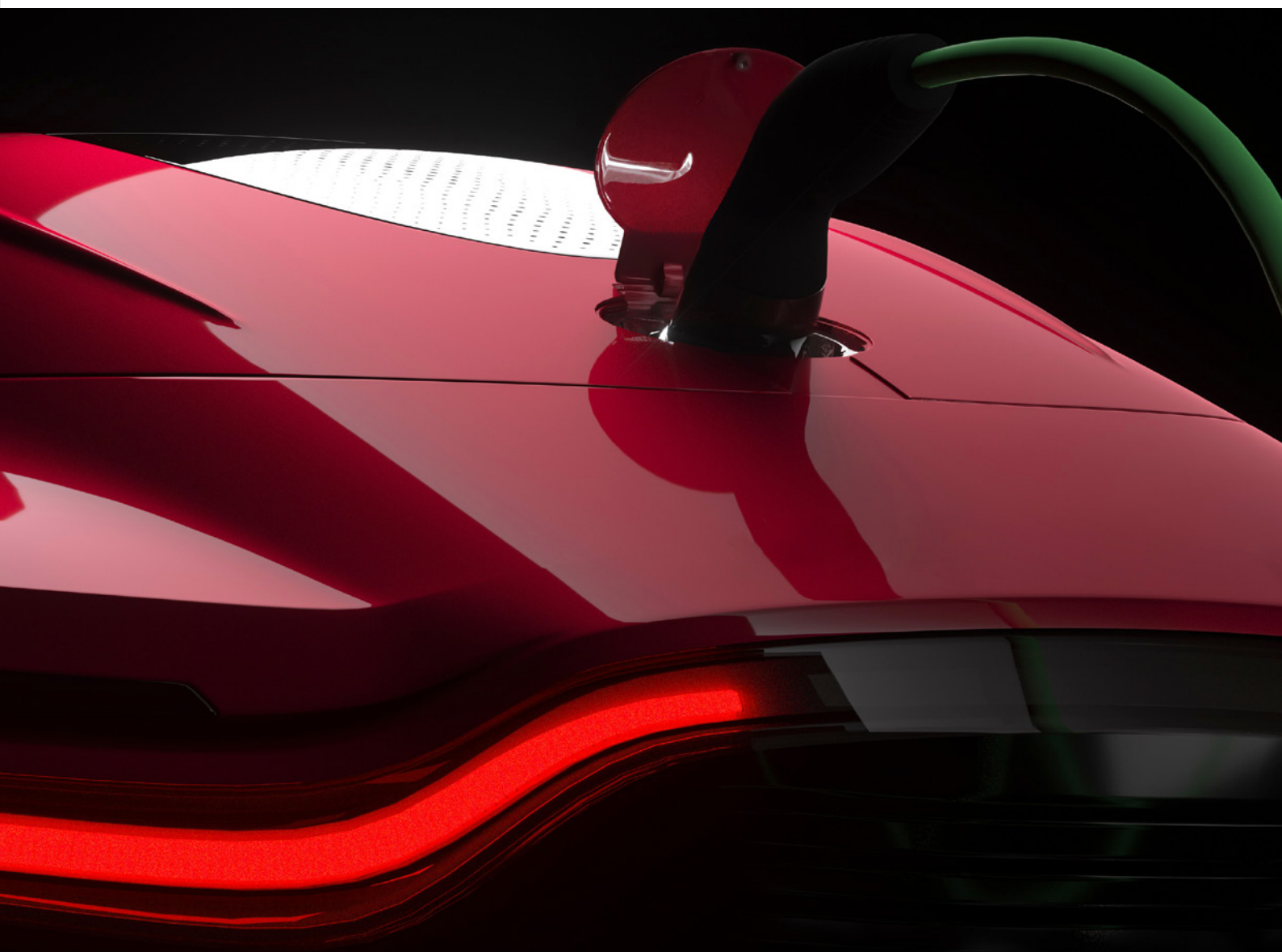


Fully Charged

The automotive industry's
policy priorities for the next
Victorian State Government

