003 and 2005 respectively)
- information obtained directly from a survey distributed to all accident towing licensees relating to costs and revenue
- verification of survey results and key cost items undertaken by an independent consultant PricewaterhouseCoopers
- submissions and other information provided in response to this review by stakeholders including a workshop with tow truck operators and the industry representative (the VACC) and
- other relevant benchmarks of costs, revenues and prices for both the Victorian competitive markets for trade towing and clearway towing as well as prices for accident towing and storage services in other Australian States.

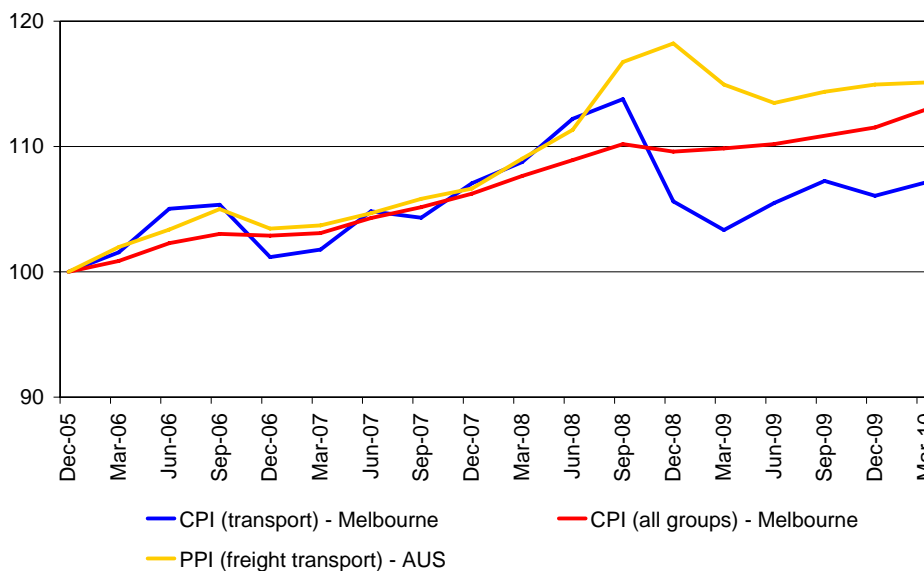
3.2 General cost observations

An analysis of various Australian Bureau of Statistics (ABS) price indices indicates that costs within the transport industry are likely to have increased since the Commission's last review in 2005.

The chart below sets out the following relevant ABS indices from December 2005 to March 2010:

- the Consumer Price Index (Transport) Melbourne — 7.12 per cent
- the Consumer Price Index (All Groups) Melbourne — 12.94 per cent⁶
- the Producer Price Index (Freight Transport) Australia —15.11 per cent.

Figure 3.1 Movement in common indices from December 2005



All of the indices reported above indicate a trend in rising prices, albeit with some volatility. They also reflect the impact of the commodity boom and the global financial crisis.

This chart suggests that accident towing businesses have most likely experienced increasing costs since the last accident towing fee adjustment. This observation is broadly consistent with the opinions of industry stakeholders such as the VACC and accident towing businesses that have identified certain cost pressures, in particular increased motor fuel and labour costs.⁷

⁶ One stakeholder submitted CPI has increased 18.9 per cent from December 2005 to December 2009, however, this is incorrect.

⁷ VACC, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (p.1), October 2009; All 1 Towing Services Pty Ltd, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (p.2), November 2009.

3.3 General revenue observations

Accident towing businesses generate revenue primarily from three sources:

- regulated fees including the base fee, towing distances beyond eight kilometres, storage, and the after hours surcharge
- charging for additional services at the accident site such as salvage and/or the clearing of debris and
- other non-regulated services such as smash repair or trade and clearway towing.

These sources of revenue are discussed in detail below.

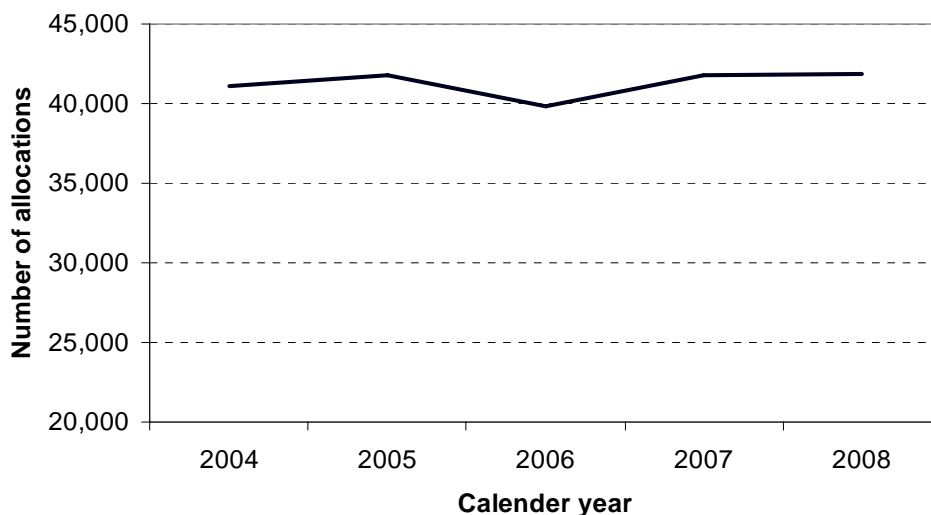
3.4 Revenue generated through regulated services

Revenue generated by accident towing businesses is driven mainly by the regulated fees set by the Minister and the number of accidents each licence holder is allocated. Historically, regulated fees have been adjusted by the Minister infrequently. As a consequence, regulated fees have fallen in real terms between determinations.

The last determination by the Minister was in January 2006.⁸ No change was made to regulated fees at that time, although the period over which the after hours surcharge applies was extended, resulting in a real increase in revenues. Regulated fees have remained unchanged since then.

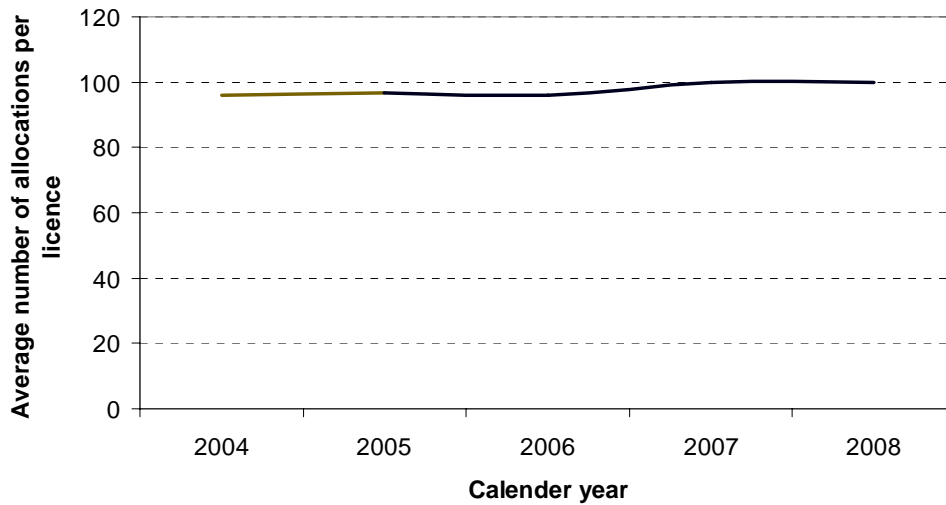
The total number of accidents allocated per year through the accident allocation scheme has remained virtually the same in recent years, fluctuating around 41 000 (see Figure 3.2).

Figure 3.2 Number of accident allocations per year under Accident Allocation Scheme



⁸ Victorian Government Gazette, No. S 23, January 2006.

Figure 3.3 Number of accident allocations per year



Similarly, the annual number of allocations per licence has remained constant since the Minister's last determination (approximately 100) (see Figure 3.3).

Constant allocations and falling real fees suggest that the revenue generated through regulated services is likely to have fallen in real terms since the Minister's last determination in 2006. To some extent, this fall in the real value of regulated fee revenue is likely to have been offset by productivity gains in the sector.

3.4.1 Revenue generated through additional services

Accident towing businesses are typically affiliated, either through co-ownership or other arrangements, with trade (and possibly clearway) towing businesses and/or smash repair shops. This allows accident towing businesses to use spare tow truck capacity when they are not being used for accident towing jobs and generate additional sources of revenue.

Consultation with stakeholders indicated that many accident towing businesses also perform trade towing work. The Commission's analysis suggests that approximately 30 per cent of businesses also provide smash repair services.⁹

It is also estimated that Victoria's motor vehicle insurers account for up to 75 per cent of smash repair revenue.¹⁰ Insurers have increasingly designated preferred smash repair locations and dictated the method of the repair. This has mostly ended the historical practice of accident towing businesses retaining the damaged vehicle and performing smash repair work. Insurers and accident towing businesses disagree on the extent that this threatens industry viability. However, it is generally accepted that revenues generated by towing businesses performing smash repair services have declined.

⁹ Based on publicly available information for accident towing businesses.

¹⁰ IBISWorld, *Industry Report: G5323 Smash Repairing in Australia* (p.6), 2009.

Deregulation of trade towing in Victoria came into effect on 1 January 2009 with the introduction of the *Accident Towing Services Act 2007*. This removed several regulatory obligations and barriers to entry into the industry. Accident towing businesses as well as the VACC have claimed that the volume of trade towing services has declined since deregulation; however the full extent of this is not well reported.¹¹

3.5 General observations regarding industry profitability and viability

Increasing costs and declining (or constant) revenues would typically suggest diminishing profitability. If this were the case, we would expect to see businesses exiting the market, decreasing licence values and/or deteriorating industry performance in terms of quality and/or response time.

3.5.1 Market exit

In a competitive market, businesses that are unable to generate sufficient revenue to cover their costs of providing goods or services will exit a market (assuming they have few sunk costs).

The Commission has found little evidence of substantial sunk costs or other factors that would prevent accident towing businesses from exiting the market due to revenue shortfalls. Compared with many other industries a relatively small investment in capital and training is required to operate a business providing towing services. For example tow trucks range in price from over \$100 000 for new vehicle to \$25 000 to \$50 000 for a second-hand vehicle. Towing operators that exit the industry could still potentially use their tow truck to provide trade and clearway towing services.

VicRoads publishes information on the number of accident towing licences issued and the number of businesses holding them (see Table 3.1 below).

Table 3.1 Comparison of the number of businesses holding licences

	2004	2009	Change
Number of businesses	69	57	-17%
Number of licences	432	421	-3%

3.5.2 The value of towing licences

Licences are allowed to be transferred (sold) to other towing businesses, subject to the approval of VicRoads that the transfer will not impact negatively on response

¹¹ VACC, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (p.4), October 2009; VACC, *Submission Response to Review of Accident Towing and Storage Fees Draft Report*, (p.1) April 2010.

times. VicRoads mandates that the amount paid for the transfer of the licence be disclosed (although this information is not verified).

The value of an accident towing licence derives from the present value of additional future profit streams to which the holder will be entitled. Should the profitability of the business increase, all things being equal, the value of accident towing licences would also be expected to increase (and vice versa).

The value of a licence may reflect more than the expectations of the profits associated with regulated fees. It may also reflect matters such as the potential additional profits from other services – such as salvage and debris removal and smash repairs. It does not follow that an increase in licence values necessarily reflects higher profits derived solely from accident towing.

The value of an accident towing licence is difficult to assess for a number of reasons including:

- liquidity – accident towing licences are not readily traded as they require VicRoads' approval in order to be transferred and can only be traded between registered and accredited tow truck operators.
- fungibility – each accident towing licence is associated with a particular geographical zone. Different geographical locations may be associated with a different number of expected allocations and, hence, different levels of future profit streams and
- reliability of price information – VicRoads does not verify the price reported to be paid and it is unclear whether the reported amount includes other items such as the value of the vehicles, goodwill or other assets included in the purchase of a tow truck business. Also a number of transfers appear to have no disclosed transfer price.

Table 3.2 summarises the data available regarding the value of licences transferred within the Controlled Area between 2002 and 2008. It should be interpreted with the above caveats in mind.

Table 3.2 Total number of transfers (sales) and average transfer price within the Controlled Area

	2002	2003	2004	2005	2006	2007	2008	Total
Number of transfers ^a	3	21	13	9	15	5	21	88
Max transfer price (\$)	88 000	160 000	170 000	250 000	265 000	250 000	385 000	385 000
Min transfer price (\$)	88 000	100 000	160 000	165 000	155 000	125 000	88 000	88 000
Average transfer price (\$)	88 000	134 429	165 000	197 000	223 333	175 000	213 273	178 318

Notes: ^a Calculated as a proportion of the total number of transfers. The total number of transfers was given for both inside and outside of the Controlled Area. Only some cases indicated whether the transfer was inside or outside; for example 44 inside and 85 outside. To calculate the total number of transfers within the Controlled Area each year, the total number of transfers was multiplied by the proportion that were in the Controlled Area: 44/(44+85).

The number of licences transferred each year has varied considerably but licence values have increased over time, as indicated by the significant rise in the average transfer price.

It is unlikely that the revenues generated by providing trade and clearway towing services will have an impact on accident towing licence values since these services can be performed without a licence.

As shown above, the costs associated with providing regulated services have generally been rising in line with inflation while revenues have fallen as measured in real terms. In addition, the business practices of insurers have eroded the revenues generated by smash repair. Therefore, it is likely that rising licence values are mostly the result of increasing revenues associated with providing additional services at the accident scene (e.g. salvage and/or other services).

3.5.3 Economies of scale

The major cost associated with accident towing is operating and maintaining the tow truck. Businesses can potentially improve their efficiency and hence profitability by increasing the number of licences held per truck (i.e. purchasing additional licences and holding them dormant so that each tow truck receives a greater number of allocations).

VicRoads' analysis of registered depots, licences and registered vehicles suggests that this is a common industry practice with 75 per cent of businesses holding more licences than the number of tow trucks in operation. On average, businesses hold 1.9 licences for every truck they operate.¹² Respondents to the online survey held on average 1.7 licences per truck. This suggests that tow truck operators may be increasing their efficiency over time. In addition, the number of depots operating in the Controlled Area has reduced by 17 per cent since 2004 (69 to 57) while the number of licences has fallen by 3 per cent only (432 to 421). Consolidating depots allows businesses to reduce dispatch and other administrative staff costs, land rental costs and administrative overheads.

¹² Information provided by VicRoads.

The Commission is of the view that increasing efficiency within the accident towing industry should be encouraged so long as it is not inadvertently at the expense of performance quality.

