

Post Implementation Review

Private Property Towing Reforms & Broader Tow Truck Scheme Review

February 2021

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Glossary

Accredited tow truck drivers and assistants

Tow truck drivers and assistants accredited by the Department of Transport and Main Roads (TMR) to perform regulated towing services in regulated areas of Queensland.

Breakdown towing

Removing broken down vehicles from roads.

Compliance towing

Removing vehicles parked illegally on roads, including from clearways, no standing areas, or vehicles impounded under anti-hooning laws.

Class 4 tow truck

A tow truck with a minimum gross combination mass of 25 tonnes that is equipped with— (i) tandem or tri-rear axle group; and (ii) a power operated winch; and (iii) a crane or hoist having a safe working load of at least 5 tonnes.

Crash towing

Removing damaged vehicles from crash scenes, including scene clean up and vehicle storage in a holding yard.

Holding yard

TMR approved premises for storage of towed vehicles.

Police seizure

Towing of vehicles seized by a police officer from off-street regulated parking areas where an arrangement exists under the *Transport Operations (Road Use Management) Act 1995*, section 104.

Private property towing

Removing vehicles parked on publicly accessible private property.

Regulated area

The geographic areas in Queensland, specified in the *Tow Truck Act 1973* and *Tow Truck Regulation 2009*.

Regulated industry

Tow truck industry (including tow truck drivers, assistants and licence holders) who perform regulated towing services within regulated areas.

Regulated towing service

Towing services covered under the *Tow Truck Act 1973* and *Tow Truck Regulation 2009* including private property towing, crash towing and police seizure.

Standard tow

For a damaged motor vehicle at the scene of a crash, a standard tow includes not more than 60 minutes working time at the scene; moving the vehicle to a place stated in the towing authority and storing the vehicle in a holding yard for not more than 72 hours.

For a private property motor vehicle being towed from a private property, a standard tow includes not more than 60 minutes working time on the property, moving the vehicle to a holding yard, and storing the vehicle in a holding yard for not more than 72 hours.

TMR Compliance

TMR compliance officers authorised under legislation to carry out compliance functions, inspections and investigations.

Tow truck

A tow truck means a motor vehicle that is equipped with a lifting or loading device capable of being used for the towing of a motor vehicle or being used to tow a trailer on which a damaged or seized motor vehicle is being carried.

Tow truck licence holders

Tow truck licence holders who are licensed by TMR to perform regulated towing services in regulated areas of Queensland.

Towing authority

A record of the agreement between the tow truck driver and the vehicle owner or, in the event of incapacity of the owner, by an authorised officer, to tow a damaged vehicle from a crash or vehicle seized by police at an off-street regulated parking area.

Towing consent

A document between an occupier of private property and tow truck licence holder that states there is an arrangement between the occupier and the holder to tow a private property motor vehicle from the property.

Trade towing

Vehicles towed under prearranged private or commercial arrangements, including moving vehicles to mechanics or insurers, or delivering vehicles to dealerships for sale.

Unregulated industry

Tow truck industry (including tow truck drivers and licence holders) who do not perform regulated towing services in regulated areas.

Working time

For a damaged motor vehicle at the scene of a crash means the time spent at the scene, after a person has signed a towing authority for the motor vehicle, to prepare the vehicle for towing and cleaning up the scene.

For a private property vehicle on private property means the time spent on the property taking reasonable steps to find the owner of the vehicle and preparing the vehicle for towing.

1. Post-implementation review & broader towing reforms

Introduction

The *Tow Truck Act 1973* (the Act) and the *Tow Truck Regulation 2009* (the Regulation) regulate the towing industry in Queensland. The legislation provides the regulatory framework including maximum fees and charges that apply to regulated towing services, as well as a licensing scheme that specifies requirements for tow truck licence holders, accredited tow truck drivers, assistants and licensed tow trucks.

The legislation applies to approximately 97 tow truck licence holders, 932 accredited tow truck drivers and 60 accredited tow truck assistants within Queensland's regulated tow truck scheme (as at 1 August 2020).

Prior to April 2018, the framework applied only to the towing of motor vehicles in regulated areas from the scene of a crash or vehicles seized by police at off-street regulated parking areas in Queensland. However, due to rising community concern over unfair and intimidatory practices around the removal of vehicles parked on private property, in May 2017 the government commissioned an independent investigation into the tow truck and vehicle removal industry.

The independent investigation, conducted by former District Court Judge Mr Michael Forde, consulted stakeholders including local governments, towing operators within the regulated and unregulated industry, industry representative organisations, private property owners and occupiers, motorists and the general community. Information was also gathered through the tow truck hotline established by TMR to receive complaints and feedback on the towing industry.

The independent investigation considered the rights of property owners to remove vehicles left on their property, and balanced those rights against providing an increased level of safety and protection for vehicle owners, to minimise potential exploitation and promote fair and reasonable private property towing practices.

The independent investigation provided a written report to government in August 2017 titled *Independent Investigation into the Towing Industry: Removal of Vehicles from Private Property*. The report made 22 recommendations to reform the towing industry and the removal of vehicles from private property, as well as raising a further eight matters for consideration by government. The government accepted all the report's recommendations and matters for consideration to address the issues identified in the towing industry, particularly private property towing.

The recommendations resulted in legislative amendments to the Act and Regulation including the expansion of the regulated tow truck scheme to incorporate the towing of vehicles from private property. These changes, known as the private property towing reforms, commenced on 16 April 2018.

TMR has undertaken a post implementation review to assess the impact and effectiveness of the reforms in adequately addressing community concerns and improving private property towing practices. TMR also took this opportunity to conduct a broader review of Queensland's tow truck scheme to ensure the scheme meets the current and future needs for Queensland motorists and industry.

The review process incorporated stakeholder and community feedback resulting from the release of the public discussion paper "*Your say on Queensland's Tow Truck Scheme*" and online survey published on the government's *Get Involved* website for a five week period from 28 October 2019 to 1 December 2019. The discussion paper was separated into two parts: private property towing reforms (Part A) and the broader Queensland tow truck scheme (Part B).

The review also considered stakeholder views gathered through industry forums for both light and heavy vehicle tow truck licence holders, as well as targeted stakeholder meetings with the Queensland Police Service (QPS) and the Royal Automobile Club of Queensland (RACQ). TMR further examined tow truck complaints received, audit and infringement data and interstate tow truck schemes.

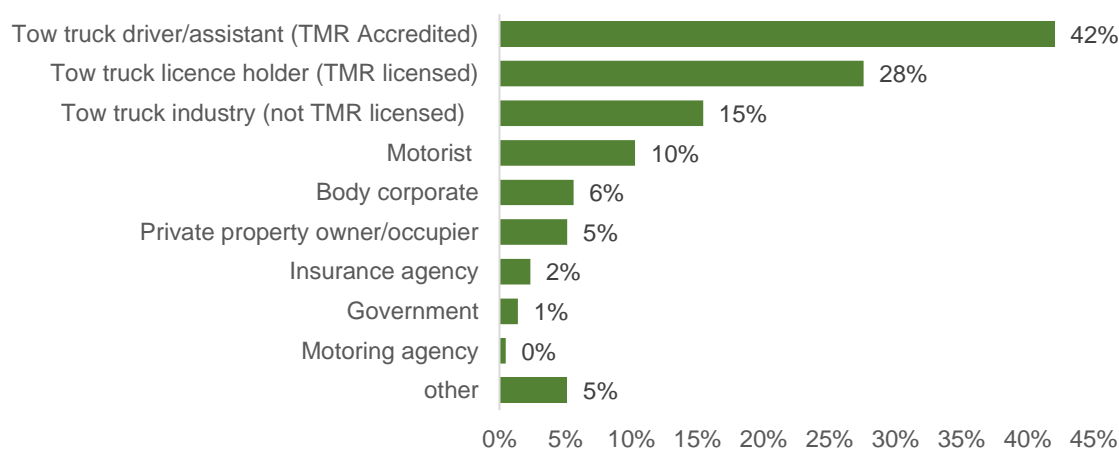
This report presents the findings and conclusions drawn from the review and provides proposals for future reform to Queensland's tow truck scheme.

Survey demographics

TMR received a total of 215 survey responses from a range of industry stakeholders and members of the public. As seen in Figure 1, the majority of survey participants (70%) were tow truck drivers, assistants, licence holders or from the unregulated industry sector. The remaining 30% were motorists (10%), body corporate (6%), private property owners and occupiers (5%), insurance agencies (2%) and government organisations (1%).

Most tow truck industry survey participants identified as providing trade towing services (80%), while two-thirds identified as being involved in breakdown towing (66%) and/or crash towing (63%). Many towing services provide a combination of service types therefore, numbers overlap. About one in three provided police seizure towing (31%) whilst one in five were involved with compliance towing (20%). A very small proportion of respondents provided private property towing (15%), machinery transport (8%) and other minor services (7%).

Figure 1: Stakeholder Groups Participating in the Survey



Which stakeholder group/s best represents you or your business? You may select more than one response.

2. Private property towing reforms

2.1 Regulating private property towing

Background

Prior to implementation of the private property towing reforms, only the towing of motor vehicles from the scene of a crash or vehicles seized by police at off-street regulated parking areas in Queensland were regulated by the Act and Regulation. Provisions of the Act and Regulation only applied in regulated areas located in South East Queensland and the major urban local government centres along the east coast.

All other forms of towing including compliance towing, vehicle breakdowns, trade tows and the removal of motor vehicles from private property were not subject to the provisions of the Act and Regulation and were therefore not subject to operator or driver conduct requirements and towing fees were unregulated.

Independent investigation

The independent investigation identified community concerns with the practice of private property towing, including the emotional distress and possible safety issues in situations where motorists may be left stranded and vulnerable. Further concerns were raised regarding alleged intimidation tactics and threatening behaviours by operators along with excessive fees for towing and holding yard storage.

To provide a mechanism to address and discourage inappropriate tow truck industry behaviour and better protect Queensland motorists, whilst also allowing property owners and occupiers the right to manage their parking areas, the independent investigation recommended that private property towing be included in the regulatory framework.

Government response

The Queensland Government responded to the recommendations by introducing changes to the Act and Regulation to include private property towing. Since 16 April 2018, all private property towing in regulated areas must be performed by accredited drivers and assistants using licensed tow trucks. Drivers and assistants must be employed by tow truck licence holders. Licence holders, drivers and assistants must comply with numerous conduct requirements, including assessment by TMR to ensure they do not pose an unacceptable safety risk to the public and property. Additional changes introduced include:

- records must be maintained about towed vehicles and any property found in them,
- property found in unlocked vehicles must be kept in safe custody,
- tow trucks must comply with design and equipment requirements, appropriate signage and undergo annual inspections, and
- licence and accreditation holders must notify TMR within 14 days of a disqualifying offence.

Stakeholder response

The reforms introduced a level of protection for motorists with reduced potential for exploitation. The reforms also provided a clear legislative framework for fair and reasonable private property towing practices. The majority of private property towing reforms delivered a positive outcome with a reduction in private property towing complaints being a key indicator of success. Only 100 complaints were reported in the two years since implementation of the reforms until 15 April 2020 January, compared to 515 complaints reported between May 2017 and 16 April 2018.

As noted in Figure 2, approximately 44% of survey respondents answered positively or were neutral on whether regulating private property towing has improved the way this towing practice is carried out. Feedback from survey respondents identified that the issue of overcharging motorists has now been removed and further noted that it is now safer to tow from private property due to increased compliance, with reduced confrontations and complaints reported.

In contrast, approximately 50% of survey respondents disagreed that the changes had improved these towing practices. This view was influenced by drivers and assistants who believe the changes disproportionately protect the motorist and not the property owner. It should be noted that very few private property owner/occupiers or body corporate entities voiced their concerns through the survey, representing only 11% of total received responses.

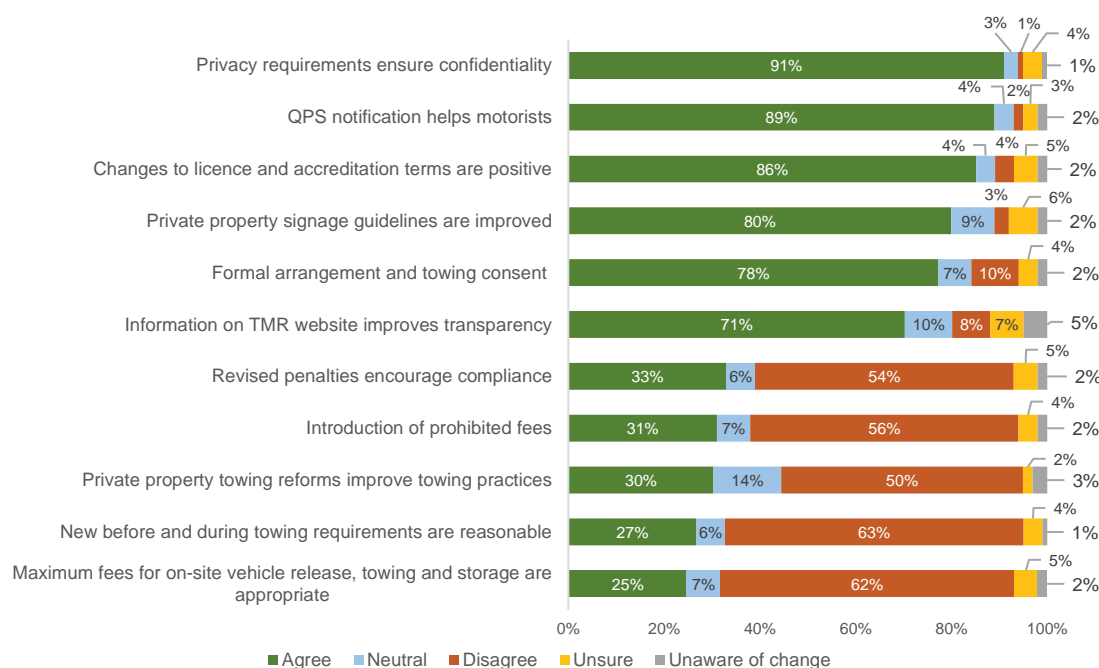
While survey respondents believe the reforms provide safer practices by reducing confrontations and complaints, increased uniformity with other regulated services, and increased compliance, their agreement was subject to certain conditions. This included further clarity around what is considered 'reasonable' in relation to the driver taking steps to locate the motorist, and that fees should be tiered based on the type of towing works carried out.