2022

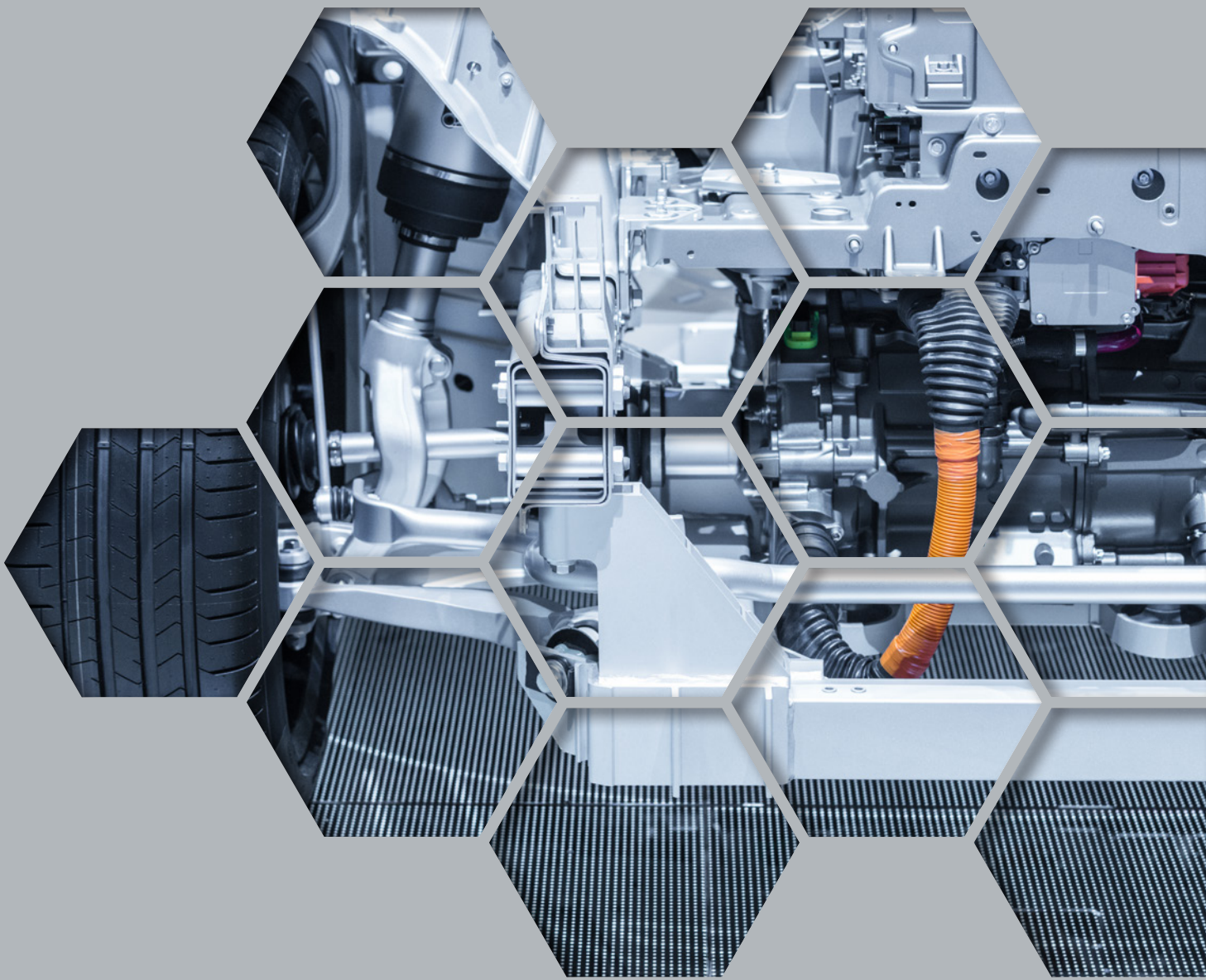




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About VACC

The Victorian Automotive Chamber of Commerce (VACC) is Victoria's peak automotive industry employer association, representing an \$11 billion sector with 19,000 businesses employing 110,000 Victorians.

