



Level 2, 35 Spring St
Melbourne 3000, Australia
Telephone +61 3 9651 0222
 +61 1300 664 969
Facsimile +61 3 9651 3688

REVIEW OF ACCIDENT TOWING AND STORAGE FEES

DRAFT REPORT

VOLUME 2 – DETAILED REASONS AND
METHODOLOGY

MARCH 2010

An appropriate citation for this paper is:

Essential Services Commission, *Review of Accident Towing and Storage Fees: Draft Report – Volume 2: Detailed Reasons and Methodology*, March 2010

CONTENTS

Contents	I
Acronyms	III
Glossary	IV
1 Introduction	1
1.1 Background and context	1
1.2 Terms of reference for the review	1
1.3 Previous Commission reviews	2
1.4 Review process	2
1.5 Responding to the review	2
1.6 Structure of the draft report	3
2 The Victorian accident towing and storage industry	5
2.1 Rationale for regulation	5
2.2 Price regulation	6
2.3 History of changes to regulated accident towing and storage fees	6
2.4 Current regulated fees and charges	7
2.5 Structure of the industry	8
3 Analysis of costs and revenues	13
3.1 The Commission's approach to estimating costs and revenues	13
3.2 General cost observations	13
3.3 General revenue observations	14
3.4 Revenue generated through regulated services	15
3.5 General observations regarding industry profitability and viability	17
3.6 Conclusions	20
4 Calculating costs	21
4.1 Estimated costs	21
4.2 Cost attribution to accident towing services	23
4.3 Accident allocations per truck	24
4.4 Preliminary findings	24
4.5 Comparison of preliminary findings to benchmarks	26
4.6 Comparison to other jurisdictions	28
4.7 Summary of comparative benchmarks	29

4.8	Conclusions and recommendations	29
5	Future fee variations	31
5.1	Rationale for systematic adjustments	31
5.2	Annual adjustment process	31
5.3	Productivity improvements	32
5.4	Periodic review of fees	33
5.5	Conclusions and recommendations	34
6	Salvage and debris removal charges	35
6.1	Salvage	35
6.2	Removal of debris	38
6.3	Secondary towing	38
6.4	Conclusions and recommendations	39
7	Unpaid accident tows	41
7.1	Non-commercial (unpaid) tows	41
7.2	Options - who should bear the costs of non-commercial tows	42
7.3	Conclusions and recommendations	45
8	Boundaries of the Controlled Area	47
8.1	Current arrangements	47
8.2	Determining boundaries for the Controlled Area	49
8.3	Determining the appropriate boundary	51
8.4	Accident allocation zones	52
8.5	The Geelong self-management area	53
8.6	Conclusions and recommendations	54
Appendix A	Comparison of Accident Towing Regulation	57
A.1	Overview of accident towing regulation in other jurisdictions	57
A.2	New South Wales	59
A.3	Queensland	61
A.4	South Australia	62
A.5	Northern Territory	65
A.6	Western Australia	66
A.7	Tasmania	66
A.8	Australian Capital Territory	66
Appendix B	Survey	69

ACRONYMS

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

GLOSSARY

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

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

Storage	Occurs in the event the damaged vehicle is transported to the tow truck operator's depot and stored in a secure location to await repair or towing to another location.
Trade towing	General towing and storage services that are not the immediate result of a road accident, include towing jobs between depots. Trade towing is not a regulated service in Victoria.
Typical tow	A towing job that includes 15 kilometres of towing, three days of undercover car storage and a 54 per cent chance of occurring outside of business hours. These assumptions were adopted from the results of a survey of tow truck operators.

1 INTRODUCTION

1.1 Background and context

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

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

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

1.2 Terms of reference for the review

On 15 September 2009, the Commission received terms of reference for a review of accident towing and storage fees from the Minister for Roads and Ports, the Hon. Tim Pallas MP.

The terms of reference require the Commission to report on:

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

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

- the impact on Victorian business and the community, including the impact of any proposed variations to consumers

- the impact on the tow truck industry State-wide, including all stakeholders
- the benefits of the timely clearance of accident scenes
- previous Commission reports on towing and
- other State and Territory approaches to charging for accident towing services.

1.3 Previous Commission reviews

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

The 2003 review led to a 6.6 per cent increase in regulated fees. During the 2005 review, the Commission recommended that:

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

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

1.4 Review process

The terms of reference require that the Commission undertake this review in line with the process set out in section 187 of the *Transport Act 1983* and provide for it to receive written submissions, consult with industry stakeholders and hold public hearings or workshops if it wishes.

To date, the Commission has released an issues paper, received 7 submissions from interested parties, invited all accident towing operators to respond to a survey regarding costs and revenue and held a workshop with the industry representative (the Victorian Automobile Chamber of Commerce) and tow truck businesses.

1.5 Responding to the review

This draft report sets out the Commission's preliminary views on all of the matters identified in the terms of reference.

The Commission welcomes submissions on any matter discussed in this draft report. The closing date for submissions is 23 April 2010.

Following receipt of public comments and submissions to the draft report, the Commission will prepare its final report and recommendations to the Minister for Roads and Ports in May.

For more information about this review please contact Mr Dominic L'Huillier, Manager, Industry Reviews and Special References Branch on (03) 9651 3782.

1.6 Structure of the draft report

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

- Volume I sets out the Commission's draft findings and recommendations for each of the matters requested by the Minister and
- This Volume (Volume II) provides the detailed reasons and methodology behind the Commission's recommendations and discusses responses received from stakeholders as well as background information to the review process.

2.1 Rationale for regulation

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

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

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

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

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

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

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

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

2.2 Price regulation

There are two competing objectives of price regulation namely to:

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

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

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

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

2.3 History of changes to regulated accident towing and storage fees

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

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

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

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

Table 2.1 History of regulated accident towing fees

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

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

2.4 Current regulated fees and charges

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

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

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

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

2.5 Structure of the industry

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

Depots

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

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

Operators and drivers

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

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

2.5.1 Allocation scheme

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

2.5.2 Diversity within the Controlled Area

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

Likely implications of this diversity include:

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

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

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

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

2.5.3 Administration of accident towing licences

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

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

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

2.5.4 Links between accident towing and other industries

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

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

Arrangements differ across the accident towing industry, ranging from common ownership through to implied or informal agreements. An individual business may concentrate solely on towing and salvage activities. Others may perform accident

and trade towing, in addition to smash repair. Other arrangements might involve commissions or other payments to the accident towing business by a smash repair business to which a damaged vehicle is towed.

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

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

2.5.5 Accident towing and smash repairs

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

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

2.5.6 Accident towing and insurance

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

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

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

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

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

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

3 | ANALYSIS OF COSTS AND REVENUES

The first issue that the terms of reference asked the Commission to address is the appropriateness of variations in the components of accident towing and storage fees.

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

3.1 The Commission's approach to estimating costs and revenues

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

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

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

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

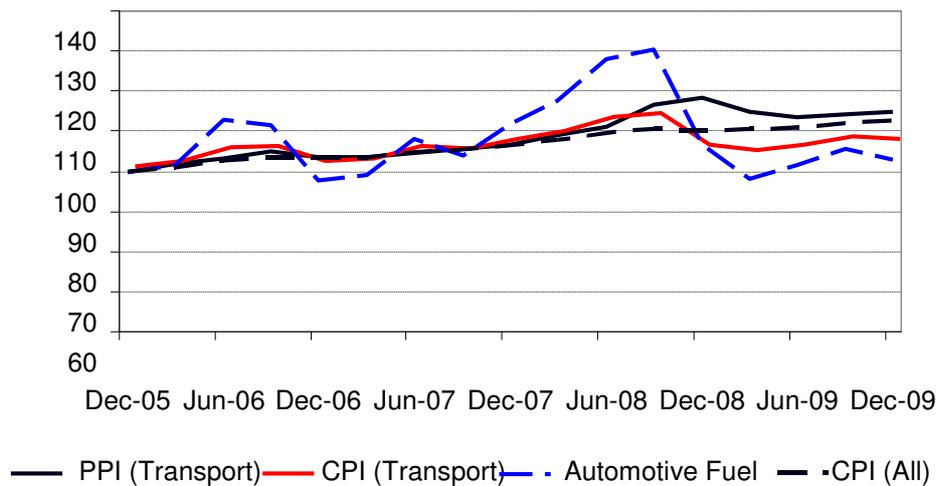
3.2 General cost observations

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

The chart below includes the following relevant ABS indices:

- the transport sector Producer Price Index (PPI)
- the transport component of the Consumer Price Index (CPI)
- the Automotive Fuel index and
- the CPI for all goods and services.

Figure 3.1 Movement in common indices from December 2005



All of the indices in this chart indicate a trend in rising prices for all goods and services, albeit some with some volatility. They also reflect the impact of the commodity boom and the global financial crisis.

This chart suggests that accident towing businesses have most likely experienced increasing costs broadly in line with inflation since the last accident towing fee adjustment. This observation is broadly consistent with the opinions of industry stakeholders such as the VACC and accident towing businesses that have identified certain cost pressures, in particular increased motor fuel and labour costs.⁶

3.3 General revenue observations

Accident towing businesses generate revenue primarily from three sources:

- regulated fees including the base fee, towing distances beyond eight kilometres, storage, and the after hours surcharge

⁶ VACC, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (p.1), October 2009; All 1 Towing Services Pty Ltd, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (p.2), November 2009.

