

# Review of Accident Towing and Storage Fees

Draft Report

29 August 2018



**An appropriate citation for this paper is:**

Essential Services Commission 2018, Review of Accident Towing and Storage Fees: Draft Report, 29 August

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# Contents

<b>1. Executive summary</b>	<b>1</b>
We conduct reviews of fees and make recommendations to the minister	1
We undertook a benchmarking approach for this draft report	2
Our benchmarking analysis suggested that storage fees are too low	2
We are not proposing any other changes at this stage	2
Our draft recommendations may lead to some changes to regulated fees	4
This is your opportunity to provide feedback on our draft recommendations	5
<b>2. Regulated accident towing fees appear appropriate</b>	<b>6</b>
We adopted a benchmarking approach for this review	6
Trade towing benchmark fees suggest regulated fees are appropriate	7
Regulated fees across Australia are consistent with fees in Melbourne	9
<b>3. Regulated storage fees appear to be too low</b>	<b>12</b>
Regulated fees are lower than storage fees for trade towing and impound	12
Storage fees are also lower than regulated fees in other jurisdictions	15
Our draft storage fees have been set in line with the benchmarking results	17
<b>4. The productivity adjustment factor should not be changed</b>	<b>20</b>
Regulated fees are adjusted each year by a formula in the legislation	20
Productivity of the industry has increased since our last review	21
The accident towing industry can improve productivity further	24
<b>5. We have not proposed a regulated basic salvage fee</b>	<b>29</b>
We received differing views on whether salvage services should be regulated	29
We have not recommended a regulated basic salvage fee	30
<b>6. We are seeking your feedback on our draft recommendations</b>	<b>31</b>
Indicative timelines for the review	31
How to make a submission on this draft report	31
We publish all submissions on our website	32
<b>Appendix A: Background on the accident towing industry</b>	<b>33</b>
Accident towing is the towing of an accident-damaged vehicle to a requested location	33
The minister regulates accident towing and storage fees in Melbourne	33
The Melbourne controlled area has an accident allocation scheme	34
Accident towing licences are linked to specific tow trucks	35
Overview of our 2013 review of accident towing and storage fees	36
Overview of our 2015 review of Victorian accident towing and storage regulation	38
<b>Appendix B: Performance of the accident towing industry</b>	<b>40</b>
Demand for accident towing has increased while supply is unchanged	40
Accident towing revenue is increasing while costs are at a similar level to 2013	44

Service levels have not changed significantly since 2013	47
<b>Appendix C: Reasons we have used benchmarking to review fees</b>	<b>50</b>
We received feedback on our proposal to continue with a benchmarking approach	50
For our draft report, we have decided to apply a benchmarking methodology	53
<b>Appendix D: Accident towing fees in other jurisdictions</b>	<b>58</b>
New South Wales	58
Queensland	61
South Australia	63
<b>Appendix E: Non-commercial tows (bad debts)</b>	<b>66</b>
An allowance for non-commercial tows is included in regulated fees	66
We have received feedback that the allowance for non-commercial tows should be recovered through storage fees	67
Our draft recommendation is to retain the current practice	67
<b>Appendix F: Legislative framework</b>	<b>69</b>
<b>Glossary</b>	<b>73</b>

# 1. Executive summary

## **We conduct reviews of fees and make recommendations to the minister**

We must conduct and complete periodic reviews and make recommendations to the Minister for Roads on:<sup>1</sup>

- whether any fee for accident towing or storage services previously determined by the minister is appropriate
- whether existing accident towing, storage or salvage services that are unregulated should be regulated and, if so, what regulated fees should apply
- a figure for the productivity adjustment contained in the annual adjustment mechanism, which is applied to regulated fees every year
- any other matter relating to accident towing services, the storage of accident-damaged vehicles or salvage that the minister specifies in writing.<sup>2</sup>

While the minister periodically determines regulated fees for accident towing and storage services<sup>3</sup>, the existing regulated fees are increased every year by an annual adjustment mechanism. The annual adjustment mechanism is calculated as the Melbourne Transport CPI minus the productivity adjustment factor.<sup>4</sup>

Our focus in this review is on accident towing, storage and salvage pricing matters within the Melbourne controlled area as outlined in the Accident Towing Services Act 2007.

In preparing this draft report, we have considered the objective of the Accident Towing Services Act<sup>5</sup>, which is to promote the safe, efficient and timely provision of accident towing services.<sup>6</sup>

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<sup>1</sup> Accident Towing Services Act 2007, section 212A(1)

<sup>2</sup> The minister has not specified any additional matters for us to consider in this review.

<sup>3</sup> Accident Towing Services Act 2007, section 211

<sup>4</sup> Accident Towing Services Act 2007, section 212H

<sup>5</sup> Accident Towing Services Act 2007, section 4. The Act also has an objective to ensure that persons who provide accident towing services are of appropriate character, are technically competent, act with integrity and have regard to vulnerable persons.

<sup>6</sup> In addition, s. 212D of the Accident Towing Services Act 2007 provides that, except to the extent that the minister otherwise determines, the objectives of the commission under the Essential Services Commission Act 2001 or any other Act do not apply to the functions and powers of the commission under its role to periodically review charges..

## **We undertook a benchmarking approach for this draft report**

We have adopted a benchmarking approach in order to assess whether regulated accident towing and storage fees are appropriate. The regulated fees include:

- **for accident towing:** a base fee, distance fee and after hours surcharge
- **for storage:** an 'under cover' and 'locked yard' daily fee for both vehicles and motorcycles.

The benchmarks we used to review these fees included similarly regulated services in other Australian jurisdictions, and unregulated trade towing and storage services in Victoria. Unregulated trade towing and storage services include clearway, impound and breakdown towing jobs.

We consider comparisons against these benchmarks give a robust view on the appropriate level of regulated fees. However they have certain limitations. For example, we have adjusted the benchmark fees to reflect the differences between accident towing and trade towing services, which requires us to make assumptions about the extent of these differences. Despite its limitations, we consider benchmarking is preferable to undertaking a detailed cost survey as it is less burdensome, and our experience in undertaking cost surveys is that they can suffer from poor response rates that undermine their results.

## **Our benchmarking analysis suggested that storage fees are too low**

Our benchmarking analysis suggests that the current fees for 'under cover' vehicle storage are too low and should be within the range of \$20.00 and \$26.50 per day. Our draft recommendation is that a value of \$25.00 per day for 'under cover' vehicle storage is appropriate, compared to \$17.00 per day currently. Reflecting the common cost drivers for this increase, mostly property leasing costs, we consider that all other regulated storage fees (i.e. 'under cover' and 'locked yard' storage for vehicles and motorcycles) should also be increased by the same proportion (i.e. 47 per cent). This translates into an increase of around \$2.00 per day on average for motorcycles and \$7.00 per day for vehicles. Our draft recommendation is based on our assessment of:

- benchmarks of storage fees associated with unregulated storage services (trade towing and impounding of vehicles)
- benchmarks of regulated storage fees for accident-damaged vehicles in other jurisdictions
- feedback we received from stakeholders on our consultation paper.

## **We are not proposing any other changes at this stage**

In addition to storage services, we have also assessed regulated accident towing fees, the productivity adjustment factor (which forms part of the annual adjustment to fees) and whether basic salvage fees should be regulated. Our draft recommendation is to maintain the current status of each of these.

## Accident towing fees

Current regulated accident towing fees (as escalated each year by the annual adjustment mechanism) appear appropriate. Accident towing is part of the work that a tow truck can conduct. While accident towing fees are regulated in Victoria, operators are able to set their own fees for other towing services (such as trade towing services). In our report, we have used contestable trade towing fees as a benchmark for the regulated fees.

We found that regulated fees were relatively consistent with benchmark trade towing fees, as well as with regulated accident towing fees in other jurisdictions.

## Productivity adjustment factor

We consider that the productivity adjustment factor should not be changed from 0.5 per cent. The productivity adjustment factor is used to offset annual fee increases by an amount that reflects the productivity improvements that the industry is capable of achieving.

Publicly available data<sup>7</sup> and VicRoads data indicate that productivity has increased in the towing industry since our last review. There is scope for accident towing operators to further improve their productivity through more efficient utilisation of tow trucks, although we have not found any significant reason to depart from the default productivity adjustment factor of 0.5 per cent.

## Fees for basic salvage

While there may be merit in regulating fees for basic salvage services, and we have recommended this previously, we have not recommended a regulated basic salvage fee in this review. In making this draft recommendation we considered that:

- the government has not adopted our prior recommendations to directly regulate fees, preferring instead to require that fees are reasonable, in terms of specified factors that a court must consider<sup>8</sup>
- we have not received detailed feedback or evidence in this review that customers are being charged excessive salvage fees that would justify more direct price regulation
- where stakeholders did raise concerns, these mainly relate to the transparency of the services provided when charged a salvage fee.

To the extent that there are issues related to the transparency of salvage fees, these should be directed to VicRoads. We have informed VicRoads of the issues raised during our consultation.

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<sup>7</sup> Such as productivity and turnover measures published by the Australian Tax Office and Australian Bureau of Statistics.

<sup>8</sup> Accident Towing Services Act 2007, s. 212I(2)

## Our draft recommendations may lead to some changes to regulated fees

Table 1.1 lists the 2018-19 regulated accident towing and storage fees in Melbourne and compares these to the fees that would apply under our draft recommendations. The 2018-19 regulated fees will continue to apply until the minister makes a new fee determination, which may occur in response to our final recommendations.<sup>9</sup> In summary, our draft recommendations, if implemented, would result in:

- no changes to the regulated accident towing fees
- increases in each of the regulated daily storage fees
- no additions to the services that are regulated (such as basic salvage)
- no changes to the productivity adjustment applied to regulated fees through the annual adjustment mechanism.

**Table 1.1 Regulated accident towing and storage fees in the Melbourne controlled area, 2018-19 actual fees and proposed fees**

Fee or charge description	2018-19 actual (\$ incl. GST)	2018-19 proposed (\$ incl. GST)
<b>Accident towing fees</b>		
Base fee (including first 8km travel by tow truck)	221.40	221.40
Additional fee per kilometer beyond 8km	3.50	3.50
After hours surcharge <sup>(a)</sup>	75.60	75.60
<b>Storage fees (charge per day)</b>		
Car – under cover	17.00	25.00
Car – in locked yard	11.50	16.90
Motorcycle – under cover	5.60	8.25
Motorcycle – in locked yard	3.60	5.30

Note: (a) applies from 5pm to 8am Monday to Friday, 5pm Friday to 8am Monday, and public holidays.

Source: VicRoads, Victorian Government Gazette Specials.

<sup>9</sup> Accident Towing Services Act 2007, s. 212. This section states that the minister may only determine charges for accident towing and other services after (a) receiving a recommendation from the commission on the matter; and (b) receiving a report from VicRoads.



## **This is your opportunity to provide feedback on our draft recommendations**

We are interested in hearing your views about our draft recommendations.

We will make our final recommendations to the Minister for Roads in December 2018, and **would appreciate your feedback by 26 September 2018.**

You can find our contact details on pages 31 and 32.

## 2. Regulated accident towing fees appear appropriate

The Minister for Roads regulates fees for accident towing services in the Melbourne controlled area, under section 211 of the Accident Towing Services Act. The minister last made a determination about fees in October 2014.<sup>10</sup> In particular, the minister has set a base fee, distance fee and an additional surcharge for after-hours jobs.

We are required under section 212A(1)(a) of the Act to recommend to the minister as to whether any amount the minister has previously determined for accident towing fees is appropriate.

Our draft recommendation is that the current regulated accident towing fees are appropriate and should not be changed.

In this chapter, we outline how we assessed the appropriateness of regulated accident towing fees and arrived at this draft recommendation:

- regulated fees appear consistent with fees for unregulated benchmarks, namely trade towing, when we consider the additional time required for an accident towing job compared to a trade towing job
- regulated fees are consistent with regulated fees in other jurisdictions, when we make adjustments for different regulatory settings.

We have also assessed data on industry performance (such as demand and supply changes), which demonstrated that accident towing fees do not appear too low. This analysis is included at appendix B of this report.

### **We adopted a benchmarking approach for this review**

We consider that a benchmarking approach rather than a detailed cost review remains the most appropriate methodology to review Melbourne accident towing fees for this review. Our decision to rely on benchmarking was based on our assessment of the relative costs and benefits of benchmarking and cost surveys.

The benefit of a cost survey is that its results can provide an accurate indication of the fees required to recover the costs incurred by average operator. However, these benefits are outweighed by the challenges involved in undertaking a cost survey, such as:

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<sup>10</sup> The Hon Terry Mulder MP 2014, *Determination of charges for the towing and storage of accident-damaged motor vehicles under section 211*, Victoria Government Gazette, No. S 406 Friday 31 October 2014.

- its cost
- we may receive a low response rate, leading to unreliable results
- even with a high response rate, the costs may not reflect the efficient costs of providing accident towing services and we would need to make ad hoc adjustments to the cost figures.

Benchmarking is simpler to apply than a cost survey and does not require obtaining data directly from accident towing operators. Its downsides include that benchmark fees must be adjusted for differences between accident and trade towing services, some of which require us to make assumptions.

We provide detailed reasons for using benchmarking at appendix C. We engaged Advisian, an economic and engineering specialist firm, to provide expert advice on our benchmarking approach and review the relevant benchmarks for Melbourne accident towing fees. Advisian's report is published separately to this draft report.<sup>11</sup>

## **Trade towing benchmark fees suggest regulated fees are appropriate**

Our review of trade towing benchmarks suggests that regulated accident towing fees are currently appropriate. The current regulated fees (as escalated by the annual adjustment mechanism) should provide adequate compensation for the additional work required for an accident towing job compared to a trade towing job. We consider that the current regulated accident towing fees should enable accident towing services to be provided in a safe, efficient and timely manner.

### **We have used trade towing jobs as a benchmark due to their similarity to accident towing jobs**

Trade towing refers to general towing services that are not the immediate result of a road accident. This can include clearway towing (where vehicles are illegally parked in designated clearway zones) and breakdown towing. Trade towing services are unregulated in Victoria. We consider that clearway and breakdown towing jobs are useful benchmarks for accident towing services as they broadly require the same inputs as accident towing jobs (such as a tow truck, driver and fuel) and require similar standby capacity. Most accident towing operators supplement their accident towing jobs with trade towing work.

The main difference between accident towing and trade towing work is that accident towing jobs generally take longer to complete. This may be due to, for example, the complications involved in towing accident-damaged vehicles and waiting for police to allow the removal of the vehicle. The broader regulatory environment for accident towing operators is likely to result in the costs of

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<sup>11</sup> The report is available on our webpage for this review; <https://www.esc.vic.gov.au/transport/accident-towing/accident-towing-and-storage-charges/accident-towing-and-storage-fees-review-2018>

providing these services exceeding the costs of providing trade towing services. For example, accident towing operators are required to attend an accident site within 30 minutes of receiving an allocation<sup>12</sup>, which means they will need to have tow trucks on standby to meet this requirement and lower tow truck utilisation rates. Trade towing jobs that are time sensitive (in particular, clearway and breakdown towing) may be the most comparable to accident towing jobs. Our analysis in this chapter is based on fees for clearway and breakdown towing.

### **We benchmarked trade towing fees using analysis by our consultant**

Advisian estimated the average fees for both accident towing and trade towing jobs in Melbourne and found that the average accident towing fee in Melbourne was \$292 in 2017-18, and trade towing fees in Melbourne ranged between \$101 and \$183 (with a median of \$157).<sup>13</sup> That is, the fee for an average accident tow is \$135 higher. Accident towing jobs, however, take more time than trade towing jobs, which helps to explain why accident towing fees per job are higher than trade towing fees on average. Because we do not have information about the average time required for a trade towing job in Melbourne, we are unable to make direct comparisons between the price per hour of accident towing and trade towing jobs.

In New South Wales, the Independent Pricing and Regulatory Tribunal (IPART) made a comparison of accident towing and trade towing fees based on a complete set of data on the average time to complete each type of job.<sup>14</sup> Advisian identified in their analysis that the extra time that an average accident tow takes in Sydney (which the IPART has estimated to be one and a quarter hours<sup>15</sup>) could apply in Melbourne. Using IPART's estimate, the hourly fee that is being paid for the additional time required for an average accident tow in Melbourne is \$108 (that is, \$135 divided by 1.25). This is only a little above the hourly benchmark towing cost in Sydney, and on this basis regulated accident towing fees in Melbourne (as escalated by the annual adjustment mechanism) appear to be appropriate and sufficient to recover the additional time involved in accident towing jobs compared to trade towing jobs.<sup>16</sup>

Advisian's methodology and results are outlined in pages 15 to 17 of their report.<sup>17</sup> Table 2.1 summarises Advisian's analysis. If stakeholders provide reliable data on the time required for trade

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<sup>12</sup> Accident Towing Services Regulations 2008, regulation 32.

<sup>13</sup> This was based on information from three trade towing operators and the results from an internet-based platform that connects consumers with towing operators in Melbourne. Source: Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, pp. 15-16.

<sup>14</sup> IPART 2014, Review of tow truck fees and licensing in NSW: Transport – Final Report, December, p. 69.

<sup>15</sup> IPART 2014, Review of tow truck fees and licensing in NSW: Transport – Final Report, December, p. 69.

<sup>16</sup> Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, p. 17.

<sup>17</sup> Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, pp. 15-17.

Regulated accident towing fees appear appropriate

towing jobs in Melbourne, we may be able instead to calculate a more direct comparison of the hourly prices of accident towing and trade towing in our final report.

**Table 2.1 Estimate of accident towing and trade towing fees in Melbourne, 2017-18**

	Accident towing (1)	Trade towing (2)	Difference (1) – (2)
Estimated fee	\$292	\$157	\$135
Average job time	N/A	N/A	75 minutes
<b>Average hourly fee</b>	<b>N/A</b>	<b>N/A</b>	<b>\$108 per hour</b>
<b>Benchmark hourly fee (NSW benchmark)</b>	<b>N/A</b>	<b>N/A</b>	<b>\$100 per hour</b>

Note: The estimated fees are based on an average job that consists of 57 per cent of tows in non-business hours, 11 kilometres of tow distance for trade tows (from the vehicle's location) and 18 kilometres of tow distance for accident tows (includes distance from depot to accident scene).