VACC members range from new and used vehicle dealers (passenger, truck, commercial, motorcycle, recreational and farm machinery); repairers (mechanical, electrical, body, and repair specialists, i.e. radiators and engines); vehicle services (service stations, vehicle washing, rental, windscreens); parts and component wholesale/retail and distribution, and aftermarket manufacture (i.e. specialist vehicle, parts or component modification and/or manufacture); tyre dealers; and automotive dismantlers and recyclers.

VACC is also an active member of the Motor Trades Association of Australia (MTAA) and contributes significantly to the national policy debate through Australia's peak national automotive association.

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Recommendations

1. Ensuring industry is at the heart of ZLEV policy

Recommendation 1

That the next Victorian Government implements a comprehensive zero and low emission vehicle policy in collaboration with the automotive retail industry.

Recommendation 2

That the next Victorian Government establishes a zero and low emission vehicle commission (in partnership with industry), with a focus on the automotive retail, service and repair sectors, that has oversight of industry transition and its likely impact on business practices, skills and employment.

Recommendation 3

That the next Victorian Government extends its EV Charging for Business Fleets program to include automotive retail, service and repair businesses, who assist with the maintenance of Victoria's growing electric vehicle fleet.

Recommendation 4

That the next Victorian Government introduces a licensed repairer scheme, based on completion of the relevant EV skill sets and units of competency. The licence requirements should also adhere to the Australian Standard for Electric Vehicle Operations, Maintenance and Repair, AS 5732:2022.

Recommendation 5

That the next Victorian Government increases the road-user charge exemption for dealer-demonstrator battery electric vehicles and plug-in hybrid electric vehicles from 1500km to 7500km per vehicle.

2. Safeguarding automotive skills for tomorrow

Recommendation 6

That the next Victorian Government instigates a three-year apprentice wage subsidy program to support Victorian employers, where apprentice wages are subsidised by 50 per cent in the first year, 30 per cent in the second year and 10 per cent in the third year.

Recommendation 7

That the next Victorian Government introduces an apprentice mentoring program over three years to improve apprentice retention, training and skills outcomes.

Recommendation 8

That the next Victorian Government identifies and implements an alternative model to incentivise the provision of vocational education and training by registered training organisations (RTOs) in thin markets, such as electric vehicle training. This could be achieved by funding RTOs to deliver training to thin markets on a per-class basis.

3. Protecting Victoria's fragile environment and landfill operations

Recommendation 9

That the next Victorian Government invests in sustainable waste recycling and renewable energy facilities. The government should implement a sustainable strategy to address the immediate impact of stockpiling and disposal of waste tyres.

Recommendation 10

That the next Victorian Government funds an end-of-life-vehicle (ELV) trial for a self-regulated ELV program. This ensures the disposal of ELVs has minimal environmental impact.

Recommendation 11

That the next Victorian Government addresses the ambiguity in the Environmental Protection Act 2017 (Vic) and clearly defines 'end-of-life vehicle' as contained in the waste categories connected with the Act and Regulations. The new definition should clearly articulate that statutory and repairable written-off motor vehicles are waste products and can only be received for purchase, resale, transport or storage by permitted entities as mandated in the Act and Regulations.

Recommendation 12

That the next Victorian Government appoints and funds a government-led, and industry supported, review of the current written-off vehicle process, with particular attention to addressing the weaknesses in Section 16 of the Road Safety Act 1986 (Vic) to explore the community, industry, legal and environmental impacts.

4. A more competitive and modern tax system

Recommendation 13

That the next Victorian Government reforms and modernises Chapter 9 of the Duties Act 2000 (Vic) via review of State Revenue Office Revenue Rulings DA-022, DA-034v2 and DA-035v2 to allow for a fairer trading environment for Victorian licensed motor car traders and for the benefit of Victorian consumers.

Recommendations

Recommendation 14

That the next Victorian Government raises the payroll tax threshold to \$1.2 million per annum, which aligns more closely with other jurisdictions, to ensure Victorian business competitiveness, capital investment and future jobs growth.

Recommendation 15

That the next Victorian Government introduces a means test for businesses that have a limited capacity to pay increased land taxes. Tests should be based on a business' net profits over the past two years, with the option of a land tax discount being available to businesses facing financial hardship.