- charging for additional services at the accident site such as salvage and/or the clearing of debris and
- other non-regulated services such as smash repair or trade and clearway towing.

These sources of revenue are discussed in detail below.

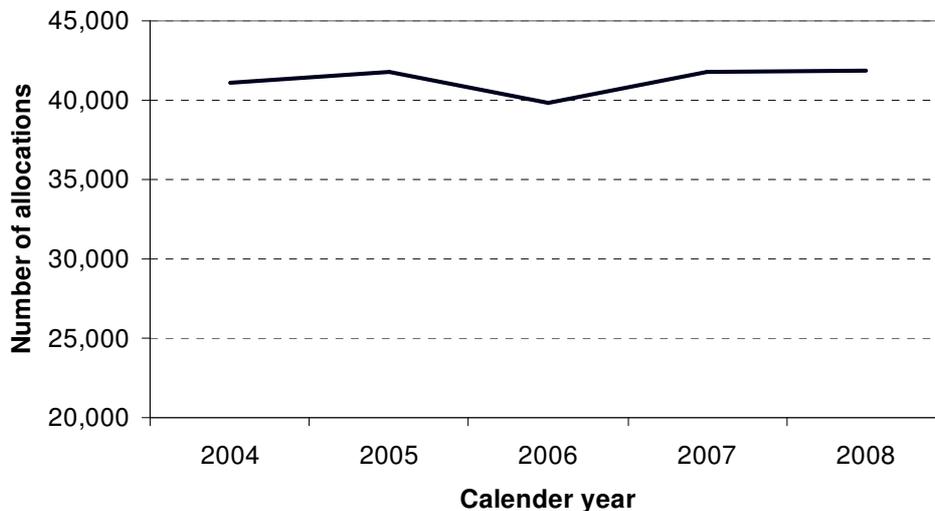
3.4 Revenue generated through regulated services

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

The last determination by the Minister was in January 2006.⁷ No change was made to regulated fees at that time, although the period over which the after hours surcharge applies was extended, resulting in a real increase in revenues. Regulated fees have remained unchanged since then.

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

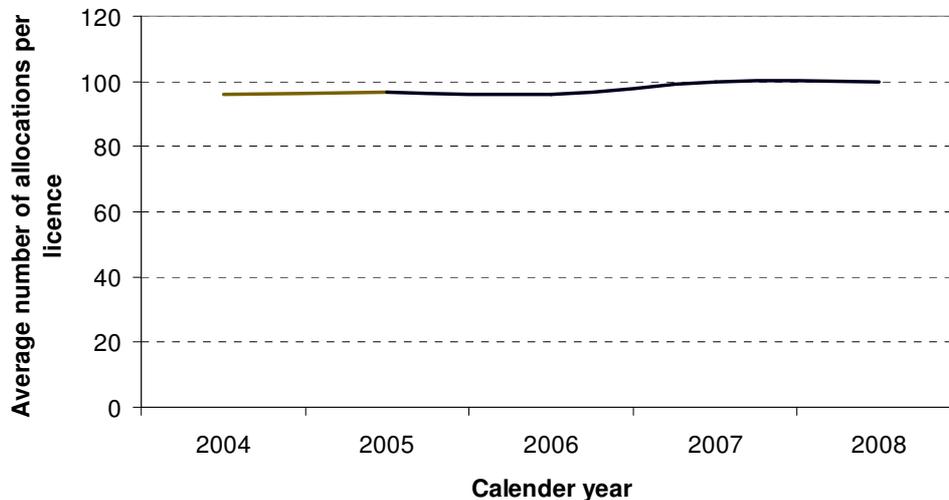
Figure 3.2 Number of accident allocations per year under Accident Allocation Scheme



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

⁷ Victorian Government Gazette, No. S 23, January 2006.

Figure 3.3 Number of accident allocations per year



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

3.4.1 Revenue generated through additional services

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

Consultation with stakeholders indicated that many accident towing businesses also perform trade towing work. The Commission's analysis suggests that approximately 30 per cent of businesses also provide smash repair services.⁸

It is also estimated that Victoria's motor vehicle insurers account for up to 75 per cent of smash repair revenue.⁹ Insurers have increasingly designated preferred smash repair locations and dictated the method of the repair. This has mostly ended the historical practice of accident towing businesses retaining the damaged vehicle and performing smash repair work. Insurers and accident towing businesses disagree on the extent that this threatens industry viability. However, it is generally accepted that revenues generated by towing businesses performing smash repair services have declined (in real terms).

Deregulation of trade towing in Victoria came into effect on 1 January 2009 with the introduction of the *Accident Towing Services Act 2007*. This removed several

⁸ Based on publicly available information for accident towing businesses.

⁹ IBISWorld, *Industry Report: G5323 Smash Repairing in Australia* (p.6), 2009.

regulatory obligations and therefore barriers to entry into the industry. Accident towing businesses have claimed that the volume of trade towing services has declined since deregulation; however the full extent of this is not well reported.¹⁰

3.5 General observations regarding industry profitability and viability

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

3.5.1 Market exit

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

The Commission has found little evidence of substantial sunk costs or other factors that would prevent accident towing businesses from exiting the market due to revenue shortfalls.

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

Table 3.1 Comparison of the number of businesses holding licences

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

3.5.2 The value of towing licences

Licences are allowed to be transferred (sold) to other towing businesses; subject to the approval of VicRoads that the transfer will not impact negatively on response times. VicRoads mandates that the amount paid for the transfer of the licence be disclosed (although this information is not verified).

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

The value of a licence may reflect more than the expectations of the profits associated with regulated fees. It may also reflect matters such as the potential additional profits from other services – such as salvage and debris removal and

¹⁰ VACC, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (p.4), October 2009.

smash repairs. It does not follow that an increase in licence values necessarily reflects higher profits derived solely from accident towing.

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

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

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

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

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

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

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

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

As shown above, the costs associated with providing regulated services have generally been rising in line with inflation while revenues have fallen as measured in real terms. In addition, the business practices of insurers have eroded the revenues generated by smash repair. Therefore, it is likely that rising licence

values are mostly the result of increasing revenues associated with providing additional services at the accident scene (eg. salvage and/or other services).

3.5.3 Economies of scale

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

VicRoads' analysis of registered depots, licences and registered vehicles suggests that this is a common industry practice with 75 per cent of businesses holding more licences than the number of tow trucks in operation. On average, businesses hold 1.9 licences for every truck they operate.¹¹ Respondents to the online survey held on average 1.7 licences per truck. This suggests that tow truck operators may be increasing their efficiency over time. In addition, the number of depots operating in the Controlled Area has reduced by 17 per cent since 2004 (69 to 57) while the number of licences has fallen by 3 per cent only (432 to 421). Consolidating depots allows businesses to reduce dispatch and other administrative staff costs, land rental costs and administrative overheads.

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

3.5.4 Performance quality

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

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

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

3.5.5 Imposing additional charges

Victoria's major insurers and VicRoads have both suggested that increased charges for services such as salvage and debris removal have become more

¹¹ Information provided by VicRoads.

common, especially for tows in the Controlled Area. These services are discussed in more detail in Chapter 6, but it should be noted that increased revenue associated with these services most likely explains how accident towing businesses have seemingly remained profitable in the face of rising costs and fixed regulated fees.

3.6 Conclusions

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

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

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

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

The purpose of this chapter is to assess the appropriate level of regulated accident towing and storage fees.

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

4.1 Estimated costs

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

There is potential for these estimates to contain some level of bias given that participants may have an incentive to overstate their costs and understate their revenues. In addition, the estimates may not be representative of the industry as a whole. Nevertheless, they provide a useful starting point for the Commission's cost analysis.

Table 4.1 provides estimates of the various cost components based on the information provided by respondents to the survey referred to above.

Consistent with the approach used in previous reviews, the Commission has not included an allowance for accident towing licences in the cost base used to determine base accident towing and storage fees (see section 3.5.2). This reflects the observation that licence values are likely to be influenced by revenue from a number of sources including:

- regulated fees including the base fee, the per kilometre fees, storage and the after hours surcharge and
- charging for additional services such as salvage and associated services and/or smash repair and trade towing.

The following sections explain the basis for the key assumptions used in Table 4.1, namely the cost attribution percentage and the number of accident allocations per truck.

Table 4.1 Representative tow truck cost schedule

<i>Cost item</i>	<i>Cost per truck (\$ p.a)</i>
Labour	
Drivers	50 374
Dispatch	4 569
Repairers	1 136
Administration	4 901
Other	10 283
Other staff related costs	6 641
Total	77 904
Vehicle	
Vehicle replacement costs	20 115
Financing	4 894
Other associated costs	2 633
Parts	1 852
Repairs and maintenance	3 394
Fuel	10 822
Tyres	1 565
Washing	490
Total	45 765
Licence and regulatory	
Vehicle registration	1 157
Accreditation	223
TAC premiums	391
WorkSafe/OH&S	439
Other	303
Total	2 513
Insurance	
Comprehensive motor vehicle	3 076
Other vehicle	116
Business	1 111
Other	55
Total	4 358
Other	
Rent	3 332
Bad debts ^a	1 461
Other	5 935
Total	10 728
Total operating costs per tow truck per year	141 268
Percentage allocated to accident towing (attribution percentage)	39%
Total operating costs per tow accident tow truck per year	55 094

Notes: ^a See chapter 7

4.2 Cost attribution to accident towing services

Not all of the costs in Table 4.1 should be attributed to accident towing services since the same resources (trucks, staff, depots, etc.) can be used for other unregulated services, most importantly trade towing. VicRoads and the VACC have confirmed that many accident towing businesses also perform other services such as trade towing. All of the participants in the online survey and industry workshop stated that they offer trade towing services.