Source: Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, pp. 15-17.

## Regulated fees across Australia are consistent with fees in Melbourne

In addition to trade towing benchmarks, we have also considered regulated accident towing fees in other Australian jurisdictions. As these fees are regulated, they are likely to be less reflective of the underlying efficient costs than fees set in a contestable market (such as trade towing fees).

However, these services have similar characteristics and costs to accident towing services provided in Melbourne. For this reason, we consider that regulated accident towing fees in other Australian jurisdictions are a useful check on whether the regulated fees in Melbourne are reasonable. Our comparisons suggest that regulated accident towing fees in Melbourne appear to be relatively consistent with those charged elsewhere once adjustments are made to account for different regulatory settings between jurisdictions.

There are a number of similarities between accident towing services across Australia. However, there are also a number of unique factors, such as different regulatory settings (as outlined in more detail in appendix D). Table 2.2 presents a simple comparison of fees for accident towing for 2017-18 across each relevant jurisdiction (excluding storage and salvage services, which are addressed later in this report).

Regulated accident towing fees appear appropriate

**Table 2.2 Accident towing fees across different jurisdictions in Australia, 2017-18**

	Melbourne controlled area	New South Wales (metro)	Queensland	South Australia
Base fee	\$216.20	\$261.80	\$348.95	\$345.00
Distance fee	\$3.40 (after 8km)	\$5.69 (after 10km)	\$6.90 (after 50km)	\$3.00 (after 20km)
Business hours	8am to 5pm	8am to 5pm	N/A	7.30am to 5pm
After hours surcharge	\$73.80 flat rate	20% uplift to base fee and distance fee	N/A	\$57 on base fee and \$1 on distance fee
Fee for a simple average tow <sup>(a)</sup>	\$292.30	\$342.40	\$349.00	\$377.50

Note: (a) defined as 18 kilometres of tow distance and 57 per cent of jobs occurring in non-business hours

Source: Victorian Government Gazettes, Tow Truck Industry Regulation 2008 (NSW), Tow Truck Regulation 2009 (Qld) and declarations of maximum prices pursuant to the Prices Act 1948 (SA)

Without any adjustments to the average tow to account for differences between jurisdictions, regulated fees in Melbourne appear relatively lower than elsewhere in Australia. However, there are a number of differences in fee structures across jurisdictions that impact on the comparison. In table 2.3, we make adjustments to the average tow fees to account for some of the differences to Melbourne fees, for example:<sup>18</sup>

- the Queensland base fee includes an allowance for three days storage, so an estimate of \$25 per day has been subtracted from the fee for a simple average tow to remove storage revenue<sup>19</sup>
- accident towing jobs in NSW and Queensland do not begin measuring distance until the vehicle is picked up from the accident scene. In comparison, distance of jobs in Melbourne are measured from the depot where the tow truck driver accepts the job.
- additional working and waiting time beyond 30 minutes is not included in regulated fees in SA, so an assumption of the average working and waiting time for an accident towing job (an additional 13 minutes of charged time) is added to the fee for an average tow
- the business hours are longer in SA, so the fee for an average tow has been adjusted using the assumption that 55 per cent of jobs occur outside of business hours (rather than 57 per cent assumed for other jurisdictions).

<sup>18</sup> Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, p. 12 & 40.

<sup>19</sup> This value of \$25 is estimated based on the regulated private property towing storage fees in Queensland.

Regulated accident towing fees appear appropriate

**Table 2.3 Adjusted accident towing fees across different jurisdictions in Australia, 2017-18**

	Melbourne controlled area	New South Wales (metro)	Queensland	South Australia
Fee for an adjusted average tow <sup>(a)</sup>	\$292.30	\$298.10	\$273.95	\$387.25
Melbourne fee relative to each jurisdiction	N/A	2% lower	7% higher	24% lower

Note: (a) based on the 'simple comparison tow' in table 2.1, adjusted for differences in fee structures when compared to the Melbourne controlled area.

Source: Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, p. 13, table 6

We consider the adjustments outlined above make fees across jurisdictions more comparable. An additional difference between jurisdictions that has not been adjusted for is the inclusion of salvage fees within the base fee in NSW (for the first 30 minutes) and SA. Advisian did not have sufficient information on salvage requirements in these jurisdictions to estimate the necessary adjustment.<sup>20</sup> As salvage is a separate charge in Melbourne, we would expect regulated fees in Melbourne to be lower than in NSW and SA to reflect that difference.

We also note that there are some difficulties in standardising the distances travelled for a typical accident towing job, as the average job in SA and Queensland will likely be longer than those in Melbourne or Sydney (as reflected by the longer distances included in the base fees).

We are satisfied that the differences in regulated accident towing fees between jurisdictions can be explained by the different regulatory regimes and fee structures that apply. Our draft view is that this comparison corresponds with the results with our benchmarking of trade towing fees, and that current accident towing fees (as escalated by the annual adjustment mechanism) in Melbourne appear to be appropriate.

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<sup>20</sup> Ibid, p. 12.

### 3. Regulated storage fees appear to be too low

The Minister for Roads regulates fees for storing accident-damaged vehicles in the Melbourne controlled area, under section 211 of the Accident Towing Services Act. The minister last made a determination about fees in October 2014.<sup>21</sup> In particular, the minister has set regulated fees for ‘under cover’ and ‘locked yard’ storage for both vehicles and motorcycles.

We are required under section 212A(1)(a) of the Act to recommend to the minister as to whether any amount the minister has previously determined for storage fees is appropriate.

Our draft recommendation is that the current regulated storage fees are not appropriate and should be increased. Our draft view is that the ‘under cover’ vehicle storage fee should be increased from \$17.00 per day to \$25.00 per day, and all other regulated storage fees be increased by the same proportion (47 per cent).

In this chapter, we explain how we assessed the appropriateness of regulated storage fees and arrived at this draft recommendation:

- regulated storage fees are lower than storage fees associated with trade towing and impounding
- regulated storage fees are lower than regulated storage fees in other jurisdictions
- we also considered feedback we received on our consultation paper.

We considered that a benchmarking approach was the most appropriate methodology to review Melbourne storage fees for this review. The change in benchmark storage fees, based on unregulated storage for towed vehicles, should approximate the changes in the underlying costs of providing storage services. We outline our detailed reasons for using benchmarking in chapter 2 and appendix C of this report. We engaged Advisian to review benchmark fees relevant to storage services in Melbourne. Advisian’s report is published separately to this draft report.<sup>22</sup>

#### **Regulated fees are lower than storage fees for trade towing and impound**

Our review of benchmark fees for storage associated with unregulated towing suggest that regulated storage fees (as escalated by the annual adjustment mechanism) are currently too low and do not align with the market price for these services. In particular, while the regulated storage

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<sup>21</sup> The Hon Terry Mulder MP 2014, *Determination of charges for the towing and storage of accident-damaged motor vehicles under section 211*, Victoria Government Gazette, No. S 406 Friday 31 October 2014.

<sup>22</sup> The report is available on our webpage for this review; <https://www.esc.vic.gov.au/transport/accident-towing/accident-towing-and-storage-charges/accident-towing-and-storage-fees-review-2018>



fees for accident-damaged vehicles are between \$11.00 and \$17.00 per day, the benchmark trade towing storage fee is \$25.00 per day and the average benchmark impound storage fee is around \$26.50 per day (based on published storage fees).

### **Storage for trade towing and impounding are relevant benchmarks for regulated accident towing storage**

Tow truck operators provide other storage services in addition to storage for accident-damaged vehicles, in relation to:

- clearway towing, where a tow truck removes a vehicle parked in a clearway (or on a freeway) during restricted hours
- impounding of vehicles, which is the responsibility of local councils in some circumstances. Vehicles may be impounded when they are abandoned, derelict or otherwise causing obstruction. Councils generally outsource the towing and storage of vehicles to towing companies and pay a competitively negotiated rate.
- other trade towing jobs, when storage is requested by a customer (for example, where customers seek storage for their broken down vehicle). Customers are able to compare fees across different trade towing operators and decide where they will store their vehicle.

Storage services are effectively the same in each towing market (accident, trade and clearway/impound towing), with similar lots used to store vehicles.<sup>23</sup> Storage for trade towing, clearway and impound jobs are all unregulated services and operators in these markets publish their storage fees. We consider that the similarity of these services means they are useful unregulated benchmarks for the fees for storage of accident-damaged vehicles.

The main difference between the storage services will be the administrative costs associated with each (for example, accident towing operators are required to regularly notify vehicle owners of their ongoing debt).<sup>24</sup> While we have considered these differences in our analysis, we do not consider there is a need to specifically adjust the benchmark fees to improve comparability.

### **Storage fees for trade towing are significantly higher than regulated storage fees**

In its report, Advisian obtained quotes from two trade towing operators on the storage fees they charge for towed vehicles.<sup>25</sup> Advisian advised that both trade towing respondents quoted a rate of

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<sup>23</sup> As noted by the VACC in its submission to the consultation paper, s. 151 of the Accident Towing Services Act 2007 requires accident towing licence holders to provide, within ten business days, vehicle owners with a written notice stating the amount of storage charges owing, the daily rate at which charges are accumulating and that charges will continue to accumulate. Subsequent written notices must be provided within each period of 20 business days.

<sup>24</sup> Accident Towing Services Act 2007, s. 151.

<sup>25</sup> Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, p. 19.

Regulated storage fees appear to be too low

\$25.00 per day for vehicles, without differentiating between covered or uncovered storage or providing separate quotes for motorcycles.<sup>26</sup> Although there are only two datapoints for trade towing storage, one of the respondents is a large provider of trade towing in Melbourne.<sup>27</sup> We also note that the two quoted rates were identical. We therefore consider that these datapoints provide a sufficient indication of the storage fees likely to be charged by trade towing operators generally.

These fees are significantly higher than the regulated fees for storage of accident-damaged vehicles (\$16.60 for 'under cover' storage and \$11.20 for 'locked yard' storage). As the storage services provided by trade towing operators are likely to be largely similar to storage services provided by accident towing operators, we consider the storage fees in both markets should be more closely aligned.

### **Storage fees for impounded vehicles are generally higher than regulated storage fees**

We analysed the fees for impound storage services and found these are generally more than \$20.00 per day and varied greatly by local council. Local councils negotiate contracts with towing companies to provide these services and outline the fees they will pass on in their annual budgets. While the storage fees for impounded vehicles may be a relevant benchmark, the storage fees for clearway jobs are less comparable. In particular, these storage fees only apply after a few days and the first few days of storage are included within the 'release fees', which are a flat fee to retrieve an impounded vehicle from storage. For this reason, we have placed a lower weight on clearway towing benchmarking results in our analysis.

Councils will likely consider the costs of storage services when setting fees in their budgets. Most councils publish a 'release fee' for impounded vehicles that covers all costs involved in retrieving a vehicle, although some councils publish a separate storage fee. Table 3.1 shows that, apart from a few outliers, local councils tend to charge more than \$20.00 per day for impound vehicle storage and around \$26.50 per day on average.

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<sup>26</sup> Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, p. 19.

<sup>27</sup> Nationwide Towing & Transport is a large independent towing operator and the preferred supplier to RACV for towing.

**Table 3.1 Summary of council storage fees for impounded vehicles, 2017-18**

Council name	Storage fee (incl. GST)
City of Boroondara	\$10.00 (per day)
City of Casey	\$8.50 (per day)
City of Darebin	\$41.00 (per day)
City of Maribyrnong	\$47.00 (per day)
City of Monash	\$33.30 (per day)
Manningham City Council	\$26.00 (per day)
Moreland City Council	\$26.20 (per day)
Nillumbik Shire Council	\$20.00 (per day)
<b>Average council fee</b>	<b>\$26.50 (per day)</b>

Source: 2017-18 Annual Budgets of each council

Clearway towing is mainly operated by VicRoads in Melbourne, although the councils of Melbourne and Port Phillip manage the clearway towing in their respective municipalities. Each of these clearway managers quote the storage fees associated with impounded vehicles, as shown in table 3.2. While each of these clearway managers charge less than \$20.00 per day for storage, these fees generally apply after a few days. This means that the first few days of storage are undisclosed and are incorporated into the vehicle 'release fee'. As noted above, this is a flat fee charged to vehicle owners in order to retrieve their vehicle from the storage facility.

**Table 3.2 Storage fees for impounded vehicles towed from clearways, 2017-18**

Organisation	Storage fee (incl. GST)	Storage location
VicRoads	\$15.20 (after 5 days)	Collingwood
City of Melbourne	Not specified (first 2 days included in release fee)	Collingwood
City of Melbourne <sup>(a)</sup>	\$17.60 (per day)	Blackburn (auction yard)
City of Port Phillip	\$18.50 (after 2 days)	Collingwood

Note: (a) City of Melbourne states that if the vehicle is towed from the Collingwood impound yard to the Blackburn auction yard, different fees will apply (including the \$17.60 storage fee per day)

Source: Vehicle towing sections of VicRoads, City of Melbourne and City of Port Phillip websites

### **Storage fees are also lower than regulated fees in other jurisdictions**

As with our benchmarking of accident towing services in chapter two of this report, we have also compared regulated storage fees in Melbourne with those in other jurisdictions (i.e. Sydney and

Regulated storage fees appear to be too low

South Australia). We found that the regulated storage fees in Melbourne are lower than most other regulated storage fees.

Although the storage of accident-damaged vehicles is broadly the same service across all jurisdictions, there are state-specific cost drivers that will influence the regulated fees in each jurisdiction. The main difference between the jurisdictions (apart from different fee structures) is the underlying property lease costs that influence the fees. For this reason, we consider that our analysis of Melbourne-based unregulated storage (for trade towing and impound storage services) will be a closer and more appropriate benchmark than these regulated comparisons.

Table 3.3 presents a comparison of the 2017-18 regulated storage fees in Melbourne, Sydney and South Australia. The current regulated storage fees in Melbourne are comparable to those of non-metropolitan Sydney and are noticeably lower than those in metropolitan Sydney and South Australia.

**Table 3.3 Regulated storage fees per day in Melbourne, Sydney and South Australia for accident-damaged vehicles, 2017-18**

Storage fees	Melbourne controlled area	Sydney (metro)	Sydney (non-metro)	South Australia
Car – under cover	\$16.60	\$25.30	\$15.40	\$25.00
Car – in locked yard	\$11.20	\$25.30	\$15.40	\$15.00
Motorcycle – under cover	\$5.50	\$13.20	\$7.70	N/A
Motorcycle – in locked yard	\$3.50	\$13.20	\$7.70	N/A

Source: Victorian Government Gazettes, *Tow Truck Industry Regulation 2008 (NSW)* and declarations of maximum prices pursuant to the *Prices Act 1948 (SA)*

In Queensland, the first three days of storage of accident-damaged vehicles is included in the base fee for accident towing services. Storage fees for longer than three days are subject to a requirement that fees are ‘reasonable’.<sup>28</sup> However, in 2018 the Queensland Government introduced regulated accident towing and storage fees for private property towing.<sup>29</sup> The regulated storage fee for storing a ‘private property motor vehicle in a holding yard’ is \$25.00 per day.<sup>30</sup> This regulated fee is comparable to the regulated storage fees in metropolitan Sydney and South Australia.

<sup>28</sup> Accident Towing Regulations 2009 (Qld), section 32, p. 27.

<sup>29</sup> Private property towing involves removing vehicles parked on private property where the vehicles may be trespassing or parked in contravention of parking conditions.

<sup>30</sup> Queensland Government, Department of Transport and Main Roads 2017, *Government response to the Independent Investigation into the Towing Industry: Removal of Vehicles from Private Property*, 8 August.

Regulated storage fees appear to be too low

## **Our draft storage fees have been set in line with the benchmarking results**

The results from our benchmarking analysis suggest that regulated storage fees (as escalated by the annual adjustment mechanism) are not appropriate and are set too low. We have determined a range of appropriate values for regulated storage fees based on the benchmarking results. Our draft recommendation is that the 2018-19 regulated 'under cover' storage fee should be increased by \$8.00 per day to \$25.00 per day and all other regulated storage fees to increase by the same proportion (47 per cent).

### **We received feedback on storage costs in Melbourne**

The two submissions we received in response to our consultation paper both provided views on storage fees. The Insurance Council of Australia proposed no changes to storage fees, while the VACC proposed increases to storage fees based on its own internal cost of service analysis. Although we have based our recommendations on a benchmarking approach rather than an estimation of the cost of service, our proposed increases in storage fees are similar to the fee increases suggested by the VACC in its submission, as outlined below.

The Insurance Council of Australia stated that storage fees remained appropriate and that fees do not need to be increased.<sup>31</sup> As we have not received evidence to justify this viewpoint, we have based our draft recommendation on the conclusion from our benchmarking analysis that storage fees are currently too low. The Insurance Council of Australia also stated that operators that charge the regulated 'under cover' storage fee should be required to provide evidence that vehicles were kept under cover (such as through photographs). This issue is outside the scope of our current review and is related to VicRoads' role in enforcing the Accident Towing Services Act and Regulations. We have informed VicRoads about the Insurance Council of Australia's submission.

The VACC provided a cost of service analysis for different storage fees in inner and outer Melbourne. The VACC's analysis was based on a broad survey of property leasing costs, an assumption around parking space requirements and its internal estimates of administrative costs, bad debts and profit margin.<sup>32</sup> The VACC concluded from its analysis that:<sup>33</sup>

- 'under cover' storage fees should be 52 or 73 per cent higher than 2018-19 fees, depending on the location of the job (at \$29.48 per day for inner-Melbourne and \$25.89 per day for outer-Melbourne)

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<sup>31</sup> Insurance Council of Australia 2018, *ESC Review of Accident Towing and Storage Fees*, 18 May, p. 2.

<sup>32</sup> VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, pp. 16-17.

<sup>33</sup> *Ibid*, pp. 16-17.