Some survey respondents believed the service would become unavailable due to the low fees deterring operators from carrying out private property towing work. In contrast, there does still appear to be ongoing availability of towing providers with 15% of industry survey participants indicating they perform private property towing services. Further, the volume of private property tows has remained consistent over the past 12 months with approximately 105 tows each month.

General feedback from the tow industry forums, indicated an acceptance that regulating private property towing had improved aspects of this form of towing, but may have resulted in a reduction of commercial viability due to the capping of fees.

RACQ stated they now receive very few complaints or comments from members about vehicles being removed from private property and media attention had diminished. Feedback from the community and TMR Compliance area, as evidenced by the large reduction of complaints to TMR and supported by RACQ's feedback, seems to indicate the reforms achieving an appropriate balance between the rights of various stakeholders.

Figure 2: Impact and Effectiveness of Private Property Towing Reforms – Summary



Queensland is the only jurisdiction that fully regulates private property towing, including ensuring that operators are licensed, and drivers and assistants accredited. Fees that may be charged for the towing and storage of private property towed vehicles are also fully regulated. In New South Wales (NSW), while operators of tow trucks must be licensed to operate a tow truck business, and drivers must be licensed, private property towing is not regulated. Similarly, in South Australia (SA) to drive a tow truck in the greater metropolitan area of Adelaide, the driver must hold accreditation, however, only accident towing in this area is regulated. Victoria (VIC) also only regulates accident and trade towing types and other Australian states currently do not regulate private property towing.

Conclusion

While it is acknowledged that some aspects of the reforms have been more challenging for the tow truck industry involved in the practice of private property towing, industry has adjusted to the changes and continue to provide a robust and efficient private property vehicle removal service.

The question of whether the regulation of private property towing has improved towing practices has resulted in a mixed response. However, the arguments against the reform weighed against the significant reduction in complaints and community discontent, demonstrates that it is likely that a balance has been achieved.

TMR will continue to monitor and review the framework, including emerging private property towing issues and provide an ongoing mechanism for the community to report on towing complaints for appropriate action.

2.2 Establishing authority to tow from private property

Background

Prior to the legislative reforms, limited parking availability particularly in inner-city areas around restaurants, retail and entertainment precincts, resulted in motorists parking in areas where they were not authorised to park. Towing of these vehicles was often carried out under an informal arrangement between the operator and property owner/occupier. Some operators were opportunistic and used unscrupulous business practices to remove vehicles from private property. Despite numerous motorists admitting to parking contrary to signed parking rules, they still felt aggrieved that their vehicle had been removed without their permission or knowledge.

Independent investigation

The independent investigation found the legal basis for private property towing to be unclear due to the competing rights of occupiers to control parking on their property and the rights of motorists to maintain possession of their vehicle. The independent investigation identified that a contractual arrangement between property owners or occupiers and licence holders was an appropriate mechanism for property owners and occupiers to approve the towing of vehicles.

Government response

Changes were adopted so licence holders performing private property towing must have a contract in place with the property owner or occupier, along with a Private Property Towing consent form. This form indicates they have the property owner or occupier's approval to remove the vehicle and is acting only at the request of the private property owner/occupier, rather than independently monitoring and enforcing parking conditions on their own initiative. Until a contract has been entered into and a Private Property Towing Consent form completed, drivers are not authorised to tow vehicles from the property.

QPS facilitated this process by introducing an online notification system that tow truck operators must update within one hour of undertaking a private property tow.

Stakeholder response

General feedback from industry stakeholders was supportive of the requirement to have a towing consent prior to undertaking private property towing services. This view was also supported by RACQ who identified that they had received very few complaints about the removal of vehicles from private property areas, such as public car parks, since the implementation of the reforms. As indicated in Figure 4, an overwhelming number of survey respondents (77%) agreed that having a formal arrangement and towing consent in place, reduces the likelihood of operators removing vehicles from private property without permission.

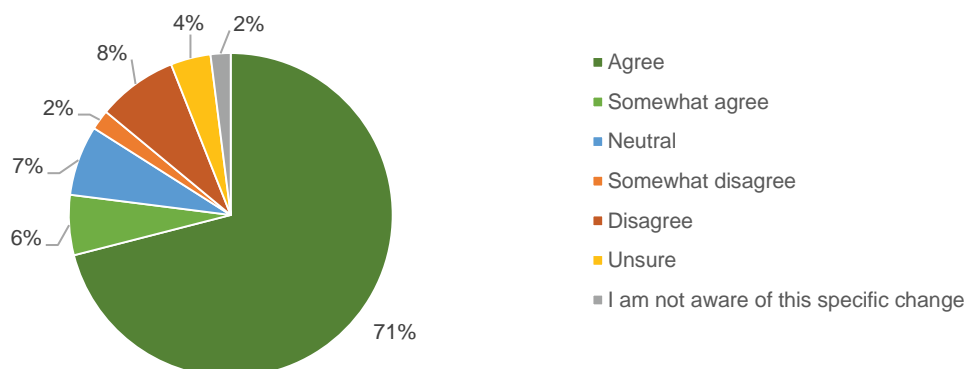
This view was supported across the tow truck industry with feedback stating that the formal process functions well in that it stops operators from removing vehicles without sufficient reason. Only 10% of respondents disagreed, with many indicating the process is not viable and are no longer conducting this type of towing.

Whilst a Private Property Towing Consent template was developed by TMR, feedback indicates that not all operators are aware of this template, suggesting further education and communication with licence holders may be required. Operators also raised concerns that consent should not be required in cases of abandoned vehicles. Whilst these concerns are noted, it is questionable how licence holders would be notified of an abandoned vehicle, if not by the property owner and occupier.

TMR Compliance noted that the private property towing consent provides evidence that an agreement between the licence holder and private property owner exists and assists when undertaking investigations and audits.

In NSW, all non-accident towing is required to be recorded on a Non-Accident Towing Register including tows from private premises, however only a vehicle owner can authorise towing from private property. Tow truck drivers must ensure the private property tow is undertaken lawfully, meaning it was approved by the owner or driver of the subject motor vehicle. The only exception is where a vehicle has been reported stolen and police authorise to arrange for the towing upon recovery. Additionally, the tow truck operator must ensure the fees charged for the tow are agreed upon prior to undertaking the tow. Other Australian states do not have a comparative regulated private property towing system.

Figure 4: Views on Having a Formal Arrangement and Towing Consent



Q3. Having a formal arrangement and Towing Consent has removed the likelihood of towing operators removing vehicles from private property without permission?

Conclusion

Based on stakeholder consultation, industry forums and feedback from operators, RACQ, QPS and TMR Compliance, there is overwhelming support that having a formal arrangement and towing consent has removed the likelihood of towing operators removing vehicles from private property without permission. This is further reinforced by the survey which indicated 77% agreeance. It is important however for TMR to undertake further education with licence holders on where to locate the Private Property Towing Consent template to further assist the private property towing industry.

2.3 Requirements before and during towing

Background

Prior to the reforms, there was often conflict when motorists returned to their vehicle to find their vehicle being loaded onto the tow truck. On occasion, TMR received complaints from motorists, who when requesting their vehicle be released, were allegedly subjected to intimidation and abuse by the driver.

Independent investigation

The independent investigation recommended that specific requirements should be placed on licence holders, drivers and assistants including that a tow truck driver take reasonable steps to locate the motorist prior to loading the vehicle onto the tow truck to avoid possible conflict between motorists and tow truck drivers.

Government response

Requirements were introduced before and during the towing process including:

- that the tow truck driver must make reasonable steps to locate the vehicle owner or driver before loading the vehicle onto the tow truck. Reasonable steps may include asking nearby people if they know where the driver went, looking around the immediate area to see if the vehicle owner is nearby or looking for contact details on the vehicle.
- If the owner or driver returns before the tow truck driver has started but not finished moving, lifting or securing the vehicle onto the tow truck, the tow truck driver must release the vehicle immediately, free of charge, if requested.
- If the owner or driver returns after the tow truck driver has finished loading and securing the vehicle onto the tow truck but the tow truck has not left the property, the tow truck driver must only charge an on-site release fee (currently \$156.15) to release the vehicle immediately.

Existing requirements in the Act were also extended requiring licence holders to ensure that their drivers take reasonable precautions to prevent loss or damage to a vehicle or personal items contained in the vehicle while being towed and that the vehicle must be towed by the most direct route to the tow truck licence holder's nearest approved holding yard.

Stakeholder response

Approximately 26% of survey respondents agree that the requirements to be undertaken before and during towing are reasonable. This view was mainly held by tow truck licence holders and to a lesser degree, unregulated tow operators, with accredited tow truck drivers and assistants least likely to agree.

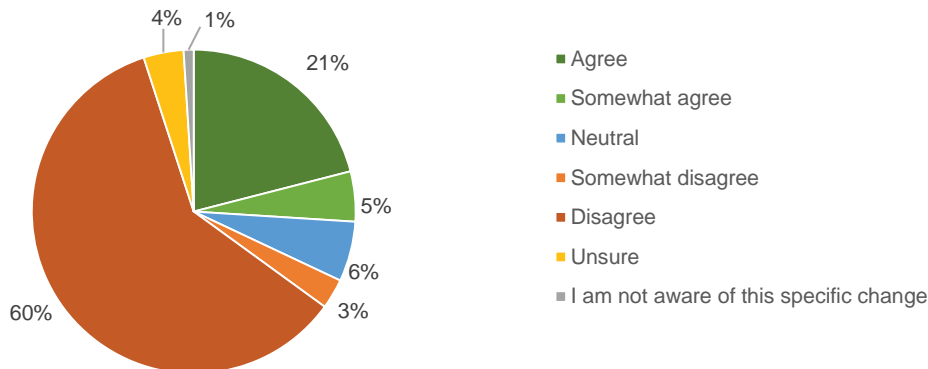
There were two common themes identified during consultation, both through the survey responses and industry forums, relating to the towing requirements before and during towing:

- Requests have been made to provide further explanation of what "reasonable steps" mean in relation to locating the vehicle owner. The *TMR Private Property Parking and Towing – Tow Truck Drivers and Assistants* fact sheet, www.tmr.qld.gov.au/-/media/busind/accreditations/towtruck/0318/Fact-Sheet-Tow-truck-drivers-and-assistants.pdf?la=en, provides an explanation of what "reasonable steps" may include.
- Additionally, there was some debate about the role the property owner and occupier should have when trying to locate the vehicle owner, with some believing the onus should be placed on the property owner and occupier to take steps to locate them, while some believe the requirements are reasonable and protect the vehicle owners' interests.

The requirements to take reasonable steps to locate the vehicle owner or motorist before removing a vehicle from private property, free release if the vehicle is not fully loaded, along with capped on-site fee release if a vehicle had not left the premises, resulted in 63% of survey respondents considering the changes unreasonable.

QPS suggested that the property owner and occupier should ensure that they have made attempts to locate the vehicle owner prior to requesting a vehicle be towed.

Figure 5: Before and During Towing Requirements are Reasonable



Q4. The new requirements a tow truck driver must follow before and during towing a vehicle from private property are reasonable?

Conclusion

The additional obligations before and during towing may not necessarily be favourable with industry. However, the reforms were necessary to ensure the rights and interests of all parties involved in private property towing were appropriately balanced and to avoid the conflict observed before the reforms. Also, TMR does not believe the obligations (especially undertaking reasonable steps to locate the driver/owner) are unreasonable or particularly onerous to carry out, given the tow truck driver is in the best position to try and locate the vehicle owner/driver.

Based on survey feedback, TMR will provide further education to drivers, assistants and licence holders about where to find relevant information relating to undertaking private property towing, including an explanation of what "reasonable steps" to locate the vehicle owner could involve. While it is recommended that no changes be made to the current requirements before and during towing, TMR will continue to monitor issues raised by stakeholders.

2.4 Requirements after towing

Background

Prior to the reforms, some tow truck operators notified QPS when they had towed a vehicle from private property, but this requirement was not mandatory. It was difficult for motorists who returned to find their vehicle missing, as they had no way of knowing where their car had been taken, particularly in situations where property signage was non-existent, hidden or contained outdated operator contact details. QPS were generally contacted by motorists in these instances to report a stolen vehicle.

Independent investigation

To assist vehicle owners to quickly and easily locate their vehicles, the independent investigation recommended that licence holders should be required to notify QPS as soon as practicable after removing a vehicle from private property.