3.5.4 Service quality

There has been no evidence of poor performance within the accident towing industry, which would otherwise be a likely indicator of excessive cost pressures and/or decreased profitability. Poor performance would be expected to occur in relation to safety and timeliness, where businesses attempt to cut costs to remain viable. This has not been observed within the accident towing industry, especially within the Controlled Area.

The accident allocation scheme administrator maintains data on accident response times which appears to suggest that the vast majority of trucks respond within 30 minutes of the allocation and remove the vehicle within 50 minutes. This is broadly consistent with stakeholder comments received in response to this review.

With regard to safety, there is little information available to assess industry performance. However, stakeholders broadly acknowledge that there has been a significant improvement in performance quality since the introduction of the allocation scheme. Notably, there has been no indication of a recent increase in unsafe practices.

3.5.5 Imposing additional charges

Victoria's major insurers and VicRoads have both suggested that increased charges for services such as salvage and debris removal have become more common, especially for tows in the Controlled Area. These services are discussed in more detail in Chapter 6, but it should be noted that increased revenue associated with these services most likely explains how accident towing businesses have seemingly remained profitable in the face of rising costs and fixed regulated fees.

3.6 Conclusions

The information presented above suggests that while revenues have fallen (or remained constant) and costs have most likely increased generally in line with inflation, it does not appear that profitability has declined sufficiently to threaten the viability of the industry.

There are several factors in the accident towing industry that may explain how businesses have maintained profitability (as indicated by increasing licence values) including:

- economies of scale created by holding dormant licences and consolidating depots and
- imposing additional fees for salvage and associated services, which are currently unregulated.

This information is relevant when attempting to use a cost build-up approach in order to determine the appropriate level of regulated fees.

The terms of reference asked the Commission to address the appropriateness of the level of regulated accident towing and storage fees and the need for any variations.

Economic regulators sometimes estimate the cost of providing a regulated good or service with reference to the cost of the resources needed to produce it (commonly referred to as a cost build-up approach). Once the costs for providing accident towing services have been estimated, it is then possible to determine the appropriate level of regulated fees with reference to relevant benchmark prices for comparable services.

4.1 Estimated costs

The main cost driver for an accident towing business is the operation and maintenance of the tow truck. Therefore, it is appropriate to estimate costs on a per truck basis. For the purpose of this review, the Commission has developed an estimate of the costs associated with an average tow truck business through an online survey issued to all accident towing licence holders in the Controlled Area.

There is potential for these estimates to contain some level of bias given that respondents may have an incentive to overstate their costs and understate their revenues. Nevertheless, they provide a useful starting point for the Commission's cost analysis.

4.2 Submissions to the Draft Report

The Commission's draft report set out its preliminary views on the estimated cost of a tow truck service. In response to the draft report, the Victorian Automobile Chamber of Commerce (VACC) (and its consultant, Pitcher Partners) raised a number of issues, namely:

- whether and how the survey data had been uplifted for inflation
- how GST had been treated in the cost build up and
- whether the calculations should make an explicit allowance for a profit margin.

Each of these issues is addressed in turn below.

4.2.1 Uplifting survey data for inflation

Pitcher Partners submitted that the cost data reported in the survey was for 2007-08 and it was not clear whether or how the data had been escalated to 2009-10 prices.¹³

In the draft report, the Commission had escalated the 2007-08 reported cost estimates obtained through the survey to account for inflation by using the Producer Price Index (June 2008 to December 2009). As a result, the reported costs were increased by 3.24 per cent.

¹³ Pitcher Partners (prepared for VACC) *Submission Response to Review of Accident Towing and Storage Fees Draft Report*, (p.4), April 2010.

However, on reflection, the Commission considers that the consumer price index (transport – Melbourne) better tracks the costs associated with the accident towing and storage industry. As a result, in the final report, the Commission has updated the survey cost estimates using consumer price index (transport – Melbourne) from March 2008 to March 2010. The Commission has chosen March 2008 as the starting point to update the survey data as it is proposed all future fees be indexed every July using the most recent March quarter. This results in a downward adjustment to the reported costs of 1.5 per cent.

Table 4.1 Representative tow truck cost schedule

<i>Cost item</i>	<i>Cost per truck (\$ p.a)</i>		
	<i>Survey 2007-08</i>	<i>Draft Report^a</i>	<i>Final Report^b</i>
Labour			
Drivers	48 790	50 374	48 059
Dispatch	4 426	4 569	4 359
Repairers	1 100	1 136	1 084
Administration	4 747	4 901	4 675
Other	9 960	10 283	9 811
Other staff related costs	6 432	6 641	6 335
Total	75 455	77 904	74 323
Vehicle			
Vehicle replacement costs	19 483	20 115	19 190
Financing	4 740	4 894	4 669
Other associated costs	2 550	2 633	2 512
Parts	1 794	1 852	1 767
Repairs and maintenance	3 287	3 394	3 238
Fuel	10 482	10 822	10 324
Tyres	1 516	1 565	1 493
Washing	475	490	468
Total	44 326	45 765	43 661
Licence and regulatory			
Vehicle registration	1 120	1 157	1 104
Accreditation	216	223	213
TAC premiums	379	391	373
WorkSafe/OH&S	426	439	419
Other	293	303	289
Total	2 434	2 513	2 398
Insurance			
Comprehensive motor vehicle	2 980	3 076	2 935
Other vehicle	113	116	111
Business	1 076	1 111	1 060
Other	53	55	53
Total	4 221	4 358	4 158
Other			
Rent	3 228	3 332	3 179
Bad debts ^c	1 415	1 461	1 394
Other	5 748	5 935	5 662
Total	10 391	10 728	10 235
Total operating costs per tow truck per year	136 827	141 268	134 774
Attribution percentage		39%	39%
Total operating costs per tow accident tow truck per year		55 094	52 561

Notes: Figures rounded. ^a Updated using producer price index (June 2008 to December 2009)

^b Updated using consumer price index (transport - Melbourne) (March 2008 to March 2010) ^c See chapter 7

4.2.2 Treatment of GST

In response to the draft report, Pitcher Partners argued that the cost data gathered in the survey would not be expected to include GST and suggested that the costs should be correctly adjusted before recommending GST inclusive fees.¹⁴ The Commission agrees in principle that costs reported on a GST exclusive basis should be compared to revenues that are GST exclusive, before an adjustment is made to account for the GST on the final fee charged to customers.

The view that the costs in the survey were reported on a GST exclusive basis was supported by one survey respondent, who claimed that he completed the survey using figures from his most recent profit and loss statement. If this is the case, then the figures reported by that respondent would most likely have been GST exclusive.

Because of the confidential nature of the survey, it is not possible to verify the claims made by this respondent about the basis on which he completed the survey and the extent to which other survey respondents may have reported GST exclusive costs.

However, the Commission accepts that it is *possible* that survey respondents who relied on their annual financial statements to complete the survey would most likely have reported that data on a GST exclusive basis. As result, the Commission has assumed that the cost data is GST exclusive.

Based on the inflation adjusted cost profile, this results in a cost profile per tow of approximately \$262.80 (excluding GST). In section 4.5, the inflation adjusted costs have been compared to the GST exclusive revenues to determine the rate of increase required to the current fees.

4.2.3 Including a profit margin in the calculations

The VACC and Pitcher Partners both noted that the cost estimates do not include an explicit allowance for a profit margin or the purchase of tow truck licences and argued these items should be reflected in the price calculations.¹⁵

As outlined in the draft report, the Commission believes it is not appropriate to provide a profit margin or a return on licence values for two reasons:

- while it is common to allow for a return on capital invested in a business when determining regulated fees, the Commission has adopted the simplifying assumption in this review that all capital items are expensed. For example, where tow truck operators own their premises this has been treated as a lease, and the purchase of a tow truck has been expensed over a shorter period than is likely to be the case (of five years). The effect of adopting these simplifying assumptions is that the rate of return is already allowed for through a higher allowance for

¹⁴ Pitcher Partners, VACC – *Proposed Towing & Storage Fees – Comments on: Essential Services Commission Review of Accident Towing and Storage Fees - Draft Report* (p. 4), April 2010.

¹⁵ VACC, *Submission Response to Review of Accident Towing and Storage Fees Draft Report*, (pp.2-3), April 2010, Pitcher Partners, *Op. Cit.*, (p.6), April 2010.

operating expenses on those items, and so it is not necessary to make an explicit adjustment for a return on assets.

- licence values already represent the presence of economic profit in the market. Increases in the value of accident towing licences suggest that licence holders have been improving their overall profitability, which is then translated into higher values of licences. This might be as a consequence of improving efficiency or other actions to lower costs. Indeed, with licences capable of being traded, those operators who have not been able to achieve the same industry wide efficiency improvements can sell those licenses for a higher value to those who are best capable of providing accident towing services at least cost.

Including a return on the value of licences would also create the regulatory problem of circularity. That is, a return on the licence would likely increase the value of the licence, which would lead to further increases in licence values to operators resulting in a rent transfer.

For these reasons, the Commission does not believe an explicit profit margin should be included in the cost build-up as some stakeholders have argued.

4.3 Cost attribution to accident towing services

As indicated in the draft report, not all of the costs in the survey should be attributed to accident towing services since the same resources (trucks, staff, depots, etc.) may be used for other unregulated services, such as trade towing.

Accident towing businesses may use their spare tow truck capacity and generate additional revenue between accident allocations by performing trade towing services, which is much more flexible in terms of timing and can be scheduled between accidents. VicRoads and the VACC have confirmed that many accident towing businesses also perform other services such as trade towing. All of the participants in the online survey and industry workshop also stated that they offer trade towing services.

The sharing of resources (costs) between accident and trade towing has important consequences for determining the appropriate level of regulated accident towing fees. Only the costs attributable to regulated services should be included in the cost base for determining regulated fees, but this requires costs to be allocated between regulated and non-regulated activities.

In its draft report, the Commission estimated the proportion of costs attributed to accident towing (referred to as an 'attribution percentage') and applied the same attribution percentage to all cost items equally. This is a simplifying assumption and may not be appropriate for some cost items. For example, accident towing would most likely involve higher administrative costs than trade towing due to regulatory responsibilities and accreditation obligations. However, a single attribution percentage is appropriate given that these costs are minor compared with labour and vehicle costs and the lack of robust data from the industry to ensure a more accurate approach.

In the draft report, the Commission considered two main sources of information to determine the appropriate attribution percentage for accident towing and storage fees:

- the attribution percentages reported by towing operators as part of the survey undertaken for this review and
- the attribution percentages previously adopted by the Commission to determine future fee increases (based on a cost study undertaken by PricewaterhouseCoopers in 2005).

Both of these sources of information reflect self reported survey data provided by towing operators.¹⁶

In response to the draft report, the VACC asserted that the average 54 per cent attribution percentage reported in the survey was a more appropriate assumption because it reflected the current industry allocation of costs and represents the industry changes since trade towing deregulation.¹⁷

However, the Commission believes that data reported by survey respondents needs to be treated with some caution because it is self reported and unaudited, and hence there may be a temptation to have overstated the cost allocation basis. Whilst the VACC has asserted that 54 per cent is more appropriate, it has provided no further evidence to substantiate this position.

In the absence of such further evidence or information, the Commission believes that the 39 per cent attribution is reasonable because:

- it is the midpoint between the stated (but unverified) cost attribution assumptions of the current and previous survey and
- it is a significant increase (15 per cent) over the percentage developed in the previous analysis, consistent with deregulation of the trade towing industry.

As a result, the Commission has assumed an attribution percentage of 39 per cent in its final report.

4.4 Accident allocations per truck

The number of accident tows a business performs depends on the number of licences it holds. In recent years, a single licence has generally received between 90 and 110 accident allocations per year. Given this data, the Commission considers 100 accident tows per licence per annum to be a reasonable assumption.

As noted in section 3.5.3, most accident towing businesses operate fewer trucks than the number of licences held. As a result, it would seem inappropriate to calculate costs on an assumed ratio of one truck per licence.

The draft report noted that the average number of licences per truck from the online survey was 1.7 licences per truck whereas information provided by VicRoads indicated that on average, businesses hold 1.9 licences for every truck they operate.

¹⁶ PricewaterhouseCoopers sought to independently verify the information reported by towing operators in the survey undertaken for this review.

¹⁷ VACC, *Submission Response to Review of Accident Towing and Storage Fees Draft Report*, (pp.2-3), April 2010; Pitcher Partners, *Op. Cit.*, (p.5), April 2010.

In its draft report, the Commission adopted a ratio of 2:1 which implied an assumed number of accident tows per truck each year of 200 (i.e. 100 accident tows per licence and 2 licences per truck). The Commission noted that while this was a simplifying assumption, it is likely to be a reasonable assumption for businesses in the Controlled Area.¹⁸

In response to the draft report, the VACC and Pitcher Partners highlighted that the average number of licences per truck in the survey was 1.7:1 while the industry average is 1.9:1. Pitcher Partners stated that literally applying these would result in an estimated 190 allocations per truck.¹⁹

The Commission remains of the view that adopting a ratio of 2:1 is reasonable, given that towing operators cannot realistically hold 1.9 licences for every tow truck and it is the average ratio for businesses with more than 1 truck. As a result, the Commission has maintained the assumed ratio of 2:1 licences per truck in this final report.

4.5 Findings

The following table provides a reasonable estimate of the costs of performing an accident tow in the Controlled Area based on the assumptions discussed above.

Table 4.2 Estimated current operating costs (excluding GST)

	<i>Estimate</i>
Total operating costs per tow truck per annum	\$134 774
Proportion of costs attributable to accident towing	39%
Total operating costs per accident tow truck per annum	\$52 561
Number of accident tows per licence	100
Number of accident towing licences per truck	2.0
Total operating costs per accident tow (excluding GST)	\$262.80

The cost per accident tow is estimated to be approximately \$262.80 excluding GST.

Assuming a typical tow includes a towing distance of 15 kilometres²⁰ (seven kilometres of additional towing), three days of storage (car – under cover)²¹ and no

¹⁸ A higher ratio of licences to trucks enables a business to earn more revenues and reduce unit costs to a greater extent than say a business that owns only one licence.

¹⁹ Pitcher Partners, *VACC – Proposed Towing & Storage Fees – Comments on: Essential Services Commission Review of Accident Towing and Storage Fees - Draft Report* (p. 5), April 2010.

²⁰ ESC, *Final Report: Review of Accident Towing and Storage Fees 2005* (p.27), 2005.

after hours surcharge, the revenue generated based on the current regulated fees (excluding GST) would be approximately \$205.18.

