

DRAFT RESPONSE WITH REGARDS TO INVITATION TO PROVIDE SUBMISSIONS

1.1

- Licensing should continue for all industry segments
- Character requirements, criminal history/association checks should still be carried out however as discussed a more liberal approach should be taken for Heavy Vehicle Towing Operators being able to hire a “Trainee” employee prior to a Tow Truck Drivers Certificate being issued. Time frames with history checks and the likes are preventing Heavy Vehicle Towing Operators from being able to trial and train new drivers prior to the current average waiting time of more than 8 weeks for a new Drivers Certificate application to go through the RMS TTLC. This is having an effect on Heavy Vehicle Operators being able to hire quality staffs that are in fact being lost to other sectors of the industry such as Interstate and Local freight transport companies.
- No such “trainee” employee should be required or approved for Light Vehicle towing due to the risk of stand over persons and stand over tactics being carried out by so called “trainees” at the scenes of motor vehicle accidents.
- Agree with the change of Category A and B number plates
- Price Regulation should only apply to Light Vehicle Towing. Light Vehicle towing being any vehicle that does not have the capacity of carrying a load of greater than 4.5 tonnes
Price regulation for Light Vehicle Towing should also include not just a maximum towing fee but also a minimum towing fee. With the addition of a maximum towing fee that better reflects the costs (the current price as per the preliminary report is a maximum tow fee that is lower than what should be charged) associated with the ownership and running costs of the business (insurances, RMS fees, wages and running costs) a minimum towing fee charge should also be set that will reflect the bare minimum any licenced operator or driver can charge for a smash rate tow. This will remove the ability for insurance companies to tender for cheap towing that in effect is causing these operators to run at a genuine loss per tow undertaken. It will also see a more accurate means by which operators can compete with price.
For example Combined Towing won the tender back in 2009 for Police Towing providing a contract tow rate of \$38.50 inc GST per Police to pay tows. This price is at least \$75.00 cheaper than the actual cost to run the truck, the staff and the towing authority required to do the job requested

1.2

- The base fee for an accident tow has NEVER included storage for any time frame. The accident tow fee was for the first 10 kilometres towing and the first 30 minutes of salvage with one truck and driver only. Please see copy of Regulation below:

TOW TRUCK INDUSTRY REGULATION 2008 - REG 40S

Storage fees do not apply to the first 72 hours of storage

40S Storage fees do not apply to the first 72 hours of storage

A fee cannot be charged for the storage for 72 hours or less of a motor vehicle damaged as a result of an accident or recovered after being stolen.

- Fees for recovery of light vehicles should not be regulated.
- An after-hours surcharge of 20% should still be applicable after hours.
- In hours towing should be 0800Hrs to 1700 Hrs Monday to Friday
- After hours towing should be from 1700 Hrs until 0800 Hrs Monday to Friday as well as all hours Saturday, Sunday and gazetted public Holidays

1.3

- All operators should have an RMS approved holding yard with the capability to hold at least 2 cars per truck on the Operator's License. The holding yards should still have the same security requirements as per the current Tow Truck Regulations
- Country and Metro Operators should still be able to have their holding yard within 10 kms of their registered business premises however still have the option of having more than one yard or a yard that is a greater distance from the business premises (with approval from RMS)
- Storage fees to be charged after the vehicle being entered the approved holding yard
- Storage fees to be more indicative of the actual costs of the space utilised in that holding yard based on rental costs or owners costs. Minimum storage fee per 24 hours to be set at \$28.00 inc GST per vehicle per 24 hours storage
- There should be no maximum/minimum storage fees set that differ between inner metro and outer metro/country

1.4

- Please describe what you state is "the riskier aspects of the industry"
- License and certificate duration of up to 5 years is agreed however there needs to be reform in the following area. EG a driver has an unpaid parking fine of which his drivers license has been suspended due to non payment. As it stands if a drivers license is suspended then the drivers certificate is automatically cancelled . This needs to change. A tow truck drivers certificate should still be current if within 28 days of drivers license that is suspended and that the fines etc are paid and up to date prior to the 28 days after suspension. This does not permit the tow truck driver to drive unlicensed, it does give leeway to those who are in unfortunate positions that have their license suspended for menial reasons and should not have to go through reapplication and the 8-12 week wait to have a new tow truck drivers certificate approved and issued. As of today, if a driver has paid for a 3 year drivers certificate and then has the certificate suspended for unpaid fines then the rest of the 3 year certificate is lost and not recoverable