5. Better outcomes from smarter legislation

Recommendation 16

That the next Victorian Government prioritises the extension of the existing Written-Off Vehicles Register to include heavy vehicles.

Recommendation 17

That the next Victorian Government commits to further decreasing Victoria's road toll by implementing an annual roadworthy requirement for vehicles aged eight years and over. This roadworthy requirement should be linked to the ongoing annual registration of the vehicle.

Recommendation 18

That the next Victorian Government removes the obligation to conduct IM240 tests. VicRoads has no other option but to permit alternative, feasible emissions testing for vehicle enthusiasts, modifiers and individually constructed vehicles.

Recommendation 19

That the next Victorian Government amends the Motor Car Traders Act 1986 (Vic) so Victorian dealers have the same protections as their NSW counterparts and that the Small Business Commissioner in Victoria is given more powers to help protect dealers.

Recommendation 20

That the next Victorian Government commits to the inclusion of state-based legislative protections to properly address unfair contract terms, given the interruption of unfair contract terms reform at a national level.

Recommendation 21

That the next Victorian Government provides additional resources to assist the acceleration of automotive retail applications to the Victorian Civil and Administrative Tribunal.

Recommendation 22

That the next Victorian Government reforms the Victorian Civil and Administrative Tribunal Act 1998 (Vic) to allow respondents to Victorian Civil and Administrative Tribunal applications that are malicious, opportunistic or vexatious to claim liquidated damages.

6. Workplace Relations

Recommendation 23

That the next Victorian Government maintains additional funding until the Victorian Workers Compensation System is fit-for-purpose.

7. Fairer compensation and more equitable business support

Recommendation 24

That the next Victorian Government appoints all licensed motor car traders in the VicRoads Dealer Online and Dealer Certification Scheme as agents for the new joint venture and be compensated for conducting work for the entity.

Recommendation 25

That the next Victorian Government mandates meaningful consultation between VicRoads and industry in the pursuit of effective regulation and red-tape reduction.

Recommendation 26

That the next Victorian Government exempts automotive dealer franchises and large automotive retailers from any future staffing and turnover thresholds associated with pandemic or state of emergency business relief payments.

Recommendation 27

That the next Victorian Government ensures all automotive retailers are eligible for any future government subsidies related to pandemic or state of emergency relief payments, regardless of their Australian and New Zealand Standard Industrial Classification code.



1. Ensuring industry is at the heart of ZLEV policy

1.1 Taking a leadership role for ZLEV policy

The automotive industry has a key role to play in the sustainability of our environment. The transport sector contributes approximately 18 per cent of Australia's greenhouse gas emissions, which represents a significant opportunity to help reduce emissions through the promotion and use of zero and low emission vehicles (ZLEVs). Government has a responsibility to recognise the contribution ZLEVs can make towards achieving Australia's net zero emission target with policies that support greater uptake of ZLEVs by businesses and the community.

“ The automotive retail industry is best placed to provide expert advice to government on its transition policy, as opposed to power or energy suppliers who are significantly removed from the automotive frontline. ”

However, the transition to ZLEVs is challenging. For an industry steeped in traditional petrol and diesel technology, the move to ZLEVs represents a major transition many automotive businesses are ill-equipped to make. Battery electric vehicles (BEVs) require major capital investments by automotive businesses in new tooling, charging infrastructure and skills training. For many automotive businesses, these transitional costs will be prohibitive.

It is therefore critical the next Victorian Government takes a leadership role, in partnership with industry, to ensure the transition to ZLEVs is planned to mitigate any major industry disruption (i.e. job losses and business closures). The automotive retail industry is best placed to provide expert advice to government on its transition policy, as opposed to power or energy suppliers who are significantly removed from the automotive frontline.

Further, in support of *Victoria's Climate Change Strategy* and *Victoria's Zero Emissions Vehicle Roadmap*, the next Victorian Government should extend its EV Charging for Business Fleets program to include automotive retail, service and repair businesses, that provide maintenance support to the growing ZLEV fleet. This will ensure better connectivity of charging infrastructure, address range anxiety issues and benefit local communities and industry.

Recommendation 1:

That the next Victorian Government implements a comprehensive zero and low emission vehicle policy in collaboration with the automotive retail industry.