However, the after hours surcharge applies during the period from 5pm to 8am on Monday to Friday, 5pm Friday to 8am Monday and from midnight to midnight on public holidays. During the 2005 review the Commission estimated that the after hours surcharge would apply to approximately 54 per cent of accident tows.²² On this basis, the revenue generated for a typical tow would be approximately \$233.50 (excluding GST).

These findings suggest that the estimated cost per tow of \$262.80 is approximately 12.5 per cent higher than the revenue generated by a typical tow. In the absence of further information, the Commission considers that a one-off increase for all regulated fees associated with accident towing and storage of 12.5 per cent would be reasonable.

4.6 Comparison of cost estimates to benchmarks

The Commission has made several assumptions and relied upon survey responses when deriving these cost estimates. As a result, it is useful to compare these cost estimates with relevant benchmarks.

This section compares the cost estimates to the following benchmarks:

- trade towing fees – towing of non-accident vehicles negotiated under private contracts
- clearway towing fees – towing of vehicles illegally parked in designated clearway zones during specified times, under contract with the responsible authority and
- regulated fees in other jurisdictions – regulated accident towing fees in New South Wales, Queensland and South Australia.

4.6.1 Trade towing benchmarks

Trade towing refers to the towing of a vehicle that has not been involved in an accident. Trade towing was deregulated when changes in the *Accident Towing Services Act 2007* were introduced in January 2009. Currently trade towing is only subject to general road regulation and licensing requirements. Additionally, the fees for trade towing services are no longer regulated.

The Commission considers that trade towing fees may provide some information as a benchmark because the resources and infrastructure used are essentially the same as accident towing. However, trade towing is less time-critical because an

²¹ The Commission considers that this is reasonable given the limited information available, an analysis of the industry and an average survey response of two days storage. Storage for a car – under cover was chosen in order to be conservative as this is the most expensive type of storage offered and increased fees would only be warranted if costs are greater than revenues.

²² During the 2005 review, the Commission estimated that the after hours surcharge would apply to approximately 54 per cent of accident tows. ESC, *Final Report: Review of Accident Towing and Storage Fees 2005* (p.43), 2005.

immediate response is not required. This allows the businesses to manage costs more effectively and so use resources more efficiently.

In response to the draft report, the VACC submitted that the Commission's assumption that trade towing is less time-critical than accident towing is not valid. The VACC also described trade towing as quite specific in the pick-up and delivery time requirements, and these constraints can significantly impact on operations.²³

Deregulation has reduced the market barriers to entry and increased competition in the industry. This suggests that trade towing fees may represent an efficient market price for this type of work. Trade towing businesses typically do not publish their fees but instead offer quotes over the phone depending on the nature of the tow. However, the Commission is aware that one tow truck operator advertises its fees to be \$137.50 base fee (including ten kilometres of towing distance) and \$3.85 per kilometre for additional towing distance.

Direct enquiries with trade towing businesses for a non-immediate tow of a standard, undamaged vehicle for a distance of about ten kilometres, revealed an average price of approximately \$104 including GST.²⁴

The Commission considers that trade towing prices would be expected to provide a *lower bound* of possible accident towing fees due to the greater flexibility of the tow schedule creating significantly greater use of resources and an absence of regulatory obligations. In addition, trade towing businesses do not generate revenue from storage. Finally, the need to compete for trade towing would result in prices more closely reflecting the marginal cost of providing towing services, with a greater proportion of fixed costs recovered from accident towing services (i.e. where there is no direct competition). This form of price discrimination is consistent with the economic principles of pricing to promote efficient use of resources.

4.6.2 Clearway towing benchmarks

In order to improve traffic flow in heavily congested areas, certain arterial roads across metropolitan Melbourne have specified clearway times during which vehicles can be towed if they are parked in these areas. Technically, clearway towing is considered to be trade towing but a distinction has been made because of the unique nature of these tows (specified times, locations and contracted prices).

The timely removal of vehicles illegally parked in clearway zones is, in most areas, the responsibility of Vic Roads. The exceptions are the City of Melbourne and the City of Port Phillip where clearway towing is administered by the municipal authority itself.

The Commission is aware of one major towing company that is contracted to undertake most clearway towing within Melbourne, which charged, on average, approximately \$260 including GST (this excludes any administration fees imposed

²³ VACC, *Submission Response to Review of Accident Towing and Storage Fees Draft Report*, p.3. April 2010

²⁴ The Commission received quotes from ten different trade towing businesses.

by the relevant authority). The Commission understands that this price includes storage and after hours.

This is a likely indicator of an efficient price for accident towing services for the following reasons:

- the times and locations of clearway towing jobs are known to the towing business, allowing it to schedule other activities around these times. While accident towing is less predictable, businesses know their order in the allocation queue and that accidents are most likely to occur during peak traffic conditions
- the infrastructure and dispatch staff required are similar for the two towing services
- similar to accident towing, clearway towing jobs require an immediate response and
- the administrative requirements (such as record keeping, operating hours, etc.) and resources (trucks and drivers) are similar for the two services.

Despite these similarities, comparisons with clearway towing should have regard to the following:

- clearway times overlap with the period that is defined as after hours in the accident towing industry and the price, to some degree, may be reflective of that point
- the towing distances are likely to be short as all clearway zones are within ten kilometres of Melbourne's centre and
- there is no prospect of a secondary tow or smash repair work because vehicles are unlikely to be damaged.

In response to the draft report, the VACC submitted that clearway and accident towing times often coincide as both normally occur during peak traffic times on the roads. Further, it argued that clearway towing is not a reasonable benchmark as they often carry two cars per truck, thus doubling the contracted price.²⁵

The Commission remains of the view that clearway towing provides a reasonable benchmark to accident towing. However, it accepts that the contracted price (\$260 inclusive of GST and including three days storage) may understate the cost of accident towing because a clearway towing business has much more of a limited and predictable window for providing services, may be better able to manage its resources and has less regulatory compliance obligations than an accident towing business. This appears reasonable as the Commission's cost estimate of a per accident tow of \$289 GST inclusive²⁶ is \$29 higher than that of clearway towing benchmark.

4.7 Comparison to other jurisdictions

In the draft report, the Commission presented some interstate comparisons on accident towing and storage fees. In response, stakeholders queried whether GST

²⁵ Victorian Automobile Chamber of Commerce, *Submission Response to Review of Accident Towing and Storage Fees Draft Report*, p.1, April 2010,

²⁶ The Commission's cost estimate per tow is \$262.80 (excluding GST).

was reflected in the interstate comparisons.²⁷ Specifically, stakeholders noted that the draft recommended fees for Victoria were expressed on a GST inclusive basis while the New South Wales fees appeared to be GST exclusive.

The Commission agrees that the benchmarks should be compared on a like for like basis. In the draft report, only the New South Wales fees were presented on a GST exclusive basis.

Table 4.6 below compares the revenue generated by an accident tow in each jurisdiction. The comparison assumes a base fee, distance of 15 kilometres and three days of storage but excludes the after hours surcharge given it is applied in various ways. All figures are GST inclusive.

Table 4.3 Estimated cost of a tow (GST inclusive) in various State jurisdictions (exclusive of after hours surcharge)^a

<i>Fee component</i>	<i>Tow</i>	<i>VIC (current)</i>	<i>VIC (proposed)</i>	<i>NSW</i>	<i>QLD</i>	<i>SA</i>
Base towing fee	1	168.45	189.50	244.20	271.80	251.15
Towing distance ^b	15	18.55	20.85	29.60	0.00	0.00
Storage ^c	3	38.70	43.55	0.00	0.00	35.60
Total fee		225.70	253.90	273.80	271.80	286.75

Notes: ^a After hours surcharge is excluded given significant differences across jurisdictions regarding how the rate is applied. ^b Additional distance charges apply to tows over 8km (Victoria), 10km (NSW), 20km (SA) or 50km (QLD). ^c Up to three days of storage is included in the base fee in NSW and QLD. Note: Fees quoted are those currently applicable in each State, hence no inflation adjustment.

Once GST is accounted for in the New South Wales figure, the cost range for an average tow from the other jurisdictions on a GST inclusive basis is \$271.80 (QLD) to \$286.75 (SA). Overall, it suggests that the Commission's recommended regulated towing fees are lower than the current fees imposed in other jurisdictions. There are two possible explanations for this:

- the presence of an allocation scheme (adopted in Victoria and SA) removes the costs associated with trying to attract accident towing work and provides a more stable and predictable revenue stream and
- tows are unlikely to cover a large distance since the allocation scheme ensures that accidents are close to the towing business.

However, as emphasised in the draft report, table 4.3 should be interpreted by taking into account observed differences between the jurisdictions including:

- the type of towing jobs (i.e. distance, congestion, etc.)

²⁷ Pitcher Partners (prepared for VACC), *Submission Response to Review of Accident Towing and Storage Fees Draft Report*, (pp.6-7), April 2010.

- the operating environment of the accident towing businesses (i.e. the number of accidents per capita and per licence, registration fees, insurance costs, taxes, etc.) and
- the regulatory arrangements in each jurisdiction.²⁸

Overall, the Commission's cost estimate for a typical tow of \$262.80 (GST exclusive) or \$289 (GST inclusive) is significantly higher than trade towing fees in Victoria, higher than clearway towing fees in Victoria but at the lower end of towing fees charged in other jurisdictions.

4.8 Conclusions

The Commission has estimated that the cost of providing an accident tow is \$262.80 (excluding GST). This is approximately 12.5 per cent higher than the estimated revenue generated for a typical tow of \$233.50 under the current regulated (GST exclusive) fees.

The Commission therefore recommends that all of the components of the regulated fee structure – base fee, additional distance fee, after-hours surcharge and storage fees – be increased on a one-off basis by 12.5 per cent as soon as possible. These fees should then be adjusted annually in line with the recommendations made in chapter 5.

This results in the accident towing and storage fees set out in Table 4.4.

²⁸ For example, NSW and QLD do not have an accident allocation scheme and NSW also regulates salvage and secondary tow fees.

Table 4.4 Current and proposed regulated fees and charges^a

<i>Fee or charge</i>	<i>\$ Current</i>	<i>\$ Proposed</i>	<i>\$ Increase</i>
Towing fees			
Base fee (including first 8km travel by tow truck)	168.45	189.50	21.05
Additional per kilometer charge beyond 8km	2.65	3.00	0.35
After hours surcharge			
- 5pm to 8am Monday to Friday			
- 5pm Friday to 8am Monday and			
- Midnight to midnight on public holidays	57.55	64.75	7.20
Salvage^b			
Standard charge	n/a	60.00	n/a
After hours charge	n/a	20% surcharge	n/a
Storage fees (charge per day)			
Car - under cover	12.90	14.50	1.60
Car - in locked yard	8.60	9.70	1.10
Motorcycle - under cover	4.35	4.90	0.55
Motorcycle - in locked yard	2.80	3.15	0.35

Notes: **a** All fees and charges include GST. **b** See chapter 6.

The terms of reference require the Commission to provide advice in relation to a potential process for future fee variations including the timing of future reviews. This chapter considers a number of approaches for adjusting regulated fees.

5.1 Rationale for systematic adjustments

To date, accident towing and storage fees have been reviewed and updated infrequently. This has created uncertainty for the industry about the timing and extent of any fee increases. It has also resulted in accident towing and storage fees remaining constant for a number of years even though costs are likely to have risen.

There is support amongst industry stakeholders for a more systematic and regular approach to adjusting regulated fees. In particular, they claim that it will assist their planning, investment and other business decisions. Both Insurance Manufacturers of Australia (IMA) and Insurance Australia Limited (IAL), and the VACC suggested that future adjustments should occur either biannually or annually with adjustments remaining in line with inflation.²⁹ All 1 Towing Services expressed a preference for a major review of fees to occur every one to four years.³⁰

A systematic, clear and regular process for adjusting fees would provide transparency and certainty for both the accident towing industry and consumers. It would also enhance the predictability of fee increases and minimise any disparity between revenues and costs (in real terms).

The Commission has considered two approaches, namely an annual adjustment process and a periodic review of fees. These are discussed in the following sections.

5.2 Annual adjustment process

An annual fee adjustment process enables firms to recover any general increase in costs that may arise, without compromising the financial viability of the industry. From a consumer perspective, it also has the effect of smoothing the change in

²⁹ IMA and IAL, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (p.12), November 2009; VACC, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (p.6), October 2009. IMA is an alliance between Insurance Australia Group (IAG) and RACV Group (RACV). IMA's responsibilities include the management of certain claims for insurance policies issued either by IMA or IAL under the following brands: NRMA Insurance, SGIO, SGIC and RACV.

³⁰ All 1 Towing Services Pty Ltd, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (p.4), November 2009.

real accident towing charges, rather than facing more significant fee adjustments every few years when a periodic review of fees is undertaken.

In principle, regulated fees should reflect movements in costs. An annual adjustment of regulated fees in line with changes in the CPI or some other form of price index would be a simple and transparent approach. This is likely to be a reasonable proxy for changes in major cost items.

In its draft report, the Commission expressed the view that it considered the CPI (Melbourne transport) index to be a suitable proxy for the change in costs faced by the towing industry, and recommended that fees be adjusted in line with this index.³¹

In response to the draft report, Pitcher Partners advised in their submission that the Commission should develop an alternative escalation index that better tracks input costs of tow truck operators. In particular, it argued that, given 55 per cent of towing costs are labour based, a composite index should be developed comprising 55 per cent of the change in Average Weekly Earnings (AWE) and 45 per cent of the change in CPI.³²

While it is possible to develop an industry-specific cost index that might better track the actual costs of the accident towing industry, the Commission has some reservations about the composite index proposed by Pitcher Partners. In particular, accident towing labour costs may not move directly in line with the average weekly earnings as it depends on the supply and demand of accident towing labour and the skills required. Also, it would not be appropriate to adjust the storage and distance fees with a labour index.

The Commission believes that it is preferable to adopt a simple approach using objective information that is readily accessible and understood to adjust fees for accident towing and storage services. Most regulators rely on some form of CPI index to adjust prices for these reasons.

In the draft report, the Commission proposed that fees should be adjusted by the CPI (Melbourne transport) index. However, the Commission is concerned that over the last 5 years this index has been subject to some volatility (see Figure 3.1). Adopting this index could potentially mean that in some years, prices would fall and then increase again. To address this concern, the Commission recommends that fees be adjusted by the greater of zero or the rate of change in the CPI (Melbourne transport) index minus a productivity adjustment of 0.5 per cent (see section 5.3). For those years where a zero would be applied, an adjustment to fees would not be made until the CPI (Melbourne transport) index returned to the level it was at prior to the imposition of a zero per cent price change.