- 'locked yard' storage fees should be 24 or 55 per cent higher than 2018-19 fees, depending on the location of the job (at \$17.81 per day for inner-Melbourne and \$14.21 per day for outer-Melbourne)

We requested the information underpinning the VACC's cost of service analysis in order to test its conclusions, but have not yet been provided with the data. As such, we have not used the VACC's cost of service analysis as a cross-check on our benchmarking results. We outline the reasons why we have relied on benchmarking results rather than land leasing costs in appendix C of this report.

The VACC's analysis suggested setting different storage fees for inner and outer Melbourne. In Sydney, IPART took this approach and recommended storage fees that take into account the cost of storage in different areas of Sydney and the utilisation of storage yards.<sup>34</sup> As we do not currently have data on land leasing costs across Melbourne, we will maintain our approach of recommending the same regulated fees for the whole Melbourne controlled area. We also note the benchmark fees we have observed are not significantly higher in inner-city suburbs compared to outer-city suburbs.

### **The benchmarking results indicate that fees could be increased up to \$25 per day**

The benchmarks we have analysed for the storage of accident-damaged vehicles indicate that there is a case to increase the regulated storage fees in Melbourne. Both the regulated and unregulated benchmark fees tend to indicate that a regulated storage fee between \$20.00 and \$26.50 per day would be appropriate. Our draft recommendation is an 'under cover' storage fee of \$25.00 per day. This would make the 'under cover' storage fee equivalent to the trade towing storage benchmark fee in Melbourne, which reflects the prices paid by consumers that directly source storage services from towing operators. This represents an \$8.00 per day increase on the 2018-19 'under cover' storage fee (around a 47 per cent increase). We have applied this same percentage increase to each of the other regulated storage fees ('under cover' and 'locked yard' storage fees for motorcycles and 'locked yard' storage fees for vehicles).

Since our last review, the regulated fees for storage have increased in line with the annual adjustment mechanism (based on the Melbourne Transport CPI minus a productivity adjustment) and are around 12.4 per cent higher in 2018-19 than in 2012-13. The Melbourne Transport CPI is composed of indexes related to motor vehicles (including maintenance, accessories and services), automotive fuel and urban transport fares. While this index will likely reflect changes in the cost of providing accident tows, it will likely be less reflective of changes in the industrial property lease costs that lead to changes in storage costs. The result of our benchmarking analysis, and

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<sup>34</sup> IPART 2014, *Review of tow truck fees and licensing in NSW: Transport – Final Report*, December, p. 91.

contrasting to the situation with accident towing services, is that regulated storage fees in Melbourne appear to have diverged from the benchmark fees.

### We have outlined a schedule of our recommended regulated storage fees

Table 3.4 provides the 2018-19 regulated storage fees and our recommended regulated storage fees for 2018-19. If these fees were to be implemented for the next financial year, we would expect the recommended storage fees to be escalated by the annual adjustment mechanism.

In its submission to the consultation paper, the VACC suggested that the storage fee for motorcycles be set at half of the storage fee for cars. The VACC stated that motorcycles require almost half of the storage space of cars and the administrative cost of storage should also be borne by motorcycle owners.<sup>35</sup> While there may be merit in this approach, our benchmarking analysis has only provided us with information related to the cost of storing cars. As we do not currently have enough information on the fees charged for motorcycle storage in unregulated markets in Melbourne, we propose to increase fees for motorcycle storage by the same percentage adjustment as for cars.

**Table 3.4 Regulated storage fees and our proposed storage fees, 2018-19**

Storage fees	2018-19 (per day)	2018-19 (per day) (draft proposed fees)
Car – under cover	\$17.00	\$25.00
Car – in locked yard	\$11.50	\$16.90
Motorcycle – under cover	\$5.60	\$8.25
Motorcycle – in locked yard	\$3.60	\$5.30

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<sup>35</sup> VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 19.



## 4. The productivity adjustment factor should not be changed

We are required under section 212A(1)(c) of the Accident Towing Services Act to make a recommendation to the Minister for Roads on a figure for the productivity adjustment to apply to fees for regulated services. Section 212H of the Act specifies that the productivity adjustment factor is 0.5 per cent, unless we recommend a different amount. We have not previously recommended a different amount.

Our draft recommendation is for the productivity adjustment factor to remain at 0.5 per cent.

This chapter summarises how regulated fees are adjusted each year and explains how we arrived at our draft view to retain the default value of the productivity adjustment factor:

- productivity of the industry has increased since our last review, as based on our analysis of various data (including public indexes and VicRoads accident towing data)
- the accident towing industry can make further productivity gains, as based on the expected growth in accident allocations

### Regulated fees are adjusted each year by a formula in the legislation

In the accident towing industry, regulated fees are amended each year by an ‘annual adjustment mechanism’, which is determined through a ‘CPI minus X’ formula. The offset in annual fee increases is intended to reflect the productivity improvements that the industry is capable of achieving.

The equation used to make this adjustment is specified in section 212H of the Accident Towing Services Act and is outlined below.

$$A \times \left( \frac{B}{C} - X \right)$$

where—

- ‘A’ is the regulated fee for the previous financial year
- ‘B’ is the most recent March quarter value of the Melbourne Transport CPI<sup>36</sup>
- ‘C’ is the previous year March quarter value of the Melbourne Transport CPI

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<sup>36</sup> The CPI (Melbourne, Transport) index is available at; Australian Bureau of Statistics, 6401.0 – Consumer Price Index, Australia, Table 9.

The productivity adjustment factor should not be changed



- 'X' is the productivity adjustment factor, set at 0.005 (unless we recommend a different value)<sup>37</sup>

Section 212H(3) of the Accident Towing Services Act restricts the formula from applying a negative value. This means that regulated fees will remain unchanged in those years that this formula returns a negative value.

## **Productivity of the industry has increased since our last review**

Our analysis suggests that productivity has increased in the accident towing industry since our last review. Productivity is the comparison of changes in outputs (such as, revenue or turnover) relative to changes in inputs (such as, costs of operating the business).

Our consultant, Advisian, has provided expert advice on data sources that can be used to assess past productivity changes in the accident towing industry.<sup>38</sup> Advisian analysed:<sup>39</sup>

- data published by the Australian Taxation Office (ATO) on small business performance benchmarks for towing and comparing this against other transport industries
- the number of accident tows per licensed tow truck, as a partial measure of historical productivity
- multi-factor productivity published by the Australian Bureau of Statistics (ABS) for the Transport, Postal and Warehousing Division.

While none of the data sources we have analysed are a direct measure of the productivity adjustment factor, which is an estimate of future productivity changes, they provide an indication that the accident towing industry has achieved productivity gains since our 2013 review.

### **The productivity adjustment factor is intended to promote cost reductions**

The main purpose of the productivity adjustment factor is to promote accident towing businesses to achieve cost reductions and share these cost savings with consumers through lower fees. As regulated fees are annually adjusted by the Melbourne Transport CPI, the regulated fees will reflect any cost increases or decreases that occur in the broader transport industry. The productivity adjustment factor is therefore an amount that we expect the accident towing industry to outperform productivity changes in the broader Melbourne transport industry.

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<sup>37</sup> Section 212H of the Accident Towing Services Act refers to this as 'D', but we have used 'X' – as per the common usage of the term 'CPI minus X'.

<sup>38</sup> Advisian's consultant report is included as an appendix to this report and is available as a separate download on our website.

<sup>39</sup> Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, p. 28.

The productivity adjustment factor should not be changed

In this chapter, we have analysed measures of productivity changes in the towing industry and compared this to productivity changes in the broader transport industry. We have used this analysis to determine the extent that towing operators have been able to match, or outperform, productivity changes in the Melbourne transport industry.

### **ATO data suggests productivity may have increased in the towing industry**

The ATO publishes small business performance benchmarks for a number of industries within the Transport, Postal and Warehousing Division, including for towing services. The results of this data provide evidence that firms in the Australian towing industry have achieved higher productivity (measured by turnover relative to input expenses) relative to the broader Australian transport industry.<sup>40</sup> Although this data is not Melbourne-specific, we consider it provides a broad indication that the towing industry is capable of productivity gains that at least match the broader transport industry.

Advisian used the ATO benchmarks to estimate the ratio of turnover (a measure of outputs) to expenses (a measure of inputs).<sup>41</sup> Figure 4.1 presents the results of this measure from 2012-13 to 2015-16 for the towing industry and the average of all transport industries reported (towing, courier, delivery and road freight transport).<sup>42</sup> This figure shows that the towing industry has outperformed the average of the transport industries on this measure. That is, the towing industry has had a larger increase in turnover relative to expenses than the broader transport industry.

The values in figure 4.1 display a large increase in turnover relative to expenses during 2015-16. This may be related to reductions in the cost of automotive fuel during that year, which are a major expense item across all transport industries.<sup>43</sup> The reduction in the cost of automotive fuel is reflected in the Melbourne Transport CPI and has therefore been incorporated in the regulated accident towing fees. The main takeaway from figure 4.1 is that the towing industry appears to have been at least as productive as the broader transport industry since 2012-13.

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<sup>40</sup> In this example, the broader transport industry includes towing, courier, delivery and road freight transport services as outlined on the ATO's website at: <https://www.ato.gov.au/Business/Small-business-benchmarks/>

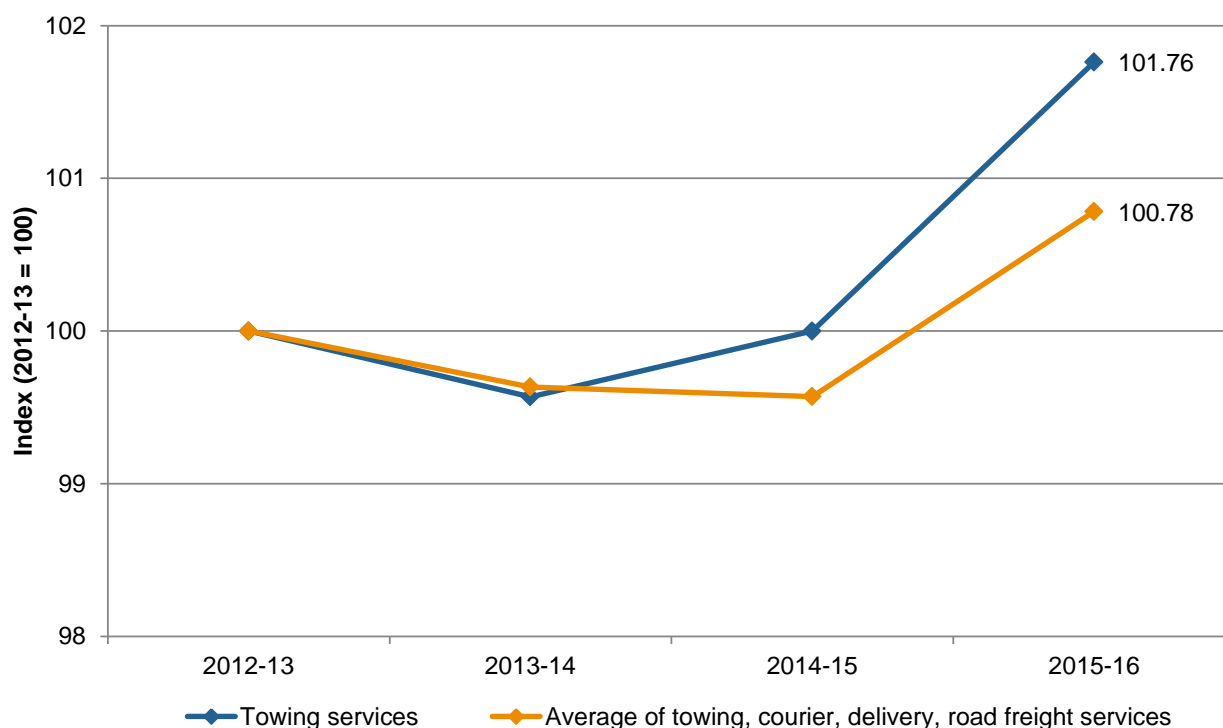
<sup>41</sup> Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, Figure 4, p. 31.

<sup>42</sup> This figure is a reproduction of figure 4 in Advisian's consultant report. Source: Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, Figure 4, p. 31.

<sup>43</sup> Table B.4 of appendix B of this report shows changes in the automotive fuel CPI index, which had a 14.3 per cent decrease in cost during 2015-16.

The productivity adjustment factor should not be changed

**Figure 4.1 Ratio of turnover to expenses for towing firms and other transport firms, 2012-13 to 2015-16 (presented as an index with 2012-13 = 100)**



Source: Australian Taxation Office data, analysed by Advisian

This data covers trade towing operators as well as accident towing operators. That is, it is a broad measure of the productivity of all towing providers in Australia. We consider that it indicates that the towing industry should be capable of at least matching the productivity movements in the broader transport industry. It is useful to analyse productivity changes in the whole towing industry, as many accident towing operators also participate in trade towing businesses. The VACC suggested in its submission that we consider productivity of the whole towing industry.<sup>44</sup>

### Changes in accident tow truck utilisation suggest that productivity has improved

We also have data related specifically to accident towing services in Melbourne that can be used to indicate productivity. The change in the number of accident tows per licensed tow truck can provide an indication of changes in tow truck utilisation. The available data suggests that tow trucks are better utilised in 2017 than in 2012, which is a result of operators' using smaller tow truck fleets to conduct a larger number of accident tows.

Table 4.1 outlines the accident allocations per tow truck in 2012 and 2017. We do not have data on the number of licensed tow trucks for the intervening years. The number of accident allocations per

<sup>44</sup> VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 20.

The productivity adjustment factor should not be changed

tow truck increased by 29.7 per cent over this period, due to a decrease in the number of tow trucks and increase in accident allocations. This equates to around 5.3 per cent growth per annum in the number of accident allocations for each licensed tow truck.

**Table 4.1 Annual accident allocations per licensed tow truck, 2012 and 2017**

	2012	2017	Percentage change
Number of accident allocations	45,312	50,143	10.7 %
Number of licensed tow trucks	252	215	-14.7 %
<b>Accident tows per tow truck</b>	<b>180</b>	<b>233</b>	<b>29.7 %</b>

Source: VicRoads

This is a partial measure of productivity, as it only captures one input (the number of tow trucks) that would be involved in accident towing. Other inputs would include labour and fuel. Similarly, the number of accident tows is also only a subset of the total output of an accident towing business, as these businesses will also have their productivity affected by storage, salvage, trade towing and other services they may provide.

### Multifactor productivity measures are not as relevant to our assessment

Advisian also considered changes in multifactor productivity for the Transport, Postal and Warehousing Division<sup>45</sup> as published by the Australian Bureau of Statistics.<sup>46</sup> Advisian noted that this measure has been relatively volatile in recent years and has declined overall since the mid-2000s.<sup>47</sup> As this multifactor productivity shows productivity changes across a broad range of industries (not just the towing industry), we consider it is not likely to be as appropriate as the other productivity measures outlined above. As such, we have placed a low weight on the results of the multifactor productivity.

### The accident towing industry can improve productivity further

As noted above, our analysis suggests that the accident towing industry has improved its productivity since our 2013 review. In this section, we consider whether its productivity will continue to improve over the coming years and if so, by what amount. Based on historical data we expect that productivity should continue to increase over the next four years. However, we have not found

<sup>45</sup> The Transport, Postal and Warehousing Division includes road, rail, water, air and other transport, as well as postal pick-up and delivery, warehousing and storage, and transport support. Source: Australian Bureau of Statistics 2006, *Australian and New Zealand Standard Industrial Classification (ANZSIC), 2006 (Revision 1.0)*, Catalogue No. 1292.0.

<sup>46</sup> Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, p. 34.

<sup>47</sup> *Ibid*, p. 34.

The productivity adjustment factor should not be changed

any significant reason to recommend departing from the default productivity adjustment factor of 0.5 per cent.

We note that the annual fee adjustment formula does not allow regulated fees to decline and so fees will remain unchanged when costs decrease. That is, if the Melbourne Transport CPI produces negative values over the next four years, the productivity adjustment factor will not apply and there will be reduced incentive for the industry to reduce costs.

We have received a submission that proposed the removal of the productivity adjustment factor, due to regulatory barriers to improving productivity and the exclusion of trade towing from its estimation. As explained below, we have considered these issues in making our draft recommendation on the productivity adjustment factor.

Although there are issues with accurately estimating the productivity adjustment factor, our view is that it provides an incentive for operators to pursue cost savings and to share these benefits with customers.

### **One stakeholder proposed removing the productivity adjustment factor**

In its submission to our consultation paper, the VACC recommended that the productivity adjustment factor be removed from the annual adjustment mechanism.<sup>48</sup> VACC outlined three issues that it had with the use of a productivity adjustment factor for regulated fee increases:<sup>49</sup>

1. The Melbourne controlled area is not a competitive market, as the licences have been capped at 421 for almost 40 years and operators are limited to working within their allocation zone.
2. The productivity adjustment factor does not include the productivity gains and losses that occur for other towing services provided by accident towing operators. The VACC argued that any increase or decrease in trade towing activities affect tow truck utilisation rates and the hourly cost of providing towing services.
3. Accident towing is subject to greater regulatory barriers compared with the broader transport sector, which denies operators with the ability to improve processes and practices to reduce the hourly cost of accident towing (such as the implementation of GPS tracking).

The VACC raised the prohibition on 'double tows'<sup>50</sup> as one of the regulatory barriers in the legislation.<sup>51</sup> In our 2015 review of accident towing economic regulation, we recommended that

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<sup>48</sup> VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 22.

<sup>49</sup> VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, pp. 19-20.

<sup>50</sup> Double tows are the practice of a single tow truck taking more than one vehicle from an accident scene.

<sup>51</sup> *Ibid*, p. 21.

The productivity adjustment factor should not be changed

VicRoads give further consideration to facilitating greater use of double tows where it can produce more efficient outcomes for accident drivers and road clearance.<sup>52</sup> There have not yet been any legislative changes made to facilitate this.