Government response

A requirement was introduced for licence holders to notify QPS within one hour of towing from private property. This process is supported by an online service developed by QPS and assists them to verify if a car has been towed when contacted by motorists.

In addition to notifying QPS, other obligations were introduced including that licence holders, must:

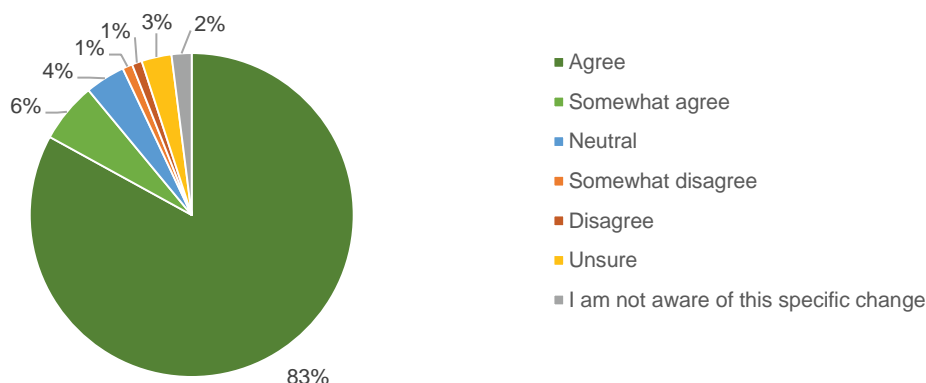
- not move vehicles from the holding yard without the vehicle owner's consent,
- take precautions to prevent loss or damage to a vehicle and any personal items in the vehicle while stored in the holding yard,
- maintain an inventory of property found in unlocked vehicles as soon as practicable after the vehicle arrives at the holding yard,
- allow a vehicle owner to arrange collection of items left in the vehicle free of charge and to view the vehicle during business hours (9am to 5pm Monday to Friday, excluding public holidays),
- allow a vehicle owner to collect items or view the vehicle outside of business hours and inform them in writing, in advance, of any fee, and
- release a vehicle to the owner or agent within four business hours of request provided fees are paid.

Stakeholder response

As identified below in Figure 6, the majority of respondents (89%) agreed that notifying QPS when a vehicle is towed from private property helps motorists to promptly locate their vehicle. Respondents indicated the process is fair and reasonable, reducing the turnaround time to locate the towed vehicle.

RACQ feedback indicated that the solution to notify QPS was a reasonable, logical point of reference for a vehicle owner to attempt to locate their vehicle. QPS also indicated their support for the online reporting system given that the low volume of vehicles was not onerous from an administrative point of view. Since the commencement of the private property towing reforms on 16 April 2018 to 1 August 2020, QPS has recorded 3,351 notifications about vehicles being towed from private property.

Figure 6: After Towing Requirements are Reasonable



Q5. The requirement to notify QPS of a vehicle towed from private property helps motorists locate their vehicle?

Conclusion

The requirement for licence holders to notify QPS of the removal of vehicles from private property within one hour of a vehicle being towed has received overwhelming support from stakeholders and has assisted motorists to find their vehicle after returning to find it missing.

2.5 Fees for regulated towing

Background

Prior to April 2018, private property towing was not regulated, and no requirements existed for operators to cap fees or ensure fees for towing and storage of vehicles were reasonable. Practices adopted by operators differed, resulting in inconsistencies between operators with some charging a call out fee if the owner returned before the vehicle was loaded and other operators requiring payment of the full towing fee.

Independent investigation

The independent investigation identified that excessive fees were of concern to motorists ranging from \$220 up to approximately \$900. This amount did not include storage or other additional fees that may have been charged by operators at their discretion. The independent investigation concluded that the unregulated nature of private property towing resulted in uncompetitive market driven towing rates.

For these reasons, the independent investigation recommended that fees relating to the vehicle release, towing and storage for private property towing should be capped, including:

- The maximum towing fee be set at \$250 and include towing to the holding yard and up to 72 hours of storage,
- Where onsite release of a vehicle may occur, a maximum fee of \$150 should be set
- A call-out fee be prohibited where the motorist returns or is located prior to the vehicle being loaded onto the tow truck
- The vehicle owner be liable for fees payable with the vehicle being returned to the motorist upon payment of fees,
- A maximum fee of \$25 per day be introduced for storing a vehicle towed from private property, and
- Charging for incidental activities related to towing a vehicle from private property be prohibited including administration fees or fees for conducting an inventory of personal property located in the vehicle.

Government response

Maximum regulated fees were introduced to ensure motorists were not subjected to excessive fees by operators when their vehicles were removed from private property. These included fees for:

- on-site release of a vehicle at the private property before the vehicle is towed to the holding yard (currently \$156.15),

- a standard tow fee for a vehicle towed from private property and subsequently released at the licence holder’s holding yard (currently \$260.25), and
- a daily storage fee for storing a vehicle in the holding yard applicable after the initial 72 hours have passed (currently \$26.00).

In addition, the reforms introduced by the government prohibit the charging of certain fees for incidental activities undertaken as part of private property towing by licence holders. These prohibited fees are outlined in section 32 of the Regulation and include items such as administrative work, storing personal property, taking steps to locate the vehicle owner, travelling to where the vehicle is located and using a lifting or loading device of a tow truck. This provision was implemented to address the potential for licence holders to look for alternate ways of charging for towing services beyond the standard tow fee.

NOTE: All fees and charges in brackets are for the 2020/2021 financial year.

Stakeholder response

Approximately 25% of survey participants were supportive of the introduction of maximum fees citing fees were overly excessive in the past and are now set at a more reasonable level. However, some in support also highlighted that towing fees need to be variable for more difficult tasks, such as undertaking undercover vehicle retrieval, and that the daily storage fee was too low.

Over half of survey respondents (62%) disagreed that the maximum fees are set at an appropriate level, citing that the fees for towing, on-site release and storage are too low, making the service commercially unviable. Some respondents indicated the fees do not cover the risk and time involved in loading, transporting, unloading and keeping the vehicle safe in a locked environment. Comments also highlighted fees should be dependent upon the work undertaken as it can be more costly to operate and undertake the work, for example when using class 4 (large) tow trucks to remove heavy vehicles from private property.

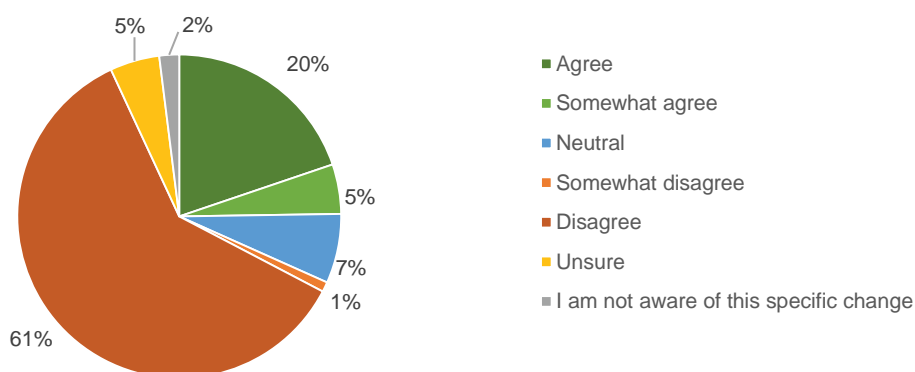
Whilst a higher proportion of survey respondents disagreed with the introduction of maximum fees, it is noted the majority of these respondents were directly engaged in the towing industry.

Since capped fees have been introduced, TMR has received reports where the regulated towing industry has attempted to reinterpret the legislation to their financial and business advantage by circumventing the prohibited fees, including licence holders charging additional fees not currently permitted. As a result, one licence holder has had their tow truck licence suspended and multiple penalty infringement notices issued for this practice.

RACQ is supportive of the maximum fees set by TMR but has suggested further capping of storage fees to a maximum total storage cost of \$1,500 would further protect vulnerable customers, particularly those with uninsured vehicles.

QPS also believes the current level of fees are reasonable.

Figure 7: Maximum fees for Regulated Towing



Q6. The maximum fees introduced for on-site vehicle release, towing and storage are set at an appropriate level?

TMR undertook research into other towing services provided and the level of fees charged for towing, onsite release and storage. Brisbane City Council (BCC) administers compliance towing within the Brisbane CBD, which sees vehicles towed from clearways and loading zones. BCC contracts licence holders and sets capped standard tow fees at \$246 for a regular vehicle with storage costs of \$22 a day, \$109 a week with a maximum capped at \$218. These fees increase when dealing with heavy vehicle compliance towing (4.5t – 27t vehicles) with a capped standard fee of \$348 with storage costs approximately doubled.

Similarly, TMR administers the Motorway Response Services and Abandoned Vehicle Management Service via a commercial contract, which prescribes fees paid by the customer and TMR for the removal of broken down vehicles. The Motorway Response Service is a free tow provided to the customer to retrieve their vehicle. The costs associated with removing these vehicles within the contract is commercial in confidence. The fee to remove abandoned vehicles is \$385 (including GST) plus \$20 a day storage across South East Queensland incurred after the first 60 days. TMR pay an additional fee direct to the tow operator for towing of abandoned vehicles. This fee is also commercial in confidence.

A jurisdictional scan identified similar towing services in NSW and VIC, however neither state impose onsite release or standard fees in relation to private property towing. In NSW, storage fees for standard vehicles range from \$15 per day outside the Sydney Metropolitan area, \$27 per day inside the Sydney Metropolitan area. In VIC, storage fees for standard vehicles are dependent on the type of storage yard and range from \$17.40 per day for a locked yard to \$25.70 per day if the vehicle is stored undercover.

Conclusion

Maximum fees introduced for private property towing for on-site vehicle release, towing and storage are consistent, or more generous, when compared to similar towing activities in Queensland and other jurisdictions, indicating they are set at an appropriate level.

It is acknowledged that some parts of Queensland's tow truck industry are dissatisfied with the current regulated fees that apply to towing, storage and on-site vehicle release. It is encouraging, however, that some industry and community stakeholders still believe the fees are fair and appropriate and reflect the work undertaken as part of a private property tow.

The Independent Review imposed the original \$250 maximum fee by considering the regulated fee for the work involved in towing from the scene of an incident, regulated fees in other jurisdictions, and the fee determined by the Queensland Civil and Administrative Tribunal as being reasonable for compliance towing.

2.6 Information privacy

Background

Towing operators with an annual turnover of more than \$3 million must comply with the Australian Privacy Principles as provided for in the *Privacy Act 1988* (Cwlth), whereas operators with an annual turnover of less than this are not required to comply. This lack of privacy protections possibly led to concerns from motorists about the release of certain personal information obtained during the process of a vehicle seizure.

Independent investigation

The independent investigation noted that callers to the hotline raised privacy concerns especially when providing their identification details, (e.g. driver licence) to operators when retrieving their towed vehicle. However, the independent investigation determined that providing identification to the operator was vital in ensuring the vehicle was not inadvertently released to the wrong person. To address motorist concerns, the independent investigation recommended preventing licence holders, drivers and assistants from disclosing personal information obtained through vehicle towing, as a suitable mechanism to protect the personal information of motorists.

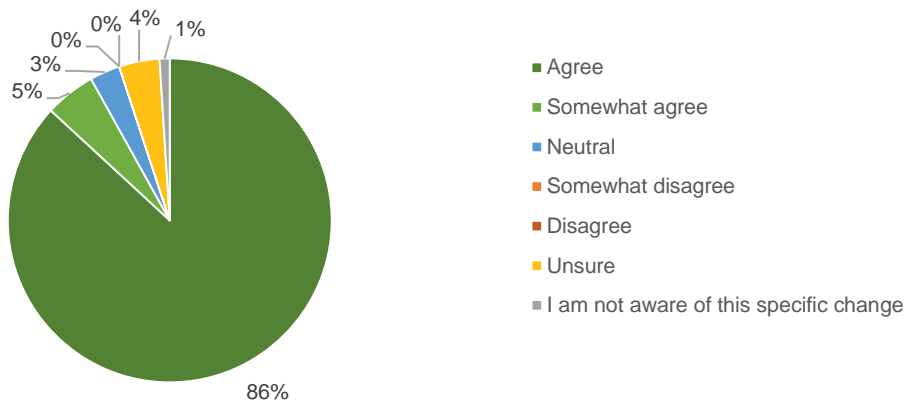
Government response

New measures were introduced to protect the personal details of anyone associated with the towing service from disclosing information about the removal of a vehicle from private property, or its owner or driver, except as permitted under the Regulation. This includes the tow truck licence holder, driver, assistant and a person employed, engaged or acting in connection with the storage or release of the vehicle.

Stakeholder response

There was overwhelming consensus across survey respondents regarding the new privacy requirements, with 91% agreeing they ensure adequate confidentiality for the personal information of vehicle owners and drivers. In support of this, survey respondents raised concerns about former practices having the potential to breach privacy requirements, whether intentionally or not. Stakeholder feedback, including RACQ and QPS supported the improvements to privacy requirements.

Figure 8: Information Privacy



Q8. The new privacy requirements ensure adequate confidentiality for the personal information of vehicle owners and drivers?

Conclusion

Consultation demonstrated an overwhelming agreement that the new privacy requirements ensure adequate confidentiality of the personal information of vehicle owners and drivers.