- Electronic record keeping should be implemented and all requirements such as non-accident record, accident record and holding yard register should be able to be recorded on the one database
- Minimum age for employment of fully certified drivers should be 21. However HEAVY TOW TRUCK OPERATORS should be able to employ licensed off siders from the age of 16
- Agree with operators being able to dispose of unclaimed vehicles more easily

1.5

- Agree in its entirety for all points in this section, however unless there are more staff hired within the TTLC there will not be any streamlining done what so ever due to lack of staff and current staff being over worked. This applies to all licensing and investigation staff.
- Investigation staff to be given powers similar to Heavy Vehicle Inspectors whereby they can use Magenta Lights and Sirens to pull over tow trucks for random inspections and investigations. Current TTLC Investigators have no authority under the Act to pull a tow truck over be it licensed or not
- Why is it that you can recommend fee reductions for maximum tow fees tow truck operators but as of yet you cannot provide us with a reasonable reduction in fees that operators and drivers currently pay to TTLC? This whole report has been based on what an operator or driver should be doing/changing/looking but there is nowhere that suggests with any accuracy the reductions in fees operators and drivers should be paying to TTLC

1.7

1. Agreed. Tow truck licence plate categories should be amended to reflect the risk of the towing activities the truck undertakes. Specifically:
 - Category A plates should cover all types of towing including light vehicle accident towing. That is accident towing for light and heavy vehicles trade towing for light and heavy vehicles.
 - Category B plates should cover all types of towing except light vehicle accident towing. That is: accident towing for heavy vehicles only trade towing for light and heavy vehicles.
2. Agreed. The Operator's Licence Application should be amended to better facilitate operators using a combination of tow trucks with different tow truck plate categories.
3. Pricing should be set for a minimum and maximum tow fee for light vehicle accident towing. Setting a minimum will remove insurance companies and operators negotiating contract fees that are lower than the actual cost of carrying out the job as per the contract.
4. Agreed however with the law now changed as per Police attendance it is of little consequence getting the police to inform the owner that are liable for any changes
5. Agreed. For heavy vehicle accident towing services, price regulation should be removed.
6. Agreed with one exception. An insurer should not be taking part in the approval process of heavy vehicle towing whilst at the incident. This should be left to the driver or owner of the vehicle as one of the previously mention persons are more than likely to be in attendance at the accident and more aware of what is actually needed to complete the job. Insurers are looking for nothing more than cutting expenses/costs. In 99% of cases the insurer will have

not attended the accident scene at all and having to wait for a representative to turn up to the incident will increase waiting times, road closures and clean up tasks

7. Maximum base for light vehicle towing should be \$285 per tow (first 10 klms only in both country and metro areas) and \$90 for subsequent tows (first 10 klms in both country and metro areas). These prices not inclusive of GST
8. Agreed. There should be no change to the distance and salvage allowances currently included in these light vehicle base fees.
9. Maximum per klm for both metro and country areas should be \$5.50 per klm plus GST
10. Maximum light vehicle salvage charges in both Metro and Country areas should be \$60 per hr (truck and driver included) after the first 15 minutes but includes all road and off road areas. For a second truck and driver or assistant only for salvage the fee should be \$60 per hour from time of notification to completion. All prices plus GST
11. In hours to be from 8am to 5pm Monday to Friday
After hours to be 5pm to 8am Monday to Friday , weekends and public holidays with a maximum surcharge of 20%
12. Agreed. The current requirement for operators to store light vehicles in holding yards that they own or lease and that can store a minimum of four cars should be removed. A new licence condition specified in the Act should require operators to:
 - store vehicles in a location that is safe and secure, in accordance with guidelines issued by RMS
 - take all reasonable precautions to prevent loss of or from, or damage to, any motor vehicle that is being towed or stored by, or on behalf of, the operator until such a time as it is returned to the owner or delivered to an agent authorised by the owner (eg, insurer or designated smash repairer).
13. A) It should be a requirement that operators store vehicles within premises that they own or lease. Removal of this will lead to operators storing cars on the street, in backyards, smash repairers etc. Customers and insurers should be able to know where the vehicle in question is at all times, however customers or insurers wanting to visit the holding yard should be doing so via appointment only. There should be no requirements for an operator to have access to the holding yard other than police or RMS other than via appointment
B) Agreed
14. Agreed. The discretionary grounds for refusing a licence should have regard to an operator's performance in storing vehicles.
15. Agreed. Operators must specify their proposed storage locations as part of their operators licence application or renewal or notify RMS at any time if they change and are not permitted to store vehicles in any locations that have not been specified.
16. Country and Metro operators should be able to store light vehicles in any safe and secure location that is specified and approved on their license
17. Disagree. See point 16