Accident towing businesses can use their spare tow truck capacity and generate additional revenue between accident allocations by performing trade towing services, which is much more flexible in terms of timing and can be scheduled between accidents.

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

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

The Commission has considered two main sources of information to determine the appropriate attribution percentage for accident towing and storage fees:

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

Both of these sources of information reflect self reported survey data provided by towing operators.¹²

Even so, recent changes in the industry may mean that the attribution percentage adopted in the 2005 review of tow truck fees may understate the current allocation of costs to accident towing and storage services. In particular, consolidation of depots and/or deregulation of trade towing is likely to have resulted in a greater proportion of accident towing resources being dedicated to the regulated service (ie. accident towing) because of increased competition in trade towing and other

¹² PricewaterhouseCoopers sought to independently verify the information reported by towing operators in the survey undertaken for this review.

services. As a result, it is appropriate to assume a higher attribution percentage than that adopted in the previous review.

In the absence of more robust and reliable information about vehicle use, the Commission believes that it is reasonable to assume that the attribution percentage lies somewhere between the proportion reported by towing operators in this review (approximately 54 per cent) and that adopted for the last review undertaken in 2005 (24 per cent). As a result, the Commission has adopted an attribution percentage that reflects the midpoint of these two estimates namely 39 per cent.

4.3 Accident allocations per truck

The number of accident tows a business performs depends on the number of licences it holds. An estimate of the number of accident tows per truck depends on the assumed number of accident towing licences per truck.

As noted in section 3.5.3, most accident towing businesses operate fewer trucks than the number of licences held. It would seem inappropriate to calculate costs on an assumed ratio of one truck per licence. The average number of licences per truck from the online survey was 1.7 licences per truck. However, based on information provided by VicRoads, a 2:1 ratio of licences to trucks appears more reflective of all of the businesses in the Controlled Area.¹³

In recent years, most licences have received between 90 and 110 allocations annually. The Commission considers 100 accident tows per licence per annum to be a reasonable assumption.

This implies an assumed number of accident tows per truck each year of 200 (100 accidents per licence and 2 licences per truck). This is a simplifying assumption, as there are likely to be differences in business structures, traffic conditions and competition throughout the Controlled Area that will affect this estimate. That said, the Commission believes that an assumption of 200 is reasonable.

4.4 Preliminary findings

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

¹³ On average, businesses hold 1.9 licences for every truck they operate, however the average ratio for businesses with more than one truck is 2:1. The Commission is of the view that 2:1 is an appropriate ratio.

Table 4.2 Estimated current operating costs

	<i>Estimate</i>
Total operating costs per tow truck per annum	\$141 266
Proportion of costs attributable to accident towing	39%
Total operating costs per accident tow truck per annum	\$55 094
Number of accident tows per licence	100
Number of accident towing licences per truck	2.0
Total operating costs per accident tow	\$275

The cost per accident tow is estimated to be approximately \$275. Assuming a typical tow includes a towing distance of 15 kilometres¹⁴ (seven kilometres of additional towing), three days of storage (car – under cover)¹⁵ and no after hours surcharge, the revenue generated based on the current regulated fees would be about \$226.

However, the after hours surcharge (\$57.55) applies during the period from 5pm to 8am on Monday to Friday, 5pm Friday to 8am Monday and from midnight to midnight on public holidays. During the 2005 review, the Commission estimated that the after hours surcharge would apply to approximately 54 per cent of accident tows.¹⁶ On this basis, the revenue generated for a typical tow would be approximately \$257 per tow.¹⁷

These findings suggest that the estimated cost per tow of \$275 is approximately 7 per cent higher than the revenue generated by a typical tow (including the after hours surcharge for 54 per cent of tows) under the current regulated fees (\$257). In the absence of further information, the Commission considers that a one-off increase for all regulated fees associated with accident towing and storage of 7 per cent would be reasonable.

This increase is reasonable when compared to the CPI (Melbourne transportation index), which has increased by 6.7 per cent over the period from December 2005 to December 2009.

¹⁴ ESC, *Final Report: Review of Accident Towing and Storage Fees 2005* (p.27), 2005.

¹⁵ The Commission believes this is reasonable given the limited information available, an analysis of the industry and an average survey response of two days storage. Storage for a car – under cover was chosen in order to be conservative as this is the most expensive type of storage offered and increased fees would only be warranted if costs are greater than revenues.

¹⁶ ESC, *Final Report: Review of Accident Towing and Storage Fees 2005* (p.43), 2005.

¹⁷ $\$226 + (0.54 * \$57.55) = \$257$

4.5 Comparison of preliminary findings to benchmarks

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

This section compares the cost estimates to the following benchmarks:

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

4.5.1 Trade towing benchmarks

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

Trade towing fees provide a benchmark because the resources and infrastructure used are essentially the same as accident towing. However, trade towing is less time-critical because an immediate response is not required. This allows the businesses to manage costs more effectively and so use resources more efficiently.

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

Direct enquiries with trade towing businesses for a non-immediate tow of a standard, undamaged vehicle for a distance of about ten kilometres, revealed an average price of approximately \$104.¹⁸

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

¹⁸ The Commission received quotes from ten different trade towing businesses.

4.5.2 Clearway towing benchmarks

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

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

The Commission is aware of one major towing company that is contracted to undertake most clearway towing within Melbourne, which charged on average approximately \$260 (excluding administration and penalty fees imposed by the relevant authority). This price includes three days storage.

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

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

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

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

In light of the above, the Commission considers that clearway towing provides a reasonable benchmark to accident towing. However, the contracted price (\$260) is likely to understate the cost of accident towing because a clearway towing business has much more of a limited and predictable window of responsibility for providing services, which allows it to better optimise its resources.

4.6 Comparison to other jurisdictions

A final benchmark for comparison is the regulated accident towing fees in other jurisdictions; specifically, New South Wales, Queensland and South Australia.

While fees in other jurisdictions provide a useful benchmark, it is important to take into account observed differences between the jurisdictions including:

- the type of towing jobs (ie. distance, congestion, etc.)
- the operating environment of the accident towing businesses (ie. the number of accidents per capita and per licence, registration fees, insurance costs, taxes, etc.) and
- the regulatory arrangements in each jurisdiction.¹⁹

The table below compares the revenue generated by an accident tow in each jurisdiction, assuming a distance of 15 kilometres and three days of storage.

Table 4.6 Estimated cost of a tow in various State jurisdictions (exclusive of after hours surcharge)^a

<i>Fee component</i>	<i>Tow</i>	<i>VIC (current)</i>	<i>VIC (proposed)</i>	<i>NSW</i>	<i>QLD</i>	<i>SA</i>
Base towing fee	1	168.45	180.25	222.00	271.80	251.15
Towing distance ^b	15	18.55	19.95	26.90	0.00	0.00
Storage ^c	3	38.70	41.40	0.00	0.00	35.60
Total fee		226.00	241.60	248.90	271.80	286.75

Notes: ^a After hours surcharge is excluded given significant differences across jurisdictions regarding how the rate is applied. ^b Additional distance charges apply to tows over 8km (Victoria), 10km (NSW), 20km (SA) or 50km (QLD). ^c Up to three days of storage is included in the base fee in NSW and QLD.

The table indicates that the Commission's recommended regulated towing fees are lower than the current fees imposed in other jurisdictions. There are two possible explanations for this:

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

¹⁹ For example, NSW and QLD do not have an accident allocation scheme and NSW also regulates salvage and secondary tow fees.

4.7 Summary of comparative benchmarks

In summary, the Commission's cost estimate for a typical tow of \$275 is:

- significantly higher than trade towing fees
- slightly higher than clearway towing fees and
- at the upper end of the range of typical towing fees in comparable jurisdictions.

Table 4.7 Comparative benchmarks

Benchmark	Comparative Price
Trade Towing	\$104
Clearway Towing	\$260
Other Jurisdictions	\$249 - \$287
ESC cost estimate of an accident tow	\$275

Source: ESC

4.8 Conclusions and recommendations

The Commission has estimated that the cost of providing an accident tow is \$275. This is approximately 7 per cent higher than the estimated revenue generated for a typical tow under the current regulated fees (\$257).

This increase is reasonable when compared to relevant benchmark prices for similar services. It is also reasonable when compared to the CPI (Melbourne transportation index) which has increased by 6.7 per cent over the period from December 2005 to December 2009.

The Commission therefore recommends that all of the components of the regulated fee structure – base fee, additional distance fee, after-hours surcharge and storage fees – be increased on a one-off basis by 7 per cent. These fees should then be adjusted annually in line with the recommendations made in the following chapter.