We have taken into account the VACC's concerns about productivity gains being restricted in the accident towing industry. Our analysis of ATO data considers the whole towing industry (that is, not just accident towing), which aligns with the VACC's suggestion that the productivity adjustment factor should consider the productivity gains and losses in all key towing services.<sup>53</sup>

### **We expect that productivity should continue to increase**

We have found that accident towing operators were able to service a larger number of allocations with fewer tow trucks from 2012 to 2017. We outline in appendix B that service levels have not significantly changed over this same period. Productivity improvements would only be an efficiency gain if quality levels are able to be maintained or increased.

Accident allocations are likely to continue growing over time, which should result in continual improvements in productivity in the accident towing industry.<sup>54</sup> This conclusion assumes that the number of tow trucks being used remains at a similar level to 2017 and are able to service an increasing number of allocations with similar service levels.

We can also consider changes in historical productivity measures to inform our view of what productivity changes can be expected in the coming years. In its report, Advisian provided a summary of the annual productivity growth calculated through each of the historical productivity measures it analysed. This summary is reproduced in table 4.2. Advisian noted that there is a limited historical period for which data is available, which limits the extent to which conclusions may be made about whether historical productivity measures will reflect potential future productivity gains.<sup>55</sup>

We also consider that these measures do not appear to provide a consensus as to the appropriate level of the productivity adjustment factor. We have not found conclusive evidence that the productivity adjustment factor should be changed from 0.5 per cent.

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<sup>52</sup> Essential Services Commission 2015, *Accident towing regulation: Final report*, December, Final recommendation 2B, p. xxvi.

<sup>53</sup> VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 20.

<sup>54</sup> As Advisian referenced in its report, Infrastructure Victoria forecasts 3.5 million additional trips per day in Melbourne in 2030, with car trips accounting for 70 per cent of all journeys. Source: Infrastructure Victoria 2018, *Five-year focus: immediate actions to tackle congestion*, April, p. 4.

<sup>55</sup> Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, p. 31.

The productivity adjustment factor should not be changed

**Table 4.2 Annual growth in select productivity measures, various year ranges**

Productivity measure	Industry	Measurement period	Compound annual productivity growth
Multifactor productivity	Transport, Postal & Warehousing Division (Australia)	2012-13 to 2016-17	-1.00%
ATO benchmark (business turnover divided by total expenses)	Towing, courier, delivery & road freight services (Australia)	2012-13 to 2015-16	0.26%
ATO benchmark (business turnover divided by total expenses)	Towing services (Australia)	2012-13 to 2015-16	0.58%
Annual accident tows per licensed tow truck	Accident towing (Melbourne)	2012 to 2017	5.34%
Annual accident tows per licensed tow truck (Advisian sensitivity test) <sup>(a)</sup>	Accident towing (Melbourne)	2012 to 2017	2.05%

Note: (a) Advisian's sensitivity test assumed there were no changes in the number of licensed tow trucks from 2012 to 2017

Source: Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, p. 36, table 16

### The productivity adjustment factor was introduced after our 2009 review

Changes in tow truck utilisation rates were one of the main measures of productivity we initially identified in our 2009 review of accident towing and storage fees. In that review, we identified that a productivity adjustment factor of 0.5 per cent would be appropriate as accident towing operators had improved productivity through:<sup>56</sup>

- consolidating their operations into fewer depots
- increasing the ratio of accident licenses to tow trucks, so to service a greater number of accident allocations with each tow truck
- using existing resources to engage in other services, such as trade towing.

In the VACC's submission, it noted that most of the past productivity improvements in the industry occurred as a result of depot consolidation.<sup>57</sup> The VACC stated that increases in accident towing work since 2013 have been more than offset by losses in trade towing work.<sup>58</sup>

<sup>56</sup> Essential Services Commission 2010, *Review of Accident Towing and Storage Fees: Final Report – Volume 2: Detailed Reasons and Methodology*, June, p. 40.

<sup>57</sup> VACC 2018, *Review of accident towing and storage fees 2018* Essential Services Commission, May, p. 21.

The productivity adjustment factor should not be changed



We note that we have seen a greater number of accident allocations per tow truck in this review, due to a lower number of tow trucks used across the industry. We accept that the total utilisation of each tow truck may not have improved significantly since 2012, due to losses in trade towing work. We note the data indicates that the industry is attempting to reduce its input costs (by removing unneeded trucks from the fleet) and improve its productivity by using each remaining truck more efficiently. We consider this is an example of the industry being able to manage its input costs and use existing resources productively.

### **The productivity adjustment factor promotes cost reductions**

The annual adjustment mechanism protects against downward fee adjustments through a 'zero floor' on price changes. This has resulted in regulated fees increasing at a faster rate than the Melbourne Transport CPI minus the productivity adjustment factor between 2015-16 and 2017-18. This means that operators had lower incentives to reduce costs during these years and any benefits gained through cost reductions would be retained by operators rather than shared with customers. We note that our review requires us to review the productivity adjustment factor in the context of the legislative intent that accident towing operators are protected from fee decreases.

As the Melbourne Transport CPI is a volatile cost index, with large upward and downward movements, we are unable to predict whether this index will provide only positive values over the next four years. If there are years where negative values occur, the 'zero floor' of the annual adjustment mechanism would lead to accident towing operators retaining the benefits from any decrease in costs and customers not sharing in these benefits.

Within the current legislative operation of the adjustment mechanism, we consider there is a case to maintain incentives for accident towing operators to minimise costs and improve their efficiency. A productivity adjustment factor provides for the sharing of the benefits of cost savings between operators and customers. In years where regulated fees are increased, the productivity adjustment factor will provide accident towing operators with an incentive to reduce costs to maintain the same levels of profitability.

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<sup>58</sup> Ibid, p. 21.



## 5. We have not proposed a regulated basic salvage fee

Fees for basic salvage services in the Melbourne controlled area are not currently regulated under section 211 of the Accident Towing Services Act. Instead, basic salvage fees must be a 'reasonable charge for the provision of that service'.<sup>59</sup> We are required under section 212A(1)(b) of the Act to make a recommendation to the Minister for Roads on whether existing accident towing, storage or salvage<sup>60</sup> services that are unregulated should be regulated and, if so, what regulated fees should apply.<sup>61</sup>

Our draft recommendation is that basic salvage services should not be subject to a determination under section 211 of the Accident Towing Services Act.

While there may be merit in regulating basic salvage fees, and we have recommended this previously, the government has adopted an alternative approach that relies on greater transparency of fees. Our consultation for this review suggests that stakeholders are more concerned about the transparency of fees than about their amount of fees. These concerns should be directly raised with VicRoads, the industry regulator responsible for enforcing the Accident Towing Services Act and Regulations. We have informed VicRoads of the issues raised during our consultation.

### **We received differing views on whether salvage services should be regulated**

The Insurance Council of Australia supported the introduction of a regulated basic salvage fee.<sup>62</sup> It considered that a regulated fee would provide a better and more appropriate level of protection to consumers from excessive salvage fees. It did not provide any views about a particular value, but supported us applying a benchmarking approach to calculate such a fee.<sup>63</sup> We also met with some

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<sup>59</sup> Accident Towing Services Act 2007, s. 212(1)(b).

<sup>60</sup> Salvage is the moving of an accident-damaged motor vehicle to a place on a road or road-related area or into an upright position (or both) so that it may be towed by a tow truck without assistance. Salvage may involve the use of additional tow trucks or equipment.

<sup>61</sup> We are unaware of any unregulated accident towing or storage services and none have been raised by stakeholders. We have not further considered these in this draft report.

<sup>62</sup> Insurance Council of Australia 2018, *ESC Review of Accident Towing and Storage Fees*, 18 May, p. 2.

<sup>63</sup> *Ibid*, p. 2.

We have not proposed a regulated basic salvage fee

insurers during the consultation period, where the issues raised were mainly related to seeking greater transparency of the services provided and guidance as to what ‘reasonable’ should mean.

The VACC stated that previous accident towing and storage fee reviews have shown that the extent of excessive charging for salvage services is minimal.<sup>64</sup> The VACC noted that it is opposed to prescriptive regulation unless there is an evidence-based case that the benefits of the current regime are outweighed by the costs involved in the challenging of occasional salvage fee disputes.<sup>65</sup>

## **We have not recommended a regulated basic salvage fee**

Regulating basic salvage fees would address the potential for operators to levy excessive salvage fees. However, we propose to not recommend that basic salvage services (for which no amount has been determined under section 211 of the Accident Towing Services Act) be subject to a determination, meaning we do not recommend a regulated basic salvage fee in this draft report.

The government has adopted an approach that protects users through improved transparency of salvage fees, rather than adopting more heavy-handed price regulation as we have previously recommended. This is through the requirement in the Accident Towing Services Act that salvage fees are ‘reasonable’<sup>66</sup>, as well as the requirement in the Accident Towing Services Regulations that towing operators must photograph the condition and location of any accident-damaged vehicle whenever salvage is undertaken.<sup>67</sup>

Some stakeholders have raised concerns during this review about the lack of transparency of salvage fees (i.e. the quality and accuracy of photographs of salvage operations), which are related to the enforcement of the Accident Towing Services Regulations. We consider that improving transparency of the current arrangements should provide protection to consumers from being overcharged. Given we do not have a role in imposing penalties or taking any other enforcement steps under the Accident Towing Services Regulations 2008, we have informed VicRoads, the industry regulator, of the issues raised by stakeholders.

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<sup>64</sup> VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, pp. 22-23.

<sup>65</sup> VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, pp. 22-23.

<sup>66</sup> Accident Towing Services Act 2007, section 212I(1)(b). In addition, s. 212I (2) specifies factors that the court must consider when determining what is a ‘reasonable’ charge for the provision of accident towing services:

- the nature of the service provided
- the day and time the service is provided
- any administration costs incurred in providing the service
- the amount that would be charged for the same or similar service that is not an accident towing service
- the amount that would be charged for the same or similar service by another accident towing service provider in the same or similar area.

<sup>67</sup> Accident Towing Services Regulations 2008, regulation 35(12).

We have not proposed a regulated basic salvage fee

## 6. We are seeking your feedback on our draft recommendations

Our draft report provides you with our draft recommendations on fees for accident towing, storage and salvage services. We are seeking your feedback on these draft recommendations. We have prepared this report following the release of a consultation paper<sup>68</sup>, meeting with a number of stakeholders undertaking analysis of supply and demand data from VicRoads and prices from a range of benchmark businesses. We have also engaged a consultant to provide expert advice on productivity in the accident towing industry and on relevant benchmarks for accident towing and storage fees.

This is your opportunity to provide feedback on our draft recommendations and provide material that could improve our analysis. We will consider all points of view when making our final recommendations on fees for accident towing, storage and salvage services.

We will continue to consult with interested stakeholders for the rest of the review and encourage all interested parties to contribute their views.

### Indicative timelines for the review

The release of this draft report is the second step in our review process and will be followed by a consultation period, as outlined in table 6.1.

**Table 6.1** Indicative timelines for our review

Activity	Indicative timeline
Commission consults with stakeholders	September 2018
Submissions on draft report close	26 September 2018
Commission releases final report and makes final recommendations	December 2018

### How to make a submission on this draft report

Submissions on this draft report close on 26 September 2018.

Please email submissions to [towtruckreview@esc.vic.gov.au](mailto:towtruckreview@esc.vic.gov.au) or fill out the online submission form on the Engage Victoria website ([engage.vic.gov.au/accident-towing-review](https://engage.vic.gov.au/accident-towing-review)).

<sup>68</sup> Essential Services Commission 2018. *Review of Accident Towing and Storage Fees: Consultation Paper*, April.

You may also send submissions via fax to 03 9032 1303 or by mail, marked:

Attention: Price Monitoring and Regulation Division  
Essential Services Commission  
Level 37, 2 Lonsdale Street  
Melbourne VIC 3000

Any questions about the draft report may be directed to:

Matthew Giampiccolo  
Acting Project Manager, Transport  
Essential Services Commission  
Email: [towtruckreview@esc.vic.gov.au](mailto:towtruckreview@esc.vic.gov.au)  
Phone: 03 9032 1300

## **We publish all submissions on our website**

To promote an open and transparent review process, we will make all submissions publicly available on our website. If there is information that you do not wish to be disclosed publicly on the basis that it is confidential or commercially sensitive, this information should be clearly specified in the submission.<sup>69</sup>

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<sup>69</sup> Essential Services Commission, Our submission policy, [www.esc.vic.gov.au/our-submission-policy](http://www.esc.vic.gov.au/our-submission-policy)

# Appendix A: Background on the accident towing industry

In this appendix, we briefly describe the accident towing industry, the regulatory regime that applies to the industry and our two most recent reviews related to the accident towing industry, where:

- in 2013, we reviewed the fees for accident towing, storage and salvage services and made some recommendations to the Minister for Roads
- in 2015, in response to a terms of reference issued by the Minister for Finance, we reviewed the economic regulation of Victorian accident towing services.

## **Accident towing is the towing of an accident-damaged vehicle to a requested location**

Accident towing is the towing of an accident-damaged vehicle by a tow truck from an accident scene. Accident towing does not involve trade towing (such as the towing of breakdown vehicles), which is not a regulated service in Victoria. Accident towing includes three distinct services:

- **towing:** refers to the towing of an accident-damaged vehicle from a road accident scene to the location requested by the vehicle driver or owner
- **storage:** refers to the storing of an accident-damaged vehicle in a secure location at the tow truck operator's depot to await repair or towing to another location
- **salvage:** refers to the moving of an accident-damaged vehicle that, as a result of the accident –
  - is in a location that is not a road or road-related area
  - is embedded in a building or in an object that is not a motor vehicle
  - is overturned or on its sideto a place on a road or road-related area or into an upright position where it can be towed without assistance.

## **The minister regulates accident towing and storage fees in Melbourne**

The industry regulator, VicRoads, issues licences to operators and drivers to perform accident towing services in Victoria. Licences are subject to geographical restrictions on where an accident tow can be performed. The Accident Towing Services Act 2007 also requires that accident towing operators and drivers must be accredited by VicRoads.

Victoria is separated into three separate geographic areas for accident towing services. These are:

- the Melbourne controlled area (metropolitan Melbourne and the Mornington Peninsula)<sup>70</sup>
- the Geelong self-management area (Geelong and surrounding areas)
- the remainder of Victoria.

Accident towing and storage fees in the Melbourne controlled area are regulated by the Minister for Roads.<sup>71</sup> Accident towing and storage fees are not subject to regulation in other areas of Victoria, but there is a requirement that fees are reasonable.<sup>72</sup> The minister also has the power to determine a regulated fee for basic salvage services in the Melbourne controlled area but has not yet done so.

We must conduct and complete periodic reviews and make recommendations to the Minister for Roads on accident towing, storage and salvage services in the Melbourne controlled area. In particular, we must make recommendations on:<sup>73</sup>

- whether any fee for accident towing or storage services previously determined by the minister is appropriate
- whether existing accident towing services that are unregulated (relating to storage and salvage) should be regulated and, if so, what regulated fees should apply
- a figure for the productivity adjustment contained in the annual adjustment mechanism, which is applied to regulated fees every year
- any other matter relating to accident towing services, the storage of accident-damaged vehicles or salvage that the minister specifies in writing.<sup>74</sup>

The current regulated fees for accident towing and storage services will continue to apply in the Melbourne controlled area until the minister makes a new fee determination, which may occur in response to recommendations we make in this current review.

## **The Melbourne controlled area has an accident allocation scheme**

Light vehicle road accidents within the Melbourne controlled area are assigned to tow truck drivers via an accident allocation scheme administered by VicRoads. The Royal Automobile Club of Victoria (RACV), under contract with VicRoads, runs the call centre that allocates accident towing

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<sup>70</sup> The boundaries of the controlled area are specified in the Victoria Government Gazette. See; Victoria Government Gazette 2009, *Accident Towing Services Act 2007: Declaration of controlled area*, No. S 494, Tuesday 29 December 2009.

<sup>71</sup> Accident Towing Services Act 2007, section 211.

<sup>72</sup> Accident Towing Services Act 2007, section 212I(1)(b). In addition, s. 212I (2) specifies factors that the court must consider when determining what is a 'reasonable' charge for the provision of accident towing services.

<sup>73</sup> Accident Towing Services Act 2007, section 212A(1).

<sup>74</sup> The minister has not specified any additional matters for us to consider in this review.

jobs to operators. Tow trucks are not permitted to attend an accident scene without an accident allocation.

The Melbourne controlled area is divided into allocation zones. When an accident occurs, the accident towing job is allocated to the depot within the allocation zone of the accident and the operator of that depot (or depot manager) allocates the job to a specific licence. If there is more than one depot within an allocation zone, the job is allocated to the depot that has received the least allocations per licence in that month.

The accident allocation scheme grants accident towing operators a monopoly entitlement to attend an accident in the Melbourne controlled area. The government introduced fee regulation in order to prevent towing operators from charging excessive prices and ensure that accident towing remains a profitable and viable industry.

## **Accident towing licences are linked to specific tow trucks**

An accident towing licence is essentially a permit for a tow truck to commercially tow vehicles. The licence is tangible and comes in the form of a specific number plate that must be used on the accident towing vehicle assigned to that licence. In the Melbourne controlled area, an accident towing licence gives the operator a place in the accident allocation scheme.

### **The number of accident towing licences is restricted**

VicRoads is only able to issue new licences with authorisation from the Minister for Roads. The number of regular accident towing licences has remained constant at 421 in the Melbourne controlled area since before our 2009 review. However, these licences are transferable and can be purchased or leased, subject to the transfer being approved by VicRoads.

The Accident Towing Services Act specifies that the minister may only authorise the issuing of a new licence if the minister:<sup>75</sup>

- considers it to be in the public interest to do so having regard to any increase in the need for tow trucks operating in the area; or
- is issuing licences to replace licences that have been cancelled; or
- considers that there are exceptional circumstances that justify the further issue of regular tow truck licences; or
- is of the opinion that the freeway corporations of the CityLink or EastLink (or contractors of these corporations) require additional licences to perform the obligations, exercise the rights or carry out the functions outlined under various pieces of legislation.<sup>76</sup>

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<sup>75</sup> Accident Towing Services Act, section 14(2).