2.7 Car park signage

Background

Prior to the reforms, no signage guidance was in place due to the unregulated nature of private property towing. Private property owners and occupiers used different approaches to signs to indicate the parking rules for their property or that parking was not permitted.

Independent investigation

Complaints to the hotline identified that signage was consistently raised as an issue which was exacerbated by the inadequacy of signage. The independent investigation considered that appropriate signage was vital to the lawful removal of vehicles from private property and recommended that property owners and occupiers display sufficient signage to provide fair notice to motorists that their vehicle may be towed from the property.

Government response

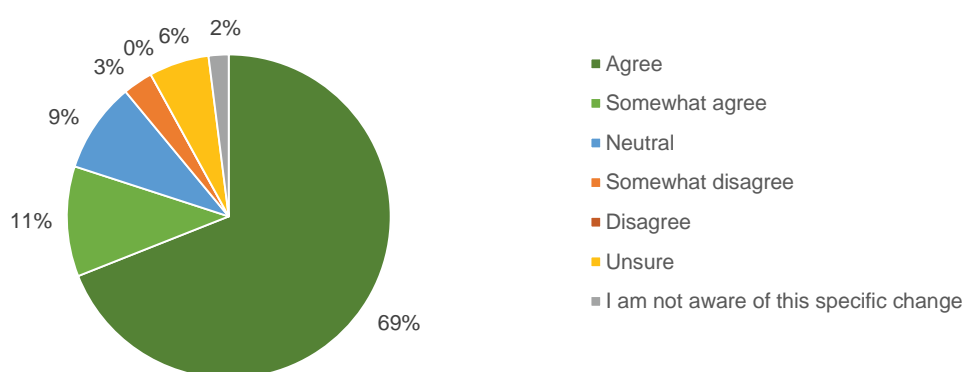
Minimum signage standards were developed by TMR to ensure signs are clearly visible, include the relevant key information and are consistent. To assist private property owners and occupiers, TMR developed the *Private Property Signage Guideline* which recommends that signs be prominently displayed at each entrance point facing traffic and should also be placed at regular intervals throughout the property. The guideline also makes recommendations about sign illumination, size and design such as colours, content such as parking rules, and the consequences of not complying with the sign, towing operator details and towing costs.

Stakeholder response

Prior to the reforms, hotline complaints were about the quality or lack of signage at private property towing locations. However, these complaints reduced markedly since the introduction of the reforms and the improved compliance with the *Private Property Signage Guidelines*.

The survey results identified that 80% of respondents agree that the guidelines have improved the signage displayed at private property parking locations. Respondents further indicated that signs should always be large enough and unobstructed with pertinent information, especially contact information, to ensure motorists are fully informed about the consequences of parking without permission on private property.

Figure 9: Car Park Signage



Q9. The Private Property Signage Guidelines have improved the signage displayed at private property parking locations?

Conclusion

Based on stakeholder feedback and the declining number of signage complaints, introducing the *Private Property Signage Guidelines* had a positive impact, improving private property towing practices.

2.8 Offences and penalties

Background

Offences under the Act and Regulation did not apply to private property towing due to the unregulated nature of the service.

Independent investigation

The independent investigation conceded that penalties are vital in encouraging compliance with the requirements in the Act and Regulation. As a result, the independent investigation recommended a number of new offence provisions and penalties applicable to private property towing and suggested the maximum penalty under the Regulation be increased to deter non-compliance.

Government response

The government increased the maximum penalty under the Regulation from 20 to 80 penalty units to reflect the seriousness of the offence and deter non-compliance among the regulated industry.

In addition, the government also introduced new offences that apply to the private property towing requirements and expanded many of the penalties for existing offences so they also apply to private property towing.

Contravening the private property towing requirements may result in an infringement notice for the payment of a fine or the matter may be dealt with by a court. TMR may also initiate action to suspend or cancel a licence or accreditation, or immediately suspend in instances where public safety has or could be impacted.

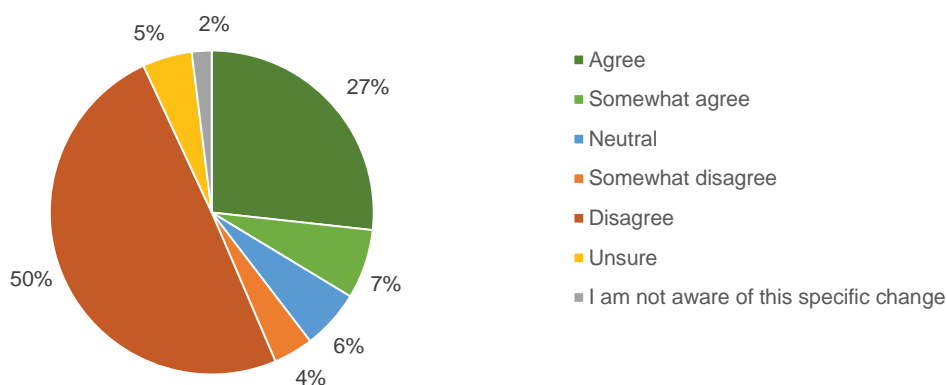
Stakeholder response

Approximately one third (34%) of survey respondents agreed that the revised offence provisions and penalty levels provide sufficient deterrence for licence holders, drivers and assistants to comply with the Act and Regulation. Greater penalties, reducing non-compliance and preventing offences, were the main reasons provided by those in support of this measure. About half of the responses were licence holders agreeing with new and revised penalties.

However, most drivers and assistants and unregulated industry (54%), disagreed with the new and revised penalties. This group mainly considered the new and revised penalties either too high and/or are being imposed on the whole industry due to unethical practices conducted by a small number of rogue unlicensed towing operators.

While one key industry stakeholder believes there is a willingness within the industry not to comply with the regulation due to a low risk of being caught and penalised, it should be noted that 180 infringement notices have been issued since the reforms commenced. This demonstrates to industry that TMR has an ongoing presence actively undertaking compliance and enforcement activities.

Figure 10: Penalties and Offences for Tow Truck Operators



Q10. The new and revised penalties provide sufficient encouragement for tow truck licence holders, drivers and assistants to comply with the *Tow Truck Act 1973* and *Tow Truck Regulation 2009*?

Conclusion

The provision of offences and penalties is something that may not be considered favourably by industry but remains a necessary part of the regulation of any tow truck scheme in order to deter non-compliance. Given the decrease in complaints since the reforms were introduced, offences and penalties imposed appear to be achieving the goal of a reduction in non-compliance, thereby protecting motorists and maintaining the integrity of the scheme.

2.9 Changes to how licences and accreditations are managed

Background

Prior to the private property towing reforms, licences were issued for a one year term. Driver and assistant accreditations were issued for a one year term despite the legislation allowing up to five years. Licence holders, drivers and assistants were also obligated to renew their licence or accreditation no sooner than two weeks before expiry as, in most cases, this period of time was considered sufficient for TMR to undertake suitability checking of the applicant before expiry of the licence or accreditation.

Independent investigation

The independent investigation determined that providing optional licence and accreditation terms of longer than one year would provide a balance with the new requirements being imposed.

The independent investigation also considered that renewal of a licence, driver and assistant accreditation no sooner than two weeks before expiry, was restrictive and should be removed to allow additional time for applicants to renew their licence or accreditation, providing increased flexibility for applicants to lodge their application.

Government response

The terms for a licence or accreditation were adjusted to include provision for one to five year terms, with an appropriate fee applicable for each term. When applying for a new licence, applicants are only initially granted a one-year term, however, the option to select a longer term on renewal, of up to five years, was included.

The restriction preventing renewal of a licence or accreditation being lodged no sooner than two weeks before it expired, was removed. This change provides increased flexibility for applicants renewing their licence or accreditation, providing an extended period of time to lodge an application.

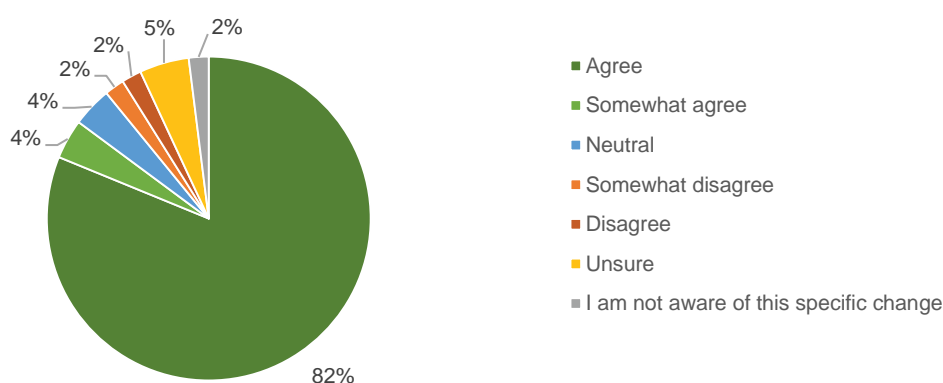
Stakeholder response

As indicated in Figure 11, the vast majority of survey respondents (86%), supported the changes to the licence and accreditation terms, along with the extended renewal lodgement period. More specifically, nearly all drivers and assistants under the regulated scheme identified this was an improvement, followed by a vast majority of licence holders and lastly the unregulated tow truck industry.

Some survey respondents that supported these changes, further suggested that TMR should advise the licence holder of the pending expiry and the licence term options available to them to ensure that licence holders are not inadvertently operating without a valid licence.

It is worth noting that NSW offers one and three year approvals for both licence and driver certificate. VIC offers 5 year approvals for operators and 3 years for drivers, while SA only offers yearly approvals.

Figure 11: Views on Licence and Accreditation Terms and Extended Renewal Lodgement Period



Q11. The changes to the licence and accreditation terms and the extended renewal lodgement period are a positive improvement?

Conclusion

The changes to the licence and accreditation terms and extension of the renewal lodgement period has resulted in a very positive response from industry and appears to have reduced the regulatory burden for licence holders, drivers and assistants. Despite this, consultation has identified an area for improvement in notifying the licence holder when an approval has expired. TMR will implement a new process for the central tow truck unit to more closely monitor licence holders and their licence expiry dates. When approaching licence expiry, it is proposed that TMR contact the customer to advise of the terms available if they wish to maintain their licence approval and the consequences if they undertake regulated towing services without this approval after the expiry date.

2.10 Awareness of changes

Background

Prior to the reforms, the TMR website contained information aimed at raising motorists' awareness of what to do in a crash. Information about how to apply for a licence or driver and assistant accreditation, and conditions upon approval were also included on the website, however limited information was available about private property towing.

Independent investigation

The independent investigation identified that motorists, private property owners and occupiers and operators were unaware of their rights and obligations about parking and removing vehicles from private property. Additionally, they were unable to identify information developed by government to assist the public to understand their rights and obligations about private property towing in Queensland.

The independent investigation concluded that an education and awareness campaign should be implemented to inform motorists, private property owners and occupiers and operators of the private property towing reforms.

Government response

TMR undertook an education and awareness campaign to promote the private property towing changes targeting motorists, towing operators and private property owners and occupiers, using multiple communication channels. The campaign included a ministerial media statement, updates to the TMR website targeting licence and accreditation holders, motorists and private property owners and occupiers, an article in the RACQ Road Ahead publication and TMR Facebook messaging.

TMR also provided letters and fact sheets to all registered operators of tow trucks recorded on the vehicle register, and existing licence and accreditation holders. Stakeholders who were consulted as part of the independent investigation were also consulted about the reforms.

Outdoor advertising billboards, variable message signs, and electronic messaging displayed in TMR Customer Service Centres were used to promote the reforms and the TMR publication *Your Keys to Driving in Queensland* was also updated.

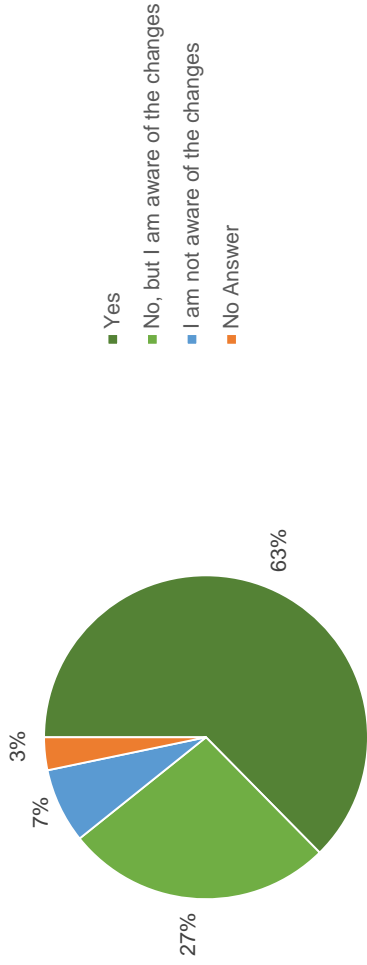
Stakeholder response

Respondents of the survey were asked if they were aware of the changes to private property towing, with 90% of respondents indicating they were aware of the changes. This figure included 63% who said they became aware of the changes when the reforms were introduced and keep abreast of the changes as they happen because it impacts their line of work and they like to remain compliant. Those who became aware of the changes after the fact indicated media coverage raised their awareness or were informed by a work colleague or employer. A further 27% said they were unaware of the changes when introduced but have since been made aware of the changes.

Respondents indicated the primary source of awareness was through TMR letter (32%), while 13% stated they became aware of the changes through the TMR website.