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

5.1 Rationale for systematic adjustments

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

There is support amongst industry stakeholders for a more systematic and regular approach to adjusting regulated fees. In particular, they claim that it will assist their planning, investment and other business decisions. Both IMA and IAL, and the VACC suggested that future adjustments should occur either biannually or annually with adjustments remaining in line with inflation.²⁰ All 1 Towing Services expressed a preference for a major review of fees to occur every one to four years.²¹

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

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

5.2 Annual adjustment process

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

²⁰ IMA and IAL, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (p.12), November 2009; VACC, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (p.6), October 2009. Insurance Manufacturers of Australia Pty Limited (IMA) is an alliance between Insurance Australia Group (IAG) and RACV Group (RACV). IMA's responsibilities include the management of certain claims for insurance policies issued either by IMA or Insurance Australia Limited (IAL) under the following brands: NRMA Insurance, SGIO, SGIC and RACV

²¹ All 1 Towing Services Pty Ltd, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (p.4), November 2009.

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

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

The Commission has previously expressed the view that it considered the CPI (Melbourne transportation index) to be a suitable proxy for the change in costs faced by the towing industry, and recommended that fees be adjusted in line with this index.²² It also notes that the 7 per cent increase in regulated fees recommended in the previous chapter is broadly consistent with the 6.7 per cent increase in CPI (Melbourne transportation index) over the period from December 2005 to December 2009.

For simplicity, it is recommended that all regulated fees (including salvage) should be adjusted by the same index.

As a result, the Commission recommends that all regulated fees be adjusted on 1 July each year by the most recent March quarter of the CPI (Melbourne transportation index) minus 0.5 per cent to reflect a productivity adjustment (see section 5.3).

This annual indexation should be implemented administratively rather than legislated for in the Act.

5.3 Productivity improvements

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

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

²² ESC *Final Report, Review of Accident Towing and Storage fees* (p.9) 2005

Previous regulatory decisions have adopted annual productivity improvements or X factors ranging from 0.1 per cent (Victorian taxis 2007-08), 0.3 per cent (NSW taxis industry) to 1.0 per cent (Victorian taxis 2005).²³

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

However, the Commission invites comments from stakeholders specifically on the whether this target is reasonable, and if not what evidence can be provided to support an alternative target to be used to adjust prices each year.

The periodic review that the Commission has recommended be undertaken at the end of four years (see section 5.4) would provide an opportunity to address the situation where the underlying costs of the industry rise at a greater or lesser rate than the CPI (Melbourne transportation index) minus 0.5 productivity adjustment. This would ensure that any risks of adopting a productivity adjustment that is considered too aggressive are able to be dealt with.

5.4 Periodic review of fees

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

The Commission recommends that the *Accident Towing Services Act 2007* is amended to require regular reviews analysing the appropriateness of fees (and any other issues the Minister requests) every four years.

5.4.1 Industry information and data collection on costs and revenues

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

²³ ESC, *Taxi Fare Review* (p 91) 2008. IPART, *Final Report and Recommendations – 2009 Review of Taxi Fares in NSW* (p. 12) 2009. ESC, *Final Report – Review of Taxi Fares* (p. 72) 2005, ESC, *2008 Water Price Review, Regional and Rural Businesses Water Plans 2008-2013: Draft Decision* (p. 50) March 2008.

This would involve developing a guideline setting out simple data reporting requirements that identify relevant costs for the purposes of setting regulated fees and assumptions about the allocation of shared costs across various regulated services (such as accident towing, storage and salvage) and across non-regulated services (such as smash repair and competitive towing). Given its experience in developing regulatory accounting guidelines and its knowledge of the accident towing sector, the Commission would be well placed to undertake this task.

5.5 Conclusions and recommendations

The Commission recommends that all regulated fees be adjusted on 1 July each year by the most recent March quarter CPI (Melbourne transportation index) minus 0.5 per cent to reflect a productivity adjustment. This indexation should be implemented administratively rather than legislated.

In addition, to ensure that an appropriate level of regulated fees is maintained, the Commission recommends that the *Accident Towing Services Act 2007* is amended to require regular reviews, say every four years. In advance of that review, a robust database of costs and revenues (including information about cost allocation) should be collected and maintained to ensure that future fee decisions are based on reliable information.

6 | SALVAGE AND DEBRIS REMOVAL CHARGES

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

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

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

6.1 Salvage

Under the *Accident Towing Services Act 2007*, salvage refers to the movement of a motor vehicle from its position to a place where it may be towed by a tow truck without assistance.²⁴

Salvage normally requires the towing operator to perform additional activities beyond those required for a typical accident tow. VicRoads and Victoria's major insurers have suggested that it has become common for towing operators to levy additional charges for salvage, particularly within the Controlled Area. VicRoads has indicated salvage charges of \$100 are not uncommon. Some insurance companies have suggested salvage charges are typically several times greater.²⁵

Accident towing businesses suggested that salvage charges depend on the particular geographical location of the business. For example, businesses located in rural environments with steep or rugged terrain (that would make towing a challenge) may charge for salvage half the time. Salvage on urban roads is less common and is charged on as little as 5 to 10 per cent of tows. Survey respondents suggested that salvage was charged on 6 per cent of tows, with a typical fee between \$60 and \$100.

It also appears that the legislative definition of salvage is not clearly understood throughout the industry, with some tow truck businesses charging salvage fees for the removal of debris from the road (which should be covered in the base fee).

²⁴ Section 3, *Accident Towing Services Act 2007*

²⁵ Suncorp Group, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (pp.6-8), November 2009 & IMA and IAL, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper* (p.6), November 2009.

Stakeholders commented on the lack of documentation and evidence provided by towing businesses to justify salvage charges.²⁶

6.1.1 Appropriate salvage charges

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

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

In New South Wales, the Roads and Traffic Authority (RTA) sets the maximum charges allowed for towing, salvage and storage of motor vehicles. Salvage charges are prescribed as a set rate per hour (currently \$53) for time taken in excess of 30 minutes actually required for salvage operations.²⁷ An additional surcharge of 20 per cent is applied if the accident occurs outside of business hours. Further charges apply also if an assistant and/or an additional tow truck is required. Regulations in New South Wales also require licensees to keep fully itemised records of the charges and services performed for evidentiary purposes.

6.1.2 Proposed salvage charges for Victoria

Most of the additional costs incurred when performing salvage services are labour-related (because, in principle, the cost of the vehicle and overheads are recovered through the base accident towing charge). The Commission is of the view that the salvage fee should be based on the average hourly cash earnings ordinary time rate (see table 6.1) for road freight transport operators in Victoria which is \$23.90 (\$26.30 inc. GST) per hour.²⁸ However, the Commission recognises that the activity of salvage may entail the use of specialised equipment and greater effort in terms of labour than is provided via the ordinary time rate. As a result, the Commission recommends that the base salvage charge be increased by a factor of 1.5 to reflect this. This results in a recommended salvage charge of approximately \$39.50 (inc GST) per hour.

²⁶ IMA and IAL, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper (pp.6-8)*, November 2009; Suncorp Group, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper (pp.6-8)*, November 2009.

²⁷ RTA, *Summary of Maximum Charges for Towing, Salvage and Storage of Motor Vehicles – effective 1 July 2009*, 2009. The RTA advises that 30 minutes is incorporated to differentiate the time spent at scene for salvage work.

²⁸ ABS, 6306.0 - *Employee Earnings and Hours, Australia*, August 2008.

Table 6.1 Average hourly cash earnings (excluding GST)

<i>Industry</i>	<i>Year</i>	<i>Ordinary time(\$)</i>	<i>Overtime(\$)</i>	<i>Total(\$)</i>
Road freight transport	2008	23.90	31.30	25.10
	2006	21.60	28.00	22.80
	2004	19.60	25.80	20.20

Note: ABS, 6306.0 - Employee Earnings and Hours, Australia, August 2008 and is released every two years.

6.1.3 Application on the salvage charge

Where operators undertake salvage, the \$39.50 fee should be levied as a flat rate in full for the first hour actually required for any salvage operations, and then *proportionally* to the time taken in excess of an hour.²⁹ This approach recognises that in Victoria, most salvage operations are usually able to be undertaken within one hour.³⁰ It also provides an administratively simple basis for levying the charge by avoiding the need to calculate a proportional charge within the first hour.

When salvage is required after hours (ie. between the hours of 5pm to 8am on Monday to Friday, 5pm Friday to 8am Monday, and midnight to midnight on public holidays) a fee based on the average hourly cash earnings overtime rate for road freight transport operators in Victoria of \$31.30 (\$34.45 inc. GST) should apply.³¹ As indicated above, a factor of 1.5 has been applied to the after hours salvage charge to reflect the additional labour effort and specialised equipment often necessary for salvage operations. This results in an after hours salvage charge of \$51.70 (Inc GST). Also, the same hourly rates should be applied where an assistant is required. For an additional tow truck (including the driver) used in salvage operations, the rate applicable for the first tow truck (ie. the base fee) should apply.

6.1.4 Evidentiary and invoicing requirements for salvage

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

In New South Wales, tow truck operators are subject to standard invoicing requirements that require them to provide consumers with a description of the services performed in relation to accident tows, including any salvage work. They are also required to take a minimum of two photographs of the incident clearly showing the position of the vehicle being salvaged if the salvage work exceeds 30

²⁹ For example, if the salvage operation takes only 30 minutes, \$39.50 would be applied. If it takes one hour and 15 minutes, then \$49.37 (\$39.50 + 15 minutes @ \$39.50 per hour) would apply.