The Commission also notes that there will be an opportunity to examine the extent to which the method used to escalate fees over the next four years has appropriately reflected the actual costs faced by the industry as part of the next fee review.

³¹ ESC, *Final Report: Review of Accident Towing and Storage fees* (p.9) 2005

³² Pitcher Partners, *Submission Response to Review of Accident Towing and Storage Fees Draft Report*, (p.8), April 2010,

This annual adjustment of fees should be implemented administratively (by the release of an amended schedule of fees) rather than legislated for in the Act.

5.3 Productivity improvements

It is clear that in recent years accident towing operators have been able to achieve efficiency gains by, for example, consolidating depots, increasing the ratio of trucks per licence held (and hence the number of accident allocations per truck) and using their existing resources to engage in other (competitive) services such as trade towing. As a result, the Commission is of the view that the industry is capable of continuing to achieve efficiency gains and sharing those with customers.

It is important to ensure that the adjustment reflects a reasonable view about the level of productivity improvement that is likely to be achievable at an industry level. If the adjustment is set too high, then the financial viability of the industry may be threatened and firms may exit the market. If it is set too low, then consumers will pay more than necessary and will not receive a fair share of any efficiency gains.

Previous regulatory decisions have adopted annual productivity improvements or X factors ranging from 0.1 per cent (Victorian taxi industry 2007-08), 0.3 per cent (NSW taxi industry) to 1.0 per cent (Victorian taxi industry 2005).³³

In the absence of more detailed cost information, the Commission outlined its view in the draft report that a 0.5 per cent productivity improvement is appropriate. This reflected the Commission's judgment about what might be reasonable and achievable and takes into account factors including the extent to which productivity or efficiency improvements appear to have been achieved over recent years and the range of productivity benchmarks or targets set in other regulated industries.

The Commission also recommended that a periodic review undertaken at the end of four years (see section 5.4) would provide an opportunity to address the situation where the underlying costs have changed.

In response to the draft report, insurers supported the Commission's proposed 0.5 per cent productivity adjustment per year. They argued that all other commercial enterprises are subject to market forces to remain competitive and the adjustment will provide incentives for efficiency and continuous improvement.³⁴

However, the VACC (and its consultants Pitcher Partners) did not support the proposed productivity adjustment, citing that the Commission has not included one in its previous review.³⁵ Pitcher Partners suggested that more research should be undertaken before this recommendation is implemented.³⁶

³³ ESC, *Taxi Fare Review* (p. 91) 2008. IPART, *Final Report and Recommendations – 2009 Review of Taxi Fares in NSW* (p.12) 2009. ESC, *Final Report – Review of Taxi Fares* (p.72) 2005, ESC, *2008 Water Price Review, Regional and Rural Businesses Water Plans 2008-2013: Draft Decision* (p. 50) March 2008.

³⁴ IMA and IAL, *Submission Response to Review of Accident Towing and Storage Fees Draft Report*, (p.4), April 2010.

³⁵ VACC, *Submission Response to Review of Accident Towing and Storage Fees*, (p.4), April 2010.

³⁶ Pitcher Partners, *Op. Cit.*, (pp.8-9).

While the Commission notes the arguments put forward by VACC and Pitcher Partners, it has not been persuaded that the industry is not capable of achieving the modest improvement to productivity implied by a 0.5 per cent adjustment.

As a result, the Commission remains of the view that a 0.5 per cent productivity adjustment per year is appropriate to provide an ongoing incentive for the industry to improve productivity and to share these improvements with customers in the form of lower fees for service. This is also consistent with the objectives of price regulation as set out in section 2.2 and approaches adopted in other comparable industries.

5.4 Periodic review of fees

Notwithstanding the annual adjustment process described above, it is possible that the net costs facing towing operators may increase at a rate that is greater or less than the relevant index used to adjust fees each year. There could be other unpredictable changes that might also impact on costs such as changes in the regulatory rules surrounding accident towing. Also, the lack of robust and detailed data on which to base decisions related to fee adjustments may mean that the recommended size or adjustment to prices may turn out to be inappropriate over an extended period of time. As a result, it would be prudent to undertake a periodic review of fees.

Submissions to draft report supported the Commission's recommendation to undertake scheduled reviews of tow truck fees every four years. As a result, the Commission recommends that the *Accident Towing Services Act 2007* is amended to require scheduled reviews analysing the appropriateness of fees (and any other issues the Minister requests) every four years.

5.4.1 Industry information and data collection on costs and revenues

The Commission is concerned that any future review of regulated fees is likely to encounter many of the problems experienced in this and previous reviews associated with the lack of robust and reliable data on which to base decisions. It is important to ensure that a robust database is collected and maintained in advance of the recommended review of underlying costs and fees in four years.

IAL and IMA agreed with the need for further information on industry cost and revenues, and offered to provide data (subject to confidentiality requirements) on accident towing claims.³⁷

The VACC acknowledged that there are benefits to having greater information. However, it expressed concern that collecting and reporting such data may impose a heavy burden on the industry participants.

The Commission believes that it is important to ensure that in designing the information and reporting requirements that appropriate regard is had to the administrative costs associated with collecting and reporting. Any information and reporting obligations should have regard to:

³⁷ *Ibid.*, p.2

- the appropriate level of information that is necessary for the purposes of monitoring and regulating fees for accident towing services
- whether there are existing information or reporting arrangements that could be used to minimise the costs to the businesses
- the basis on which the information can be verified and
- how otherwise the costs of the necessary information can be minimised.

The Commission considers such information should include the incidence of various charges imposed per tow (i.e. base fee charged, number of kilometres, days of storage, after hours surcharges, salvage and other).

Consideration should be given to whether this information should be collected from all towing operators in the State and not just those in the Controlled Area. This would enable VicRoads (as the industry regulator) to monitor the imposition of charges and trends in those charges (such as increases in the number of salvage charges imposed).

Given its ongoing role in assessing tow truck fees and experience in designing information and reporting arrangements for other sectors, the Commission could work with VicRoads and accident towing industry representatives to develop information and reporting requirements that should seek to achieve these objectives.

5.5 Conclusions and recommendations

The Commission recommends that all regulated fees be adjusted on 1 July each year by the most recent March quarter of the CPI (Melbourne Transport) index minus 0.5 per cent to reflect a productivity adjustment. This adjustment should be implemented administratively by VicRoads – that is, by issuing a new tow truck fee schedule each year.

In addition, to ensure that an appropriate level of regulated fees is maintained, the Commission recommends that the *Accident Towing Services Act 2007* is amended to require scheduled reviews every four years.

In advance of the next review, the Commission could, if requested, work with VicRoads to ensure that appropriate information and reporting requirements are developed and put in place to ensure that future fee decisions are based on robust and reliable information. Any information and reporting requirements would need to seek to minimise the costs to industry associated with those requirements.

The terms of reference require the Commission to investigate and report on whether charges for clearing a road accident scene should be regulated. There are two services at the accident scene that tow truck operators may need to perform in relation to clearing an accident scene in addition to vehicle towing, namely:

- debris removal – clearing residual debris and glass attributable to the road accident and
- salvage – where a damaged vehicle cannot be moved or towed without the assistance of another vehicle or the use of additional equipment.

The legislation relevant to accident towing regulation does not prevent tow truck drivers from charging additional fees for debris removal, salvage and/or associated services. Currently, charges for these services are not regulated.

6.1 Debris removal

Accident towing service regulations require tow truck operators who perform an accident tow to remove any debris and glass from the accident scene.³⁸ The majority of accidents require some debris removal. Consultation with stakeholders suggested that most tow truck operators do not charge an additional fee for this service, but some do. Respondents to the survey suggested it is common to spend less than half an hour clearing debris.

The Commission believes that debris removal should not be a separate activity for which charges should be imposed given that accident towing regulations already oblige operators to remove debris from the accident scene and the time it takes to do so is usually not significant.

The Commission recommends that the *Accident Towing Services Act 2007* (the Act) should be amended to clearly specify what the base towing fee includes (for example: all activities (other than salvage) required to undertake towing work; waiting times at the scene of the accident; cleaning of all glass and debris from the scene of an accident; cleaning the tow truck including any fluid leaks or spills from the vehicle being removed; reasonable phone calls and administration such as photographs and documentation).

6.2 Salvage

Under the Act, the term salvage refers to the movement of a motor vehicle from its position to a place where it may be towed by a tow truck without assistance.³⁹

³⁸ Clause 37, *Accident Towing Services Regulations 2008*.

³⁹ Section 3, *Accident Towing Services Act 2007*

Salvage normally requires the towing operator to perform additional activities beyond those required for a typical accident tow. VicRoads and Victoria's major insurers have suggested that it has become common for towing operators to levy additional charges for salvage, particularly within the Controlled Area. VicRoads has indicated salvage charges of \$60 - \$80 are not uncommon.⁴⁰ However, some insurance companies have suggested salvage charges are typically several times greater.⁴¹ Stakeholders have also commented on the lack of documentation and evidence provided by towing businesses to justify salvage charges.⁴²

Accident towing businesses suggested that salvage charges depend on the particular geographical location of the business. For example, businesses located in rural environments with steep or rugged terrain (that would make towing a challenge) may charge for salvage half the time. Salvage on urban roads is less common and is charged on as little as 5 to 10 per cent of tows.⁴³ This is because most accidents in the metropolitan area are bumper to bumper.

In practice, it appears that salvage charges are often added to many accident towing jobs. It also appears that the legislative definition of salvage is not clearly understood throughout the industry, with some tow truck businesses charging salvage fees for the removal of debris from the road.

Stakeholders also commented on the lack of documentation and evidence provided by towing businesses to justify salvage charges.⁴⁴

6.2.1 Regulating salvage charges

The same rationale for regulating towing fees applies to salvage charges. That is, given that tow truck operators have the exclusive right to attend an accident via the allocation system, there is the potential that they may levy excessive salvage charges or even levy a salvage charge when it is not actually required. Further, the ability of affected parties to 'negotiate' with a tow truck operator in the aftermath of an accident is likely to be limited given the circumstances.

There is a strong argument for allowing salvage to be charged as a separate activity when major, labour-intensive activities need to be performed by a single tow truck driver, such as winching the car from a ditch or other location to a position such that the vehicle can be towed. Indeed, the current Accident Towing

⁴⁰ Personal communication with VicRoads

⁴¹ Suncorp Group, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (pp.6-8), November 2009; IMA and IAL, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (p.6), November 2009.

⁴² IMA and IAL, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (pp.6-8), November 2009; Suncorp Group, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (pp.6-8), November 2009.

⁴³ Survey respondents suggested that salvage was charged on 6 per cent of tows, with a typical fee between \$60 and \$100.

⁴⁴ IMA and IAL, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (pp.6-8), November 2009; Suncorp Group, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (pp.6-8), November 2009.

Services Act defines 'salvage', which suggests that it is considered to be a stand alone activity, however it makes no provision for the regulation of salvage fees.

Stakeholders to this review revealed that prior to the introduction of the Act, the imposition of salvage charges was subject to a 'fair and reasonable' test. However, the Commission understands that this was not included in the new legislation.

The VACC and major insurance companies all argued that the exclusion of the 'fair and reasonable' test from the Act has meant that the incidence and level of charges imposed for salvage activities has been unconstrained. All parties argue that this should be included to keep towing operators accountable.

The major insurers supported the Commission's draft recommendation to regulate salvage charges.⁴⁵ In particular, IMA and IAL argued that a regulated salvage charge will be a positive improvement, as there has been significant and unstructured variation in salvage charges in the past. Suncorp also noted previous cases of overcharging for salvage and the need for clear definitions on what can be charged as salvage.

Equally, the VACC and tow truck operators did not appear to oppose the concept of regulating salvage charges. However, they did disagree with the approach that the Commission had proposed in the draft report.

The Commission recommends that the Act be amended to clarify that salvage activities should be regulated. The form of that regulation is discussed in the following section.

6.3 Determining an appropriate salvage charge

In its draft report, the Commission outlined an approach to setting salvage fees. This approach involved setting salvage fees on the basis of the average hourly cash earnings ordinary time rate for road freight transport operators.

The Commission adopted this approach as it considered that most of the additional costs incurred when performing salvage services are labour-related (because, in principle, the cost of the vehicle and overheads are recovered through the base accident towing charge). It applied an uplift factor of 1.5 to recognise that salvage may entail the use of specialised equipment and greater effort in terms of labour than is provided via the ordinary time rate.⁴⁶ As a result, the Commission recommended a salvage charge of approximately \$39.50 (including GST) per hour and \$51.70 (including GST) per hour after hours.

Submissions from the VACC and tow truck operators did not support the Commission's \$39.50 salvage charge. In particular, they expressed the view that the charge was too low, and was not appropriate for more difficult salvage operations (where specialised equipment may be required to salvage a vehicle

⁴⁵ IMA and IAL, *Submission Response to Review of Accident Towing and Storage Fees Draft Report*, p.3, April 2010, Suncorp Group, *Submission Response to Review of Accident Towing and Storage Fees Draft Report*, p.3, April 2010.

⁴⁶ ABS, 6306.0 - *Employee Earnings and Hours, Australia*, August 2008.

from a position that the allocated tow truck operator is unable to perform the salvage due either to the degree of difficulty or distance off the roadway).⁴⁷

In particular, the VACC questioned who would be likely to salvage a vehicle (at anytime of the day or night) at \$39.50 or \$51.70 after hours. The VACC did not put forward evidence to support an alternative charge that it considered to be more reasonable.

Eagle Towing (which operates a heavy salvage towing business) argued that a third party provider of salvage services would not be able to provide the services at the draft recommended prices. It suggested that special provision should be made for heavy or more difficult salvage operations where specialised equipment is required.

Insurers stated that they are not averse to paying salvage fees provided they are reasonable and appropriate documentation is supplied.

The Commission agrees that setting a prescribed charge for salvage activities is unlikely to be appropriate in more difficult salvage operations where specialised equipment is required. While there is no readily available data in relation to the incidence of 'heavy salvage' operations and the nature of the charges that have been imposed, the Commission understands that the vast majority of salvage operations are likely to not involve the use of specialised equipment. For those cases, the imposition of a regulated charge is likely to be appropriate.

In considering whether the recommended fee for standard salvaging operations is appropriate, the Commission has examined the nature of charges imposed in other jurisdictions (see Box 6.1). It notes that in New South Wales, the fee for any salvage operations exceeding 30 minutes is currently set at \$53 per hour (excluding GST) plus 20 per cent after hours. Adjusting this for inflation would result in a charge of around \$60 (including GST).⁴⁸

⁴⁷ A submission from Eagle Towing included a number of photographs of more difficult salvage operations. Eagle Towing and Salvage, *Submission Response to Review of Accident Towing and Storage Fees Draft Report*, pp.1-2 April 2010.