## **'Dormant' licences remain entitled to accident allocations**

Licensees are able to hold licences that have not been assigned to a particular tow truck and retain the associated entitlement to accident allocations through the accident allocation scheme. In the Melbourne controlled area, there is a practice where licence holders will affix a licence to whichever tow truck is available when receiving an accident allocation for that licence. Licensees are able to use 'dormant' licences to reduce the number of tow trucks they operate and manage the use of their tow trucks more efficiently.

## **The area of operation is specified in the accident towing licence**

An accident towing licence applies only to the depot specified in the licence, which limits the area in which the licensee can potentially conduct business. In particular:

- only a licensed accident tow truck operating from a depot in the Melbourne controlled area may attend an accident in the controlled area
- the location of the specific depot determines a licence's allocation zone for the purposes of the accident allocation scheme and restricts the licence holder to conduct business with that licence in that particular allocation zone.

However, if the licence holder applies to VicRoads, it may have the conditions of the licence changed (including the specified depot). In this way, it is possible for the depot location, and therefore the assigned allocation zone within the controlled area, of a particular licence to change.

## **Overview of our 2013 review of accident towing and storage fees**

We completed a review of accident towing, storage and salvage services in February 2013 and made recommendations to the Minister for Roads on the matters outlined in section 212A of the Accident Towing Services Act. Our reviews are recommendatory only and it is at the minister's discretion whether accident towing, storage and salvage fees change or new fees are introduced. Currently regulated fees continue to be adjusted annually for inflation (minus a productivity adjustment) in accordance with section 212H of the Accident Towing Services Act.

## **We recommended no changes to accident towing and storage fees**

We recommended that the existing regulated accident towing and storage fees continue to apply.<sup>77</sup>

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<sup>76</sup> This legislation is; the Accident Towing Services Act 2007, the Melbourne City Link Act 1995 and the EastLink Project Act 2004.

<sup>77</sup> Essential Services Commission 2013, *Periodic review of accident towing and storage fees: Final report*, July, p. 4.



We analysed various aspects of industry performance in our review, such as licence values and changes in industry productivity. We also conducted a benchmarking analysis to compare regulated accident towing fees against unregulated towing fees in Victoria and against regulated accident towing fees in other Australian states. We concluded from our benchmarking analysis that the existing regulated accident towing and storage fees were appropriate.

### **We recommended no changes to the productivity adjustment factor**

We recommended that the productivity adjustment of 0.5 per cent continue to apply under the annual adjustment mechanism.<sup>78</sup>

We engaged a consultant (NERA Economic Consulting) to provide advice on the productivity adjustment factor. NERA estimated the annual change in industry productivity by using the average change in revenue per truck.

NERA's analysis indicated that annual productivity changes in the accident towing industry (relative to the wider Melbourne transport industry) from 2008 to 2012 could range between 1.8 per cent and -2.3 per cent, depending on how the number of licences per tow truck is estimated. We further refined this range to between -1.0 per cent and 1.8 per cent in our final report.<sup>79</sup> We concluded that the existing 0.5 per cent productivity adjustment remained reasonable because it was within the range of reasonable estimates of productivity growth in the accident towing industry.<sup>80</sup>

### **We recommended the regulation of basic salvage services**

We recommended that basic salvage should be regulated and that a prescribed basic salvage fee of \$71 per hour (incl. GST) would be appropriate.<sup>81</sup>

As tow truck operators have the exclusive right to attend an accident through the accident allocation scheme, drivers of accident-damaged vehicles have limited negotiating power in relation to the salvage fee or whether a salvage fee is required. We were also concerned about the salvage fees being charged and the ability for consumers to determine the reasonableness of these charges from provided documentation. As such, we considered a form of protection, in the form of price regulation, was warranted.

In recommending a fee of \$71, we applied two methodologies to estimate this amount:

- rolling forward the basic salvage fee we recommended in our 2009 review

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<sup>78</sup> Ibid, p. 5.

<sup>79</sup> Ibid, p. 53.

<sup>80</sup> Ibid, p. 54.

<sup>81</sup> Ibid, pp. 6-7.

- benchmarking fees against total salvage fees in New South Wales (we also considered South Australian salvage fees but found that these fees were not comparable).

### **We recommended no changes to the treatment of non-commercial tows**

We recommended the retention of the current practice of making an allowance for the costs of non-commercial tows in the regulated fee.<sup>82</sup>

VicRoads requested that we consider options for the treatment of non-commercial tows in this review. Non-commercial tows (or bad debts) are accident towing jobs for which a tow truck operator is not paid. This may occur where the vehicle owner refuses or neglects to pay because, for example, their vehicle is uninsured or they abandon the vehicle at the operator's storage facility. The costs associated with non-commercial tows were included in the regulated fees we recommended in the 2009 review.

We considered three alternatives to address non-commercial tows:<sup>83</sup>

- direct compensation, where tow truck operators are fully compensated in cases where they are unable to recover the costs of non-commercial tows (this could be financed through a levy on vehicle registration fees)
- processes for selling abandoned vehicles, where operators use the proceeds from the disposal of abandoned vehicles to compensate the cost of non-commercial tows
- providing an allowance in the cost base underpinning the regulated fees, as currently occurred.

We decided to recommend the retention of the current practice due to the simplicity of making an allowance for the costs of non-commercial tows in the regulated fees.

## **Overview of our 2015 review of Victorian accident towing and storage regulation**

In January 2014, the Minister for Finance issued terms of reference under section 41 of the Essential Services Commission Act 2001, requesting that we review the economic regulation of accident towing and storage services in Victoria. The review covered both regular and heavy vehicle accident towing in all of Victoria (not just the Melbourne controlled area). The terms of reference required us to consider three key matters:

- the regulation of fees

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<sup>82</sup> Ibid, p. 12.

<sup>83</sup> Essential Services Commission 2013, *Periodic review of accident towing and storage fees: Draft report*, May, pp. 74-77.

- the allocation of accident towing jobs (that is, whether jobs are allocated or whether operators are free to compete for towing jobs)
- the necessity for, and location of, boundaries that set up different regulatory approaches (for example, the Melbourne controlled area and Geelong self-management area).

As this was a review of the broad economic regulation of accident towing and storage services in Victoria, we did not review the regulated fees and did not make a recommendation on the appropriateness of these fees to the Minister for Roads.

Our final 19 recommendations from this review were aimed at three broad areas.<sup>84</sup>

- improving the processes by which accident tows are allocated to tow truck operators where such allocations schemes exist, to best promote consumers' interests
- ensuring that fees for accident towing services are fair and reasonable for consumers, regardless of whether accidents occur in the controlled area, self-managed area or in the rest of Victoria
- ensuring that consumers are appropriately informed of their rights and responsibilities once in an accident.

We provided our final report and recommendations to the Minister for Finance in January 2016. No legislative changes have been made in response to this review.

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<sup>84</sup> Essential Services Commission 2015, *Accident towing regulation: Final report*, December, p. xvii.

## Appendix B: Performance of the accident towing industry

In this appendix, we have analysed publicly available data, as well as data provided to us by VicRoads, to assess the performance of the accident towing industry since our last review. The general performance of the industry can be used as part of an assessment of whether the existing regulated fees are too low or too high. Our finding in this appendix is that the existing regulated fees (as escalated by the annual adjustment mechanism) are not likely to be negatively impacting on the finances of operators in the accident towing industry. This is based on:

- demand for accident towing work increasing while supply has remained relatively unchanged
- revenue for accident towing work increasing at a faster rate than costs, as estimated through the Melbourne Transport CPI<sup>85</sup>
- quality of service levels have not significantly changed.

### **Demand for accident towing has increased while supply is unchanged**

Accident towing allocations have grown in each year since 2013, while the supply of accident towing licences has remained unchanged. The available data indicate that there are now fewer operators in the accident towing industry than in 2013 and that the average operator is receiving more accident allocations than in 2013.<sup>86</sup> We consider that the reduction in the supply of operators may be partly due to a high number of licence transfers in recent years.

### **Demand for accident towing has increased as shown by allocation numbers**

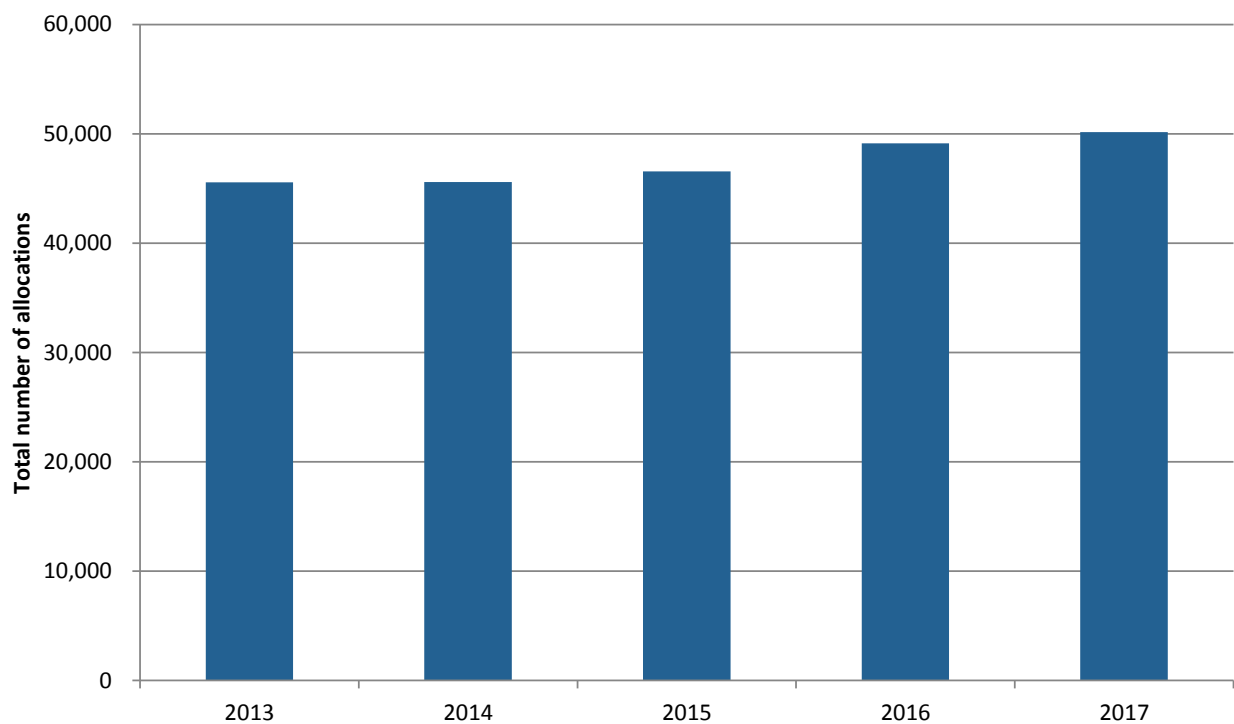
Since 2013, the number of accident allocations in Melbourne has steadily increased, with a noticeable increase in 2016 (as shown in figure B.1). In total, there were around 10 per cent more accident allocations in 2017 than in 2013.

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<sup>85</sup> The CPI (Melbourne, Transport) index is available at; Australian Bureau of Statistics, 6401.0 – Consumer Price Index, Australia, Table 9.

<sup>86</sup> We recognise the VACC's view that accident towing operators do not receive an equal share of allocations or an equal share in the growth of allocations (page 20 of submission to consultation paper). However, we consider that the data in this chapter provides an accurate estimate of the circumstances for the average operator in the Melbourne controlled area.

**Figure B.1 Accident allocations in the Melbourne controlled area, 2013 to 2017**



Source: VicRoads

### **Supply of licences is unchanged, but operator numbers have declined**

While accident allocations have been increasing, the number of accident towing licenses in operation has remained constant. As such, the number of annual allocations per accident towing licence has increased since 2013. Table B.1 shows that while licence numbers have remained constant since 2013 there has been consolidation in the number of accident towing operators, from 106 to 101. As a result, the annual average number of tows per operator has increased by almost 16 per cent since 2013.

**Table B.1 Number of annual accident allocations per accident towing operator and licence in the Melbourne controlled area, 2013 to 2017**

	2013	2014	2015	2016	2017
Number of operators	106	105	107	104	101
Number of licences	421	421	421	421	421
<b>Number of tows per operator</b>	<b>429.8</b>	<b>434.1</b>	<b>435.1</b>	<b>472.3</b>	<b>496.5</b>
<b>Number of tows per licence</b>	<b>108.2</b>	<b>108.3</b>	<b>110.6</b>	<b>116.7</b>	<b>119.1</b>

Source: VicRoads

### We do not consider that market exit has been driven by financial viability concerns

We have considered the reasons for the number of operators declining while demand continues to increase. Generally, exit in a market could be due to:

- fees set too low to cover the costs associated with providing the service
- the industry is consolidating (for example, operators merging businesses), which could be an indication of efficiency improvements.

We consider that costs have remained relatively stable for accident towing services (as outlined in the next section). We have also seen some changes in the sizes of accident towing depots, with fewer depots with less than six licences in 2017 than in 2013 (table B.2). We consider that this may be an example of industry participants continuing to consolidate their businesses.

**Table B.2 Number of licences held by each Melbourne controlled area depot, 2013 to 2017**

Licences per depot	2013	2014	2015	2016	2017
5 or fewer	20	19	21	18	17
6 to 10	11	12	11	14	15
11 to 15	7	7	7	9	8
16 to 20	4	5	4	2	3
21 or more	4	3	3	3	3
<b>Total depots</b>	<b>46</b>	<b>46</b>	<b>46</b>	<b>46</b>	<b>46</b>

Source: VicRoads

We have also observed changes in the structure of the industry through the number of licences transferred over time. Figure B.2 shows that there have been a significant number of licence transfers since 2013, with the majority (78) of licence transfers occurring in 2015. Feedback from accident towing stakeholders has revealed that the majority of these transfers were due to existing licence holders transferring their licences between their different business names for administrative purposes.

Figure B.2 also shows that average transfer price for licences has increased since 2013. Generally, an increase in licence values indicates that the financial viability of the industry is likely to be improving. However, the value of an accident towing licence can be difficult to assess for a variety of reasons:

- **licences are not readily traded:** accident towing licence holders require VicRoads' approval in order to transfer a licence. In addition, licences can only be traded between registered and accredited tow truck operators.
- **expected profit streams differ between allocation zones:** each accident towing licence is associated to a particular geographic zone, which will have a different number of expected accident allocations each year.
- **reliability of VicRoads licence sale data:** not every licence transfer has a specified price in the data we have sourced from VicRoads, so the dataset is not a complete picture of the licence transfer values. It is also unclear whether the reported licence transfer values include other items in the sale, such as vehicles, equipment, goodwill or other assets included with the purchase.
- **licences provide access to unregulated revenue sources:** licence values may also be influenced by the financial viability of services that are unregulated. For example, we have previously identified that licence values are partly driven by the ability to secure smash repair work from accidents.<sup>87</sup>

In its submission to our consultation paper, the VACC stated that the market share of trade towing undertaken by accident towing operators has declined since the last fee review in 2013.<sup>88</sup> The VACC suggested that this is partly due to insurance companies beginning to contract secondary tows (when the vehicle is towed from the depot to the smash repairer).<sup>89</sup>

Although accident towing operators have been receiving a greater number of accident towing allocations since 2013, it may be the case (as raised by the VACC) that this is being at least partly

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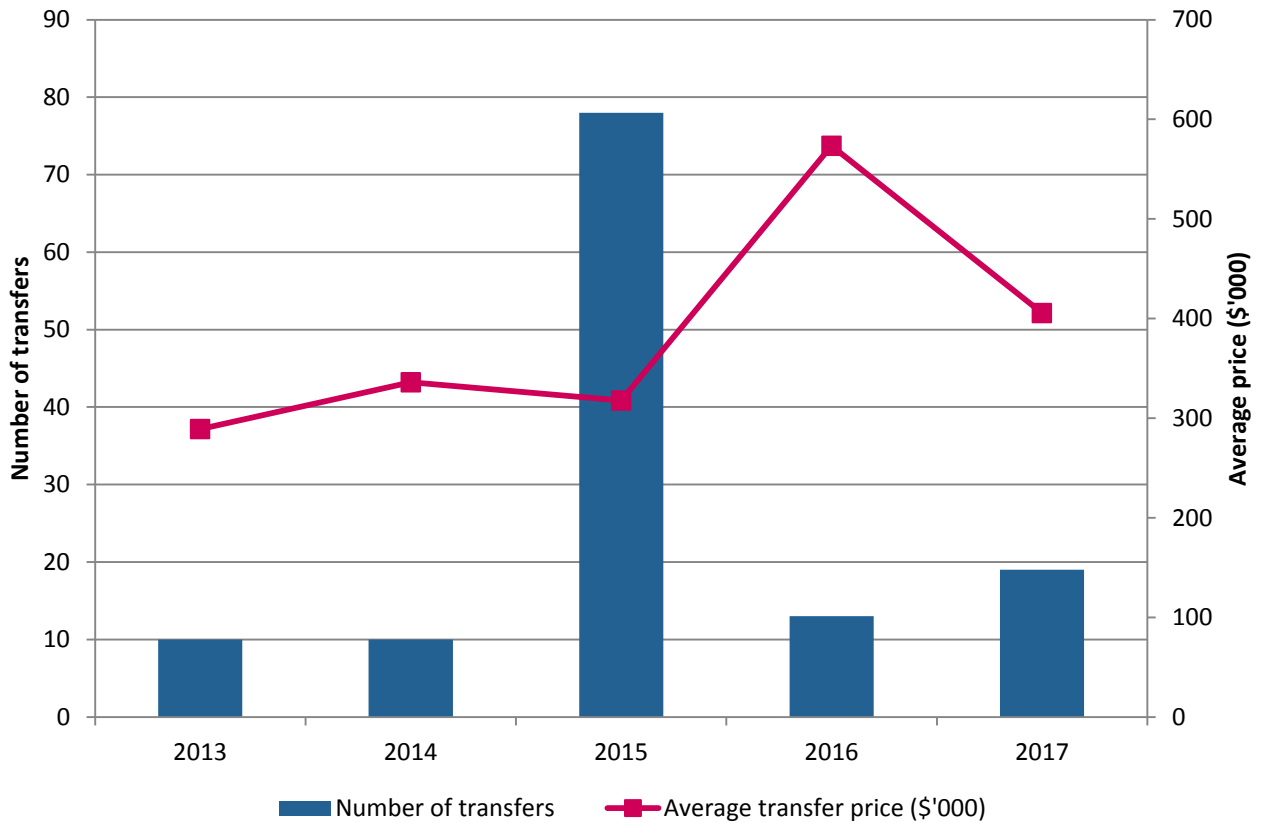
<sup>87</sup> Essential Services Commission 2015, *Accident towing regulation: final report*, December, p. 50.