³⁰ Survey respondents indicated that salvage could take anywhere between 15 and 60 minutes.

³¹ ABS, 6306.0 - *Employee Earnings and Hours, Australia, August 2008.*

minutes.³² Insurers can then rely on this documentation to assess whether the salvage charges are justified or when there is a dispute.

The Commission believes that adopting evidentiary and standard invoicing requirements will provide greater transparency for VicRoads, insurance companies and the general public surrounding salvage charges. Specifically, towing operators should be required to take photographs of any salvage operation. All salvage related charges should be separately itemised on the invoice and be capable of being verified. It is recommended that VicRoads be responsible for specifying the nature of standard invoicing requirements that should apply.

The Commission believes that the additional costs for operators associated with the standard invoicing and documentary requirements are likely to be minor. The 'Authority to Tow' docket allows a tow truck operator to estimate a salvage charge as distinct from other items.

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

6.2 Removal of debris

Accident towing service regulations require drivers who perform an accident tow to remove any debris and glass from the accident scene.³³ The majority of accidents require some debris removal. Consultation with stakeholders suggested that most businesses do not charge an additional fee for this service. Respondents to the survey suggested it is common to spend less than half an hour clearing debris.

Accident towing regulations already impose an obligation to remove debris from the accident scene and the time it takes to do so is usually not significant. As a result, the Commission is of the view that debris removal should not be a separate activity for which charges might be imposed.

6.3 Secondary towing

In the course of this review, the Commission received confidential information citing examples of where some tow truck operators had towed a vehicle involved in an accident to a sub depot, and then imposed a further charge to tow the vehicle from that sub depot to a final depot. To date, the Commission has been unable to verify the extent to which this is a common practice.

The Commission understands that towing operators cannot, without the approval of the owner of the damaged vehicle, move the vehicle to any other place except that specified on the authority to tow docket. However, the legislation is currently silent on the issue of whether additional charges may be levied if the vehicle is required

³² See p.4 RTA, *Summary of Maximum Charges for Towing, Salvage and Storage of Motor Vehicles – effective 1 July 2009*, 2009.

³³ Clause 37, *Accident Towing Services Regulations 2008*.

to be towed to another location. In New South Wales, a \$75 regulated fee has been set for secondary tows.

The Commission proposes to examine this issue further. In response to this Draft Report, the Commission invites stakeholders to provide further information about the extent and circumstances under which customers are being charged for secondary tows and the nature of any such charges.

6.4 Conclusions and recommendations

The manner in which salvage services are currently provided and charged lacks transparency, consistency and justification. A regulated flat salvage charge of \$39.50 (GST Inc) per hour should apply from the time the tow truck arrives at the accident scene.

When salvage is required after hours (ie. 5pm to 8am on Monday to Friday, 5pm Friday to 8am Monday and midnight to midnight on public holidays) a fee of \$51.70 (inc. GST) should apply. These charges should be applied as a flat fee for the first hour of any salvage work undertaken and proportional for time beyond the first hour.

The same hourly rates should be applied where an assistant is required. For an additional tow truck (including the driver) used in salvage operations, the rate applicable for the first tow truck (ie. the base fee) should apply.

To ensure that salvage is only charged when appropriate, a requirement should be introduced to photograph the vehicle prior to salvage and standard invoicing requirements that describe the services performed, including any salvage work. This will enhance transparency and also provide insurers with the necessary documentation to assess whether the charges were justified.

Accident towing regulations already impose an obligation to remove debris from the accident scene. As a result, and given the limited time this takes, the Commission considers that debris removal is a component of the accident tow itself and the associated costs should be recovered through the base fee. This is not considered to be a separate activity for which additional charges should be imposed.

The Commission will further investigate the extent and circumstances under which customers are charged for secondary tows in addition to the regulated accident towing and storage fees and the nature of any such charges. Stakeholders are invited to comment on this issue.

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

7.1 Non-commercial (unpaid) tows

Under the current accident towing regulations, accident towing businesses are paid only after they have delivered the towing service and have invoiced the vehicle owner or their insurer. In practice, vehicles are usually taken to the towing operator's depot and the regulations allow the businesses to retain possession of damaged vehicles until the appropriate fees have been paid.³⁴

Operators are prohibited from refusing a tow once they arrive at the accident scene unless the owner of the vehicle states that he or she is unable or unwilling to pay for the service.³⁵ In addition, drivers are not allowed to request a deposit before performing the tow.

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

Several accident towing businesses and the VACC expressed concerns about the costs incurred by operators for being required to perform unpaid or 'non-commercial tows'.³⁶ At the Commission's workshop, tow truck operators suggested that between 5 and 8 per cent of towing jobs are non-commercial.

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

³⁴ Section 2, *Disposal of Uncollected Goods Act 1961*.

³⁵ Clause 39, *Accident Towing Services Regulations 2008*.

³⁶ VACC, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper*, October 2009; All 1 Towing Services Pty Ltd, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper*, November 2009; Cheryl Jacovou (Wallan Towing Service) *Submission Response to Review of Accident Towing and Storage Fees Issues Paper*, November 2009; Wayne Imlach Imlachs Pty Ltd (End of Life Vehicle Recyclers (ELV)) November 16 2009 p1; Jimmy Goumas, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper*, 10 November 2009, p.2.

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

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

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

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

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

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

Direct compensation

One option is to compensate operators directly for the costs associated with non-commercial or unpaid tows. This could be administered by VicRoads and paid for by all licensed drivers. Assuming 5 per cent of the approximately 40 000 accident tows performed in the Controlled Area each year were non-commercial tows, the cost to motorists is estimated at \$500 000 per annum.³⁷ Given that there are almost four million registered vehicles in Victoria, this equates to approximately \$0.13 per registered vehicle.

However, this option could be somewhat difficult for VicRoads to administer as it would require businesses to first prove that they had attempted to obtain payment from the motorist and second received maximum proceeds for the vehicle through

³⁷ For simplicity, a \$250 accident towing fee per tow has been assumed.

the uncollected goods provisions, before being reimbursed the remaining amount owed.

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

Streamline the process for disposing unclaimed vehicles

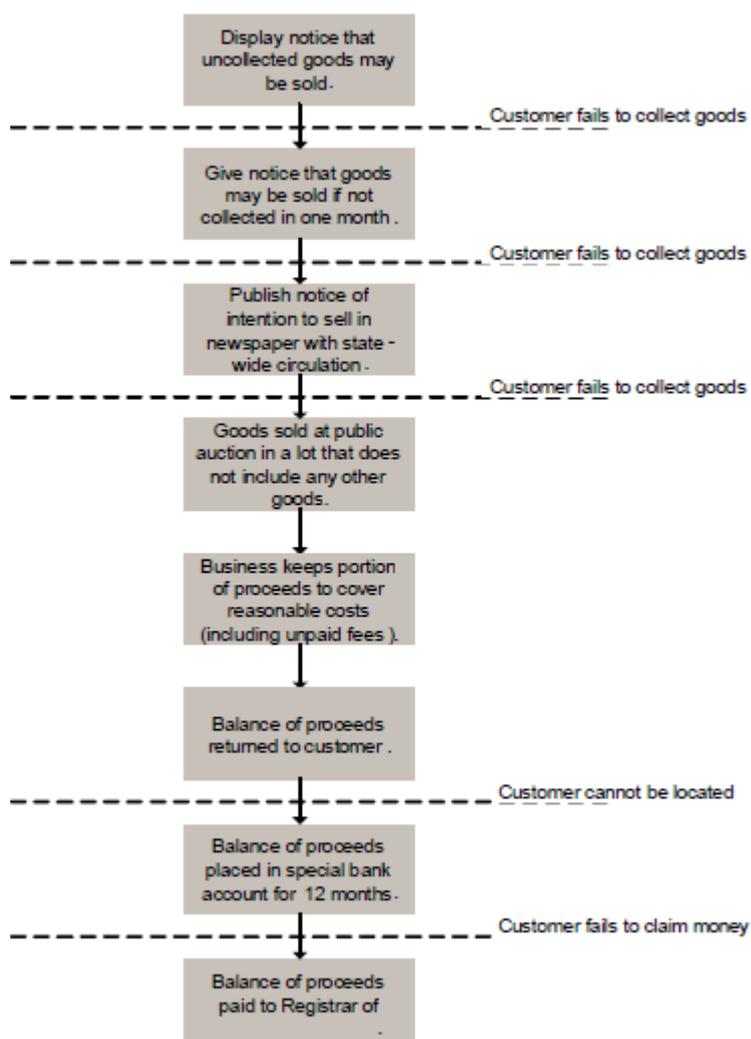
An alternative to reduce the cost of unpaid towing fees is to allow operators to dispose of vehicles if payment has not been received after a specified period of time, and keep all proceeds up to the amount owed.

An operator who lawfully removes and stores a damaged vehicle is permitted to sell the vehicle and recover costs under the appropriate circumstances.³⁸ Reasonable expenses for towing and storage are expressly included as costs that may be recovered by the operator from the proceeds of sale. In the event that the sale generates more revenue than that which is owed, the remainder is given to the owner of the vehicle (assuming the owner can be located).