⁴⁸ Current NSW salvage rate as at 1 July 2009 is \$53. Updating for a year of general inflation and applying GST to this figure gives approximately \$60.

Box 6.1 Approach to regulating salvage charges in other States

The NSW Roads and Traffic Authority (RTA) sets the maximum charges allowed for towing, salvage and storage of motor vehicles.⁴⁹ Salvage charges are prescribed as a set rate per hour (currently \$53 per hour excluding GST) for time taken in excess of 30 minutes actually required for salvage operations.⁵⁰ An additional surcharge of 20 per cent is applied if the accident occurs outside of business hours. Further charges apply if an assistant and/or an additional tow truck is required. Regulations in New South Wales also require licensees to keep fully itemised records of the charges and services performed for evidentiary purposes.

In Queensland, one of the conditions of holding a licence is that only 'reasonable' amounts may be charged for services such as salvaging.⁵¹ Regulations allow investigations into charges relating to (among other things) salvaging, and the amount charged for such work.⁵² However, the only regulation affecting salvaging says: "The chief executive may investigate the charges imposed for towing or salvaging a motor vehicle".⁵³

Acts and regulations relating to towing in the Northern Territory, in South Australia and in Tasmania do not mention salvaging.

The Commission has also had regard to information presented in the survey in which tow truck operators reported that typical fees ranged from \$60 to \$100. VicRoads also advised that charges appeared to typically be around \$60 to \$80. This suggests that a fee of \$60 for a standard salvage would not appear to be unreasonable.

On this basis, the Commission recommends that the fee for 'standard' salvage operations be set at \$60 (including GST). When salvage is required after hours (i.e. between 5pm to 8am on Monday to Friday, 5pm Friday to 8am Monday, and midnight to midnight on public holidays) the Commission considers a surcharge of 20 per cent should be applied. This surcharge is consistent with that applied in New South Wales.

For more complex salvage operations, where specialised equipment is required, the Commission recommends that the charges imposed be subject to a 'fair and

⁴⁹ The maximum allowable fees for salvaging services are fixed by legislation and there are regulations in place which stipulate the permissible rate. See *Tow Truck Industry Act 1998*, s. 54 and *Tow Truck Industry Regulation 2008*, Part 4A.

⁵⁰ RTA, *Summary of Maximum Charges for Towing, Salvage and Storage of Motor Vehicles – effective 1 July 2009*, 2009. The RTA advises that 30 minutes is incorporated to differentiate the time spent at scene for salvage work.

⁵¹ *Tow Truck Act 1973* (Qld), s. 12(2)(r).

⁵² *Tow Truck Act 1973* (Qld), s. 43(2)(p) and (q).

⁵³ *Tow Truck Regulation* (Qld) 2009, s. 36.

reasonable' test. Where towing operators need to hire specialised equipment, a 'fair and reasonable' charge is likely to reflect the costs of hiring that equipment (and an operator if required) from a third party.

The Commission also recommends that VicRoads collects information on the incidence of salvage charges imposed, and specifically on the level of charges imposed for complex salvage operations that are subject to the fair and reasonable test. All salvage charges whether standard or complex should be subject to evidentiary requirements (discussed in the next section).

At the next review, the Commission will re-examine whether the approach recommended provides the most effective way of regulating salvage charges in light of information collected on the incidence and level of charges imposed.

6.4 How the salvage charge should be applied

The Commission recommends that the salvage charge should be applied as a flat rate (i.e. in full) for the first hour actually required for any salvage operations, and then *proportionally* to the time taken in excess of an hour.⁵⁴

This approach recognises that in Victoria, most salvage operations are usually able to be undertaken within one hour.⁵⁵ It also provides an administratively simple basis for levying the charge by avoiding the need to calculate a proportional charge within the first hour.

The Commission also recommends that the charge only be applied from the commencement of the salvage operation and not from the time at which the tow truck operator arrives at the scene.

The same hourly rates should be applied where an assistant is required. Where an additional tow truck (including the driver) is used in salvage operations, the rate applicable for the first tow truck (i.e. the base fee) should apply. However, in these cases the evidentiary requirements should be capable of demonstrating the need for these additional charges.

6.4.1 Evidentiary and invoicing requirements for salvage and towing

As indicated above, a number of stakeholders and consumers have commented on the lack of transparency and consistency in the charging and invoicing practices of tow truck operators with respect to salvage operations.

In New South Wales, tow truck operators are subject to standard invoicing requirements that require them to provide consumers with a description of the

⁵⁴ For example, if the salvage operation takes only 30 minutes, \$60 would be applied. If it takes one hour and 15 minutes, then \$75 (\$60 plus 15 minutes at \$60 per hour) would apply.

⁵⁵ Survey respondents indicated that salvage could take anywhere between 15 and 60 minutes.

services performed in relation to accident tows, including any salvage work. They are also required to take a minimum of two photographs of the incident clearly showing the position of the vehicle being salvaged if the salvage work exceeds 30 minutes.⁵⁶ Insurers can then rely on this documentation to assess whether the salvage charges are justified or when there is a dispute.

Submissions from the major insurers supported the proposed evidentiary requirements for salvage. IMA and IAL highlighted previous difficulties to substantiate invoiced towing and salvage charges and expressed the view that the evidentiary requirements will achieve greater transparency.⁵⁷ Suncorp noted that the draft recommendations would be consistent with the arrangements in New South Wales.⁵⁸

The VACC, while not objecting to the evidentiary requirements, noted that if photographs were to be taken at all salvage operations, that the cost of this must be incorporated into the cost base previously calculated.⁵⁹ It noted that in the heavy towing industry insurers already pay \$35 for 6 photos to evidence salvage.

The Commission believes that the extent of the costs associated with these requirements has been overstated, particularly given that many tow truck operators already take photographs of their salvage operations. The recommended fee increase provided for in this final report should be sufficient to cover costs associated with these obligations.

The Commission remains of the view that adopting evidentiary and standard invoicing requirements will provide greater transparency for VicRoads, insurance companies and the general public surrounding salvage charges. Towing operators should be required to take photographs of any salvage operation. All salvage related charges should be separately itemised on the invoice and a detailed description of the work undertaken should be included.

This information will also allow VicRoads, the Minister and the Commission to develop a greater understanding of the nature and extent of salvage and therefore be better placed to make an informed decision regarding the regulatory rules and appropriate level of charges in the future.

As a result, the Commission recommends:

- where salvage is required and is charged, towing operators should take a minimum of two photographs of the salvage operation undertaken and
- towing operators should not be able to levy additional charges associated with evidentiary or invoicing requirements including the cost of photographs.

⁵⁶ RTA, *Summary of Maximum Charges for Towing, Salvage and Storage of Motor Vehicles – effective 1 July 2009*, p.4, 2009.

⁵⁷ IMA and IAL, *Op. Cit.*, p.3

⁵⁸ Suncorp, *Op. Cit.*, p.3

⁵⁹ Victorian Automobile Chamber of Commerce, *Submission Response to Review of Accident Towing and Storage Fees Draft Report*, p. 4, April 2010,

The Commission recommends that VicRoads be responsible for reviewing current invoicing practices and arrangements and specify the exact invoicing requirements to apply.

6.5 Secondary towing

In the course of this review, the Commission received confidential information citing examples of where some tow truck operators had towed a vehicle involved in an accident to a sub-depot, and then imposed a further unregulated charge to tow the vehicle from that sub-depot to a final depot.

The Commission understands that the Authority to Tow docket needs to clearly identify the place to where the vehicle is to be towed. Towing operators cannot, without the approval of the vehicle owner, move the vehicle to any other place except to that location. However, vehicle owners may not be sufficiently informed to assess whether the depot or location outlined in the Authority to Tow docket is the best location, or the location that will avoid the imposition of an unnecessary secondary tow charge. While insurers may be better informed, and able to question the imposition of secondary tow charges, they are often only able to do this after the event.

The Act is currently silent on the issue of whether additional charges may be levied if the vehicle is required to be towed to another location. In New South Wales, a \$78 regulated fee has been set for secondary tows.

Submissions to the draft report did not comment on the extent and circumstances under which customers are being charged for secondary tows and the nature of any such charges. As a result, the Commission has been unable to verify the extent to which this is a common practice.

However, the Commission believes that there is considerable scope for uninformed vehicle owners to be charged excessive amounts for secondary tows that are not required. The Commission recommends that data on the incidence and nature of secondary charges be collected by VicRoads to enable it to monitor the nature of charges imposed as well as the incidence of those charges. Analysing such information would provide a better basis for examining the extent to which the imposition of secondary tow charges may need to be prescribed or regulated in future.

6.6 Conclusions and recommendations

The *Accident Towing Services Act 2007* should be amended to clearly specify what the base towing fee includes (for example: all activities (other than salvage) required to undertake towing work including waiting times at the scene of the accident; cleaning of all glass and debris from the scene of an accident; cleaning the tow truck including any fluid leaks or spills from the vehicle being removed, reasonable phone calls and administration such as photographs and documentation).

The manner in which salvage services are currently provided and charged lacks transparency, consistency and justification, and should be regulated under the *Accident Towing Services Act 2007*.

For simple salvage operations:

- a regulated flat salvage charge of \$60 per hour (including GST) should apply from the commencement of the salvage operation and not from the time at which the tow truck operator arrives at the scene.
- a 20 per cent surcharge should apply when salvage is required after hours (i.e. 5pm to 8am on Monday to Friday, 5pm Friday to 8am Monday and midnight to midnight on public holidays).
- these charges should be applied as a flat fee for the first hour of any salvage work undertaken and proportional for time beyond the first hour.
- the same hourly rates should be applied where an assistant is required. For an additional tow truck (including the driver) used in salvage operations, the rate applicable for the first tow truck (i.e. the base fee) should apply.

For more complex salvage operations, the charges levied by tow truck operators should be 'fair and reasonable'.

To ensure that salvage is only charged when appropriate, a requirement should be introduced such that where salvage is required and is charged, towing operators should take a minimum of two photographs of the salvage operation undertaken and the invoice should include a detailed description of the work undertaken. This will enhance transparency and also provide vehicle owners and insurers with the necessary documentation to assess whether the charges were justified.

The terms of reference require the Commission to investigate and report on accident towing jobs for which a tow operator is not paid. These are often referred to as non-commercial or unpaid tows. This chapter discusses the nature and extent of unpaid accident tows and the Commission's recommendation to ensure that businesses recover the costs of these services through regulated services.

7.1 Non-commercial (unpaid) tows

Under the current accident towing regulations, accident towing businesses are paid only after they have delivered the towing service and have invoiced the vehicle owner or their insurer. In practice, vehicles are usually taken to the towing operator's depot and the regulations allow the businesses to retain possession of damaged vehicles until the appropriate fees have been paid.⁶⁰

Operators are prohibited from refusing a tow once they arrive at the accident scene unless the owner of the vehicle states that he or she is unable or unwilling to pay for the service.⁶¹ In addition, drivers are not allowed to request a deposit before performing the tow.

Under these regulations, an owner of a damaged vehicle that is liable for the towing fee may sometimes have an incentive to not pay for the services and abandon the damaged vehicle at the operator's storage facility. In particular, this incentive exists for uninsured vehicles or when the value of the damaged vehicle is less than what is owed.

Several accident towing businesses and the VACC expressed concerns about the costs incurred by operators for being required to perform unpaid or non-commercial tows.⁶² At the Commission's workshop, tow truck operators suggested that between 5 and 8 per cent of towing jobs are non-commercial.

⁶⁰ Section 2, *Disposal of Uncollected Goods Act 1961*.

⁶¹ Clause 39, *Accident Towing Services Regulations 2008*.

⁶² VACC, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper*, October 2009; All 1 Towing Services Pty Ltd, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper*, November 2009; Cheryl Jacovou (Wallan Towing Service) *Submission Response to Review of Accident Towing and Storage Fees Issues Paper*, November 2009; Wayne Imlach Imlachs Pty Ltd (End of Life Vehicle Recyclers (ELV)) November 16 2009 (p.1); Jimmy Goumas, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper*, 10 November 2009, (p.2).

Accident towing services that go unpaid are effectively a 'bad debt'. In general, most businesses can manage or mitigate their risk of incurring bad debts in a number of ways such as:

- demanding a deposit prior to the services being provided
- performing background checks on debtors to ensure their ability to pay
- incorporating the likely cost of bad debts into their prices
- insuring for bad debt risk and/or retaining possession of certain goods until fees are paid and
- disposing of the goods and recovering costs from the proceeds of sale.

The ability of accident towing businesses to manage non-commercial tows is difficult. In particular, it is difficult for operators to know the state of the damaged vehicle prior to arriving at the scene. Tow truck operators are not able to refuse a tow once they arrive at the scene. It is also difficult for operators to determine the risk of non-payment because they do not have an opportunity to verify the insurance or financial status of the customer prior to providing the service.

Representatives of the Accident Allocation Scheme suggested that prior to recent changes certain tows were commonly rejected, particularly when accidents involved an inexpensive vehicle (notably a motorcycle) or an extensively damaged vehicle such that a repair was unlikely. Accident Allocation Scheme representatives indicated that this resulted in certain jobs being reallocated several times before a willing towing business could be found. The delayed response time and extra congestion was particularly costly to other motorists.

As a result, VicRoads adjusted the scheme's practice to discourage the rejection of allocations. Under the new rules, if a business accepts a rejected tow, it does not lose its place in the allocation queue. Therefore, the rejected tow becomes a bonus tow on top of ordinary allocations. At present very few allocations are rejected.

7.2 Options — who should bear the costs of non-commercial tows?

The Commission has considered three options for dealing with the cost burden associated with non-commercial tows. These are discussed below.

Direct compensation

One option is to compensate operators directly for the costs associated with non-commercial or unpaid tows. This could be administered by VicRoads and paid for by all licensed drivers. Assuming 5 per cent of the approximately 40 000 accident tows performed in the Controlled Area each year were non-commercial tows, the cost to motorists is estimated at \$500 000 per annum.⁶³ Given that there are almost four million registered vehicles in Victoria, this equates to approximately \$0.13 per registered vehicle.

⁶³ For simplicity, a \$250 accident towing fee per tow has been assumed.

However, this option could be somewhat difficult for VicRoads to administer as it would require businesses first to prove that they had attempted to obtain payment from the motorist and second to prove that they received maximum proceeds for the vehicle through the uncollected goods provisions, before being reimbursed the remaining amount owed.

It is also unclear that the rates of non-commercial tows (bad debts) are of such an order that is unlike other industries or likely to render the industry financially unviable.