Recommendation 2:

That the next Victorian Government establishes a zero and low emission vehicle commission (in partnership with industry), with a focus on the automotive retail, service and repair sectors, that has oversight of industry transition and its likely impact on business practices, skills and employment.

Recommendation 3:

That the next Victorian Government extends its EV Charging for Business Fleets program to include automotive retail, service and repair businesses, who assist with the maintenance of Victoria's growing electric vehicle fleet.

1.2 Licensing electric vehicle technicians

A skills shortage related to ZLEV servicing is emerging due to the safety and skill requirements for service and maintenance technicians. VACC's modelling shows that, based on the Albanese Government's own projections of 3.8 million EVs on-road by 2030, the industry will require approximately 14,000 qualified ZLEV technicians. This includes dismantlers and mechanical, electrical and vehicle collision repair technicians.

Electric and hybrid vehicle batteries comprise hundreds of small, individual cells arranged in series/parallel configuration to achieve the desired voltage and capacity. Voltages can range upwards from 60V and typically operate between 400 and 800V DC. This makes working on an ZLEV inherently more dangerous as the risk of electrocution is real.

“ There needs to be a minimum safety and training standard to avoid injuries and fatalities. ”

There needs to be a minimum safety and training standard to avoid injuries and fatalities. All technicians working on EVs should be licensed to ensure they are properly trained in powering and de-powering vehicles, managing toxic fumes, battery recycling procedures and managing the high risk of fires caused by damaged batteries.

Recommendation 4

That the next Victorian Government introduces a licensed repairer scheme, based on completion of the relevant EV skill sets and units of competency. The licence requirements should also adhere to the Australian Standard for Electric Vehicle Operations, Maintenance and Repair, AS 5732:2022.

1.3 Increase exemption for road user charges on BEV and PHEV demonstrator stock

In 2021, VACC successfully negotiated a 1500-kilometre exemption from the zero and low emission vehicle (ZLEV) road-user charge for any first-time registered vehicle a new vehicle dealer used as a demonstrator, service demonstrator or trading stock.

This exemption relates to the initial registration period only on a new ZLEV registered in a dealer's name. The per kilometre charge for a BEV is 2.5 cents. For a plug-in hybrid electric vehicle (PHEV) the cost is two cents.

To assist Victorian dealerships to retail more ZLEVs, and increase state revenues towards the implementation of the *Victorian Infrastructure Plan*, the road-user charge exemption for BEVs and PHEVs should be extended from 1500km to 7500km per vehicle. This increase will provide a greater incentive for dealers to road-test these vehicles with consumers and assist the Victorian Government in its efforts to achieve a 50 per cent market penetration of ZLEVs by 2030.

Recommendation 5

That the next Victorian Government increases the road-user charge exemption for dealer-demonstrator battery electric vehicles and plug-in hybrid electric vehicles from 1500km to 7500km per vehicle.

2. Safeguarding automotive skills for tomorrow

2.1 Apprentice wage subsidy

Adult apprentices account for the vast majority of automotive apprentices in training. While the number of adult automotive apprentices in Victoria has grown by 20 per cent in the past year, this has been largely due to the success of the federal Boosting Apprenticeship Commencements (BAC) wage subsidy program. BAC has provided valuable support to businesses and group training organisations by providing a 50 per cent apprentice wage subsidy in the first 12 months of a training contract.

With BAC ending on 30 June 2022, the new Completing Apprenticeships Commencements (CAC) wage subsidy has dropped to 10 per cent for the first and second years of training and five per cent for the third year. Lowering wage subsidies, particularly during the first 12 months of training, may lead to employers accepting fewer adult apprentices. This would undo many of the recent gains made by the industry and exacerbate skill shortages, which remain at unprecedented levels.

To build on the success of the BAC and CAC programs, and help alleviate a potential collapse in the hiring of mature-age apprentices, the next Victorian Government should implement an improved three-year apprentice wage subsidy program for Victorian employers. This support could be in the form of a 50 per cent wage subsidy in the first year, 30 per cent in the second year and 10 per cent in the third year.