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

³⁸ The disposal of uncollected goods in Victoria is regulated by the *Disposal of Uncollected Goods Act 1961*. Section 6A explicitly includes accident towing businesses within the scope of the Act.

Figure 7.1 Proceeds for disposal of unclaimed goods



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

The Commission does not recommend this option.

Include an amount in the cost base for regulated fees

This option recognises the cost of non-commercial tows as a cost of doing business, to be recovered from towing customers (or their insurers) through fees.

This is the current practice with regulated towing and storage. This method is administratively simple since costs can easily be estimated and included in the cost base used to determine regulated fees.

It is difficult to precisely measure the costs that accident towing businesses incur from non-commercial tows. The average cost of non-commercial tows from the survey was \$1,461.³⁹ In setting the regulated fees as part of this review, the Commission has included an explicit allowance of \$1,461 in the cost base to account for these bad debts (see Table 4.1 in chapter 4).

7.3 Conclusions and recommendations

The Commission recommends that the cost of non-commercial tows be included in the cost base. This option is a standard practice for regulated industries, imposes few administrative burdens and benefits other drivers by guaranteeing the safe and timely removal of damaged vehicles. As a result the Commission has included a quantum in the base fee to account for non-commercial tows.

³⁹ Based on the average of the number of bad debt allocations over the total number of allocations for each respondent.

8 BOUNDARIES OF THE CONTROLLED AREA

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

8.1 Current arrangements

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

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

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

Table 8.1 Regulatory restrictions by area type

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

Currently there is only one controlled area and one self-management area in Victoria:⁴⁰

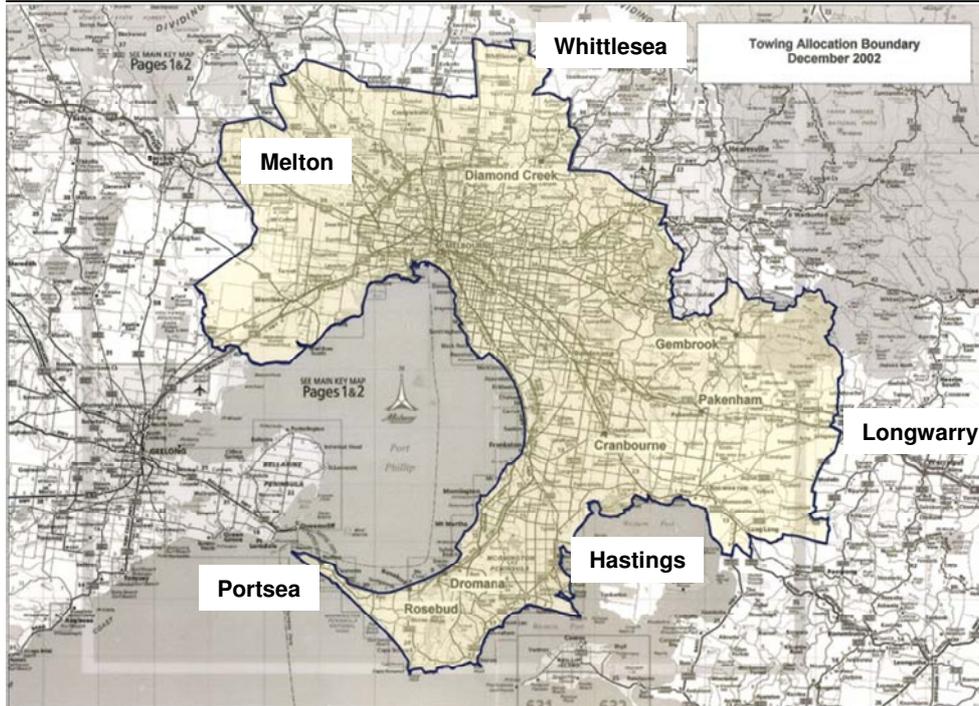
- the Controlled Area — covers the entire Melbourne metropolitan area and extends to the fringe suburbs of Werribee and Melton (to the west), Sunbury, Craigieburn and Whittlesea (to the north), Lilydale and Pakenham (to the east), and the Mornington Peninsula (to the south) (see Figure 8.1) and
- the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

VicRoads is currently responsible for declaring particular regions to be controlled or self-management areas as well as deciding the allocation zones of each accident towing licence within the controlled area.⁴¹

⁴⁰ *Accident Towing Services Act 2007* section 46 and 52.

⁴¹ Sections 46 and 52, *Accident Towing Services Act 2007*.

Figure 8.1 The Controlled Area



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

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

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

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

8.2 Determining boundaries for the Controlled Area

The purpose of regulating the accident towing industry is to promote the safe, efficient and timely provision of accident towing services.⁴²

The Controlled Area boundary and Accident Allocation Scheme were first established in 1983. At that time, the boundary covered only the Melbourne Metropolitan region. In 2002, the Victoria Taxi and Tow Truck Directorate (VTTD) decided that the boundary should be extended to include additional suburbs due to substantial growth in Melbourne's urban fringes and their inconsistency with local government areas.⁴³ The boundary has not been reviewed since 2002.

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

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

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

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

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

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

⁴² *Accident Towing Services Act 2007*, section 1.

⁴³ VTTD was the predecessor to VicRoads as industry regulator.

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

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

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

<i>Objective</i>	<i>Observations</i>
Safety	<p>No data is available to assess the impact of the conduct of the accident towing industry on road safety.</p> <p>Stakeholders perceive a significant improvement in the conduct of tow truck drivers and operators (and hence safety) since the introduction of the AAS.</p> <p>Broadly, stakeholders consider that the AAS, in conjunction with other regulatory measures, performs very well in ensuring the safe removal of damaged vehicles.</p>
Efficiency	<p>No clear benchmarks were identified with which to compare the efficiency of industry costs.</p> <p>There is some evidence of businesses undertaking measures to reduce costs and improve efficiency. These include minimising the number of tow trucks operated and holding dormant licences to obtain allocations.</p> <p>The AAS limits efficiency to some degree, for example, by preventing consolidation of depots. However, the same measures contribute to other scheme objectives by ensuring geographical dispersion of tow trucks.</p>

Timeliness	<p>The RACV, as administrator of the AAS, maintains data concerning the time taken for dispatch of a tow truck, arrival of a tow truck at the accident scene and rectification of the accident scene. This data is heavily qualified as it relies on notification to the AAS.</p> <p>Notwithstanding the above, the data suggests that, in the majority of cases, tow trucks are dispatched within four minutes, arrive within 30 minutes and remove the vehicle within 50 minutes. These results are consistent with the objectives of the AAS.</p> <p>Broadly, stakeholders consider that the AAS, in conjunction with other regulatory measures, performs very well in ensuring the timely removal of damaged vehicles.</p>
------------	--

8.3 Determining the appropriate boundary

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

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

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

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

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

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

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

Police, Ambulance Victoria), major insurers and RACV personnel involved in the administration of the AAS in the Controlled Area.

8.4 Accident allocation zones

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

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

When a towing business is allocated an accident, it has the right to accept or refuse the allocation. If the allocation is accepted, the tow truck is required to arrive at the accident scene within 30 minutes.⁴⁴ If instead the allocation is refused, the business is placed at the end of the accident allocation towing queue. The RACV manages the AAS in the Controlled Area on behalf of VicRoads, while a local taxi company administers the AAS for the self-management area.

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

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

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

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

These recommendations are not radically different from what in practice VicRoads currently undertakes. However, the focus of the Commission's recommendations is

⁴⁴ *Accident Towing Services Regulations 2008*, Section 32.

on formalising and documenting the process and improving the transparency of the determination of the boundary and zones.

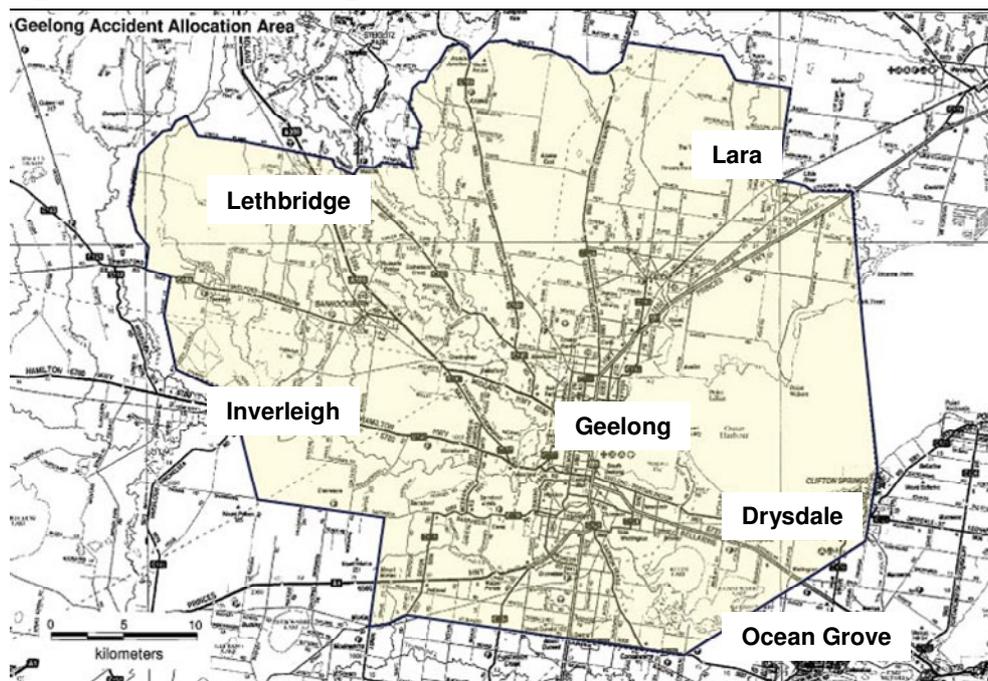
The Commission also recommends that each of the zones be reviewed against these criteria on a regular basis (say annually) rather than in response to complaints from incumbent operators. Any such review should be public and provide an opportunity for relevant stakeholders to be consulted on the implications.