<sup>88</sup> VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 7.

<sup>89</sup> *Ibid*, p. 7.

offset by reductions in unregulated trade towing business. Although, it does not appear that reductions in trade towing business have affected the value of accident towing licences in the Melbourne controlled area.

**Figure B.2 Melbourne controlled area licence transfers and average transfer price, 2013 to 2017**



Source: VicRoads

### Accident towing revenue is increasing while costs are at a similar level to 2013

As regulated fees and accident allocations have both been growing since 2013, total revenue for accident towing services has increased over this period. In contrast, the costs in the industry (measured by the Melbourne Transport CPI) have been volatile over this period and are currently at a level relatively similar to 2013.

#### Revenue has grown due to increases in regulated prices and accident allocations

Revenue for accident towing services has continued to increase each year since 2013, driven by increases in both regulated prices and the number of accident allocations. As the number of licences has remained steady over this period (at 421 licences), we have also seen an increase in



revenue per accident towing licence over each year, as shown in table B.3. We estimate that total regulated revenue is around 17 per cent higher in 2017 than it was in 2013.

**Table B.3 Estimated revenue in the Melbourne controlled area, 2013 to 2017**

	2013	2014	2015	2016	2017
Estimated revenue	\$14,390,935	\$14,783,223	\$15,285,300	\$16,126,877	\$16,808,485
Estimated revenue per tow truck licence	\$34,183	\$35,115	\$36,307	\$38,306	\$39,925
% annual increase	N/A	2.7 %	3.4 %	5.5 %	4.2 %

Note: To calculate a value for revenue, we:

- estimated the price of a 'comparison tow' job, which we have estimated as 30 minutes of time at the accident scene, 18km of travel, three days of storage and includes a 57 per cent weighting on jobs undertaken during non-business hours
- multiplied the price of a 'comparison tow' job by the number of allocations for that calendar year

The percentage annual increase is the same for the 'estimated revenue' and 'estimated revenue per tow truck licence' as licence numbers have remained constant at 421 over this period.

Source: ESC estimates created using VicRoads data

### Costs, as approximated by Melbourne's transport CPI, are at the same level in 2017 as in 2013

We have also compared revenues with cost changes since 2013, as any significant divergence may justify increases or decreases to regulated fees. As per our 2013 review, we have considered industry cost changes as approximated by the Melbourne Transport CPI published by the Australian Bureau of Statistics.<sup>90</sup> This CPI is at around the same level in 2017 as it was in 2013.

Table B.4 lists changes in the Melbourne Transport CPI, which is our main indicator of accident towing costs, alongside its component cost indexes, those for motor vehicles (including accessories and other services), automotive fuel, urban transport fares and maintenance and repair of vehicles. We have also outlined changes in the Melbourne Wage Price Index, which estimates changes in labour costs.

Table B.4 shows that some cost indexes that have decreased since 2013 while others have increased. In particular, the decreases in the Melbourne Transport CPI in 2015 and 2016 appear to have been largely driven by decreases in the cost of automotive fuel. Although wages have increased since 2013, this will have been partially offset by reductions in other cost categories.

<sup>90</sup> Essential Services Commission 2013, *Periodic review of accident towing and storage fees: final report*, July, p. 81.

However, our main observation is that none of these cost indexes have increased more than estimated revenues for the accident towing industry over the same period (around 17 per cent).

**Table B.4 Annual percentage changes in relevant cost indexes, 2013 to 2017**

	2013	2014	2015	2016	2017	Total % change from 2013 to 2017
Melbourne CPI (transport)	1.8 %	1.5 %	-3.9 %	-1.1 %	3.5 %	<b>-0.2 %</b>
Melbourne CPI (motor vehicles)	-3.4 %	-0.4 %	-1.1 %	-0.1 %	-1.1 %	<b>-2.6 %</b>
Melbourne CPI (spare parts and accessories for motor vehicles)	0.6 %	1.3 %	3.9 %	-0.4 %	1.5 %	<b>6.5 %</b>
Melbourne CPI (automotive fuel)	2.5 %	1.0 %	-14.3 %	-6.1 %	11.2 %	<b>-9.5 %</b>
Melbourne CPI (maintenance and repair of vehicles)	4.4 %	-0.4 %	3.9 %	1.9 %	0.9 %	<b>6.4 %</b>
Melbourne CPI (other services in respect of motor vehicles)	6.8 %	6.5 %	5.5 %	1.7 %	1.9 %	<b>16.5 %</b>
Melbourne CPI (urban transport fares)	5.5 %	2.2 %	-15.8 %	1.4 %	4.0 %	<b>-9.3 %</b>
Victoria Wage Price Index (WPI)	3.0 %	2.6 %	2.4 %	2.1 %	2.0 %	<b>9.3 %</b>

Note: The changes have been calculated by comparing the sum of all index values in each calendar year  
The WPI used is the 'quarterly index; total hourly rates of pay excluding bonuses; Victoria; Private; All'

Source: Australian Bureau of Statistics, CPI table 9 and WPI, table 3b

The Melbourne Transport CPI does not capture industrial property lease costs that underpin the costs of providing storage services. In chapter 3 of this draft report, we benchmarked regulated storage fees against regulated and unregulated storage services and concluded that the current regulated storage fees in Melbourne appear to be too low. This is likely an indication that costs underpinning storage services in Melbourne have increased at a faster rate than the Melbourne Transport CPI.

## Service levels have not changed significantly since 2013

In addition to the above measures, industry performance can also be assessed through changes in service quality. We have found that available service level indicators are not significantly different in 2017 compared to 2013. In particular:

- clearance times appear to have slightly worsened since 2013, which may be partly due to increased road congestion in Melbourne (as raised by the VACC<sup>91</sup>)
- complaint numbers in 2017 are around the same as those received in 2013, however, there were substantially more complaints received in 2015 and 2016.

Generally, deteriorating service level performance could indicate that firms are cutting costs in the face of excessive cost pressures or decreased financial viability. Deteriorating service levels could also reflect the monopoly status that operators have through the accident allocation scheme (as operators have few incentives to provide high quality services since consumers do not have an option to choose an alternative supplier). In the accident towing industry, service levels are mostly based on time-based measures (whether accidents are cleared in a timely manner) and by general customer service and accurate and reasonable charging for the services provided.

As per our 2013 review, we have found that it difficult to make any definitive conclusions based on available service level data. In particular, the data is not reported in a consistent and complete way. We consider there is value in VicRoads collecting service level data more fully and consistently, to support the requirements of the Accident Towing Services Regulations.

### Response times are not collected

Tow truck drivers are subject to a requirement to take reasonable steps to arrive at an accident scene within 30 minutes of accepting an accident allocation.<sup>92</sup> We are unable to assess whether the achievement of this requirement has improved over time, as data on response times is not regularly collected for this indicator. This data should be collected as required by clause 32(6) of the Accident Towing Services Regulations, and would verify one of the aims of the accident allocation scheme and zone boundaries designed by VicRoads, namely to ensure accidents are responded to within the 30 minute time limit.

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<sup>91</sup> VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 7.

<sup>92</sup> Accident Towing Services Regulations 2008, clause 32(1).

## Clearance times appear to have slightly worsened in 2017 compared to 2013

Although response times are not collected, 'clearance times' are. We have estimated the clearance time as the time between an allocation job being dispatched and the driver becoming available for further allocations.

In our analysis of the available data, we have identified cases of misreported data where the allocated jobs take an implausibly short or long times. To correct for some of these errors, we have filtered the 2017 data to remove jobs that were reported to be completed in less than 5 minutes or more than 600 minutes. We expect that this data could be further filtered to remove misreported figures.

In its submission to our consultation paper, the VACC stated that its members are beginning to experience difficulties in arriving at road accident scenes within the 30 minute response time (as prescribed in the Accident Towing Services Regulations<sup>93</sup>). The VACC suggested that we review our assumption on the average time to conduct an accident tow, in light of the changes to Melbourne's traffic conditions.<sup>94</sup>

Table B.5 shows that the proportion of accidents cleared within 75 minutes of being allocated in 2018 appears to be largely similar to 2013. The data shows an insignificant decline in accidents cleared within one hour and does not appear to substantiate the VACC's claim that traffic conditions have worsened since our last review.

**Table B.5 Accident clearance times in the Melbourne controlled area; 2013 and 2017**

	2013	2017
0 – 59 mins	45.3 %	44.6 %
60 – 74 mins	17.2 %	18.1 %
75 – 89 mins	10.4 %	11.4 %
90 – 104 mins	6.3 %	7.2 %
105 – 119 mins	3.6 %	4.2 %
120+ mins	17.2 %	14.6 %

Note: We have filtered the 2017 data to remove jobs of less than 5minutes and more than 600 minutes

Source: VicRoads

<sup>93</sup> Accident Towing Services Regulations 2008, clause 32(1).

<sup>94</sup> VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 7.

## Complaint numbers increased in 2015 and 2016 but have returned to the average level

VicRoads provided us data on the number and type of investigated complaints received in relation to accident towing operators. Trends in the number of complaints (in total or on a specific topic) may indicate that service levels are increasing or decreasing in the industry.

We understand that VicRoads does not record the number of complaints in relation to simple matters that are resolved without requiring an investigation (for example, resolution is reached by contacting an operator to inform them that they cannot charge a particular fee). Therefore, the complaints data presented in this section does not reflect the total number of complaints in relation to the accident towing industry. However, we consider that changes in the number of investigation-worthy complaints may indicate changes in service levels over time.

Table B.6 shows that the number of investigated complaints was significantly higher in 2015 and 2016 than in 2012. The level of investigated complaints in 2017 returned to a similar number to those in 2012. In those years with larger than normal investigated complaints, the largest category of complaints were:

- complaints about unlicensed operators (about a quarter of complaints).
- complaints about fees (almost one in every five complaints).

**Table B.6 Complaints in relation to accident towing in the Melbourne controlled area, 2012 and 2015 to 2017**

	2012	2015	2016	2017
Complaints	64	104	103	63
Complaints per 1,000 allocations	1.41	2.23	2.10	1.26

Source: VicRoads

## Appendix C: Reasons we have used benchmarking to review fees

For this review, we have considered two different methodologies for assessing whether regulated accident towing and storage fees are appropriate:

- a cost of service approach, where we would review existing fees based on the estimated costs of providing that service
- a benchmarking approach, where we would review existing fees based on comparisons to fees charged for similar services in other jurisdictions (such as interstate) and for unregulated towing services in Victoria.

We have reviewed fees based on a benchmarking approach. We consider that there would be difficulty in obtaining the required cost information to undertake a cost of service approach. A benchmarking approach relies relatively less on receiving information from accident towing operators and can provide a good indication of the fees charged in contestable markets.

We have modified the benchmarking approach that we used in our 2013 review and have placed greater consideration on the differences in fees between jurisdictions and business models. We have also considered accident towing fees and storage fees separately in this review. This appendix outlines the feedback we received on the methodology we proposed in the consultation paper and summarises the methodology we have implemented for this draft report.

### **We received feedback on our proposal to continue with a benchmarking approach**

We received two submissions to our consultation paper, from the Insurance Council of Australia and the Victorian Automobile Chamber of Commerce (VACC). We have published both of these submissions on our website. These submissions had differing views on our proposed approaches to reviewing accident towing and storage fees.

## Feedback on our proposed approach to review accident towing fees using benchmarking

The Insurance Council of Australia agreed that our current benchmarking approach remained appropriate and considered that the regulated accident towing fees do not need to be increased.<sup>95</sup>

The VACC submitted that we should adopt the Independent Pricing and Regulatory Tribunal's (IPART) methodology for setting fees that it used in its 2014 review of tow truck fees and licensing.<sup>96</sup> We provide a summary of IPART's methodology in box C.1 below. In its submission, the VACC outlined differences between IPART's methodology and our previous approaches to reviewing accident towing fees, for example IPART:<sup>97</sup>

- used a 'whole of business' approach in its cost of service approach, rather than allocating a share of total towing costs to accident towing
- considered the extent that utilisation of a tow truck affects the hourly cost of accident towing and the amount that an operator must charge to recover their costs
- considered that the extreme low and high results from its benchmarking approach reflected different business models and associated costs
- calculated an average hourly rate for different towing segments and business models.

## Feedback on our proposed approach to review storage fees using benchmarking

As per its comments on accident towing fees, the Insurance Council of Australia agreed that our current benchmarking approach for storage fees remained appropriate and the fees do not need to be increased.<sup>98</sup> The Insurance Council of Australia also stated that operators that charge the regulated 'under cover' storage fee should be required to provide evidence that vehicles were kept under cover (such as through photographs) in order to charge that regulated fee.<sup>99</sup> While this issue is outside the scope of this current review, we have shared the submissions to our consultation paper with VicRoads. VicRoads is able to investigate and enforce the legislation in response to specific complaints of non-compliance. We encourage stakeholders to seek resolution of complaints and disputes through VicRoads. We are also able to pass on specific information and complaints to VicRoads on behalf of stakeholders.

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<sup>95</sup> Insurance Council of Australia 2018, *ESC Review of Accident Towing and Storage Fees*, 18 May, p. 2.

<sup>96</sup> VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 8.

<sup>97</sup> *Ibid*, p. 8.

<sup>98</sup> Insurance Council of Australia 2018, *ESC Review of Accident Towing and Storage Fees*, 18 May, p. 2.

<sup>99</sup> *Ibid*, p. 2.

The VACC suggested that storage fees should be based on the costs involved in providing those services, which it stated have increased over the past several years due to property price increases.<sup>100</sup> The VACC also referenced IPART's approach to calculating storage costs, which is summarised in box C.1 below. The VACC provided its own cost analysis of storage costs, based on the results of its analysis of industrial land values and the authority to tow documents at a depot in the Melbourne controlled area.<sup>101</sup> The VACC suggested that storage fees should be set at:<sup>102</sup>

- \$29.48 per day, for 'under cover' storage in inner-Melbourne
- \$25.89 per day, for 'under cover' storage in outer-Melbourne
- \$17.81 per day, for 'locked yard' storage in inner-Melbourne
- \$14.21 per day, for 'locked yard' storage in outer-Melbourne.

### **Box C.1 Background to IPART's approach to reviewing accident towing and storage fees in 2014**

In December 2014, IPART completed a review of tow truck fees and licensing in New South Wales. IPART was tasked with reviewing the regulatory framework applying to accident towing operators, as well as recommending appropriate fees for light and heavy vehicle towing services that were subject to price regulation.

IPART separately assessed the regulated fees for accident towing and storage services and:

- used breakdown towing fees as a benchmark of the efficient hourly costs of accident towing and cross-checked this result through a cost of service approach (based on responses to an operator/driver questionnaire and other stakeholder comments)<sup>103</sup>
- recommended storage fees based on the cost of providing storage (benchmarked through data on land values and outdoor long-term parking) and storage utilisation.<sup>104</sup>

#### **IPART's approach to recommending accident towing fees**

IPART considered that the best indicator for the efficient costs of accident tows is likely to be the fees for breakdown tows, which are a competitive service.<sup>105</sup> IPART's methodology was to:

- identify the market prices for breakdown tows to estimate the efficient costs per hour

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<sup>100</sup> VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 9.

<sup>101</sup> Ibid, pp.10-18.

<sup>102</sup> Ibid, pp. 17-18.

<sup>103</sup> IPART 2014, *Review of tow truck fees and licensing in NSW: Transport – Final Report*, December, p. 58.

<sup>104</sup> Ibid, pp. 91-95.

<sup>105</sup> Ibid, p. 58.



- cross-check the efficient costs against the hourly cost of towing activities (estimated based on responses to a cost survey to operators and drivers)
- if the efficient costs per hour are appropriate, use these estimates to calculate a set of accident towing fees that recover these costs.

IPART also took into consideration a number of other factors in estimating the hourly cost of accident towing services:<sup>106</sup>

- the variety of business models used by tow truck operators
- the tow truck utilisation rates, as accident towing operators need to have ‘stand by’ capacity
- the lower number of towing jobs per operator in non-metropolitan areas.

IPART estimated that businesses that conduct accident and/or breakdown tows incur average costs of around \$100 per hour in metropolitan areas and \$110 per hour in non-metropolitan areas.<sup>107</sup>

### **IPART’s approach to recommending storage fees**

IPART recommended storage fees that take into account the cost of storage in different areas of Sydney (based on data on land values) and the utilisation of storage yards.<sup>108</sup> IPART recommended that storage fees should be listed separately to the regulated base fee (previously the base fee in Sydney included the first three days of storage).

Based on its finding of different land costs throughout Sydney, IPART recommended different storage fees for inner and outer metropolitan areas.<sup>109</sup>

## **For our draft report, we have decided to apply a benchmarking methodology**

We have adopted a benchmarking approach for this review and have separately compared accident towing fees and storage fees against relevant benchmarks. In comparison, for our 2013 review, we decided that benchmarking the overall fee associated with an accident tow would be

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<sup>106</sup> Ibid, p. 64.

<sup>107</sup> Ibid, p. 67.

<sup>108</sup> Ibid, p. 91.

<sup>109</sup> Ibid, p. 94.

the most appropriate way to assess the needs for fee adjustments.<sup>110</sup> That is, we benchmarked the fees for a 'typical tow', which included a combination of accident towing and storage fees.

Although our previous approach was appropriate in 2013, we consider that assessing accident towing and storage separately is a more appropriate methodology for this review. The reason for this is that our initial assessment of benchmark fees suggested that the costs of storage have increased at a faster rate since 2013 than the costs associated solely with towing.