Recommendation 6

That the next Victorian Government instigates a three-year apprentice wage subsidy program to support Victorian employers, where apprentice wages are subsidised by 50 per cent in the first year, 30 per cent in the second year and 10 per cent in the third year.

2.2 Apprentice mentoring

Statistics show approximately 50 per cent of apprentices withdraw from their training courses, most within the first year. This high attrition rate represents an enormous waste of time and resources for all parties involved. Research shows industry mentoring, especially during the first year of an

“ Research shows industry mentoring, especially during the first year of an apprenticeship, is enormously successful in raising apprentice retention and completion rates. ”

apprenticeship, is enormously successful in raising apprentice retention and completion rates. VACC's group apprenticeship scheme has been vital in helping first-year apprentices to adjust to working in the industry and helped boost apprentice retention rates to more than 90 per cent.

This success demonstrates the benefit of implementing an industry mentoring program for apprentices during their first year of training. The next Victorian Government should implement an apprentice mentoring program to improve training and skills outcomes for apprentices and employers.

Recommendation 7

That the next Victorian Government introduces an apprentice mentoring program over three years to improve apprentice retention, training and skills outcomes.

2.3 Funding for thin training markets in trailing and emerging technologies

Rapid changes in automotive technology have resulted in the emergence of thin training markets across many automotive trades. This is demonstrated by the withdrawal from training delivery by registered training organisations (RTOs) in courses experiencing falling demand (such as engine reconditioning). The lack of adequate ZLEV training is also attributed to perceived low commencement.

Training delivery in thin markets deemed to be both in decline and emerging is equally important. These thin markets represent skills in critical need by businesses and the economy.

The funding priorities and business models of RTOs are not geared towards delivering training to thin groups (five or six students). This risks leaving employers without an accessible skills pool – especially in regional areas – and will likely affect the uptake of new skills in ZLEV servicing. The next Victorian Government should implement an alternative model for the delivery of vocational education and training in thin markets. The model needs to incentivise RTOs to deliver training on a per-class basis, rather than on a per-head basis. This initiative would form part of a coordinated skills transition plan for the industry, which would help alleviate further skills pressure in the ensuing years.

Recommendation 8

That the next Victorian Government identifies and implements an alternative model to incentivise the provision of vocational education and training by registered training organisations (RTOs) in thin markets, such as electric vehicle training. This could be achieved by funding RTOs to deliver training to thin markets on a per-class basis.



3. Protecting Victoria's fragile environment and landfill operations

3.1 Solving the waste tyre crisis

According to Tyre Stewardship Australia, in 2016 Victoria generated 107,700 tonnes of waste tyres.¹ Around 33 per cent of these were exported for energy recovery and 53 per cent were sent to landfill. We are now facing a much larger problem. Victoria's circular economy plan is failing to keep up with demand and needs urgent action.

Victorian automotive service and repair, tyre retailing and vehicle dismantling businesses are experiencing extreme industrial waste collection delays. This is attributed to the global shipping crisis, labour shortages, the export ban on whole and baled tyres, and a lack of local manufacturing of products using tyre-derived compounds.

“ There is a risk rogue operators will re-enter the market and begin illegally stockpiling waste tyres, leading to public health risks such as the fire at Broadmeadows Tyre Recycling Facility in 2016. ”

The cost of waste tyre collection and disposal has ballooned by more than 100 per cent since December 2021, creating an untenable economic and environmental situation. Although rising costs are concerning, the inability to book a waste collection by an accredited or approved tyre collector is more problematic and often results in retailers being left with stockpiles above the regulated limits or, worse, being forced to abandon tyre sales due to storage space limits and rising disposal costs.

VACC is working with the Department of Environment, Land, Water and Planning, and Sustainability Victoria to address this issue. In the meantime, some businesses have been forced to invest in tyre recycling/shredding machines. However, this is only a short-term solution. Industry feedback suggests there are added delays and unnecessary red-tape associated with Environment Protection Authority Victoria permit applications and a shortage of equipment.

VACC has several examples of stockpiling and is concerned about increased illegal dumping. There is a risk rogue operators will re-enter the market and begin illegally stockpiling waste tyres, leading to public health risks such as the fire at Broadmeadows Tyre Recycling Facility in 2016. More than 100,000 tyres were burnt, and nearby residents and businesses evacuated.²

These problems are not isolated to waste tyres; metals, oil drums and plastic containers, plastic bumper bars and other industrial waste are experiencing the same or similar issues.