More broadly, the Commission believes that there may be some merit in considering whether there may be efficient ways of allocating towing jobs, for example, through some form of auction or bidding system. However, this is not the subject of this review.

8.5 The Geelong self-management area

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

Figure 8.2 The Geelong Accident Allocation Area



Data source: VicRoads

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

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

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

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

The structuring of regulations controlling the tow truck industry into Controlled and Self Managed area, in particular Geelong, gives rise to variations in the actions of certain operators and the fees charged. Suncorp has encountered numerous instances where the fees charged for towing services in the Geelong area are well above what would be regarded as reasonable industry levels.⁴⁵

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

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

8.6 Conclusions and recommendations

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

Submissions regarding excessive pricing in the self managed areas and the similarities between the Controlled Area and the Geelong self-management area suggest that introducing regulated fees in the self-management area may be warranted. However, the Commission has not conducted a detailed investigation into the validity of regulating accident towing and storage fees in the Geelong area. That said the Commission believes that there is sufficient stakeholder interest to support a more detailed review of this issue.

⁴⁵ Suncorp Group, *Submission Response to Review of Accident Towing and Storage Fees Issues Paper (p.1)*, November 2009.

A clear and transparent process for determining boundaries and changing allocation zones should be established. Suitable metrics should be taken into account in making these determinations.

A.1 Overview of accident towing regulation in other jurisdictions

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

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

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

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

Table A.1 (below) shows accident towing and storage fees in the four jurisdictions where the industry is most heavily regulated. Victoria generally has the lowest fees. This is discussed further below.

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

<i>Service</i>	<i>VIC</i>	<i>NSW</i>	<i>QLD</i>	<i>SA</i>
Accident towing – base fee	\$168.45	\$222.00	\$271.80	\$251.15 ^a
Per kilometre charge	\$2.65 ^b	\$5.38 ^c	\$5.45 ^d	\$2.36 ^e
Cleanup charge				\$83.56 ^f
Secondary tow		\$78.00	'reasonable' ^g	
Salvage		\$53 / hr ^h	'reasonable' ^g	
After hours surcharge	\$57.55	20% ⁱ		See note ^a
Recovery of stolen vehicle		\$203.00 ^j		
Storage (per day)		\$17.00 ^k	'reasonable' ^g	
- under cover	\$12.90			\$16.22
- locked yard	\$8.60			\$7.51
- motorcycle under cover	\$4.35			
- motorcycle locked yard	\$2.80			

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

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

A.2 New South Wales

Legislation and Regulations

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

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

Pricing

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

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

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

Accident Allocation System

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

Non-commercial or public service tows

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

In cases where an accident victim is unable or unwilling to pay for their tow, the tow truck operator can potentially sell the vehicle if it is of any reasonable worth or sell

as scrap metal in order to compensate them for a loss in potential revenue. Therefore, as it stands, there is no public administrative role in determining how tow truck operators could be compensated.

Unique Features

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

Table A.2 Summary for New South Wales

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

A.3 Queensland

Legislation and Regulations

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

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

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

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

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

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

Pricing

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

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

Accident Allocation System

Queensland does not administer any type of allocation or roster scheme in which to distribute jobs evenly across operators. Presumably, this is due to the smaller number of traffic accidents requiring a tow in their major cities and towns, when compared to Victoria and South Australia.

Non-commercial tows or public service tows

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

Unique Features

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

Table A.3 Summary for Queensland

Summary of accident towing and storage regulation and maximum charges

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

A.4 South Australia

Legislation and Regulations

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

In South Australia, the tow truck industry is not subject to industry specific legislation. Rather, the relevant regulatory framework is incorporated in the *Motor Vehicles Act 1959*, supported by the *Motor Vehicles (Accident Towing Roster Scheme) Regulations 2000*.

All tow truck drivers conducting accident towing work in the Adelaide metropolitan area are required to hold a tow truck certificate, issued by the Registrar of Motor Vehicles. The requirements for issuing a certificate are largely character-related

(being a fit and proper person) or of an administrative nature and applicants satisfying these requirements are entitled to be issued a certificate. As such, the South Australian regime does not include the restrictions on market entry present in the Victorian structure (e.g. public interest tests). However, application and annual renewal fees do not apply. In issuing certificates, the Registrar has the power to impose a variety of conditions upon such certificates. The nature of these conditions is not specified by the Act.

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

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

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

Accident Allocation System

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

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

Pricing

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

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

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

Non-commercial or public service tows

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

Unique Features

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

Table A.4 Summary for South Australia

<i>Summary of Accident towing and storage regulation and maximum charges</i>													
Legislation and Regulation	<i>Motor Vehicles Act 1959 Motor Vehicles Regulations 2000 Prices Act 1948</i>												
Industry Regulator	Department of Transport, Energy and Infrastructure												
Scope of Regulation	Accident towing, salvage, storage fees and licensing requirements												
Accident Allocation System	Accident Towing Roster Scheme, run by Police Communications Centre												
Regulated Charges	<table border="0"> <tr> <td>Accident towing</td> <td>\$251.15</td> </tr> <tr> <td></td> <td>\$295.62 after hours</td> </tr> <tr> <td>Per kilometre rate</td> <td>\$2.36/km in metro, after 20km</td> </tr> <tr> <td></td> <td>\$3.27/km after hours</td> </tr> <tr> <td>Cleanup charge</td> <td>\$83.56 or \$103.95 after hours</td> </tr> <tr> <td>Storage fee</td> <td>\$16.22 under cover \$7.51 in locked yard</td> </tr> </table>	Accident towing	\$251.15		\$295.62 after hours	Per kilometre rate	\$2.36/km in metro, after 20km		\$3.27/km after hours	Cleanup charge	\$83.56 or \$103.95 after hours	Storage fee	\$16.22 under cover \$7.51 in locked yard
Accident towing	\$251.15												
	\$295.62 after hours												
Per kilometre rate	\$2.36/km in metro, after 20km												
	\$3.27/km after hours												
Cleanup charge	\$83.56 or \$103.95 after hours												
Storage fee	\$16.22 under cover \$7.51 in locked yard												

A.5 Northern Territory

Legislation and Regulations

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

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

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

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

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

Accident Allocation System

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

According to the Consumer Affairs Annual Report for 2006-07, the roster system appears to be working "fairly and effectively", with no complaints received from consumers, tow operators or police.⁴⁶

Non-commercial or public service tows

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

Unique Features

Northern Territory is unique in that they have the powers to investigate whether prices are set at unreasonable levels, rather than specify what can be charged for services such as accident towing and storage. Furthermore, the regulator in charge

⁴⁶ 2007, Department of Justice, *Annual Report of The Commissioner of Consumer Affairs NT 2006-07*

of Northern Territory differs to other jurisdictions as it is a collective authority comprising both public and private sector participants.

Table A.5 Summary for Northern Territory

Summary of Accident towing and storage regulation and maximum charges

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

A.6 Western Australia

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

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

A.7 Tasmania

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

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

A.8 Australian Capital Territory

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

administered by the Australian Capital Territory Police, and an operator may be added to the roster provided that the tow truck is roadworthy.⁴⁷

⁴⁷ VicRoads and PwC 2008, *Regulatory Impact Statement: Accident towing services regulations 2008*, October, Appendix B

APPENDIX B | SURVEY

The Commission engaged PricewaterhouseCoopers to conduct a survey of industry participants on the costs and revenues associated with accident towing and storage services. This appendix contains the cover e-mail and all questions asked in the survey.

Cover e-mail sent to licence holders regarding survey

Important Notice: Upcoming Accident Towing Industry Cost and Revenue Survey

Dear accident towing licence holder,

Victoria's Essential Services Commission has recently been requested by the Minister of Roads to undertake an independent review of the level of regulated fees in Victoria's accident towing industry. In order to assist in this review, the Commission has requested that PricewaterhouseCoopers (PwC) conduct a survey of the costs accident towing businesses incur, and the revenues they receive, in performing accident-related tows.

A link to the online survey will be forwarded to you shortly via email. You can access the survey by clicking on the link, or by copying the address into your web browser. You will require access to your most recent annual financial accounts to complete the survey. Should you have a problems completing the survey, please contact PwC on pwc.economics@au.pwc.com or phone (03)8603 4022. If necessary, a hard copy survey can also be provided.

PwC would greatly appreciate you assistance in completing the survey. The review is intended to ensure that accident towing fees accurately reflect the underlying costs of performing the tow and ensuring that towing businesses are adequately rewarded for their efforts. The review also intends to provide greater certainty to businesses by determining the method by which future price adjustments are made.