Streamline the process for disposing unclaimed vehicles

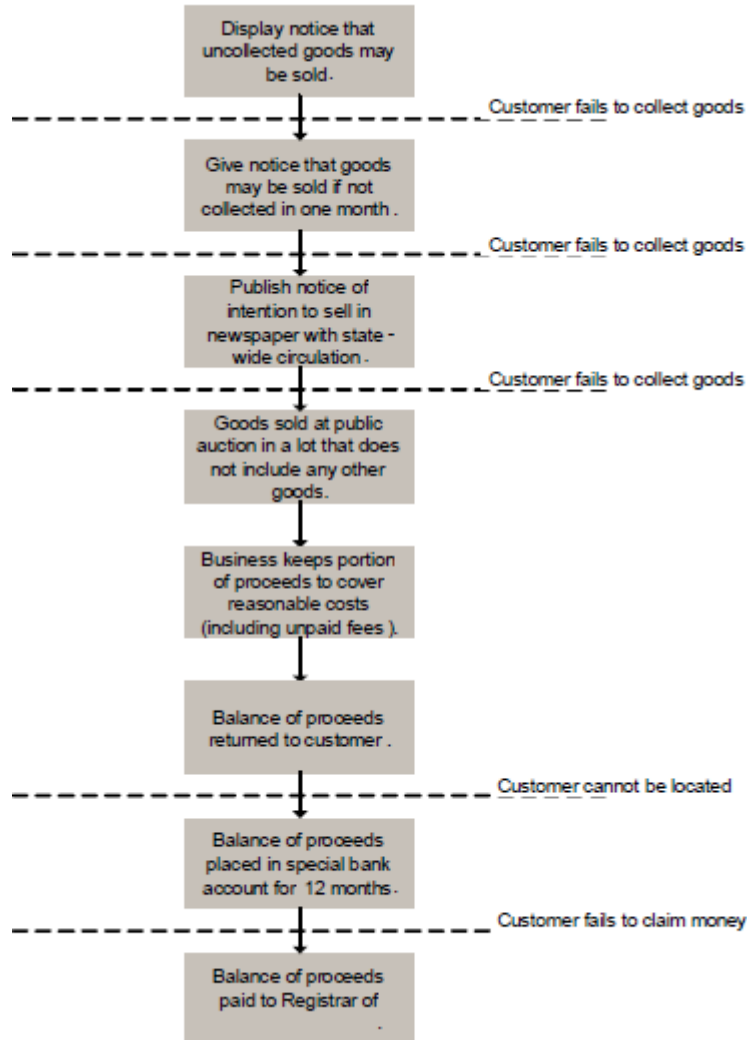
An alternative for reducing the cost of unpaid towing fees is to allow operators to dispose of vehicles if payment has not been received after a specified period of time, and keep all proceeds up to the amount owed.

An operator who lawfully removes and stores a damaged vehicle is permitted to sell the vehicle and recover costs under the appropriate circumstances.⁶⁴ Reasonable expenses for towing and storage are expressly included as costs that may be recovered by the operator from the proceeds of sale. In the event that the sale generates more revenue than that which is owed, the remainder is given to the owner of the vehicle (assuming the owner can be located).

The procedures that businesses must follow are described in Figure 7.1 below:

⁶⁴ The disposal of uncollected goods in Victoria is regulated by the *Disposal of Uncollected Goods Act 1961*. Section 6A explicitly includes accident towing businesses within the scope of the Act.

Figure 7.1 Proceeds for disposal of unclaimed goods



While the Victorian Government could consider relaxing some of the requirements of Victoria's uncollected goods legislation in relation to non-commercial vehicles, this option will not necessarily reduce the incidence of non-commercial (unpaid) tows and may not guarantee cost recovery. It may also reduce the protection afforded to vehicle owners. If there were merit in streamlining the process for disposing of unclaimed goods this option would ideally need to be considered more broadly. However the Commission does not recommend this option.

Include an amount in the cost base for regulated fees

This option recognises the cost of non-commercial tows as a cost of doing business, to be recovered from towing customers (or their insurers) through fees. This is the current practice with regulated towing and storage. This method is administratively simple since costs can be included in the cost base used to determine regulated fees.

In response to the draft report, both IMA and IAL and Suncorp supported a provision for non-commercial tows be reflected in the base fee.⁶⁵ However, the VACC submitted that they were unable to identify any application of a cost that has been incorporated in respect of these vehicles.⁶⁶

As indicated in the draft report, the Commission noted it is difficult to precisely measure the costs that accident towing businesses incur from non-commercial tows. However the Commission has included an explicit allowance of \$1 461 in the cost base to account for non-commercial tows. This figure is based on the average cost of non-commercial tows reported in the survey.⁶⁷

7.3 Conclusions and recommendations

The Commission has included a cost for non-commercial tows in the cost base. This is a standard practice for regulated industries, imposes few administrative burdens and benefits other drivers by guaranteeing the safe and timely removal of damaged vehicles.

⁶⁵ IMA and IAL, *Submission Response to Review of Accident Towing and Storage Fees Draft Report*, p.4, April 2010, Suncorp Group, *Submission Response to Review of Accident Towing and Storage Fees Draft Report*, p.4, April 2010.

⁶⁶ VACC, *Submission Response to Review of Accident Towing and Storage Fees Draft Report*, p. 4, April 2010, p.5.

⁶⁷ Based on the average of the number of bad debt allocations over the total number of allocations for each respondent.

8 BOUNDARIES OF THE CONTROLLED AREA

The terms of reference asked the Commission to report on whether the boundaries for the Controlled Area are still applicable given the recent urban fringe growth of Melbourne and where those boundaries should be.

8.1 Current arrangements

The regulatory arrangements applying to accident towing and storage services differ depending on whether an accident occurs in a controlled or self-management area:

- in controlled areas, accidents are assigned to tow truck operators via an accident allocation scheme and fees for accident towing and storage are regulated by the Minister.
- in self-management areas, tow truck drivers may only attend an accident scene after receiving an allocation through the self-managed scheme, but the fees are unregulated.

For all other areas, the fees for accident towing services are unregulated. These differences are summarised in Table 8.1 below.

Table 8.1 Regulatory restrictions by area type

	Accident allocation scheme	Regulated fees
Controlled areas	Yes	Yes
Self-management areas	Yes	No
All other areas	No	No

Currently there is only one controlled area and one self-management area in Victoria:⁶⁸

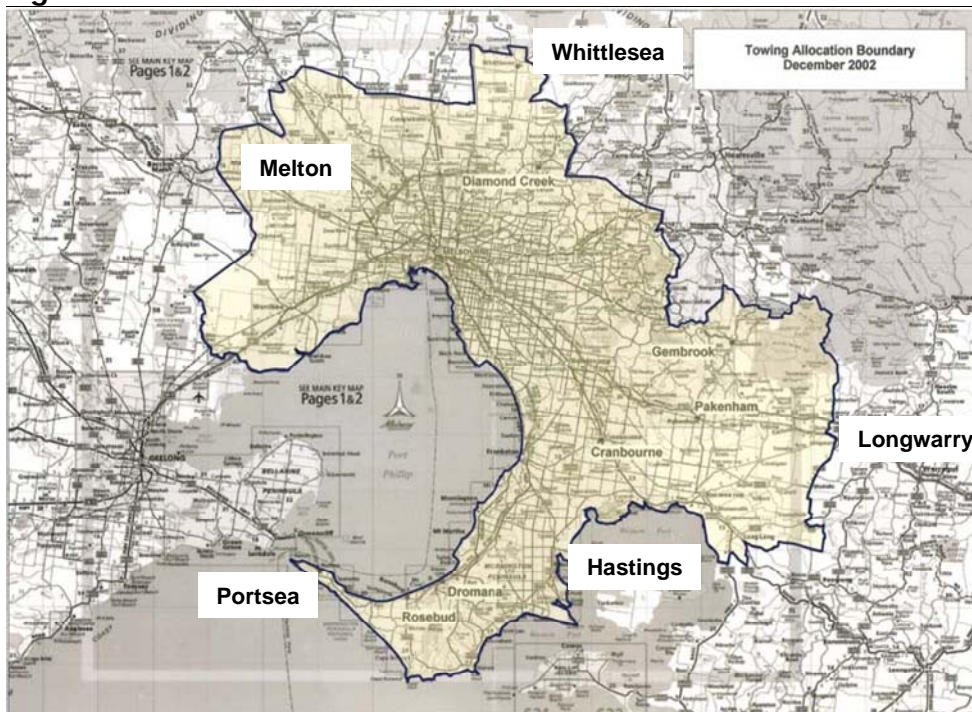
- the Controlled Area — covers the entire Melbourne metropolitan area and extends to the fringe suburbs of Werribee and Melton (to the west), Sunbury, Craigieburn and Whittlesea (to the north), Lilydale and Pakenham (to the east), and the Mornington Peninsula (to the south) (see Figure 8.1) and
- the self-management area — includes the Greater Geelong area.

VicRoads is currently responsible for declaring particular regions to be controlled or self-management areas as well as deciding the allocation zones of each accident towing licence within the Controlled Area.⁶⁹

⁶⁸ *Accident Towing Services Act 2007* section 46 and 52.

⁶⁹ Sections 46 and 52, *Accident Towing Services Act 2007*.

Figure 8.1 The Controlled Area



While the Commission has been asked to comment on whether the existing boundary is appropriate, it notes that VicRoads does not currently have a formal public methodology or public process for reviewing the boundary of the Controlled Area and the accident allocation zones within the boundary.

The Commission believes it is appropriate that VicRoads formalise and document the process by which the boundary is determined given the impact of such decisions on the effectiveness of the accident towing system and the risk of a VCAT challenge to any relevant decisions.

As a result, the Commission's recommendations in this chapter focus on improving the transparency and clarity of decision making in relation to the setting of the boundary and zones within the Controlled Area. In particular, it has focused on ensuring that the process and criteria used to assess those decisions are documented.

The following sections set out the Commission's recommendations in relation to the factors that should be considered and the nature of the process that should be used to determine whether the boundary and the zones within the boundary should be altered.

8.2 Determining boundaries for the Controlled Area

The purpose of regulating the accident towing industry is to promote the safe, efficient and timely provision of accident towing services.⁷⁰

The Controlled Area boundary and Accident Allocation Scheme were first established in 1983. At that time, the boundary covered only the Melbourne Metropolitan region. In 2002, the Victoria Taxi and Tow Truck Directorate (VTTD) decided that the boundary should be extended to include additional suburbs due to substantial growth in Melbourne's urban fringes and their inconsistency with local government areas.⁷¹ The boundary has not been reviewed since 2002.

The main objectives that underpin the setting of boundaries for the Controlled Area would appear to be:

- it seeks to protect vehicle owners/drivers by effectively determining the areas within which fees for accident towing and storage services will be regulated
- it promotes safety by seeking to minimise the risk of multiple towing operators responding to the same towing job and
- it promotes efficiency and timeliness by allocating towing jobs to towing operators through a centralised accident allocation system in such a way that a tow truck is likely to arrive at the scene within 30 minutes.

It is important to ensure that the boundary is set in such a way as to ensure that the benefits associated with regulation of accident towing services exceed the costs. This implies that the boundary should cover areas that are likely to have a higher incidence of accidents, and where the costs associated with the untimely removal of accident vehicles is likely to be high (because of the costs of congestion).

The benefits of a quick and efficient response to accidents are greatest in urban or highly populated areas. This is because those areas are likely to have greater traffic flow than in regional or rural areas and there are significantly higher economic and social costs associated with congestion. Urban areas are also highly concentrated with towing companies and therefore have a greater likelihood of multiple tow trucks arriving at an accident scene.

It also recognises that setting a uniform fee is likely to be more practical in the greater metropolitan area because most towing jobs will be broadly similar in terms of distance towed, location and complexity. In contrast, accident tows in regional and rural areas are likely to vary considerably because they may occur at greater speeds, in differing terrains and/or require additional equipment or localised expertise. As a result, the costs associated with towing services in those areas are likely to vary considerably and it may be more difficult to set a uniform fee.

In considering whether it is appropriate to recommend a change to the existing boundary, the Commission has had regard to stakeholder comments in relation to

⁷⁰ *Accident Towing Services Act 2007*, section 1.

⁷¹ VTTD was the predecessor to VicRoads as industry regulator.

the adequacy of the existing boundary and accident allocation system (see Table 8.2).

Overall, stakeholders suggested that the current boundary and allocation zones are successful in achieving the industry objectives of safety, efficiency and timeliness within the Controlled Area. As a result, the Commission does not recommend a change to the boundary at this time. Instead, it has focused on the extent to which there are clear guidelines that underpin decisions made about the changes in the boundary.

IMA and IAL argued that consideration should be given to extending the Controlled Area boundaries, but supported the development of a formal boundary change process.⁷² It also noted its interest in participating in future reviews of the Controlled Area boundary. Suncorp also supported a future review of the boundary and highlighted the Mornington Peninsula, Melton and Geelong as areas that should be considered as part of this review.⁷³

Suncorp suggested that consideration should be given to introducing separate regulated pricing structures for metropolitan and rural areas, similar to the arrangements in New South Wales, to aid transparency and reduce the scope for overcharging in rural areas. It also noted that overcharging in rural areas has increased since 2007, when the previous 'fair and reasonable' requirements for unregulated fees were removed from the *Accident Towing Services Act 2007*.

Through consultation, the VACC agreed that the boundary and zoning issues need to be carefully reviewed.

⁷² IMA and IAL, *Submission Response to Review of Accident Towing and Storage Fees Draft Report*, p.4, April 2010,

⁷³ Suncorp Group, *Submission Response to Review of Accident Towing and Storage Fees Draft Report*, p.4, April 2010.

Table 8.2 Stakeholder comments regarding the performance of the Controlled Area and AAS

<i>Objective</i>	<i>Observations</i>
Safety	<p>No data is available to assess the impact of the conduct of the accident towing industry on road safety.</p> <p>Stakeholders perceive a significant improvement in the conduct of tow truck drivers and operators (and hence safety) since the introduction of the AAS.</p> <p>Broadly, stakeholders consider that the AAS, in conjunction with other regulatory measures, performs very well in ensuring the safe removal of damaged vehicles.</p>
Efficiency	<p>No clear benchmarks were identified with which to compare the efficiency of industry costs.</p> <p>There is some evidence of businesses undertaking measures to reduce costs and improve efficiency. These include minimising the number of tow trucks operated and holding dormant licences to obtain allocations.</p> <p>The AAS limits efficiency to some degree, for example, by preventing consolidation of depots. However, the same measures contribute to other scheme objectives by ensuring geographical dispersion of tow trucks.</p>
Timeliness	<p>The RACV, as administrator of the AAS, maintains data concerning the time taken for dispatch of a tow truck, arrival of a tow truck at the accident scene and rectification of the accident scene. This data is heavily qualified as it relies on notification to the AAS.</p> <p>Notwithstanding the above, the data suggests that, in the majority of cases, tow trucks are dispatched within four minutes, arrive within 30 minutes and remove the vehicle within 50 minutes. These results are consistent with the objectives of the AAS.</p> <p>Broadly, stakeholders consider that the AAS, in conjunction with other regulatory measures, performs very well in ensuring the timely removal of damaged vehicles.</p>

8.3 Determining the appropriate boundary

The Commission understands that historically in determining the boundary, the following factors have been considered:

- consistency with local government areas
- evidence of misconduct by drivers in the area and
- the level of road usage.