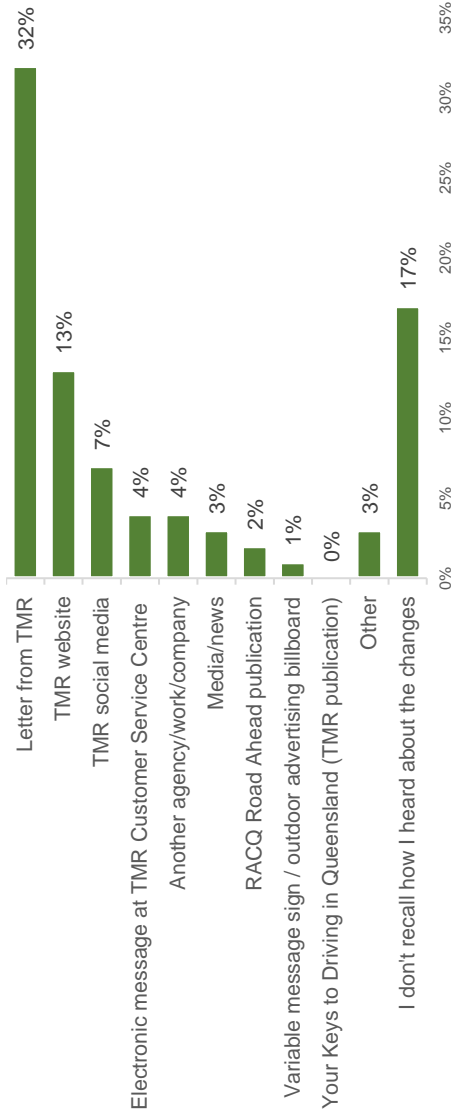
The communication channels employed by TMR were economical and provided a broad coverage of media to ensure information about the reforms were communicated effectively.

Figure 12: Aware of Changes to Private Property Towing



Q1. Did you hear about the changes to private property towing when they were introduced?

Figure 13: Source of Awareness Regarding Changes to Private Property Towing



Q1.1. How did you hear about the changes to private property towing when they were introduced?

Conclusion

It is apparent from the survey results that the vast majority of respondents were aware of the changes made to private property towing when introduced or during the last two years of operation.

Based on the survey results, the best methods for communicating information to industry and the public was via direct email, mail and publishing on the TMR website. TMR will continue ongoing use of these types of communication methods to disseminate information on any future changes. The increasing use of email addresses is expected to make this process more efficient, timely and a more economical option for TMR in the future.

2.11 Policies, procedures and training

Background

Prior to the reforms, TMR's policies and procedures applied only to regulated towing, which did not include private property towing. Auditing of licence holders was infrequent and was generally only after a complaint was received.

Independent investigation

The independent investigation recommended the establishment of a central TMR tow truck unit to oversee private property towing activities to improve the administration, monitoring, enforcement and training of Queensland's regulated tow truck scheme.

Government response

TMR developed new policies, procedures and dedicated resources to assist in administering and enforcing legislative requirements that applied to private property towing with the formation of TMR's central tow truck unit being key to this approach. This unit was established to maintain accountability for the oversight of compliance activities and ensure that appropriate mechanisms are in place to administer, monitor and enforce Queensland's tow truck scheme.

All complaints reported to TMR, either through the hotline, correspondence or other intelligence channels are investigated by the tow truck unit. The nature of the complaint determines whether an audit may be conducted to determine if wide-spread non-compliance is occurring. Complaints may be addressed through either education of the licence or accreditation holder, issuing warning letters, issuing infringement notices where evidence can be substantiated or commencing action to suspend, immediately suspend or cancel the licence or accreditation.

An audit program commenced requiring licence holders to undergo regular auditing of their records, business premises and holding yards. The audit program consists of three audit types:

- pre-licence audits, conducted before a new licence holder is approved,
- triggered audits, conducted following receipt of a complaint, and
- regular scheduled compliance audits.

A corrective action request is issued for any non-compliance detected during an audit. Failure to comply with a corrective action request may result in further action such as issuing an infringement notice or where serious non-compliance is detected, the commencement of action to suspend, immediately suspend or cancel the licence.

In the two years since the commencement of the reforms, 112 audits have been conducted on licence holders with 42 passing, five audits still in progress and 65 failing due to non-compliance issues. In instances of non-compliance, the licence holder is issued with a Corrective Action Request and has 14 days to rectify the non-compliance. Non-compliance that is serious and likely to jeopardise public safety, may result in immediate suspension of the licence holder or an infringement notice.

TMR also undertook an education program to ensure information relating to the tow truck scheme in general, as well as the reform changes, were disseminated to customer service centre staff and compliance officers. Two focus group training sessions were also delivered to Transport Inspectors. Additionally, tow truck unit staff and compliance representatives meet regularly to raise and discuss any issues, resulting in better communication across TMR. Information related to the tow truck scheme, reforms and compliance was developed and published internally via the TMR database, website and through messages to staff. These initiatives impact primarily on internal TMR policies, procedures and staff training, with limited visibility of these practices outside of TMR, therefore, community and industry were not provided with a corresponding survey question on the effectiveness of this reform.

A presentation, Q&A's and other relevant material was also provided to QPS to assist in training staff about the reforms.

Stakeholder response

The number of complaints reported and subsequently investigated indicate that the hotline and other reporting mechanisms have been beneficial in ensuring a more rigorous approach to compliance activities has occurred.

Conclusion

Complaints to the hotline have reduced considerably since the reforms were implemented, demonstrating that establishing the tow truck unit and supporting policies, procedures and training has resulted in real benefit. TMR will continue to monitor and further refine policy, procedures and training materials and identify and respond to any patterns or systemic issues raised.

2.12 Publishing information on the TMR website

Background

Prior to the reforms, no statistical information was published on the TMR website in relation to either regulated towing or private property towing.

Independent investigation

The independent investigation recommended that the central tow truck unit should publish de-identified information on the TMR website on a six-monthly basis, to provide transparency around the activities related to the regulated tow truck scheme.

Government response

In response to the independent investigation, TMR now publishes extensive information on the TMR website every six months, including:

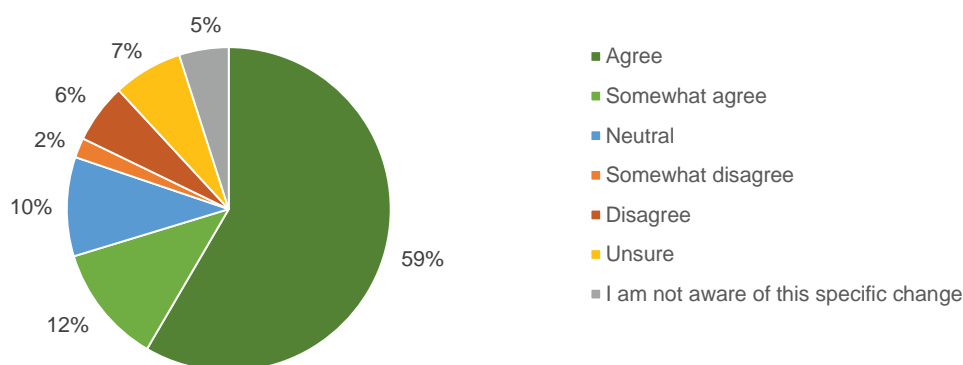
- complaints and the outcome of these complaints for both crash and private property towing,
- audits conducted and outcomes,
- number of infringement notices issued and matters dealt with by a court, and
- maps identifying 'hot spot' locations where private property towing is undertaken.

Stakeholder response

The survey indicated strong support for key information being published on the TMR website, with 71% of respondents agreeing this has improved the transparency of private property and crash towing complaints and monitoring, provided the information is of a generic nature and does not identify individuals.

RACQ believes the reporting of complaints should extend to publishing the details of infringement or action against an individual licence holder as it would greatly improve the transparency, however, privacy provisions prevent this from occurring.

Figure 14: Regulating Compliance Towing Services



Q12. Key information published on the TMR website has improved the transparency of private property towing and crash towing complaints and monitoring?

Conclusion

Consultation indicates stakeholders are satisfied that the publishing of key information on the TMR website has improved transparency of private property towing practices.

3. Broader tow truck scheme matters

Background

The Act and Regulation provide the framework for the towing of motor vehicles from the scene of a crash, private property and police seizure in regulated areas of Queensland. Commencing in 1973, the Act and Regulation were expanded in 1997 to include vehicles seized by police at off-street regulated parking areas and again in 2018 to include the private property towing reforms.

Independent investigation

While the independent investigation considered private property towing and its context within the broader tow truck scheme, they did not undertake a comprehensive review of the Act and Regulation. A range of broader issues in relation to the framework became apparent during the course of the investigation. Accordingly, in addition to the 22 recommendations that focus on private property towing, a further eight matters for consideration were recommended by the independent investigation to address these broader issues.

Government response

Along with the 22 recommendations made by the independent investigation, the government also accepted an additional eight recommendations regarding broader tow truck scheme issues. While some of these legislative amendments were implemented following the independent investigation and are covered in the first half of this report, however, three broader issues remain outstanding including:

- Review the Act and Regulation to ensure the regulatory framework is simple, precise, accessible and appropriately targeted to achieve the policy objectives,
- Review the towing services covered by the Act and Regulation to ensure the regulatory framework is appropriately targeted to achieve the policy objectives, and
- Review the geographic areas covered by the Act and Regulation to ensure the regulatory framework is simple, precise and accessible and coverage is appropriately targeted to achieve the policy objectives.

TMR is undertaking a review of the Act and Regulation to ensure Queensland's tow truck scheme provides an effective and contemporary framework for the regulation of the towing industry and continues to meet its intended objectives. Part B of the discussion paper and survey provided the community and industry with an opportunity to provide feedback on proposed reforms to improve and modernise the scheme. Two industry forums were also held along with meetings with key stakeholders.

3.1 Types of towing services

Background

In Queensland, regulated towing services are defined under the following categories:

- towing of damaged vehicles from the scene of a crash,
- towing of vehicles seized by police at off-street regulated parking areas, and
- towing of vehicles parked on private property.

The framework of Queensland's tow truck scheme does not currently apply to breakdown towing, trade towing, or compliance towing, that is, towing of illegally parked cars on a road or vehicles impounded under the anti-hooping laws.

TMR occasionally receives complaints about these types of towing services, however, given the unregulated nature, can only refer the matter to QPS if it's of a criminal nature or refer to the Queensland Office of Fair Trading if the complaint relates to unfair business practices.

Independent investigation

The independent investigation recommended a review of the towing services covered by the Act and Regulation be undertaken to consider if the framework should be expanded to other towing services. In reviewing towing services, TMR should consider if the scheme is appropriately targeted to achieve its policy objectives

Government response

In response, TMR agreed to investigate the feasibility of expanding the scheme's framework to include breakdown, trade and compliance towing services. This proposal is currently being explored as part of the comprehensive review of the Act and Regulation.

Stakeholder response

Throughout consultation, stakeholders were asked if trade, breakdown and compliance towing services should be regulated in Queensland or whether the focus of the scheme should remain on regulating only crash towing, police seizures from off-street regulated parking areas and private property towing.

The majority of survey respondents (approximately 63%) had the view that compliance, trade and breakdown towing services should not be regulated. Respondents felt that given the customer generally has the right to choose their preferred tow truck operator and negotiate a reasonable rate for these types of towing services, there is no need to expand the regulatory provisions of the current scheme. Approximately 25% of survey respondents, however, felt that these towing services should be regulated to improve industry standards and provide equality across all towing services types.

While NSW regulates all types of towing services and all operators need to be licensed and drivers accredited, the NSW scheme is not fully regulated. In SA, all towing services within the greater Adelaide metropolitan area are regulated. However, VIC only regulates the towing of vehicles damaged in crashes only. Other forms of towing, such as trade towing, are not regulated.

Conclusion

Results of the survey indicate there is little support for the inclusion of breakdown, trade and compliance towing as part of Queensland's regulated tow truck scheme and there are few complaints made to TMR about these types of towing services.

In most cases, particularly in relation to trade and breakdown towing, the motorist can arrange their choice of towing operator based on the price, or other business factors such as reputation, punctuality and behaviour of the operator or through affiliation with a motoring association or insurance provider. These competition elements are of distinct advantage to the motorist, resulting in less need for government regulation of these types of towing services. This is in contrast to regulated towing from the scene of an incident where government regulation is vital in protecting the consumer, particularly when they may already be in a vulnerable and emotional state, with numerous competing towing operators vying for business.

Based on these reasons, it is not proposed to expand the Act and Regulation to include breakdown, trade and compliance towing services at this time.

3.2 Regulated areas

Background

In Queensland, the tow truck scheme requires the licensing of operators and the accreditation of drivers and assistants involved in regulated towing services, in regulated areas of Queensland.

Regulated areas are primarily located in South East Queensland and the major urban local government centres along the east coast. These areas are regulated based on population and where a need for government intervention to protect motorists was identified due to numerous towing operators competing for towing work.

The current regulated areas, as detailed in Schedule 4 of the Regulation, consist of cities, parishes and local government boundaries, which pre-date the 2008 Queensland local government boundary amalgamations and do not align with the current Queensland local government boundaries. This has resulted in both the tow truck industry and law enforcement officers experiencing issues in identifying the geographic areas where the tow truck scheme applies. It is not viable to continue to use the out-dated local government areas. Furthermore, any amendments to existing regulated area boundaries cannot be achieved without consequentially imposing requirements on parts of the state that are not currently regulated or without reducing requirements in some areas currently regulated.