18. Disagree. At all times towing should be done via the quickest and if possible shortest route with actual kilometres to be charged for the first and subsequent tows
19. Disagree. Actual kilometres as per point 18 should be charged with all tows both first and subsequent
20. No charges for storage should be able to be charged by an operator if the final destination is something other than the operators holding yard. What fees and charges a smash repairer wish to charge is not part of this Act nor should it be
21. The maximum towing fee does not offer any storage within it at all. Storage to be charged once vehicle is in the operators holding yard
22. Minimum storage fee not maximum is to be set as \$28 per 24 hours period. A Maximum storage fee to be provided by operator with proof of what actual costs are for providing the storage space. This fee is to be published within the operators license based on ownership or tenancy of a holding yard
23. Tow truck assistants should only be for Heavy Vehicle Towing. Having assistants employed by light vehicle operators only increases the likelihood of violence and underhanded tactics at an accident. Even more so now police do not need to attend for the majority of accidents. Agree with points listed as per age an character etc but the implementation of the Workcover White Card should be required
24. Any non certified passenger is already permitted under the Act provided they are not travelling, to and from an accident or attending an accident
25. Agreed. Certified and non-certified passengers in tow trucks should be subject to the same conduct requirements as the tow truck driver.
26. Agreed. If a passenger (certified or non-certified) is travelling in an operator's tow truck, the operator should be responsible for ensuring they adhere to the relevant conduct requirements.
27. Agreed. The Government negotiate mutual recognition arrangements for tow truck operator's licences, driver's certificates, and towing assistant's certificates with the governments of Victoria, Queensland, South Australia and the Australian Capital Territory.
28. Agreed. Operator's licences, driver's certificates and assistant's certificates should be available for three and five-year durations for those who have held the licence or certificate for a continuous period of at least three years without incident, immediately prior to the commencement of the licence or certificate being applied for.
29. Agreed. Requirements on operators to maintain non-accident towing records should be removed, but tow truck drivers must be able to show that they have been authorised to tow the vehicle.

30. Agreed. Requirements to maintain tow truck usage logs should be removed and replaced with a requirement that operators must be able to identify any drivers, assistants or passengers who travelled in or operated a particular tow truck at a particular time.
31. Agreed. The period operators are required to retain records should be reduced from five years to two years.
32. Agreed. Operators should not be required to keep paper records where the required records are kept electronically and must be made available to authorised officers or police officers on request.
33. RMS develop and implement by 30 June 2015 an electronic system that can be used by operators for the purpose of electronic record keeping and reporting to RMS, as well as for obtaining electronic towing authorisations at the scene of an accident (eg, using handheld devices).
34. Agreed. Towing authorisation forms should not be required for the towing of heavy vehicles (greater than 4.5 tonnes GVM) from accident sites. However, operators should be required to obtain written authorisation for the towing job from the owner or driver of the accident vehicle, or the owner's agent (such as the insurer). This written authorisation can be in electronic form (eg, email or SMS).
35. Agreed. Operators should not be required to submit copies of the towing authorisation form to RMS within 28 days of the tow, and the towing authorisation form should be reduced to a duplicate rather than a triplicate form.
36. Agreed. Tow truck drivers should be required to submit completed towing authorisations to the operator within 7 days of completing the towing job, instead of within 72 hours.
37. Agreed. The towing authorisation form should be simplified and re-designed to:
 - highlight important information for the vehicle owner/driver on top of the front page (see example provided in Appendix E)
 - gather the key details regarding the tow on the front page (see example provided in Appendix E)
 - list the applicable regulated fees for either metro or non-metro (see example provided in Appendix E)
38. Agreed. Books of towing authorisations should be designed and printed in a way that minimises the time tow truck drivers need to spend filling out the operator licensee's details on every form and towing notice. For example, by giving operators the option to:
 - order books of towing authorisations with the licence details already printed on the forms and towing notices
 - order stamps with the licensee details (noting that this would require stamping both copies of the form and the towing notice)
 - order stickers with the licensee details (noting that this would require

attaching stickers to both copies of the form and to the towing notice).