### **We have used a benchmarking approach for accident towing fees**

We have adopted a benchmarking approach for this review that is modified from the approach we used in 2013. In particular, aspects of our benchmarking approach are similar to the approach used by IPART in its 2014 review of NSW tow truck fees and licensing. We have decided not to conduct a cost survey for this review as we are concerned it would not be a useful exercise.

### **Our benchmarking approach incorporates regulated and unregulated benchmarks**

In the analysis presented in chapter 2 of this draft report, we compare regulated accident towing fees against regulated and unregulated benchmarks. When choosing the relevant unregulated benchmarks for accident towing fees, we focused on trade towing services that are similarly as time sensitive as accident towing. In particular, clearway and breakdown towing services require standby capacity for tow trucks, as these jobs require immediate action from the operator. This is similar to accident towing services, where operators are required to attend an accident scene within 30 minutes of receiving an accident allocation.<sup>111</sup>

Broadly, in undertaking our assessment we:

- compared the regulated accident towing fees in Melbourne against regulated accident towing fees in other jurisdictions. We adjusted the benchmarks to enable comparability across jurisdictions
- calculated an average fee for accident towing and trade towing jobs and found the price premium for accident towing jobs compared to trade towing jobs. To provide context to this price premium, we applied IPART's estimate that accident tows take around 75 minutes longer than trade tows. We then calculated an hourly price based on the price and time premiums for accident towing compared to trade towing, which we used to compare to benchmark hourly fees.

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<sup>110</sup> Essential Services Commission 2013, *Periodic review of accident towing and storage fees: Draft report*, May, p. 45.

<sup>111</sup> Accident Towing Services Regulations 2008, clause 32(1).

## **We chose not to conduct a cost survey as we consider benchmarking is a better approach**

The VACC suggested for this review that we conduct a cost survey as part of adopting the methodology of IPART's 2014 review (as described in box C.1).<sup>112</sup> We have considered the relative benefits and downsides associated with a cost survey and a benchmarking approach and have decided to not conduct a cost survey for this review.

### *We have previously conducted a cost survey of accident towing operators*

We previously conducted a cost survey in our 2009 review. In that review, we issued an industry-wide survey to operators to collect information on the costs of accident towing services. The main issues we encountered in conducting that cost survey was:

- there was poor participation from operators, with very few responses received
- it was difficult to identify and address issues with common costs in the industry, arising due to integration of accident, trade and breakdown towing (and to a lesser extent, smash repair).

In our 2013 review, we concluded that the benefits of conducting another cost survey were likely to be outweighed by the costs, particularly when compared to the other options available.<sup>113</sup>

### *The challenges related to a cost survey are still relevant and outweigh the benefits*

Although the results of a cost survey could be used as a cross check on our benchmarking analysis, we consider that the challenges involved in conducting a cost survey do not outweigh the benefits. The challenges of conducting a cost survey include that:

- undertaking a cost survey can be a costly and burdensome exercise
- it will take time to complete the cost survey process and will push out our review timelines
- the costs provided may not reflect the efficient costs of providing accident towing services and we would need to make adjustments to the cost figures, which would likely be imprecise
- we may get poor participation in the survey, as was the case in 2009, which would mean that the results would not be statistically significant.

In contrast, the benefits of benchmarking are that it is simpler to apply than a cost survey and does not require obtaining data directly from accident towing operators. We consider that the fees in contestable markets will better reflect efficient costs than the underlying costs of accident towing operators. There are a number of good benchmarks for the accident towing industry, as trade towing operators provide similar services with similar inputs and operate in a contestable market.

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<sup>112</sup> VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 8.

<sup>113</sup> Essential Services Commission 2013, *Periodic review of accident towing and storage fees: Draft report*, May, p. 27.

However, there are some downsides related to the benchmarking approach, which we have also considered. For example, we need to adjust the benchmark fees to reflect the differences between accident towing and trade towing services (such as the time to complete an average job), which requires us to make assumptions about the extent of these differences. The need to make assumptions creates some imprecision in the benchmarking approach, which means that the benchmarks will not precisely reflect the efficient costs for all accident towing jobs.

While we did not undertake a cost survey for this draft report, we analysed movements in public cost indexes to see if there had been significant changes in costs since our last review. This is outlined in appendix B. Our finding is that the major costs underpinning accident towing work have not significantly changed since 2013. The exception to this is the cost of industrial land leasing, which we have addressed separately in our analysis on storage costs. We are open to considering other evidence on cost changes in the industry as a cross check on whether the fees justified by our benchmarking analysis are reasonable. As there is a degree of imprecision in the benchmarking approach, we would likely only make adjustments in response to material cost changes.

### **We have used a benchmarking approach for storage fees**

We have considered the benchmarking results for storage fees in greater detail in this review than in our 2013 review. We have decided to rely solely on these benchmarking results at this stage and have not sourced data on land leasing costs for industrial land in Melbourne to use to underpin our recommended fees. We consider that the benchmark fees will adequately reflect changes in land values in Melbourne.

### **Our benchmarking approach considered both regulated and unregulated storage services**

In our analysis of storage services in chapter 3, we benchmark regulated storage fees against the fees charged for unregulated vehicle storage services in Melbourne, as well as regulated storage fees for accident-damaged vehicles in other jurisdictions.

While we consider that the storage fees charged by trade towing operators in Melbourne are a useful comparison, we do not consider that car parking facilities represent a useful comparison for regulated storage fees. This is for similar reasons as those we expressed in our 2013 review, namely:<sup>114</sup>

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<sup>114</sup> Essential Services Commission 2013, *Periodic review of accident towing and storage fees: Draft report*, May, p. 47.

- customers of car parking facilities have chosen to use those services. Those customers have the opportunity to compare and assess different car parking options and make a reasonably informed decision on use of the car park
- fees for car parking reflect the supply and demand for car spaces, whereas storage fees charged by accident towing operators and trade towing operators are based on the costs of providing those services
- the nature of the service being provided by car parking operators is different to accident towing operators.

### **We have relied on benchmarking results rather than data on land leasing costs**

We consider that benchmarking is an appropriate methodology to assess whether storage fees are appropriate. Although data on industrial land value changes could be a useful input to this analysis, the benchmark fees we used in our analysis should reflect changes in underlying costs.

In its submission to our consultation paper, the VACC stated that Melbourne industrial property lease prices have increased since 2014 and have contributed to increasing operating losses incurred by accident towing operators providing storage services.<sup>115</sup> The VACC provided a cost analysis for the provision of covered and uncovered storage in inner and outer Melbourne based on the results of its survey of leasing costs, assumptions around space requirements and estimates of administrative costs, bad debts and profit margin.<sup>116</sup> The VACC concluded that covered storage fees should increase by between 54 to 78 per cent, and uncovered storage fees should increase by between 26 and 59 per cent.<sup>117</sup> We requested the underpinning information from the VACC in order to test this analysis, but have not yet been provided with the data. As a result, we have been unable to rely on these results in this draft report. However, we note that our proposed uplift in storage fees is not dissimilar to the fee increases being suggested by the VACC.

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<sup>115</sup> VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 9.

<sup>116</sup> *Ibid*, pp. 16-17.

<sup>117</sup> *Ibid*, pp. 17-18.

## Appendix D: Accident towing fees in other jurisdictions

As part of our benchmarking analysis in chapters 2 and 3 of this report, we considered the regulated fees applying in other states of Australia. Specifically, we have considered fees in New South Wales (NSW), Queensland and South Australia. There are differences in the regulatory arrangements in these states when compared to the Melbourne controlled area, such as:

- South Australia and Melbourne are the only jurisdictions with an accident allocation scheme (other jurisdictions allow licensed operators to compete for jobs)
- all jurisdictions, apart from Melbourne, have 'maximum' accident towing fees rather than 'prescribed' fees (this allows for operators to provide discounted fees)
- the base fees in Melbourne and NSW include all waiting and working time at the accident scene, whereas these inclusions are limited in Queensland and South Australia
- NSW and South Australia both include at least some allowance for salvage in the base fees
- Queensland is the only jurisdiction to include storage within the base fee for accident towing
- the base fees include different distances of travel depending on jurisdiction
- the measurement of distance in Melbourne and South Australia is from the towing operator's depot (that is, it includes travel to the accident scene), whereas in NSW and Queensland the distance rate is measured from the accident scene.

The remainder of this appendix outlines further detail on how regulated accident towing and storage fees are determined each of these jurisdictions.

### New South Wales

#### Key features of Sydney metropolitan accident towing fees (2017-18)

Base fee	\$261.80
Coverage of the base fee	The base fee includes: <ul style="list-style-type: none"><li>- first 10km of travel</li><li>- first 30 minutes of salvage services</li><li>- all time associated with services covered by the base fee</li></ul>
Distance fee	\$5.69 after 10km
Storage fee	\$25.30 per day in metropolitan Sydney
Fee for additional working time	N/A

Business hours	8am to 5pm
After-hours surcharge	20% surcharge on base fee and distance fee
Allocation system	No
Area of operation	Sydney (fees are slightly different in non-metro areas)
Other features	Salvage fees (\$67.10 per hour) and secondary towing (\$94.60) are also regulated in NSW

Accident towing in NSW is regulated through the Tow Truck Industry Act 1998 (NSW) and the Tow Truck Industry Regulation 2008 (NSW). In contrast to Melbourne, there is no accident allocation system in NSW.

On 1 July 2017, the administrative function of tow trucks transferred from Roads and Maritime Services within the Department of Transport to NSW Fair Trading. NSW Fair Trading is now responsible for the licencing and regulation of tow truck operations in NSW.<sup>118</sup>

### **IPART review of NSW accident towing fees (2014)**

The Independent Pricing and Regulatory Tribunal (IPART) undertook a broad review of economic regulation of the NSW tow truck industry in 2014. IPART was asked by the NSW Premier to recommend appropriate fees and charging arrangements for light and heavy vehicle towing services currently subject to price regulation, among other things.<sup>119</sup>

IPART recommended restructuring of the existing regular vehicle accident towing fees, such that:<sup>120</sup>

- the base fee should no longer include three days of storage, to ensure only customers requiring storage are paying for this service
- the base fee in non-metropolitan areas should only cover the first 30 minutes of cleaning up debris and vehicle load on roads with a speed limit greater than 80 km per hour – after that, an hourly fee can be charged
- the base fee for recovery tows should be lower, reflecting the shorter time typically involved with providing this service compared to accident tows (where necessary, operators can charge a salvage fee after 30 minutes)

<sup>118</sup> NSW Fair Trading, *Tow trucks*, accessed on 19 June 2018 at; [http://www.fairtrading.nsw.gov.au/ftw/About\\_us/News\\_and\\_events/Whats\\_new/Tow\\_trucks.page](http://www.fairtrading.nsw.gov.au/ftw/About_us/News_and_events/Whats_new/Tow_trucks.page)

<sup>119</sup> IPART 2014, *Review of tow truck fees and licensing in NSW: Final report*, December.

<sup>120</sup> *Ibid.*, p. 4.

- an after-hours surcharge of 25 per cent should apply to all tows in metropolitan areas outside the hours of 7am to 7pm on business days (instead of the 20 per cent surcharge that applies to tows outside the hours of 8am to 5pm on business days).

In its response to the review<sup>121</sup>, the NSW Government supported each of the above recommendations, except for the removal of storage from the base fee. On this recommendation, the NSW Government stated that it would seek further consultation with industry and consumer groups before implementing a change.

### **The current structure of accident towing fees in NSW**

Although the NSW Government initially supported changes to the after-hours surcharge, it left this unchanged at a 20 per cent uplift in fees between 8am to 5pm on business days. However, the NSW Government did remove the first three days of storage from the base fee, with this change coming into effect in 2016-17. The NSW Government stated that it would annually adjust maximum fees in line with movements in the CPI (Sydney, all groups) index.

IPART's recommendations led to decreases in the accident towing base fee and distance fee from 2016-17. However, for metropolitan consumers, this was offset by an increase in storage fees. Table D.1 outlines the maximum regulated fees in NSW since 2012-13.

The base fee covers a variety of services in NSW. Tow truck operators are expressly prohibited from charging additional fees for services such as:<sup>122</sup>

- removing debris from the scene
- the first 30 minutes of salvage operations
- cleaning the tow truck
- administrative tasks (such as taking photos or preparing documents)
- fuel costs.

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<sup>121</sup> NSW Government 2015, *NSW Government Response to IPART Review of Tow Truck Fees and Licensing in NSW*, December.

<sup>122</sup> Tow Truck Industry Regulation 2008 (NSW), Division 7.



**Table D.1 Regulated maximum accident towing fees in NSW (incl. GST), 2012-13 to 2017-18**

	Base fee	Distance fee (over 10km)	Storage fee
2012-13	\$264.00	\$6.40	\$19.80
2013-14	\$269.50	\$6.53	\$20.35
2014-15	\$276.10	\$6.70	\$20.90
2015-16	\$282.70	\$6.85	\$21.45
2016-17	\$258.50	\$5.61	\$25.30 (metro) \$15.40 (non-metro)
2017-18	\$261.80	\$5.69	\$25.30 (metro) \$15.40 (non-metro)

Source: Annual amendments to the Tow Truck Industry Regulation 2008 (NSW)

## Queensland

### Key features of Queensland accident towing fees (2017-18)

Base fee	\$348.95
Coverage of the base fee	The base fee includes: <ul style="list-style-type: none"> <li>- first 50km of travel</li> <li>- 3 days of storage</li> <li>- up to 60 minutes of work time at scene</li> </ul>
Distance fee	\$6.90 after 50km
Storage fee	Not regulated
Fee for additional working time	Not regulated
Business hours	N/A
After-hours surcharge	N/A
Allocation system	No
Area of operation	City areas and regional shires
Other features	N/A

The Tow Truck Act 1973 (Qld) established the management of, and set the standards for, the accident towing industry in Queensland. This Act covers cities (including Brisbane, Cairns and Gold Coast, among others) and regional shires (including Maroochy and Noosa).<sup>123</sup>

Standard accident towing is price regulated in the areas covered by the Tow Truck Act 1973 (Qld). The Tow Truck Regulation 2009 (Qld) provides the maximum charges that apply to accident towing in regulated areas. There is no accident allocation system in Queensland.

The regulated fee is composed of a base fee of \$348.95 for the first 50 kilometres<sup>124</sup> and a distance fee of \$6.90 for each additional kilometre.<sup>125</sup> There are no surcharges for jobs completed during non-business hours, weekends or public holidays. The base accident towing fee includes:<sup>126</sup>

- 60 minutes of working time at the accident scene
- moving the vehicle from the accident scene to the required location
- three days of storage in a holding yard.

In Queensland, there is no maximum fee for additional storage or additional working time for accident-damaged vehicles. However, tow truck operators are required to only 'charge an amount that is reasonable'<sup>127</sup> for that job.

As a result of a 2017 investigation into the removal of parked vehicles from private car parks and roads, the Queensland Government introduced a number of new regulated charges for tow trucks. This includes a regulated storage charge of \$25 per day for the storage of a 'private property motor vehicle in a holding yard'<sup>128</sup>. These new regulated fees only relate to vehicles that have been removed from private property and do not relate to accident-damaged vehicles.

Accident towing fees in Queensland have been increasing at between 3 and 4 per cent since 2012-13, as shown in table D.2.

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<sup>123</sup> Queensland Government, Department of Transport and Main Roads, *Tow trucks*, accessed on 19 June 2018 at <https://www.tmr.qld.gov.au/business-industry/Accreditations/Tow-truck-licensing-scheme>

<sup>124</sup> Note that the measurement of distance begins at the accident scene and does not include the driver's travel to the accident scene from their depot/prior location.

<sup>125</sup> Accident Towing Regulations 2009 (Qld), Schedule 3, p. 41.

<sup>126</sup> Accident Towing Regulations 2009 (Qld), section 32, p. 27.

<sup>127</sup> Accident Towing Regulations 2009 (Qld), section 32, p. 27.

<sup>128</sup> Queensland Government, Department of Transport and Main Roads, *Government response to the Independent Investigation into the Towing Industry: Removal of Vehicles from Private Property*, 8 August 2017.

**Table D.2 Regulated maximum accident towing fees in Queensland (incl. GST), 2012-13 to 2017-18**

	Base fee	Distance fee (over 50km)
2012-13	\$293.80	\$5.85
2013-14	\$304.10	\$6.05
2014-15	\$314.75	\$6.25
2015-16	\$327.75	\$6.45
2016-17	\$337.15	\$6.70
2017-18	\$348.95	\$6.90

Source: Annual amendments to the Tow Truck Regulation 2009 (Qld)

## South Australia

### Key features of South Australia accident towing fees (2017-18)

Base fee	\$345
Coverage of the base fee	The base fee includes: - first 20km of travel - up to 30 minutes of waiting and working time
Distance fee	\$3.00 per km after 20km
Storage fee	\$25 (covered) and \$15 (uncovered) per day
Fee for additional working time	\$49 per hour for first tow truck operator and \$38 per hour for additional staff
Business hours	7.30am to 5pm on working days
After-hours surcharge	Yes, set fee for base fee, distance fee and additional working time during non-business hours
Allocation system	Yes
Area of operation	Adelaide metropolitan area
Other features	Commissions for smash repairs are regulated in South Australia. Salvage fees are also regulated in the hourly rate for additional working time.

Accident towing in South Australia is regulated under the Motor Vehicles Act 1959 (SA), Motor Vehicles Regulations 2000 (SA) and Prices Act 1948 (SA). Regulated price changes are made through the Prices Act 1948 (SA). As in the Melbourne controlled area, there is an allocation system in South Australia – covering Adelaide and the surrounding metropolitan areas.

The Registrar of Motor Vehicles reviews accident towing fees on an annual basis under the Prices Act 1948 (SA). The mechanism for setting prices is based on operating costs and an average number of tows per roster position per month. Under the existing pricing model, 'if the number of tows per month decreases, the cost to consumers will increase, and some operators may lose associated business from crash repair work'<sup>129</sup>.

Table D.3 outlines the maximum regulated fees in South Australian since 2012-13. The base accident towing fee includes:<sup>130</sup>

- towing of the vehicle from the scene of the accident to a place of repair or storage
- from a place of storage to a place of repair for 20 kilometres (towing in excess of 20 kilometres incurs a per kilometre charge)
- 30 minutes of waiting time or working time at the scene
- the use of equipment to recover and tow the vehicle.