In NSW, all tow truck operators must be licensed, and drivers must be certified with no restriction on where an operator may conduct towing activities. Crash towing is regulated across all of VIC and only accredited drivers and tow truck vehicles can attend crash scenes to remove damaged vehicles that are unable to be driven. An accident allocation scheme exists where tow trucks are allocated from a central point. The allocation scheme operates in Melbourne, the Peninsula areas and in Geelong. SA regulates all towing services within the greater Adelaide metropolitan area, requiring that tow trucks operating in this area are approved and drivers accredited. Tow trucks are dispatched to crashes in this area through a roster allocation scheme.

Independent investigation

As a matter for further consideration, the independent investigation suggested the geographic areas covered by the Act and Regulation be reviewed.

Government response

TMR agreed to a review of the geographic areas covered by the Act and Regulation and proposed two options in the discussion paper. The two options included:

- the expansion of the Act and Regulation requirements to apply across the whole of Queensland and
- the realignment of existing regulated areas to current local government boundaries.

Stakeholder response

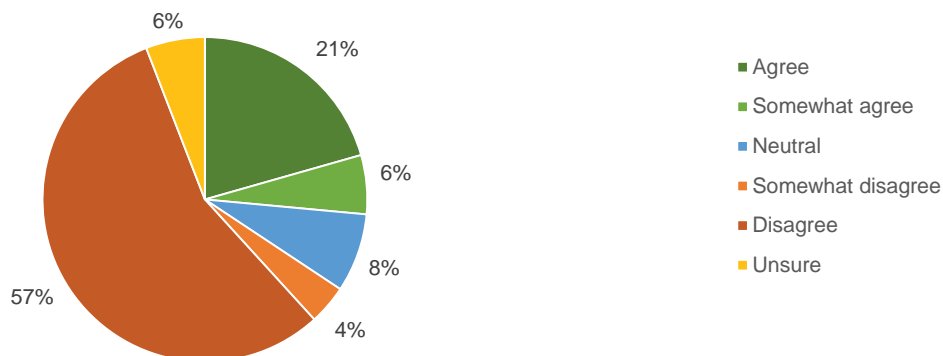
Survey respondents were asked two questions related to regulated areas specifically, (1) if all of Queensland should be regulated and (2) if the regulated areas should be realigned with current local government boundaries. The results of both questions were similar, with 61% of survey participants not supporting either option.

Those who disagreed with regulating all of Queensland were concerned that, given the size of the state, it would be challenging and a financial disincentive in regional and remote areas. Those who agreed (27%) were mainly of the opinion that the whole towing industry should comply with the same laws, giving everyone a fair chance and allowing for the standardisation of operators.

The same participants held similar views for realigning existing regulated areas to current local government boundaries. Those in support of the proposal (24%) were less concerned about realigning boundaries or regulating all of Queensland and were more concerned with simplifying work areas and standardising operations.

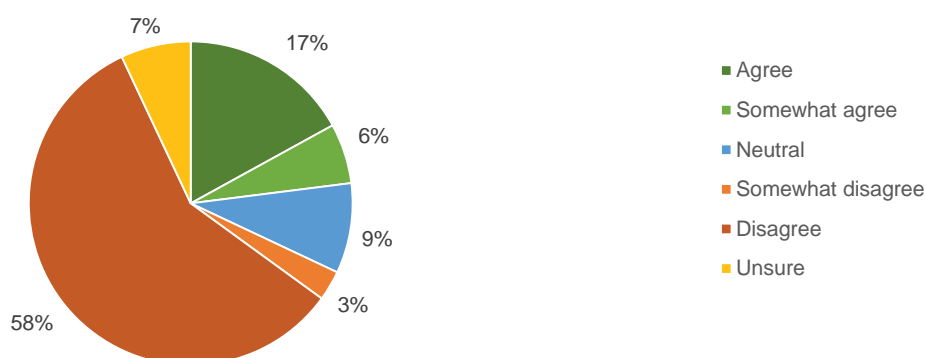
It is possible that based on the absence of survey respondents clearly indicating a definitive preference for either of the two options, the questions may have been misinterpreted. In addition, it is plausible that survey respondents have expressed a wish for the current regulated areas to remain unchanged, due to their familiarity with this system and therefore see no reason for change. As noted in the discussion paper, however, it is not viable to continue with the existing regulated areas as they no longer align to current local government boundaries, creating more confusion with both the tow truck industry and law enforcement officers.

Figure 15: Regulating Areas for All of Queensland



Q14.1. Regulated areas for towing services should apply to all of Queensland?

Figure 16: Realigning Existing Regulated Areas to Current Local Government Boundaries



Q14.2. Regulated areas for towing services should simply be realigned to the current local government areas?

RACQ provided separate feedback from two of their business areas. RACQ Insurance agrees with the realignment, however RACQ Roadside Assistance suggested that only the current regulated areas of South East Queensland, Toowoomba and large metro locations should continue being regulated in the future. QPS indicated they did not have any objections to the expansion but suggested TMR ensure all affected tow truck operators are informed of any expansion of regulated areas.

Conclusion

While the results of the survey were inconclusive, expanding the geographic areas to align with the current local government boundaries would be the most beneficial option. These areas are predominately located in South East Queensland and major provincial cities where most crashes occur, a higher number of tow trucks exist and there is the largest demand for towing services. Based on these areas having a greater potential for multiple vehicles competing for towing work, there is sound rationale for the need to regulate industry in these areas to maintain service standards and provide consumer protection, while still providing equity in the provision of towing services. Additionally, the expansion to the geographic areas to align with current boundaries would improve clarity for industry, law enforcement officers and TMR in identifying where the provisions of the Act and Regulation apply.

It is anticipated that only a limited number of tow truck operators may be adversely impacted by this change, with approximately 46 vehicles in Queensland, described as tow trucks, located adjacent to the current regulated areas. It is not possible, however, to determine the exact number of towing operators impacted as it is unlikely that all tow trucks would be involved in providing regulated towing services (such as crash or private property towing). Only five of these tow trucks have a registered operator identified as being that of a towing business.

In contrast, regulating all of Queensland would impose significant impacts on tow truck operators who currently operate in unregulated locations, including significant financial and business impacts. These impacts would likely not be offset by the same level of economic return or towing volumes as would occur in more populated, current regulated areas.

It is further proposed that the legislation allow for increased flexibility to facilitate any future changes to the local government boundaries as a result of local government amalgamations and de-amalgamations.

The proposed regulated areas include the following local government areas:

Brisbane City Council	Bundaberg Regional Council	Cairns Regional Council
Fraser Coast Regional Council	Gold Coast City Council	Gympie Regional Council
Ipswich City Council	Lockyer Valley Regional Council	Logan City Council
Mackay Regional Council	Moreton Bay Regional Council	Noosa Shire Council
Redland City Council	Rockhampton Regional Council	Scenic Rim Regional Council
Somerset Regional Council	Sunshine Coast Regional Council	Toowoomba Regional Council
Townsville City Council		

Attachment A indicates the extra areas proposed to be regulated (shown in green), in addition to the current regulated areas (shown in purple).

3.3 Tow truck assistants

Issue

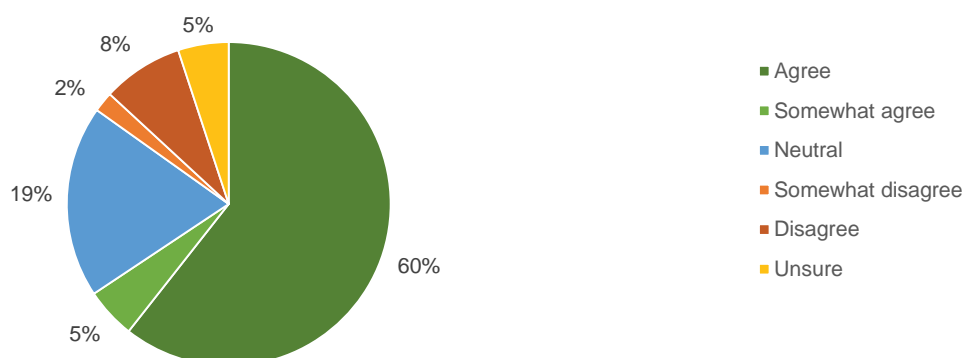
An assistant is authorised to travel in a tow truck and assist an accredited driver to perform regulated tow truck services, in regulated areas of Queensland. Their role is to assist in preparing and loading the vehicle onto the tow truck, along with crash scene clean up and removal. As at 1 August 2020, there were 60 accredited assistants in Queensland. Given the low number of assistants and the absence of the assistant role in other jurisdictions, TMR explored whether this role is still required within the Queensland regulated tow truck industry.

Analysis

The majority of survey respondents (65%) agreed that there is an ongoing need to retain the role of assistants in the regulated towing industry in Queensland. Attendees at industry forums also strongly agreed with retaining the role. Views expressed throughout stakeholder consultation suggested that assistants provide a valuable role, particularly at large crash scenes or at crash scenes where heavy vehicles are needing to be towed. More importantly, assistants provide a mechanism for those who don't have a heavy vehicle licence to gain entry within the towing industry or where they may be employed across multiple roles within a towing business. Only a small number of respondents (10%) disagreed with retaining tow truck assistants, citing the role was unnecessary.

RACQ Advocacy identified the role had a purpose for assisting at complex recoveries of heavy vehicle crash scenes. However, RACQ Roadside Assistance held a neutral position, stating that the role could be used for coaching new staff but should not be needed for riding in trucks.

Figure 17: Retaining Accredited Tow Truck Assistants



Q15. There is an ongoing need to retain the role of accredited tow truck assistants in the regulated towing industry in Queensland.

Conclusion

Given the strong views from the towing industry, it is proposed to retain the role of assistants as a continued mechanism for entry into the tow truck industry. Further, tow truck licence holders be encouraged by TMR to continue to provide appropriate on-the-job training to ensure the safety of assistants and drivers and the security of vehicles and property located within vehicles.

3.4 Tow truck driver proficiency

Issue

An applicant must hold an Australian driver licence for the vehicle class they wish to hold tow truck driver accreditation. They must also demonstrate their ability to operate a tow truck. This can be achieved by either holding an Australian driver licence for the class of tow truck vehicle for a period of three continuous years immediately prior to application or where they can't meet this requirement, by undertaking a tow truck operational test. Neither of these requirements, however, guarantee that an applicant has the ability or knowledge to drive and properly control a tow truck.

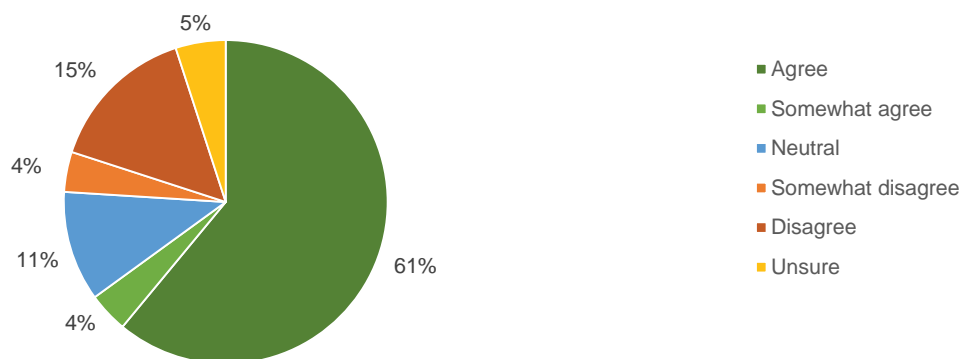
Given the high financial outlay of a fitted out tow truck, it is expected that a tow truck licence holder would assess a driver's skill and provide relevant training prior to tasking a driver with vehicle removal. Based on this, TMR has investigated the removal of both the three year licence requirement and tow truck operational test.

Analysis

Almost two-thirds of survey respondents (65%) agreed with the proposal to remove the 3-year continuous driver licence requirement and operational test as mandatory requirements to become a tow truck driver. Strong agreement (eight in ten) was evident among both drivers and assistants and unregulated drivers. Those in agreement stated that the operational test is not reflective of real-life situations and is not seen as valuable to the industry. Both QPS and RACQ indicated their support with the proposal, believing the responsibility should lie with the tow truck licence holder or tow truck owner, not TMR. There is added benefit in removing the operational test as TMR does not currently charge a cost recovery fee for this service. Further, the skills required by TMR Driving Examiners to undertake this test may be limited and it is questionable that either the operational test or licence tenure is sufficient evidence that the applicant has the ability or knowledge to drive and control a tow truck.

Neither VIC or NSW require applicants to demonstrate their skill or proficiency to drive or operate a tow truck, however, SA requires a tow truck practical and proficiency test. There is also no minimum or consistent training standard that applies nationally for tow truck drivers.

Figure 15: Tow Truck Driver Proficiency



Q16. The 3-year continuous driver licence requirement and operational test should be removed as mandatory requirements to become a tow truck driver?

Conclusion

It is proposed to remove both the requirement for holding the driver licence for three continuous years and the tow truck operational test. To ensure applicants have the required skill and ability to drive this type of vehicle, applicants will still be required to hold an Australian open driver licence of the class of vehicle they wish to obtain a tow truck driver certificate for, to be eligible to apply for tow truck driver accreditation.