39. Disagree, One tonner tow trucks (Holden one tonners) should NOT be able to be used as either A or B class tow trucks
40. Agreed. The Government amend the provisions for disposal of unclaimed vehicles in the regulations so that an operator can lawfully dispose of an unclaimed vehicle that, has a value of less than \$3,000 (at the time of disposal) 30 days after a reasonable attempt has been made to notify the owner or an agent for the owner of the operator's intention to dispose of the vehicle.
41. Agreed. A vehicle should be considered to be unclaimed, and the operator should be able to begin the process of disposing of the unclaimed vehicle, when:
- the vehicle has been held in storage by the operator for at least 14 days, and
 - the accrued storage fees have not been paid, and
 - the owner or an agent for the owner has not contacted the operator to arrange for delivery of the vehicle or for continued storage of the vehicle
42. Agreed. The Regulation should also clearly specify:
- the minimum effort required by the operator in attempting to notify the relevant persons of the operator's intention to dispose of the vehicle
 - the ways by which the vehicle can be lawfully disposed of
 - how the balance of the proceeds of sale of the vehicle (or its parts) should be dealt with
 - how an operator can establish the value of an unclaimed vehicle 97
 - any other relevant matters.
43. Agreed. RMS publish a brief, practical guideline on its website that explains the process that operators must follow in order to dispose of unclaimed vehicles, and sets out the options available to operators to try to recover monies they are owed.
44. Agreed. The requirements in the Regulation that tow trucks must carry a broom, a shovel and a durable rubbish container should be removed. It remains a requirement under the Act that tow truck drivers clean up and remove debris from accident scenes.
45. Agreed. The requirement that tow truck drivers must wear protective clothing when driving the tow truck should be removed. However, tow truck drivers and any other employee of a tow truck operator must wear protective clothing while:
- operating or assisting in the use or operation of a tow truck on a road or road related area
 - working at an accident scene or salvage site.
46. Agreed. The Tow Truck Industry Protective Clothing policy should made be less prescriptive, including:
- removing the requirement for all persons to have available for their use SPF30+ sunscreen, sun protective headwear and protective sunglasses
 - replacing the requirement that the lettering on the back of reflective vests

must be at least 7 cm with a requirement for the lettering to be clearly legible from a minimum distance of 20 metres (this should not require operators to increase the size of existing lettering on tow trucks and reflective clothing).

47. Disagree. The requirement should stand as current, that the licensee details displayed on the tow truck must be printed in letters and figures at least 50mm high and displayed on the driver's side of the vehicle

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

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

49. Disagree. The requirement that operators keep any original or photocopy of their operator's licence in each of their tow trucks should be removed.

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

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

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

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

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

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

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

- making payments for licensing fees
- updating details relevant to the licences/certificates
- submitting electronic copies of documents required in relation to the licences/certificates

- ordering replacement licences/certificates.
57. Agreed. RMS notify all tow truck operators, drivers and assistants of all regulatory and policy changes that could affect them as soon as possible after the decision to make those changes is made public. The notification should also include information on how the changes might affect tow truck operators, drivers and assistants.
58. Disagree. “RMS publish news and updates regarding its compliance and enforcement activities on its website. This should include warnings and alerts regarding tow truck operators and drivers that have been convicted or found guilty of relevant offences (similar to NSW Food Authority’s “Name and Shame” register).”
RMS should cancel any driver or operators certificate if they are found guilty of any offence that deems them unfit to be such
59. Agreed. RMS ensures that, for the purposes of assessing applications and carrying out investigations and audits, it requests only information and documents that it does not already have on file. Among other things, a new applicant for a driver’s certificate who already holds a NSW driver’s licence should not be required to submit:
- a photocopy of their driver’s licence
 - two passport photos of themselves.
60. Agreed. Tow truck industry participants and stakeholders should be able to submit complaints and enquiries online, via a web-form.
61. Agreed. Every tow truck operator should be audited at least once every three years. New operators and operators found to be non-compliant should be audited more frequently, in line with a risk-based audit approach.
62. Agreed. RMS formalise a Memorandum of Understanding with NSW Police for automatic notification of relevant information held by Police about persons in the tow truck industry.
63. Agreed. A combined review of both the Tow Truck Industry Act and the Tow Truck Industry Regulation should be carried out as soon as practicable. The aims of this review should include:
- implementing IPART’s recommendations (the final recommendations that include the input from the operators and drivers)
 - adopting relevant aspects of the Licensing and Registration (Uniform Procedures) Act 2002
 - simplifying and clarifying the legislation.
64. Agreed. Thereafter, the Tow Truck Industry Act should be reviewed once every 10 years and the Tow Truck Industry Regulation should be reviewed once every five years.