Tow truck operators can charge higher base fees and distance fees for jobs conducted outside of normal hours (7.30am to 5.00pm on working days).

The maximum fee for additional working time at the accident scene, which includes time associated with vehicle salvage, is regulated at \$49 for the first tow truck operator (\$38 for any additional staff) during business hours (which increases to \$75 and \$64 during non-business hours). South Australia remains the only jurisdiction that has a regulated fee for commissions paid to tow truck operators on subsequent smash repairs.

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<sup>129</sup> Government of South Australia 2015, *Remaking of the Motor Vehicles (Accident Towing Roster Scheme) Regulations 2000: Public consultation*, Regulatory Impact Statement, January, p. 10.

<sup>130</sup> Prices Order No. 1138 (S.A.).

**Table D.3 Regulated maximum accident towing fees in South Australia (incl. GST), 2012-13 to 2017-18 (after-hours fees are in brackets)**

Year	Base fee	Distance fee (over 20km)	Storage fee (covered)	Storage fee (uncovered)
2012-13	\$320 (\$372)	\$2.82 (\$3.84)	\$21.00	\$12.00
2013-14	\$328 (\$381)	\$2.90 (\$3.95)	\$21.00	\$12.00
2014-15	\$326 (\$380)	\$2.95 (\$4.05)	\$21.00	\$12.00
2015-16	\$330 (\$386)	\$2.90 (\$4.10)	\$21.00	\$12.00
2016-17	\$354 (\$408)	\$3.00 (\$4.15)	\$25.00	\$14.00
2017-18	\$345 (\$402)	\$3.00 (\$4.00)	\$25.00	\$15.00

Source: Annual declarations of maximum prices pursuant to the Prices Act 1948 (SA)

## Appendix E: Non-commercial tows (bad debts)

Non-commercial tows (also referred to as unpaid tows) are accident towing jobs for which a tow operator is not paid. This can occur when the owner of a vehicle refuses or fails to pay for the tow (for example, because the owner abandons the vehicle).

It is difficult for accident towing businesses to manage non-commercial tows. This is because operators cannot refuse an accident tow once they have accepted the allocation and are only paid after they have performed the towing service. As such, operators are unable 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.

In our 2013 review, we were requested to specifically consider options for the treatment of non-commercial tows. As these costs form part of the consideration of appropriate accident towing fees, we have considered non-commercial tows again in this review. In the absence of evidence that the proportion of non-commercial tows has significantly increased since our last review, our draft view is to retain the current treatment of non-commercial tows.

### **An allowance for non-commercial tows is included in regulated fees**

In our 2009 review, we recommended that the cost for non-commercial tows be included in the cost base that underpinned our recommended fees. We included an explicit annual allowance of \$1,394 per tow truck in the cost base, based on the average cost of non-commercial tows reported in a cost survey filled in by accident towing operators.<sup>131</sup>

In the 2013 review, we considered that the most cost effective way of recouping the costs of relevant non-commercial tows is through the allowance we provided in the regulated fees. During that review, we were not provided any new evidence that suggested that the level of the allowance in the fees needed to be reviewed.<sup>132</sup>

In both reviews, we considered different ways of treating non-commercial tows before reaching a conclusion to provide an allowance in the regulated fees:

- a system of direct compensation, which could be financed through a small levy added to vehicle registration fees collected by VicRoads

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<sup>131</sup> Essential Services Commission 2010, *Review of accident towing and storage fees – final report: volume 2: detailed reasons and methodology*, June, p. 56.

<sup>132</sup> Essential Services Commission 2013, *Periodic review of accident towing and storage fees: final report*, July, pp. 59-62.

- allowing operators to sell unclaimed damaged vehicles, which was already allowed through the ability to dispose of goods within two or six months after abandonment (depending on the value of the goods)
- a continuation of the current allowance for bad debts in the regulated fees.

In those reviews, we concluded that there should be no change to how non-commercial tows are treated. This was due to:<sup>133</sup>

- the potential administrative costs associated with the option of direct compensation
- the absence of significant impediment posed by the regulatory requirements for abandoned vehicle disposal
- the benefits of making an allowance for the costs of non-commercial tows in the regulated fees outweighed the administrative costs and complexity of other options.

We also concluded that there was no new evidence that suggested the level of the allowance for bad debts needed to be reviewed.<sup>134</sup>

## **We have received feedback that the allowance for non-commercial tows should be recovered through storage fees**

In its submission to our consultation paper, the VACC suggested that the vehicles abandoned as a non-commercial tow can be sold to the wreckers for around \$200, which does not recoup the debt involved for the tow and storage provided (estimated to be around \$750 on average).<sup>135</sup> The VACC stated that the costs of non-commercial tows should be incorporated into the storage fee and not the base fee. The VACC stated that owners that only receive towing services should not incur associated administrative costs of storage.

## **Our draft recommendation is to retain the current practice**

The VACC's estimate of the loss per vehicle for bad debts does not appear to take into account that the current regulated fees compensate operators for non-commercial tows. That is, the current regulated fees are higher than they otherwise would be to allow for around five per cent of towing jobs resulting in a bad debt.<sup>136</sup> The feedback we have received does not appear to indicate that

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<sup>133</sup> Essential Services Commission 2013, *Periodic review of accident towing and storage fees: final report*, July, pp. 60-62.

<sup>134</sup> Essential Services Commission 2013, *Periodic review of accident towing and storage fees: final report*, July, p. 61.

<sup>135</sup> VACC 2018, *Review of accident towing and storage fees 2018* Essential Services Commission, May, p. 15.

<sup>136</sup> Essential Services Commission 2010, *Review of accident towing and storage fees – final report: volume 2: detailed reasons and methodology*, June, p. 53.

non-commercial tows have become a larger proportion of total accident towing jobs since our last review. In particular, the VACC stated in its submission that around two per cent of stored vehicles result in abandonment and a bad debt.<sup>137</sup>

We have also considered whether the existing allowance for non-commercial tows should be shifted into the regulated storage fees or collected through all regulated fees, as is the current practice. Our draft view is that the current practice continues to be appropriate. As the VACC identified, when operators have a non-commercial towing job they will miss out on both the towing fees and storage fees associated with the job. We consider that the cost of a non-commercial tow is not solely a storage administration cost, as there is a revenue loss related to the accident tow that is conducted.

Our view is that our approach in 2009 to uplift all regulated fees to account for non-commercial tows was simple and sensible. Our 2009 cost base, developed based on accident towing operators' responses to a cost survey, indicated that non-commercial tows represented around one per cent of the total operating costs per tow truck.

Our current review of accident towing and storage fees is based on a benchmarking approach rather than on the values from the cost base, for the reasons outlined in appendix C. The benchmark fees are an approximation of the appropriate fees for accident towing and will not precisely reflect the efficient costs for all accident towing jobs for all operators. Our view is that the current regulated fees should provide, on average, appropriate revenue for accident towing operators conducting accident towing work (including non-commercial tows). We will consider all cost data that stakeholders' provide in response to our draft report (including information on non-commercial tows). If we are confident that the data demonstrates material cost changes over time, we may use this information as a cross check on whether the fees justified by our benchmarking analysis are reasonable.

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<sup>137</sup> VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 16.



## Appendix F: Legislative framework

The following sets out the relevant sections of the Accident Towing Services Act 2007.

Section number	Section detail
s. 4	<p><b>Objective</b></p> <p>The objective of this Act is to—</p> <ul style="list-style-type: none"> <li>(a) promote the safe, efficient and timely provision of accident towing services and other related services;</li> <li>(b) ensure that persons who are providing accident towing services— <ul style="list-style-type: none"> <li>(i) are of appropriate character; and</li> <li>(ii) are technically competent to provide the services; and</li> <li>(iii) when providing the services, act with integrity and in a manner that is safe, timely, efficient and law abiding, and in particular, that regard is had for vulnerable persons.</li> </ul> </li> </ul>
s. 212D	<p><b>Objectives not to apply</b></p> <p>Except to the extent (if any) that the Minister otherwise determines, the objectives of the Commission under the Essential Services Commission Act 2001 or any other Act do not apply to the functions and powers of the Commission under this Division.</p>
s. 211	<p><b>Minister to determine charges for accident towing services and other services</b></p> <p>The Minister may from time to time determine the amounts that may be charged by the providers of the following—</p> <ul style="list-style-type: none"> <li>(a) accident towing services;</li> <li>(b) the service of storing accident damaged motor vehicles;</li> <li>(c) basic salvage services— for the provision of those services.</li> </ul>
s. 212 (1)	<p><b>Determinations of charges</b></p> <p>The Minister must not make a determination under section 211 unless he or she—</p> <ul style="list-style-type: none"> <li>(a) has received a recommendation from the Commission under Division 2 on the matter; and</li> <li>(b) has received a report from VicRoads.</li> </ul>
s. 212 (2)	<p>A determination of the Minister under section 211—</p> <ul style="list-style-type: none"> <li>(a) may be of general or of specially limited application; and</li> <li>(b) may differ according to differences in time, place or circumstance.</li> </ul>
s. 212 (3)	<p>A determination under section 211 takes effect when it is published in the Government Gazette, or, if a later day is specified in the determination, on that day.</p>
s. 212 (4)	<p>A determination under section 211 may be amended or revoked and the provisions of this section apply to any such amendment or revocation of a</p>

Section number	Section detail
s. 212A (1)	<p>determination in the same manner as that in which they apply to the making of the determination.</p> <p><b>Periodic review of charges</b></p> <p>The Commission must, at the time specified in subsection (3), conduct and complete a review and make a recommendation to the Minister as to all of the following—</p> <ul style="list-style-type: none"> <li>(a) whether or not any amount determined by the Minister under section 211 is appropriate;</li> <li>(b) in relation to accident towing services, services relating to the storage of accident damaged vehicles and salvage services for which no amount has been determined under section 211— <ul style="list-style-type: none"> <li>(i) whether or not that service should be subject to a determination under that section; and</li> <li>(ii) if the Commission considers that the service should be subject to a determination, what that determination should be;</li> </ul> </li> <li>(c) a figure for the productivity adjustment of those services that are or are to be subject to a determination under section 211;</li> <li>(d) any other matter relating to accident towing services, the storage of accident damaged vehicles or salvage that the Minister specifies in writing.</li> </ul>
s. 212A (2)	<p>The Minister must consult with the Minister administering the Essential Services Commission Act 2001 before specifying a matter for review under subsection (1)(d).</p>
s. 212A (3)	<p>The Commission must conduct and complete a review and make a recommendation to the Minister under this section—</p> <ul style="list-style-type: none"> <li>(a) not later than 30 June 2014; and</li> <li>(b) before the expiry of each subsequent period of 4 years commencing from the date that the last review commenced.</li> </ul>
s. 212B (1)	<p><b>Additional review at Minister's direction</b></p> <p>The Minister may at any time, by written direction, require the Commission to conduct and complete a review and make a recommendation to the Minister as to whether or not an amount determined under section 211 is appropriate.</p>
s. 212B (2)	<p>The Minister must consult with the Minister administering the Essential Services Commission Act 2001 before requiring the Commission to conduct a review and make a recommendation under subsection (1).</p>
s. 212B (3)	<p>A written direction under this section must specify terms of reference for the review.</p>
s. 212B (4)	<p>The Minister may—</p> <ul style="list-style-type: none"> <li>(a) specify a period within which a recommendation is to be made to the Minister under subsection (1);</li> <li>(b) require the Commission to make a draft copy of the recommendation publicly available or available to specified persons or bodies during the review;</li> <li>(c) require the Commission to consider specified matters;</li> </ul>

Section number	Section detail
	<ul style="list-style-type: none"> <li>(d) give the Commission specific directions in respect of the conduct of the review;</li> <li>(e) specify objectives that the Commission is to have in performing its functions and exercising its powers in relation to the review.</li> </ul>
s. 212B (5)	If the Minister has directed a matter to the Commission for review under subsection (1), the Minister may, by written notice given to the Commission, withdraw or amend the direction at any time before the Minister has received the recommendation from the Commission.
s. 212B (6)	The Minister must cause notice of a direction given to the Commission under this section to be published on an Internet site maintained by VicRoads.
s. 212C (1)	<p><b>Conduct of review</b></p> <p>Subject to this Act and any directions under section 212B, the Commission may conduct a review under this Division in any manner the Commission considers appropriate.</p>
s. 212C (2)	In conducting a review, the Commission is not bound by the rules of evidence and may inform itself on any matter in any way it thinks fit.
s. 212C (3)	The Commission may receive written submissions or statements.
s. 212C (4)	<p>If the Commission holds a public hearing—</p> <ul style="list-style-type: none"> <li>(a) the Commission has a discretion as to whether any person may appear before the Commission in person or be represented by another person;</li> <li>(b) the Commission may determine that the hearing, or part of the hearing, be held in private if it is satisfied that— <ul style="list-style-type: none"> <li>(i) it would be in the public interest; or</li> <li>(ii) the evidence is of a confidential or commercially sensitive nature.</li> </ul> </li> </ul>
s. 212C (5)	<p>In conducting a review, the Commission—</p> <ul style="list-style-type: none"> <li>(a) may consult with any person that it considers appropriate;</li> <li>(b) may hold public seminars and hold workshops;</li> <li>(c) may establish working groups and task forces.</li> </ul>
s. 212H (1)	<p><b>Charges to be adjusted for CPI</b></p> <p>Subject to subsection (2), an amount of a charge determined under section 211 must be varied, in respect of each financial year, in accordance with the formula—</p> $A \times \left( \frac{B}{C} - D \right)$ <p>where—</p> <ul style="list-style-type: none"> <li>“A” is the amount of the charge for the financial year immediately preceding the relevant year;</li> <li>“B” is the transport group consumer price index for Melbourne in original terms for the reference period in which falls the March quarter of the financial year immediately preceding the relevant year last published by the Australian Bureau of Statistics before the relevant year;</li> <li>“C” is the transport group consumer price index for the corresponding</li> </ul>

Section number	Section detail
	reference period one year earlier than the reference period referred to in B last published by the Australian Bureau of Statistics as at 15 June in the financial year immediately preceding the relevant year; “D” is the productivity adjustment figure specified in the recommendation under section 212A most recently made by the Commission or, if the Commission has not made a recommendation under section 212A that relates to the relevant year, “D” is 0.005.
s. 212H (2)	If it is necessary for the purposes of this section to calculate an amount that consists of or includes a fraction of a whole dollar, the amount is taken to be calculated in accordance with this section if the calculation is made to the nearest whole 10 cents.
s. 212H (3)	If the variation under subsection (1) of the amount of a charge would reduce the amount of that charge, the amount of the charge must not be varied under subsection (1).
s. 212H (4)	If the amount of a charge is varied under subsection (1), VicRoads must publish a notice in the Government Gazette specifying— (a) the service to which the charge relates; and (b) the amount of the charge as varied; and (c) the data from which the charge as varied applies.
s. 212H (5)	In this section, <b>relevant year</b> means the financial year for which the adjusted amount is being varied.

# Glossary

Term	Definition
Accident allocation scheme	A roster-based system for allocating accident towing jobs between tow truck licence holders. Separate schemes operate in the Melbourne controlled area and Geelong self-management area.
Accident towing	The towing and storage of accident-damaged motor vehicles from road accident scenes. Accident towing and storage fees are regulated within the Melbourne controlled area.
Breakdown towing	The towing of vehicles as part of the road side assistance service offered by car insurance providers and car retailers. Breakdown towing fees are not regulated.
Clearway towing	The towing of vehicles illegally parked in designated clearway zones during specified times, under contract with the responsible authority. Clearway towing fees are not regulated.
Depot	Premises from which accident tow trucks operate. A single depot may be shared by multiple accident towing service businesses.
Driver	A person who drives a tow truck to accident scenes and performs the tow. Under the Accident Towing Services Act 2007, drivers must be accredited by VicRoads.
Geelong self-management area	A declared area consisting of Geelong and surrounding areas. Tow truck drivers may only attend an accident scene after receiving an allocation through the self-managed allocation scheme. Accident towing and storage fees are not regulated beyond a requirement to be 'reasonable'.
Impound towing	The towing of vehicles that are either abandoned, derelict or otherwise causing obstruction, as arranged by the local council. Impound towing fees are not regulated.
IPART	The Independent Pricing and Regulatory Tribunal of NSW. IPART undertook a broad review of economic regulation of the NSW tow truck industry in 2014.
Operator	A person who owns or operates a tow truck business. Under the Accident Towing Services Act 2007, operators must be accredited by VicRoads.
Melbourne controlled area	A declared area consisting of the Melbourne metropolitan area and the Mornington Peninsula. Accident towing and storage fees are regulated within the Melbourne controlled area.
Salvage	Salvage, in the case of an accident damaged motor vehicle

Term	Definition
	<p>that, as a result of the accident—</p> <ul style="list-style-type: none"> <li>(a) is in a location that is not a road or road related area</li> <li>(b) is embedded in a building or in an object that is not a motor vehicle</li> <li>(c) is overturned or on its side</li> </ul> <p>means the moving of the motor vehicle to a place on a road or road-related area or into an upright position or both so that it may be towed by a tow truck without assistance.</p> <p>Salvage may involve the use of additional tow trucks or equipment. Specific salvage fees are not regulated, however fees are required to be 'reasonable'.</p>
Secondary tow	Occurs when an accident-damaged vehicle is towed from the accident scene and delivered to the destination listed on the authority to tow docket and then is subsequently towed to another destination. Secondary tow fees are not regulated.
Storage	Occurs when an accident-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, including any tows following the delivery of an accident-damaged vehicle to the location specified on the authority to tow docket. Examples include breakdown, clearway, impound and secondary tows. Trade towing fees are not regulated.
Unregulated area	For regular vehicle accident tows, refers to areas of Victoria excluding the Melbourne controlled and Geelong self-management areas.
VicRoads	The accident towing industry regulator. VicRoads is the Victorian Government agency responsible for administering the Accident Towing Services Act 2007.