3.5 Unaccredited tow truck drivers and assistants

Issue

TMR occasionally receives complaints of drivers and assistants undertaking towing activities despite not holding TMR accreditation. In response, TMR increased the infringement notice penalty in April 2018 for operating a tow truck without a tow truck licence from \$252 to \$1,566 and driving a tow truck without tow truck driver accreditation from \$252 to \$783. These penalties have since been increased to \$1601 and \$800 respectively.

While the maximum penalties for these offences were increased as part of the private property towing reforms, there remains no equal deterrent for a tow truck licence holder using unaccredited tow truck drivers and assistants to perform regulated towing work.

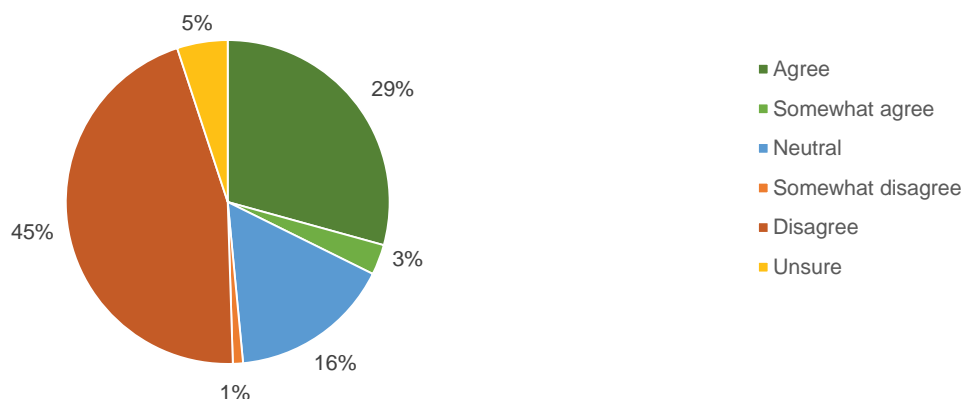
Analysis

Most jurisdictions include provisions for tow truck licence holders to be licensed and tow truck drivers to be accredited and certified. NSW also restrict licence holders from employing or engaging the services of a person unless they are a certified tow truck driver.

The survey attracted a fairly disperse response on this proposal with over one third of survey respondents (32%) agreeing that a penalty should apply as it would deter unlicensed drivers and assistants from operating. Interestingly, this view was mainly held by tow truck licence holders. The majority of survey respondents were not in favour (46%) citing that the licence holder may not be notified when a tow truck driver has lost their tow truck driver licence and that there would be difficulties in monitoring this. As a result, they believe the responsibility should rest with the tow truck driver and assistant to ensure they are accredited and resulting penalty applied to the driver and assistant.

QPS saw a parallel with the responsibilities of a heavy vehicle operator for their drivers under the Heavy Vehicle National Law. RACQ believe penalties should be substantial to act as a deterrent to both tow truck driver and licence holder.

Figure 16: Penalties for Unaccredited Drivers and Assistants



Q17. A penalty should apply if a tow truck licence holder employs an unaccredited tow truck driver or assistant to undertake regulated towing.

Conclusion

It is proposed to add a new provision and an appropriate infringement notice penalty that a tow truck licence holder must only use TMR accredited tow truck drivers and assistants to perform regulated towing work.

The introduction of this infringement penalty will ensure that there is a proportionate and effective enforcement response where a party in the chain of responsibility does not comply with the Act and Regulation. Additionally, it maintains consistency with similar provisions that exist for tow truck drivers who drive without accreditation.

3.6 Towing incentives

Issue

In Queensland, incentives or rewards are not permitted to be offered in exchange for details of a crash location. A person is also not permitted to offer a reward to obtain repair work for a damaged motor vehicle either for oneself or another party. TMR introduced these restrictions to discourage the use of 'spotters' reporting crash locations and to reduce collusion and uncompetitive practices in the towing and vehicle repair industries.

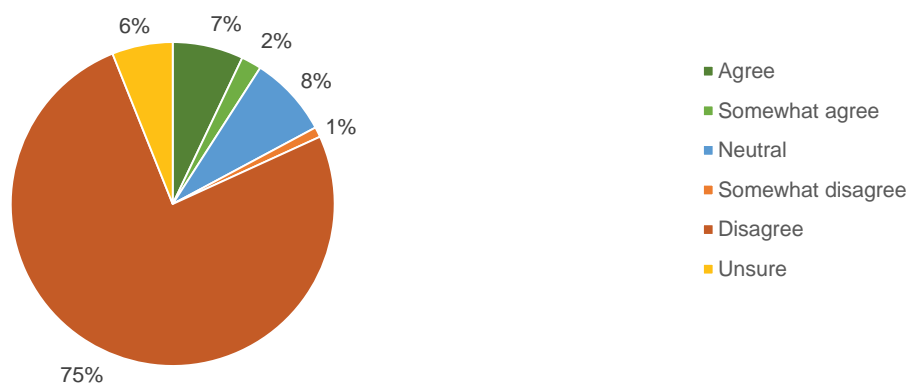
Questions have recently been raised as to whether tow truck licence holders, drivers or assistants should be permitted to provide a benefit or incentive to a motorist (such as a courtesy vehicle, gift voucher or monetary reward) in exchange for the tow of their crashed vehicle. TMR sought community and industry views on this issue through the discussion paper and survey process.

Analysis

As with Queensland, VIC and SA do not strictly prohibit incentives being offered to motorists in exchange for a tow, however NSW prohibits inducement for the purposes of obtaining towing work.

More than three-quarters (76%) of survey respondents disagreed with towing incentives being offered to motorists with the primary reasons being that the practice could lead to coercion in what is an already stressful situation for a motorist. Only one in ten survey respondents agreed that towing incentives should be permitted and identified this as an opportunity to raise service standards. About two in five of these respondents identified as TMR tow truck licence holders.

Figure 17: Towing Incentives



Q18. Tow truck licence holders should be permitted to offer motorists an incentive to obtain an authority to tow a crashed vehicle.

RACQ is strongly opposed to towing incentives being offered to motorists who are vulnerable at the roadside after a crash and believes these practices can potentially lead to other undesirable business activities such as credit hire car schemes that exist for not-at-fault drivers and other solicitation practices. For example, some businesses provide free car hire, claims handling and repair services to not-at-fault drivers and seek payment for these services from the at fault driver's insurance company. These practices, however, may ultimately have a negative impact on motorists through increased insurance premiums and lead to motorists incurring over-inflated costs. RACQ believe the penalty for offering an incentive should be high for both tow truck driver and licence holder to act as a suitable deterrent to industry. QPS supports the view that towing incentives could undermine the whole purpose of regulating towing fees, as well as the intention of legislating for the orderly conduct at crash scenes.

Conclusion

Based on research and stakeholder consultation, incentives could seriously undermine the objectives of the tow truck regulatory scheme and may not in the best interest of motorists. Accordingly, it is proposed that the practice of offering towing incentives should be prohibited and legislative amendments made accordingly to this effect.

3.7 Heavy vehicle towing

Issue

The standard tow fee for private property towing is \$260.25 and towing from a crash scene is \$375.95 for the first 50km. These fees apply irrespective of the size or weight of the vehicle towed or the size or class of tow truck undertaking the task. A standard tow applies to vehicle tows requiring up to 60 minutes working time at the scene, transporting the vehicle to the location indicated on the towing authority, and holding yard storage up to 72 hours. The question has been raised as to whether the standard tow fee should apply in the case of a heavy vehicle that requires towing.

Analysis

Tow trucks are purpose-built vehicles equipped with a lifting or loading device capable of towing a motor vehicle or used to tow a trailer on which a vehicle is lifted and carried. The Regulation specifies that licensed tow trucks in Queensland are identified as one of two types (1) tray or platform tow trucks or (2) tow trucks that are not tray or platform tow trucks. These tow trucks are further categorised depending on their load capacity, their equipment lifting capacity and vehicle configuration.

The majority of licensed tow trucks in Queensland are capable of towing a light vehicle up to 4.5 tonne gross vehicle mass (GVM), while only a small proportion of tow trucks are capable of towing larger, heavier vehicles. The largest tow trucks, with capability of towing more significant sized heavy vehicles (such as a b-doubles, road trains, buses, large agricultural and other special purpose vehicles) are identified as Class 4 tow trucks. Under the Regulation, Class 4 heavy vehicle tow trucks have a minimum lifting capacity of at least 5 tonnes, a power operated winch, tandem or tri-rear axle group, and a minimum gross combination mass rating of 25 tonne. Of approximately 550 licensed tow trucks in Queensland, it is estimated that less than 60 tow trucks are Class 4, with these vehicles being operated by specialised heavy vehicle towing providers. While some other classes of tow trucks, such as Class 3 and Classes 3T and 4T (approximately 20 licensed tow trucks), can tow heavy vehicles over 4.5 tonne GVM, these tow trucks would not be capable of towing the more significant sized heavy vehicles mentioned above. The majority of the Queensland towing fleet (approximately 470 licensed tow trucks) are tow trucks restricted to light vehicle towing only.

Concerns were raised by heavy vehicle towing licence holders throughout consultation that standard tow fees should not apply when towing a heavy vehicle over 4.5 tonne GVM. The common view was that the standard tow fee for a heavy vehicle tow is not commercially viable given the significant purchase and operational costs unique to Class 4 tow trucks, and that this type of towing is often considered non-standard. Licence holders operating Class 4 tow trucks were charging well in excess of the regulated standard tow charges, when towing heavy vehicles. However, no operators could provide TMR with examples of heavy vehicle tows requiring less than 60 minutes working time, even from arrival at the scene – meaning operators were not required to charge the standard tow fee.

Survey respondents, forum participants and industry groups indicated that heavy vehicle tow trucks (Class 4) are significantly more expensive to purchase with considerably higher operating costs. They also indicated that heavy vehicle towing can be complex and at times involve a range of factors. This may include the need to use additional specialised machinery or equipment for vehicle salvage or the use of other services such as site coordination or traffic control. These items can result in a very costly activity that is unable to be offset by the standard tow fee / charge. In addition, the use of these items cannot always be determined at the commencement of the task, adding to the inability to complete a towing authority in full or accurately, at the outset. Further, given the relatively small number of Class 4 tow trucks throughout Queensland, and the specialist service they provide, these tow trucks often travel significant distances to attend the scene of a regulated heavy vehicle crash tow.

More than two-thirds of survey respondents (66%) disagreed that the current time limit of 60 minutes working time for a standard tow should apply when undertaking heavy vehicle tows. Those who disagreed mainly suggested costs and work involved with heavy vehicle recovery differs considerably based on each individual situation. A large number of survey respondents (72%) also disagreed that the standard tow fee should apply to both heavy and light vehicle towing. Similar to sentiments expressed in relation to the 60-minute time limit, mostly tow truck drivers/assistants (TMR accredited) held this view (more than eight in ten disagreed).

TMR acknowledges that a Class 4 tow truck used to tow heavy vehicles costs more to purchase, operate and maintain. It is also acknowledged that in many instances, it is difficult to provide an accurate quote for this type of tow at the time of completing the towing authority. These concerns were also raised by the heavy vehicle towing industry at the 2019 towing forums conducted by TMR and has been further reiterated during consultation with industry groups.

The Regulation currently allows licence holders the flexibility to charge more than the standard tow fee for a heavy vehicle tow, provided the tow takes longer than 60 minutes. Any additional costs must be considered reasonable in the circumstances.

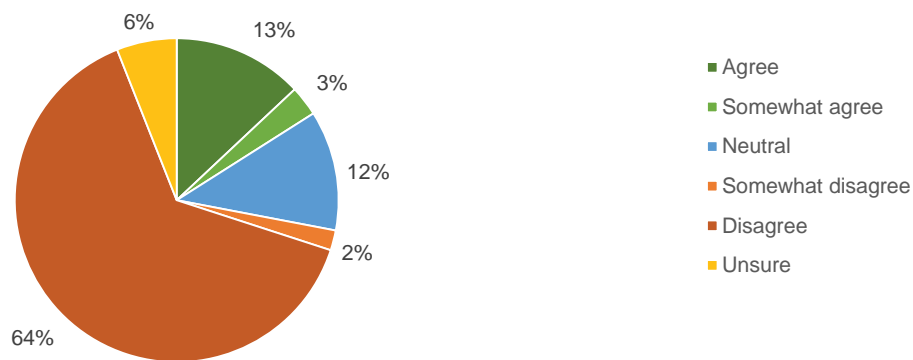
TMR has been informed by the heavy vehicle towing industry that Class 4 towing from the scene of a crash often occurs under a commercial contract with heavy vehicle owners or insurers. The presence of this tow contract provides industry specific insurance protection that is not otherwise afforded to the majority of other towing customers.

As the peak heavy vehicle industry body in Queensland, the Queensland Trucking Association believe that Class 4 tow trucks undertaking heavy vehicle towing should be exempt from the standard tow fee and completion of the fee component of the towing authority. Their view is based on the specific operating environment of Class 4 tow trucks and the complexity of heavy vehicle tows, the significant vehicle purchase and operating costs, and unique commercial contract arrangements applicable to Class 4 tow trucks, that do not exist for other tow trucks.