Recommendation 9

That the next Victorian Government invests in sustainable waste recycling and renewable energy facilities. The government should implement a sustainable strategy to address the immediate impact of stockpiling and disposal of waste tyres.

¹ National Market Development Strategy for Used Tyres – Final Strategy 2017.

² ABC report, 'Fire Risk posed by Waste' (2021 webpage), <<https://www.abc.net.au/news/2018-10-21/melbourne-recycling-facilities-pose-fire-risk/10368302>>.

3.2 Victoria to take a leadership role in the development of a comprehensive end-of-life vehicle program

Australia remains the only developed country without an end-of-life vehicle (ELV) policy. An estimated 240,000 tonnes of plastic from ELVs are sent to landfill every year, of which Victorian ELV waste represents more than one-quarter (63,000 tonnes) nationally.

Victoria is the only state that has introduced government-led and industry-supported guidelines that deal with the treatment of ELVs. Victoria is already ahead of the curve, but progress is slow.

The Victorian Government's 30-year infrastructure strategy, which incorporates a target of 50 per cent of all new vehicle sales being ZLEVs by 2030, puts pressure on the need to implement a comprehensive ELV scheme to manage the volume of internal combustion engine (ICE) vehicles coming off the road. This is an economic and environmental imperative; if implemented effectively, it has the potential to be the gold standard in Australia.

Victoria has shown leadership with the development of the Unsafe2Safe scheme, but more must be done about scrapping older ICE vehicles once they are retired from the national fleet.

The next Victorian Government should take the national lead and work towards promoting a national ELV plan, with Victoria trialling a self-regulated ELV program. A trial of this nature has the potential to deliver intelligence on best practice for the proper disposal of ELVs.

The next Victorian Government should also remove ambiguity in the definition of an end-of-life or waste vehicle under the new Environmental Protection Act 2017 (Vic) to ensure waste vehicles are recycled in lawful places in Victoria, and align with other state jurisdictions. This would include the insertion of a term within the Act and Regulations that statutory and repairable written-off motor vehicles are, for the purposes of the Act, defined as end-of-life motor vehicles. This will align with international standards as announced by the European Commission's Waste Framework Directive.

It is also timely for the next Victorian Government to take a leadership role in appointing and funding a government-led, and industry supported, review of the current written-off vehicle process, with particular attention to addressing the weaknesses in Section 16 of the Road Safety Act 1986 (Vic) to explore the community, industry, legal and environmental impacts.

Recommendation 10

That the next Victorian Government funds an end-of-life-vehicle (ELV) trial for a self-regulated ELV program. This ensures the disposal of ELVs has minimal environmental impact.

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That the next Victorian Government addresses the ambiguity in the Environmental Protection Act 2017 (Vic) and clearly defines 'end-of-life vehicle' as contained in the waste categories connected with the Act and Regulations. The new definition should clearly articulate that statutory and repairable written-off motor vehicles are waste products and can only be received for purchase, resale, transport or storage by permissioned entities as mandated in the Act and Regulations.

Recommendation 12

That the next Victorian Government appoints and funds a government-led, and industry supported, review of the current written-off vehicle process, with particular attention to addressing the weaknesses in Section 16 of the Road Safety Act 1986 (Vic) to explore the community, industry, legal and environmental impacts.

4. A more competitive and modern tax system

4.1 Victorian motorists and licensed motor car traders should not be treated as the new 'cigarette and beer tax' for government to raise revenue

The current practice and methodology for the collection of motor vehicle duty in Victoria needs reform. At present, it places Victorian car dealers at a competitive disadvantage to their interstate counterparts. This was made evident during the COVID-19 pandemic, when many consumers chose to purchase vehicles interstate due to the lack of stock provided by car manufacturers, who favoured supplying to other states ahead of Victoria. The flow-on effect resulted in lost motor vehicle duty to the Victorian public purse.