65. Agreed. RMS amend the fees for operator's licences, tow truck plates, driver's certificates and towing authorisations to the levels shown in Table 8.1.
66. Agreed. RMS levy an additional fee of \$30 (ex-GST) for incomplete applications and renewals.
67. Agreed. RMS should review its tow truck licensing fees each year and revise them to reflect efficiency savings resulting from the changes to the design and administration of the licensing scheme.
68. Agreed. Accident towing, accident storage and licensing fees are adjusted on 1 July each year in line with the change in the CPI (All groups, Australia) to March of that year.
69. Agreed. A major review to reset all fees is undertaken in time for the price change on 1 July 2020. After that, a major review of fees is undertaken every five years.
70. The implementation of Heavy Vehicle Operators to be able to have a new driver "On Trial" whilst awaiting the approval of the drivers certificate. This trial period to be no longer than six weeks and subject to the on trial driver signing a Stat Dec stating that they believe they are of good character and have been supplied and understand the Towing Act and Regs
71. RMS TTLC to provide more active surveillance in regards to operators that are not licenced
72. NSW to be trained on all aspects of the Tow Truck Act and its responsibilities
73. Towing Authorisation Forms to become electronic however the sticker that has to be filled out and placed on the vehicle being towed must still be implemented
74. Prohibited charges. The following charges should be allowed to be passed on to the customer or the insurer:
 - Tow Truck cleaning fee for when vehicles have spread or leaked oil all over the tray/cradle
 - Moving a vehicle causing an unreasonable obstruction at the request of police or authorised officer should be able to be charged to the RMS, similar to how clearway tows are done thus far (provided it is not an Hourly hire clearway)
 - Transporting owner of the vehicle. If the owner needs to be transported from the accident to a train station or home residence and the route in which needs to be taken is not the route to the destination provided on the towing authorisation then the kilometres difference should be charged in with the first tow
 - If a fire extinguisher is used on the vehicle that is signed up by the driver to be towed then the extinguisher replacement costs to be charged back to the owner or the insurer
75. Insurers to be held accountable for engaging the services of unlicensed tow trucks for vehicles removed from the scene of an accident or damage arising due to an accident
76. Investigation by the ACCC into pricing of Tow Truck Greenslips. Currently Tow Truck Greenslips are nearly triple that of an equivalent truck with the same carrying capacity however no "TT" plates. If the insurers want tow truck maximum fees dropped they should also look at dropping the operators expenses and this includes all insurances

77. Why does one insurance company namely Suncorp have such an input into maximum fees and charges? This is one of many insurers that are cutting the core out of the smash repair industry, sending businesses into closure and in some cases bankruptcy due to rates and contracts being cut. EG only 5 years ago the nominal hourly rate for a spray painter charged out by a smash repairer was between \$^% and \$85 per hour. Suncorp and NRMA have drastically reduced this down to an average of \$33 per hour. This reduces quality of work, cheaper less skilled labour and the insurers standing over business owners demanding that these prices be followed or no work will be approved for repair in their workshops.
78. Why are all the maximum rates in this report only allowing the operator to basically break even? Why is there no margin for minimal profit such as 5% net profit. Reducing maximum fees is only encouraging poor maintenance on vehicles, underpaying staff, standover tactics to drivers of other companies at accidents and holding vehicles in the holding yard for extended periods of time to make up for shortfall in cost recuperation
79. Salvage fees should be able to be charged after the first 15 minutes, not 30 mins as current or recommended
80. Country areas should have the same maximum fees as Metro areas