NSW undertook a review in 2014 of their maximum towing fees, with the Independent Pricing and Regulatory Tribunal (IPART) recommending that heavy vehicle towing fees be deregulated for crash towing given the operational cost variances of heavy vehicle towing compared to light vehicle towing. In addition, heavy vehicle drivers are likely to be professional drivers and therefore less vulnerable at the scene of a crash and are more likely to be used for business purposes, with specific insurance arrangements in place for vehicle crashes. Despite the NSW Government supporting the recommendation in principle, concerns were raised as to how the consumer may be protected in view of costs, including the likely additional costs that may result from increased insurance premiums. NSW therefore continues to regulate maximum towing fees for heavy vehicle towing. Currently, maximum charges in NSW for towing relate to the type of tow truck utilised with this charge ranging from \$293 to \$391 per hour for Class 4 tow trucks with a gross combination mass of 25 tonnes to over 60 tonnes.

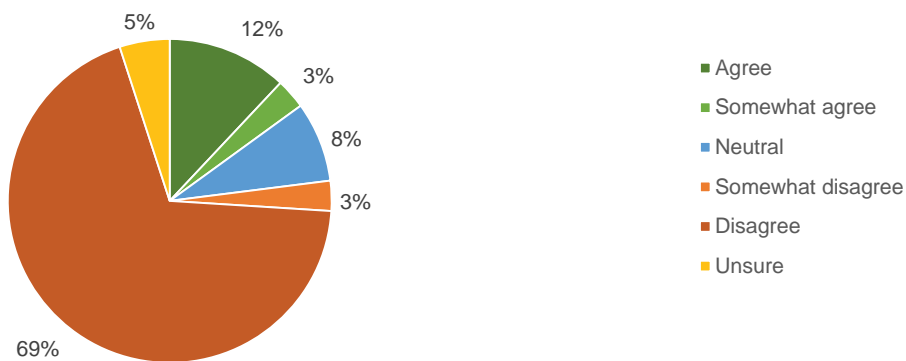
Given the complexity of the recovery task for heavy vehicles, both SA and VIC do not currently regulate heavy vehicle towing fees.

Figure 18: Heavy Vehicle Towing Time Limit



Q19.1. The 60-minute time limit for a standard tow should continue to apply when undertaking a heavy vehicle tow

Figure 19: Heavy Vehicle Towing Fees



Q19.2. The standard tow fee should continue to apply to both towing of heavy and light vehicles.

Conclusion

Consideration has been given as to whether changes are warranted to the standard tow fee and 60 minute time limit for Class 4 towing of heavy vehicles. To address the issues raised by industry about the applicability of standard fees to heavy vehicle tows, it is proposed to exempt Class 4 tow trucks from charging the standard tow fee when undertaking towing of heavy vehicles over 4.5 tonne GVM. This is due to the higher operational costs to purchase and maintain a Class 4 tow truck and the increased complexity when undertaking towing of a heavy vehicle.

To ensure the intent of the current provisions in the Regulation are made clear in this regard, it is also proposed to incorporate examples of heavy vehicle towing in the legislation and in industry communications. Examples will assist to provide clarity for industry about when a standard tow fee applies and what charges may or may not be applied.

Further, in acknowledgement of the issues experienced by Class 4 tow truck licence holders in attempting to comply with the requirement to provide an accurate quote on the towing authority, it is proposed to develop a separate towing authority for Class 4 towing of heavy vehicles for use in regulated areas. Refer to section 3.9 for more detail on the proposed changes to the towing authority.

There remains an ongoing need to regulate other aspects of heavy vehicle towing practices, for example, scheme entry requirements and conduct obligations of licence holders, drivers and assistants, to ensure ongoing consumer protection is provided.

TMR will continue to monitor and review standard tow fees and their applicability to the heavy vehicle towing industry, including any incidence of inappropriate charging following implementation of these amendments, and address any issues that may arise.

3.8 Maximum storage fees

Issue

Research undertaken by TMR indicates that holding yard storage fees, particularly in South East Queensland, generally range from \$60 and \$90 per day (GST exclusive). This may be deemed more than what would be considered reasonable by the government and community for storage of a vehicle in a holding yard following a crash.

Currently, only storage fees related to towing from private property are capped in Queensland. The private property towing reforms that commenced in 2018 introduced maximum storage fees (currently \$26.00 per day) to apply after the initial 72-hour period concludes. These capped maximum fees were introduced primarily to protect consumers from potential exploitation.

In contrast, however, there is no maximum storage fee a tow truck licence holder can charge following towing from the scene of an incident, after the initial 72-hour period has concluded.

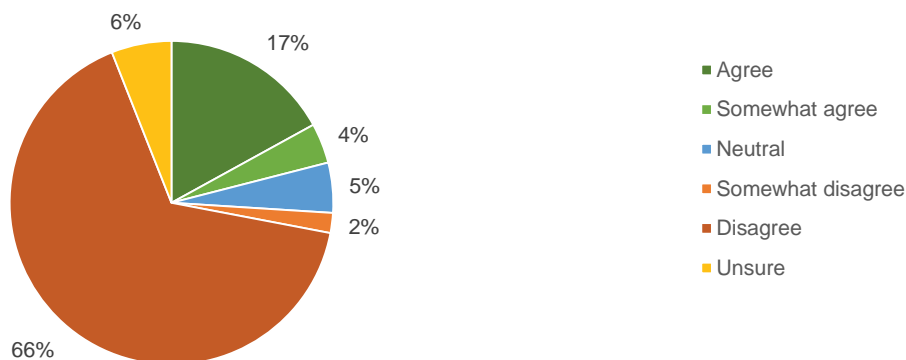
The independent investigation into private property towing also recommended that the Queensland Government consider whether storage fees should also apply to other forms of regulated towing services.

Analysis

While storage fees now apply to private property towing, inequity exists for storage fees for other regulated services with charges generally ranging from \$60 to \$90 per day (GST exclusive) in South East Queensland. Vehicle owners may be significantly impacted as a result due to the compounding nature of storage fees over an extended period of time, particularly when they may not be insured, and could incur financial stress. In addition, for insured drivers, the high cost of storage fees when met by the insurance industry would likely result in a negative impact for motorists through increased insurance premiums.

More than two thirds (68%) of survey respondents indicated the proposed maximum storage fee of \$25.55 (fee based on 2019/2020 financial year) is too low. Understandably, this group primarily consisted of members from the tow truck industry. However, 20% of survey respondents supported the introduction of a tiered approach for different classes of vehicles. RACQ supports the proposed maximum storage fee (based on the current private property storage fee) and considers that it is reasonable to apply across to the storage of vehicles from crash towing.

Figure 19: Maximum Storage Fees



Q20. A \$25.55 per day maximum holding yard storage fee should apply to all forms of regulated towing service types.

In other states, storage fees are consistent for all forms of towing services. NSW storage charges for light vehicles are set at \$27 per day in the Sydney Metropolitan area and \$15 per day in non-metropolitan areas. These capped fees resulted from a review of towing industry fees undertaken by the NSW *Independent Pricing and Regulatory Tribunal* who determined that storage fees should be regulated at an appropriate price to encourage more efficient use of storage facilities.

A 2018 review undertaken by Essential Services Commission in VIC determined that storage fees should be increased from \$17 per day to a more appropriate fee (currently \$25.70 per day for undercover storage and \$17.40 per day in a locked yard). In SA maximum storage fees are \$15 per day (if the vehicle is uncovered in a locked yard) and \$26 (if the vehicle is stored under cover).

In Brisbane CBD, BCC administers compliance towing where storage costs are capped at \$22 a day, \$109 a week with a maximum capped at \$218. These fees increase when dealing with heavy vehicle compliance towing (4.5t – 27t vehicles) with storage costs approximately doubled.

TMR also administers the Motorway Response Services and Abandoned Vehicle Management Service via a commercial contract, which prescribes fees paid by the customer and TMR for the removal of broken down vehicles. For example, the storage fee for abandoned vehicles is \$20 a day across South East Queensland incurred after the first 60 days.

While extending maximum storage fees to other regulated towing services (such as crash towing) would understandably be viewed unfavourably by the regulated towing industry, capping of storage fees to a more reasonable level of \$26 per day would provide additional protection for motorists from potential exploitation and the impacts of increased insurance premiums.

In addition, a capped maximum storage fee, similar to the private property storage fee, would improve consistency and equity in industry fees across the different types of regulated towing services and provide consistency across jurisdictions for vehicle storage fees

Conclusion

To provide additional protection to consumers and parity across the towing industry, it is proposed that government consider a \$26 maximum storage fee, similar to what applies for private property towing, be applied to regulated towing.

However, it is not proposed to extend the maximum storage fee to Class 4 tow trucks when storing heavy vehicles over 4.5 tonnes GVM. As advised at the tow industry forum, in most cases heavy vehicles that require towing are transported immediately to either the vehicle owner's choice of repairer or returned to the business depot for further assessment, therefore, heavy vehicles are rarely kept in tow truck storage holding yards.

3.9 Towing authority

Issue

The towing authority is a written agreement between the vehicle operator and tow truck driver which outlines the terms of the tow, such as the delivery destination and scheduled fees that the vehicle operator agrees to accept. In the event of incapacity of the vehicle operator an authorised officer is permitted to sign the towing authority on their behalf. As a result of the reform proposals and subsequent scheme changes, and in view of the issues experienced by Class 4 tow truck licence holders in accurately completing the towing authority, changes to the current towing authority are proposed.

Analysis

Being involved in a traffic crash can be a traumatic experience, so any improvement to lessen the emotional stress by streamlining the requirements detailed on the towing authority will benefit motorists. Additionally, providing clear requirements that tow truck licence holders and drivers must comply with will provide improved clarity and service.

As outlined in section 3.7, Class 4 tow truck licence holders experience difficulties in complying with the requirement to provide an accurate quote on the towing authority.

To address this issue and improve the administrative process for tow truck licence holders, drivers and the public, it is proposed to simplify and clarify requirements of the existing towing authority and develop a separate towing authority for Class 4 heavy vehicle tow truck licence holders undertaking heavy vehicle tows. The new Class 4 towing authority will remove the requirement for Class 4 tow truck licence holders to pre-determine costs, which are often not known at the time of tow when undertaking heavy vehicle tows.

Conclusion

The towing authority is being reviewed to ensure it captures sufficient detail to enable the motorist to make an informed decision on towing options. Improvements being considered include:

- simplified wording
- simplified layout
- improved instructions for motorists and tow truck drivers of their obligations, and
- updated policy and legislative references.

In consideration of the difficulties experienced by the heavy vehicle towing industry mentioned in 3.7, with their inability to provide an accurate cost estimate for a heavy vehicle tow in advance of completing the towing authority, TMR also proposes to develop a separate towing authority for Class 4 tow truck licence holders removing the requirement to provide towing costs upfront of the tow.

TMR will also explore the feasibility of a simple software solution, such as the use of a mobile application, to replace the current paper-based towing authority. This will modernise the administrative process in recording tow details, removing the reliance of carbon copies and provide improved access for industry and TMR to towing records.

The Queensland tow truck industry will be further consulted during this process.

3.10 Prohibited fees

Issue

As discussed in 3.7, a standard tow fee incorporates all aspects of the tow, up to 72 hours storage and no more than 60 minutes working time. Working time is defined as preparing the vehicle for towing and cleaning up the scene, or for private property towing, taking reasonable steps to find the owner of the vehicle and preparing the vehicle for towing.

Charging of other fees which are part of the everyday business operation of a licence holder is not permitted. To provide additional clarity to licence holders, a list of prohibited charges was incorporated into the Regulation in 2018 to further protect the motorist from being charged fees in addition to the standard tow fee.

Prohibited fees include, for example:

- responding to a request to tow a vehicle or attend a place where a vehicle is located,
- travelling to where the vehicle is located,
- taking steps to locate the vehicle owner,
- using a lifting or loading device on the tow truck,
- allowing the vehicle owner access to the vehicle at the holding yard (during business hours), or
- operational fees such as fuel, administrative work, taking or producing photographs, preparing or sending documents or information, storing personal property or moving the vehicle within the holding yard.

Analysis

Since prohibited fees were introduced, complaints have periodically been received from insurance providers and motorists where excessive amounts have been charged for additional activities associated with towing of motor vehicles, particularly in relation to towing vehicles involved in crashes. These activities are regular, everyday activities involved in towing vehicles and have always been considered part of a standard tow.

Similar to Queensland, NSW provide a list of prohibited fees, whereas VIC legislation provides for an offence to charge an unreasonable sum or sum different to charges determined. SA does not permit the charging of fees in excess of their prescribed fees.

Conclusion

Based on the research undertaken and views of stakeholders, it is proposed to add to the list of prohibited charges/fees to deal with the matters about which TMR has received complaints or feedback from customers.

These additional charges/fees include but are not limited to:

- cleaning glass or debris from the road,
- cleaning fluid leaks or spills from the road and providing cleaning materials,
- cleaning a tow truck, including cleaning any fluid leaks or spills or providing cleaning materials,
- the use of additional drivers, assistants or vehicles not used exclusively in the towing function,
- any time spent waiting or standing at the scene of a crash, and
- transporting the owner or passenger of a motor vehicle involved at the scene of a crash
- as otherwise published by the Chief Executive of TMR.

At the same time, TMR will work with the Office of the Queensland Parliamentary Council to explore legislative drafting options that would negate the need to keep adding to the statutory list of prohibited fees. This may include a legislative provision that excludes any other fees and charges outside of a standard tow, noting that where a non-standard tow is undertaken (i.e. more than 60 minutes working time) reasonable fees must still be able to be charged.

RACQ is supportive of the inclusion of the prohibited fees list and proposal to extend or further clarify.

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