The survey **represents your opportunity to contribute** to the Commission's review by accurately outlining the costs your business faces in the industry. The information you provide will assist PwC in gaining an understanding of the cost of accident-related tows, and providing recommendations to the Commission on the appropriateness of current regulated fee levels.

PwC understands the vital importance of survey respondent privacy and confidentiality. As such, all information submitted will be treated as strictly confidential and will not be distributed to any third parties. Information provided will be collected and collated by PwC and PwC's analysis will report survey results in

aggregate form only. No third parties, including VicRoads and the Commission, will be provided with information from individual responses.

If you have any questions relating to the survey or have any further information you would like to provide, please contact PwC via email on pwc.economics@au.pwc.com or phone (03) 8603 4022.

Thank you in advance.

PricewaterhouseCoopers

Accident Towing and Storage Survey

B.1 General

1. How many accident towing licences do you hold:
 - within the Controlled Area?
 - outside the Controlled Area?
2. How many tow trucks do you operate?
3. How many of your trucks perform both accident and trade towing?
4. Do you operate licences from more than one depot?
5. If so, from how many depots do you operate a licence?
6. Does your business share this depot/s with other accident towing operators?
7. If so, how many?
8. Do you hold licences to operate in more than one accident towing zone?
9. If so, how many zones do you operate a licence in?

B.2 Cost structure

10. What was your gross expenditure for all business activities for the 2007-08 financial year?
11. What percentage of your total costs relate:
 - Entirely to regulated accident towing services?
 - Entirely to unregulated services?
 - To both regulated accident towing services and unregulated services (i.e. shared cost items)?
12. Please estimate the proportion of those shared costs (item c) you believe should be attributed to regulated accident towing services.

Labour and associated costs

Wages & salaries (including superannuation, etc)

13. How many staff (i.e. full time or full time equivalents) do you employ?

- Drivers
 - Dispatch
 - Repairers/maintenance staff
 - Administration
 - Other
14. What is the value of salary expenses your business incurred in the 2007-08 financial year (please include overtime)?
- Drivers
 - Dispatch
 - Repairers/maintenance staff
 - Administration
 - Other (please specify)
 - Other staff costs (e.g. payroll tax)

Driver-related costs

15. What is the value of the following cost items for your business in the 2007-08 financial year?
- Uniforms
 - Licence costs
 - Training
 - Other (please specify)
16. Does your business incur any costs for tasks, other than towing, at an accident scene? (e.g. use of fire extinguisher)
- Staff time
 - Other expenses (please specify)
17. Please estimate the average length of time (in minutes) that it takes for your drivers to complete additional tasks at accident scenes.

Vehicle costs

18. How often do you replace your tow trucks?
19. In what year did you purchase your last tow truck?
20. What price did you pay for your last tow truck?
21. Do you incur any of the following costs associated with a new vehicle purchase? If so, what is their value?
- Financing (e.g. interest)
 - Leasing
 - Setup costs
 - Other

Repairs & maintenance

22. How often do you service your vehicles (per vehicle per year)?
23. Do your staff members undertake repairs/maintenance on your trucks?
24. What was your business' expenditure on vehicle parts for the 2007-08 financial year?
25. Where repair/maintenance are conducted externally, what is the typical cost of such repairs/maintenance?

Operating costs

26. What is the value of the following cost items for your business in the 2007-08 financial year?
 - Motor vehicle fuel
 - Tyres
 - Washing
27. Do you use the same truck for accident and trade towing?
28. If yes, what proportion of the time would you use the truck for each of the following?
 - Accident towing
 - Trade towing
 - Idle

Licence and regulatory costs

Licence purchase

29. Did you purchase your accident towing licence?
30. If so, what did you pay for it?
31. Did you incur any of the following costs when purchasing an accident towing licence? If so, please provide the total amount of these costs for the 2007-08 financial year.
 - Financing (e.g. interest)
 - Other (please specify)

Regulatory compliance

32. What was the value of the following costs for the 2007-08 financial year?
 - Vehicle registration
 - Application for accreditation and ongoing obligations
 - Transport Accident Commission levies
 - WorkSafe/OH&S compliance
 - Other regulatory fees (please specify)

Insurance costs

Insurance premiums

33. What was the value of the following costs for the 2007-08 financial year?

- Comprehensive motor vehicle insurance
- Other vehicle insurance
- Business insurance (e.g. public liability)
- Other insurances

Other costs

Rent

34. What is the size of your depot? (sq/m)

35. Does your business own its depot?

(If yes) what was the value of these costs in the 2007-08 financial year?

- Financing costs
- Land tax
- Council rates
- Other (please specify)

(If no) what was the value of these costs in the 2007-08 financial year?

- Rent
- Other (please specify)

Dispatch

36. What cost does your business incur in relation to dispatch systems (not including dispatch staff) in the 2007-08 financial year? (e.g. GPS system, computer equipment, etc.)

Other

37. What was the value of the following costs for the 2007-08 financial year?

- Security
- Telephone expenses
- Electricity
- Bank fees and charges
- Accountant/professional fees
- Other (please specify)

Bad debts

38. How many accident towing jobs during the 2007-08 financial year did your business fail to receive payment for?

39. What was the total value of these unpaid accident towing fees?

40. Was your business able to dispose of the damaged vehicle?
41. If so, what proceeds did your business receive from the sale?

B.3 - Revenue structure

42. What was your gross revenue for all business activities for the 2007-08 financial year?

Regulated accident towing services

Accident towing services

43. How many accident allocations in the Controlled Area did your business receive in the 2007-08 financial year?
- During ordinary hours
 - After hours
44. What was your business' gross revenue from the following fees for the 2007-08 financial year? (please note, if you are unable to break down your revenue, please provide a total only)
- accident towing fees (not including additional kilometres)
 - additional kilometres fees
 - storage fees
 - total
45. What percentage of accident towing allocations received does your business reject?
46. What is your primary reason for rejecting accident towing allocations?

Unregulated accident towing services

47. The Accident Towing Services Act 2007 defines salvage as using another vehicle or other equipment to move a motor vehicle to a place where it may be towed by a tow truck without assistance. Do you undertake salvage services at accident scenes?
48. Do you think the definition of salvage in the Accident Towing Services Act 2007 is well understood by all stakeholders?
49. How many salvage jobs did your business perform in the 2007-08 financial year?
50. For how many of these salvage jobs did your business also perform the accident towing work?
51. What was your gross revenue from salvage for the 2007-08 financial year?
52. How do you calculate salvage fees?
53. Do you perform additional services at accident scenes for which you do not receive compensation or payment?
54. If so, please specify.

Other services

55. Does your business offer any of the following additional services?
- Smash repair services
 - Trade towing services
 - Automotive maintenance and servicing
 - Automotive fuel retailing
 - Automotive electrical services
 - Tyre retailing
56. Other (please specify)
57. Does your business have a relationship, other than ownership, with any business that offers these services?
- Smash repair services
 - Trade towing services
 - Automotive maintenance and servicing
 - Automotive fuel retailing
 - Automotive electrical services
 - Tyre retailing
58. Other (please specify)
59. Does accident towing directly generate other revenue for your business, such as a secondary tow or smash repair work?
60. If so, please estimate the proportion of jobs that would directly generate additional revenue.
61. What was your gross revenue, for the 2007-08 financial year, from providing, or relationships with providers of, the following additional services (leave blank if not appropriate)?
- Smash repair services
 - Trade towing services
 - Automotive maintenance and servicing
 - Automotive fuel retailing
 - Automotive electrical services
 - Tyre retailing
62. Other (please specify)
63. What was your gross expenditure, for the 2007-08 financial year, from providing, or relationships with providers of, the following additional services (leave blank if not appropriate)?
- Smash repair services
 - Trade towing services
 - Automotive maintenance and servicing

- Automotive fuel retailing
 - Automotive electrical services
 - Tyre retailing
64. Other (please specify)
65. How many jobs, for the 2007-08 financial year, did you perform for which you received revenue from providing, or relationships with providers of, the following additional services? (leave blank if not appropriate)
- Smash repair services
 - Trade towing services
 - Automotive maintenance and servicing
 - Automotive fuel retailing
 - Automotive electrical services
 - Tyre retailing
66. Other (please specify)
67. For how many of these jobs did your business also perform the accident towing work (leave blank if not appropriate)?
- Smash repair services
 - Trade towing services
 - Automotive maintenance and servicing
 - Automotive fuel retailing
 - Automotive electrical services
 - Tyre retailing
68. Other (please specify)

B.4 Accident towing regulatory regime

Fare regulation

69. Should accident towing fees continue to be regulated in the Controlled Area?
70. Should accident towing fees be regulated outside the Controlled Area?
71. Under the current regime, the Minister for Roads and Ports regularly reviews and adjusts the level of regulated fees. How should accident towing fees be adjusted?
72. If other, please specify.
73. Are there any other charges that should be regulated (e.g. salvage)?
74. If so, please specify.
75. Are the current boundaries of the Controlled Area (the Metropolitan Melbourne and Mornington Peninsula region for the purposes of the Accident Allocation Scheme) appropriate?

Other regulatory issues

76. What factors should VicRoads consider when defining the boundaries of the Controlled Area?
77. Please comment on the effectiveness of the accident allocation scheme (e.g. response times).
78. How, and to what extent, does the regulatory framework impact on the efficiency of your business?