The Commission believes that the boundary should be reviewed (and changed if appropriate) after having regard to a number of objectives, factors and sources of information including:

- evidence of misconduct, including the number of complaints to Vic Roads, the number of infringements by towing operators, and perceptions of stakeholders (Emergency services representatives, VACC)
- population density and other relevant information on growth projections for Melbourne and regional Victoria
- traffic flow information (VicRoads) and
- the numbers of accidents

Most of the metrics outlined above should be easily measurable. VicRoads can readily access traffic related data, such as road usage and information about the tow operators in different areas. Data for population density is available from the Australian Bureau of Statistics (ABS). The level of misconduct could be established by: the number of complaints, the number of infringements of towing operators and the perception of stakeholders.

Broader demographic and urban development factors that impact whether extending the Controlled Area to a particular region is appropriate are likely to change more gradually. As such, a review every five to ten years may be more appropriate.

In the interests of ensuring that there is transparency, VicRoads may wish to consider documenting its consultation process for deciding on any changes to boundaries. At the very least, the Commission recommends that VicRoads should invite submissions from stakeholders on any proposed boundary review and release its decision publicly. This should seek to include incumbent tow truck operators as well as representatives of Victoria's emergency services (Victoria Police, Ambulance Victoria), major insurers and RACV personnel involved in the administration of the AAS in the Controlled Area.

8.4 Accident allocation zones

The Accident Allocation Scheme is the mechanism by which tow truck operators are allocated accidents within the boundary (or Controlled Area). VicRoads is responsible for determining the accident allocation zones and deciding whether these need to be changed.

It is common for there to be multiple licences (and therefore depots) within an allocation zone. Where this is the case, accidents are allocated to the business that has received the fewest tows in that month in an attempt to evenly spread accident work to each licence holder. The allocation zone of each licence is set by VicRoads. In the past VicRoads has altered the allocation zones to ensure that the goals of the AAS (namely reaching an accident scene within 30 minutes and fair allocation of towing jobs) are being fulfilled. The self-management area is not divided into allocation zones, as the area is relatively small.

When a towing business is allocated an accident, it has the right to accept or refuse the allocation. If the allocation is accepted, the tow truck is required to arrive at the accident scene within 30 minutes.⁷⁴ If instead the allocation is refused, the business is placed at the end of the accident allocation towing queue. The RACV manages the AAS in the Controlled Area on behalf of VicRoads, while a local taxi company administers the AAS for the self-management area.

As with the Controlled Area boundary, the Commission understands that a formal public mechanism has not been established for determining the allocation zones. In the past, changes to allocation zones have been driven mainly by complaints from tow truck operators that believe they are not receiving sufficient numbers of towing job allocations. As a result, changes have been ad hoc rather than the subject of a regular or systematic review.

However, it appears that changes to allocation zones (including the establishment of new allocation zones) have been made having regard to the objectives of:

- timeliness – to ensure that a tow truck arrives at an accident scene within 30 minutes and
- fairness – to ensure that there is an even distribution of towing jobs between licences each year.

The Commission believes that these are the two key criteria that should underpin any decision by VicRoads to alter the zones within the boundary and existing data should be available to VicRoads to enable these to be addressed. To the extent to which there are other relevant criteria underpinning decisions to change the accident allocation zones, these should be clearly documented publicly and consistently applied across zones.

These recommendations are not radically different from what in practice VicRoads currently undertakes. However, the focus of the Commission's recommendations is on formalising and documenting the process and improving the transparency of the determination of the boundary and zones.

The Commission also recommends that each of the zones be reviewed against these criteria on a regular basis rather than in response to complaints from incumbent operators. Any such review should be public and provide an opportunity for relevant stakeholders to be consulted on the implications.

More broadly, the Commission believes that there may be some merit in considering whether there are more efficient ways of allocating towing jobs, for

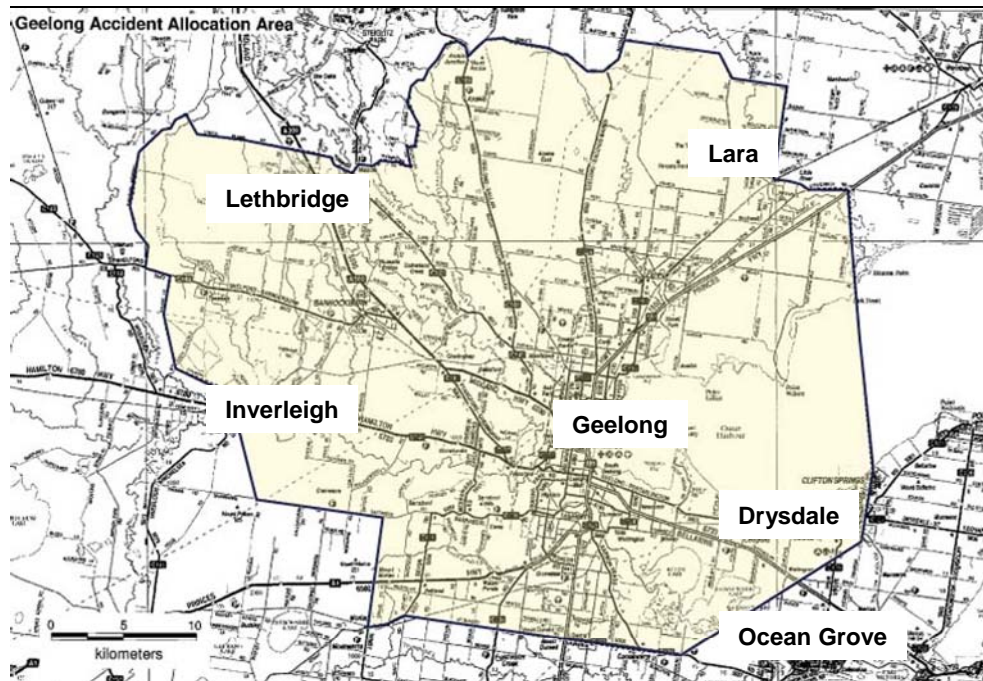
⁷⁴ *Accident Towing Services Regulations 2008*, Section 32.

example, through some form of auction or bidding system. However, this is not the subject of this review.

8.5 The Geelong self-management area

The Geelong self-management area consists of Geelong's metropolitan region and major roads connecting to Victoria's surf coast and the Great Ocean Road. Geelong is a large regional centre with significant traffic flows.

Figure 8.2 The Geelong Accident Allocation Area



Data source: VicRoads

As mentioned above, towing jobs within the self-management area are allocated through a self managed roster system, administered by a local taxi company. The Geelong self-management area is relatively small compared to the Controlled Area and so it has not been divided into multiple allocation zones.

Self-management areas are positioned half way between a controlled area and other non-regulated areas; an accident allocation scheme exists but tow operators are free to set their own prices. The allocation scheme is beneficial in that it prevents misconduct by tow truck operators given that the Geelong area has a significant number of tow operators and a high level of traffic flow. This is further supported by the similarities of the City of Greater Geelong to fringe suburbs in the Controlled Area. Certain parts of Geelong have even greater traffic flow than sections of the Controlled Area.

However, it does not allow for competition nor consumer choice as the customer is unable to choose their preferred supplier.

In its submission to the Commission's Issues Paper, Suncorp Group highlighted this problem:

The structuring of regulations controlling the tow truck industry into Controlled and Self Managed area, in particular Geelong, gives rise to variations in the actions of certain operators and the fees charged. Suncorp has encountered numerous instances where the fees charged for towing services in the Geelong area are well above what would be regarded as reasonable industry levels.⁷⁵

There is therefore reason to question whether towing operators in the self-management area should be subject to price regulation given this lack of choice and resulting loss of bargaining power. If it is subject to price regulation, a separate issue is whether those prices should be set with reference to those in the Controlled Area (which could be achieved by extending the current boundary if appropriate) or alternatively whether they should be set with reference to costs in the self-management area given that a separate allocation system applies.

The terms of reference for this review did not require the Commission to report specifically on the appropriateness of regulating accident towing and storage fees in the Geelong area or other areas. That said, there appears to be sufficient stakeholder interest to support a more detailed review of this issue.

In its submission to the draft report, Suncorp again highlighted issues of overcharging and inconsistent charging in the Geelong area and cited a number of examples. It also raised some examples of misconduct by tow operators, including demands for cash payment, not releasing vehicles and not towing damaged vehicles to the owner's or insurer's preferred destination.

8.6 Conclusions and recommendations

Regulated fees in the Controlled Area work to protect consumers from being overcharged as a result of the monopoly entitlement of the accident granted to tow truck operators through the allocation scheme.

Vic Roads should first establish a clear and transparent process for determining boundaries and changing allocation zones within the boundaries. Suitable metrics should be taken into account in making these determinations.

The Commission also recommends that any boundary or zone changes should undertaken publicly by Vic Roads so stakeholders can make submissions and be consulted on the implications of any proposed change.

Submissions regarding excessive pricing in the self managed and other regional areas suggest that a broader review of the need for regulated fees in those areas

⁷⁵ Suncorp Group, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper (p.1)*, November 2009.

may be warranted. The Commission therefore recommends that the Victorian Government review the nature and form of regulation to apply to accident towing and storage fees throughout Victoria, including whether there is a need to regulate towing and storage fees in Geelong.

A.1 Overview of accident towing regulation in other jurisdictions

Given the complexity in regulating the accident towing industry, it is natural that other States and Territories will adopt a variety of regulatory approaches. This appendix outlines the major difference between various jurisdictions.

In most jurisdictions, legislation provides the system of regulation of the tow truck industry. Regulations then support the legislation by providing more specific detail and procedure. For example, legislation generally provides for a licensing scheme; the regulations then set out the conditions and requirements for granting licences to operators and drivers.

In States where traffic accidents and general traffic flow are considered heavy, it is common to have some form of an accident allocation system or roster, which seeks to provide safe and timely clearance of damaged and disabled motor vehicles. These roster schemes will in general be administered by the governing department, local police, or in the case of the Northern Territory and Victoria, outsourced privately.

Primarily, the prices that are regulated across the various jurisdictions relate to accident towing and storage fees. However, in some States, the fees of other related services are also regulated. For example, New South Wales has detailed guidelines for what constitutes salvage and fees for this service are set accordingly. South Australia provides guidelines as to what can be charged for smash repair services after an accident towing job is received.

Table A.1 (below) shows accident towing and storage fees in the four jurisdictions where the industry is most heavily regulated.

Table A.1 Regulated accident towing and storage fees at 2010

<i>Service</i>	<i>VIC</i>	<i>NSW</i>	<i>QLD</i>	<i>SA</i>
Accident towing – base fee	\$168.45	\$244.20	\$271.80	\$251.15 ^a
Per kilometre charge	\$2.65 ^b	\$5.92 ^c	\$5.45 ^d	\$2.36 ^e
Cleanup charge				\$83.56 ^f
Secondary tow		\$85.80	'reasonable' ^g	
Salvage		\$53 / hr ^h	'reasonable' ^g	
After hours surcharge	\$57.55	20% ⁱ		See note a
Recovery of stolen vehicle		\$223.30 ^j		
Storage (per day)		\$18.70 ^k	'reasonable' ^g	
- under cover	\$12.90			\$16.22
- locked yard	\$8.60			\$7.51
- motorcycle under cover	\$4.35			
- motorcycle locked yard	\$2.80			

^a \$295.62 after hours. ^b in excess of 8km. ^c in excess of 10km and inside the metropolitan zones. Outside these zones, the charge is \$2.69/km in excess of 20km. ^d in excess of 50km ^e in excess of 20km, but, if after hours, charge is \$3.27/km. ^f applies after 30 minutes at accident scene, and is \$103.95 after hours. Cleanup refers to the removal of general debris from the road site. ^g Queensland does not have specific charges for secondary tows or salvage. ^h excludes GST. After 30 minutes spent at accident scene. Then \$53/hr can be charged for a certified driver and an additional \$53/hr for if the assistant is required to help. If another tow truck is required, the usual rates will apply for accident towing. ⁱ there is an additional fee of 20% charged after hours. ^j refers to a vehicle not involved in an accident. ^k after 72 hours.

As seen from the table, the size of regulated fees across States varies considerably as the distance travelled increases. Queensland has the highest base fee with \$271.80, although its distance rate does not apply until 50km has been travelled. South Australia has a higher base fee than Victoria and NSW, but its distance rate is lower than both of those States. NSW has the highest distance rate of all the jurisdictions.

A.2 New South Wales

Legislation and Regulations

The NSW tow truck industry is governed by the *Tow Truck Industry Act 1998* and the *Tow Truck Industry Regulation 2008*. The Roads and Traffic Authority (RTA) is responsible for administering transport related regulation across the state. Under the Act, both accident towing and trade towing services are regulated, however only accident towing, recovery of stolen vehicles and secondary tows are subject to regulated fees.

All tow truck operators (accident and trade towing) are required to be licensed. In order to be granted a licence, the applicant must satisfy certain character requirements (e.g fit and proper person) and business requirements (e.g be registered, incorporated). Similarly, all tow truck drivers must hold a drivers certificate.

Pricing

The RTA regulates maximum charges for accident towing, storage and salvage. The basic fee structure is a two-part tariff consisting of a base fee and a per kilometre rate. The RTA does not prescribe fees for trade towing due to the prevalence of competition for this service. There are no specific guidelines in the regulations on the matters the RTA should consider in regulating charges.

The RTA has commented that the prices for accident towing and storage are increased annually in line with the consumer price index. A periodic review takes place to determine if fees are at an appropriate level.

Salvage fees have been regulated since 1993 and the regulations clearly define when a salvage fee can be charged. Salvage is strictly defined as moving the vehicle from an off-road area, onto the road, where it can be safely loaded onto the tow truck. Photographic evidence is required to prove the vehicle needed to be salvaged from its original position. The regulations mandate that salvage does not include cleaning of debris around the accident scene as this service is implicitly included in the base fee.

Accident Allocation System

The RTA does not run any type of accident allocation system in the metropolitan region of NSW. An accident allocation scheme was trialled in the Penrith area for six months in 2003, but was deemed by the NSW Government to have no significant positive impact on the industry.

Non-commercial or public service tows

Tow truck operators have reported to the RTA that they only accept cash or an insurance cheque as payment to avoid any type of bad debts. Given there is no allocation scheme in NSW, the prevalence of non-commercial tows is low. That is, the tow truck operator can choose upon arriving at the accident scene whether they want to accept the job.

In cases where an accident victim is unable or unwilling to pay for their tow, the tow truck operator can potentially sell the vehicle if it is of any reasonable worth or sell as scrap metal in order to compensate them for a loss in potential revenue. Therefore, as it stands, there is no public administrative role in determining how tow truck operators could be compensated.

Unique Features

NSW is unique as they are the only jurisdiction which prescribes maximum prices for salvage work. There are very strict guidelines as to how salvage is defined and photographic evidence is necessary to provide justification for actual salvage work that is completed. This type of fee has not yet been regulated elsewhere.

Table A.2 Summary for New South Wales

<i>Summary of Accident towing and storage regulation and maximum charges</i>													
Legislation and Regulation	<i>Tow Truck Industry Act 1998 Tow Truck Industry Regulation 2008</i>												
Industry Regulator	Roads and Traffic Authority												
Scope of Regulation	Accident towing, salvage, storage fees and licensing requirements												
Accident Allocation System	Trialled in 2003, but not implemented												
Regulated Charges	<table border="0"> <tr> <td>Accident towing</td> <td>\$222.00 \$203 if stolen</td> </tr> <tr> <td>Per kilometre rate</td> <td>\$5.38/km in metro, after 10km \$2.69/km outside metro</td> </tr> <tr> <td>Secondary tow</td> <td>\$78</td> </tr> <tr> <td>Salvage fee</td> <td>\$53/hr for both driver and assistant after 30 minutes</td> </tr> <tr> <td>After hours surcharge</td> <td>Additional 20% above normal fee</td> </tr> <tr> <td>Storage fee</td> <td>\$17 per day after 72 hours storage</td> </tr> </table>	Accident towing	\$222.00 \$203 if stolen	Per kilometre rate	\$5.38/km in metro, after 10km \$2.69/km outside metro	Secondary tow	\$78	Salvage fee	\$53/hr for both driver and assistant after 30 minutes	After hours surcharge	Additional 20% above normal fee	Storage fee	\$17 per day after 72 hours storage
Accident towing	\$222.00 \$203 if stolen												
Per kilometre rate	\$5.38/km in metro, after 10km \$2.69/km outside metro												
Secondary tow	\$78												
Salvage fee	\$53/hr for both driver and assistant after 30 minutes												
After hours surcharge	Additional 20% above normal fee												
Storage fee	\$17 per day after 72 hours storage												

A.3 Queensland

Legislation and Regulations

The accident towing industry in Queensland is administered by Transport Queensland, who is the primary governing department of all transport related issues.

The relevant legislation and regulatory documents for the tow truck industry are the *Tow Truck Act 1973* and the *Tow Truck Regulation 2009*.

Under the Act, licences are required to operate a tow truck used for accident and trade towing. Transport Queensland is responsible for issuing licences.

Conditions are attached to each operator licence. These relate to a variety of matters including: driver conduct, such as obtaining a driver consent prior to towing, fees charged for towing, storage and salvage work, and compliance with other provisions of the Act. Transport Queensland is also empowered under the Act to impose additional conditions on licences.

In addition, tow truck drivers must hold a driver's certificate. The issuing of such certificates is also subject to satisfying the authority that the applicant is an appropriate person. In addition, the applicant must also be able to show they have the ability to drive a tow truck. However, this criterion is satisfied on holding a tow truck drivers licence for three years.

The *Tow Truck Act 1973* also prohibits certain conduct at the accident scene, including: obtaining, or attempting to obtain smash repair work; using force or undue influence to obtain work; and failing to comply with the directions of an authorised officer.

Pricing

Under the *Tow Truck Regulation 2009*, the maximum level of charges that may be charged for standard towing services are set. These maximum charges apply to tows relating to all accidents occurring within the Brisbane metropolitan area. Under the regulations, standard towing services include 60 minutes working time at the accident scene (including preparation for towing and cleaning up the accident scene), removing the vehicle from the scene, towing to a specific location within 50km, and storage of the vehicle for up to 72 hours.

Charges for all other towing services must be reasonable and can be investigated by the authority. The maximum charges are specified in schedule 3 of the *Tow Truck Regulation 2009*. The regulations do not specify a mechanism for adjusting these fees, or matters on which any such determination should be based. However, communication with staff at Transport Queensland indicate that prices are increased annually with CPI.

Accident Allocation System

Queensland does not administer any type of allocation or roster scheme in which to distribute jobs evenly across operators. Presumably, this is due to the smaller

number of traffic accidents requiring a tow in their major cities and towns, when compared to Victoria and South Australia.

Non-commercial tows or public service tows

The issue of non-commercial tows is not prevalent in Queensland. Transport Queensland have suggested that the occasional complaint from a tow operator is observed. However, they consider any non-payment issues should be negotiated privately with the accident victim. The tow truck operator will continue to store the vehicle until the victim pays, and like other states, will sell the car either complete, or for scrap, to recoup their costs.

Unique Features

Queensland is unique in that the regulations require that certain prices should be set at a 'reasonable' level and could be investigated by the authority in charge, whereas it is common to see standard prescribed charges for services such as storage.

Table A.3 Summary for Queensland

Summary of accident towing and storage regulation and maximum charges

Legislation and Regulation	<i>Tow Truck Act 1973</i> <i>Tow Truck Regulation 2009</i>	
Industry Regulator	Transport Queensland	
Scope of Regulation	Accident towing fee setting and monitoring, and licensing requirements	
Accident Allocation System	N/A	
Regulated Charges	Accident towing	\$271.80
	Per kilometre rate	\$5.45/km in metro, after 50km
	Secondary tow	'reasonable'
	Salvage fee	'reasonable'
	After hours surcharge	N/A
	Storage fee	'reasonable'

A.4 South Australia

Legislation and Regulations

The accident towing industry in South Australia is administered by the Department for Transport, Energy and Infrastructure (DTEI).

In South Australia, the tow truck industry is not subject to industry specific legislation. Rather, the relevant regulatory framework is incorporated in the *Motor*

Vehicles Act 1959, supported by the *Motor Vehicles (Accident Towing Roster Scheme) Regulations 2000*.

All tow truck drivers conducting accident towing work in the Adelaide metropolitan area are required to hold a tow truck certificate, issued by the Registrar of Motor Vehicles. The requirements for issuing a certificate are largely character-related (being a fit and proper person) or of an administrative nature and applicants satisfying these requirements are entitled to be issued a certificate. As such, the South Australian regime does not include the restrictions on market entry present in the Victorian structure (e.g. public interest tests). However, application and annual renewal fees do not apply. In issuing certificates, the Registrar has the power to impose a variety of conditions upon such certificates. The nature of these conditions is not specified by the Act.

The *Motor Vehicles Act 1959* also prohibits certain behaviours in relation to accident scenes. These include: touting or soliciting repair work and accident 'spotting' fees or other inducements to secure towing or accident related work. Drivers are also required to obtain an 'authority to tow' prior to carrying out any towing work.

One notable feature of South Australia's regulatory structure is the inclusion of an additional driver payment of \$83.56 per hour after 30 minutes at the accident scene. This additional payment has the potential to slow down the clearance of the vehicle as it may benefit the drivers to take longer to complete the job. However, it should be noted that this additional fee may account for the waiting time involved for the South Australia Police to examine the accident scene and allow for the vehicle to be removed. Nevertheless, South Australia appears to be the only state that adopts this additional per hour driver payment.

It is also worth noting that, in addition to the regulated charges prescribed, DTEI also provides guidelines for the prices to be charged for a quote on smash repair work. This is in light of the monopoly power granted to the tow truck operator as a result of receiving the accident allocation. Theoretically, this should not be an issue as consumers have a choice of repairer and therefore there is significant price competition in the crash repair market.

Accident Allocation System

Since 1984, South Australia has operated an accident allocation scheme, called the Accident Towing Roster Scheme (ATRS). The ATRS is governed by the Accident Towing Roster Review Committee with the support of Transport SA. The functions of the committee include informing the relevant minister of the practices and conditions of the industry and providing recommendations on the administration of the ATRS.

The scheme applies to all accidents occurring within the greater metropolitan area of Adelaide, which is divided in fifteen administrative regions. Under the scheme, accidents are reported to the Police Communications Centre, who issue accident towing directions to the next available towing service in the relevant zone.

Pricing

Under the *Prices Act 1948*, the Commissioner for Prices has the power to determine the maximum charges for accident towing and storage services.

In practice, representatives of Transport SA commented that an agreement exists between the Commissioner for Prices and the Registrar for Motor Vehicles. Under the agreement, the Registrar recommends the appropriate level of the regulated charges to the Commissioner. The Registrar consults with interested parties in making his/her recommendations and receives submissions.

Transport SA suggested that this consultation process is conducted approximately every five years. In the intervening years, the Registrar's recommendations are primarily based on previous recommendations and movements in the consumer price index.

Non-commercial or public service tows

There are no public compensation arrangements for non-commercial or public service tows in South Australia. When a tow truck operator is faced with an accident victim that is unable or unwilling to pay, this dispute can be settled using the appropriate methods in the court system and the tow truck operator may end up selling the vehicle either as complete or for scrap metal.

Unique Features

The regulation of the South Australia tow truck industry is unique compared to other jurisdictions for three reasons. First, they are the only state to provide guidelines for the prices that can be charged for subsequent smash repair work. Second, they are the only state that provide a per hour rate for time spent at an accident scene. Third, they include a maximum charge to account for a general 'cleanup' of the accident scene. This differs to other states where this kind of activity is implicitly included in the prescribed base fee.

Table A.4 Summary for South Australia*Summary of Accident towing and storage regulation and maximum charges*

Legislation and Regulation	<i>Motor Vehicles Act 1959</i> <i>Motor Vehicles Regulations 2000</i> <i>Prices Act 1948</i>
Industry Regulator	Department of Transport, Energy and Infrastructure
Scope of Regulation	Accident towing, salvage, storage fees and licensing requirements
Accident Allocation System	Accident Towing Roster Scheme, run by Police Communications Centre
Regulated Charges	Accident towing \$251.15 \$295.62 after hours Per kilometre rate \$2.36/km in metro, after 20km \$3.27/km after hours Cleanup charge \$83.56 or \$103.95 after hours Storage fee \$16.22 under cover \$7.51 in locked yard

A.5 Northern Territory

Legislation and Regulations

Northern Territory is unique in that there is no single governing body regulating the towing industry. Rather the regulatory body is called the Tow Truck Operators Code of Practice Administering Authority (the Authority) which consists of Consumer Affairs, Northern Territory Police, the Automobile Association of Northern Territory (AANT), the Motor Trades Association (MTA) and the Insurance Council of Australia.

The primary legislative and regulatory document in place is the *Consumer Affairs and Fair Trading (Tow Truck Operators Code of Practice) Regulations*. The provisions for this code are only related to a Police controlled accident scene.

The Code of Practice provides the Authority with the power to issue schedules of recommended fees for tow truck services, determine disputes about fees and investigate complaints against tow truck operators.

Representatives from the Authority have said that to this point, the power to issue prices has not been enacted, as they have deemed that the market for accident towing is competitive and there is no requirement to intervene.

All tow truck operators will need to complete and sign an 'Authority to lift, carry or tow' form when the job takes place in a Police controlled accident scene.

Accident Allocation System

Northern Territory runs an accident allocation roster which the Motor Trades Association (NT branch) is responsible for the operational aspects. Tow truck operators must apply to the Authority upon which they will determine the suitability of the applicant and the minimum requirements for vehicle conditions.

According to the Consumer Affairs Annual Report for 2006-07, the roster system appears to be working "fairly and effectively", with no complaints received from consumers, tow operators or police.⁷⁶

Non-commercial or public service tows

The issue of non-payment for an accident tow is tackled in the same manner as any standard commercial arrangement. It is the operator's responsibility to ensure they accept jobs where payment is foreseeable, and if payment does not occur they can sell or wreck the car under the *Sale of Uncollected Goods Act*.

Unique Features

Northern Territory is unique in that they have the powers to investigate whether prices are set at unreasonable levels, rather than specify what can be charged for

⁷⁶ 2007, Department of Justice, *Annual Report of The Commissioner of Consumer Affairs NT 2006-07*

services such as accident towing and storage. Furthermore, the regulator in charge of Northern Territory differs to other jurisdictions as it is a collective authority comprising both public and private sector participants.

Table A.5 Summary for Northern Territory

<i>Summary of Accident towing and storage regulation and maximum charges</i>	
Legislation and Regulation	<i>Consumer Affairs and Fair Trading (Tow Truck Operators Code of Practice) Regulations</i>
Industry Regulator	Tow Truck Operators Code of Practice Administering Authority
Scope of Regulation	Minimal price monitoring and authority compliance
Accident Allocation System	N/A
Regulated Charges	The Authority has power to recommend fees, but currently, is yet to enact this

A.6 Western Australia

The relevant regulations regarding the Western Australia tow truck industry are contained in the *Road Traffic (Tow Truck) Regulations 1975*. These regulations set out minimum required standards for vehicle operators as well as basic licensing requirements. When accepting a towing job, operators or drivers must obtain an authority to tow from the consumer.

There are no maximum charges for accident towing or accident allocation rosters in Western Australia.

A.7 Tasmania

The Department of Transport has commented that there are currently no regulations or specific legislation regarding the accident towing industry in Tasmania. Operators are free to charge prices subject to competitive market forces, and as such, the consumer has considerably choice of operator. In addition, there are no tow truck specific licensing requirements in place.

The Tasmania Police are in charge of distributing the jobs between tow truck operators. They run an accident towing roster system in response to any traffic incidents that require a tow.

A.8 Australian Capital Territory

The Australian Capital Territory does not have any specific regulation or legislation regarding the accident towing industry. Prices are negotiated between the tow truck operator and accident victim. However, there is an informal allocation system

administered by the Australian Capital Territory Police, and an operator may be added to the roster provided that the tow truck is roadworthy.⁷⁷

⁷⁷ VicRoads and PwC 2008, *Regulatory Impact Statement: Accident towing services regulations 2008*, October.