The application of motor vehicle duty to consumer-requested accessories and aftermarket additions to new vehicles is detrimental to dealers and consumers. The duty should be removed via an amendment to the respective State Revenue Office rulings. This legislation effectively forces consumers to pay a higher price, therefore creating a disincentive to use the services of the dealership for fitting accessories.

VACC seeks determinations that will place Victorian dealers on equal footing with other Australian jurisdictions. This would involve modernising the concept of motor vehicle duty as outlined in Chapter 9 of the Duties Act 2000 (Vic) and modernisation of Victorian State Revenue Office Revenue Rulings DA-022, DA-034v2 and DA-035v2, which deal with:

- the collection of motor vehicle duty
- the rate of duty
- ancillary use of demonstrator vehicles
- dutiable value exemptions for aftermarket fittings at the point of new vehicle sale
- Victorian super luxury duty.

Recommendation 13

That the next Victorian Government reforms and modernises Chapter 9 of the Duties Act 2000 (Vic) via review of State Revenue Office Revenue Rulings DA-022, DA-034v2 and DA-035v2 to allow for a fairer trading environment for Victorian licensed motor car traders and for the benefit of Victorian consumers.

4.2 Payroll tax reform

Victoria has the most punitive payroll tax regime of all Australian jurisdictions. While regional employers have benefited from payroll tax reform in Victoria, this is not the case for metropolitan-based employers.

“ Victoria has the most punitive payroll tax regime of all Australian jurisdictions.”

Table 1 shows Victoria's payroll tax-free threshold of \$700,000 is significantly below all other jurisdictions, placing Victorian businesses at a disadvantage when employing staff and investing for the future.

Table 1: Payroll tax thresholds and rates by jurisdiction 2021-22.

	Payroll tax-free threshold (\$)	Payroll tax rate (%)
Victoria	\$700,000	4.85
New South Wales	\$1,200,000	4.85
Queensland	\$1,300,000	3.75
South Australia	\$1,500,000	4.95
Western Australia	\$1,000,000	5.50
ACT	\$2,000,000	6.85
Tasmania	\$1,200,000	4.0
Northern Territory	\$1,500,000	5.5

The Victorian Government should make Victoria a more competitive place to conduct business by raising the annual payroll tax-free threshold to \$1.2 million. This would place Victoria on par with New South Wales and restore some trading equity for Victorian businesses.

Recommendation 14

That the next Victorian Government raises the payroll tax threshold to \$1.2 million per annum, which aligns more closely with other jurisdictions, to ensure Victorian business competitiveness, capital investment and future jobs growth.

4.3 Land tax reform

Recent increases in the threshold and rate of land tax in Victoria mean land tax is now the fastest growing source of state government revenue, with an average growth rate of 7.2 per cent per annum over the budget forward estimates.

This high government dependency on land tax revenue comes at a significant cost to rental providers (landlords) and renters (tenants). Many rental providers still face high vacancy rates and rental arrears from COVID-19 and cannot absorb higher land taxes; these costs will be passed on to renters in the form of higher rents. Small businesses operating out of offices and industrial properties will be most affected.

Higher land taxes hurt small businesses, dampen business investment and drive many corporate tenants away from Victoria. There needs to be a fairer system of apportioning the burden of higher land taxes for businesses that are struggling financially. This could involve assessing a business' capacity to pay land taxes against its net profits over the past two years via a means test.

A land tax discount applied to businesses suffering financially could be a viable option for consideration by the next Victorian Government. It is a preferable alternative to businesses shedding staff, closing or relocating interstate because they cannot afford rising land taxes.

Recommendation 15

That the next Victorian Government introduces a means test for businesses that have a limited capacity to pay increased land taxes. Tests should be based on a business' net profits over the past two years, with the option of a land tax discount being available to businesses facing financial hardship

5. Better outcomes from smarter legislation

5.1 Written-off Heavy Vehicle Register

Industry experience has revealed a significant gap in existing legislation that allows written-off heavy vehicles to return to the road.

At present, there is no way to know if a heavy vehicle has been involved in a major collision when purchased second-hand. Trucks involved in front-end collisions will almost always require basic safety tests to be carried out. While roadworthy inspections are completed, technicians cannot assess other critical safety faults including internal steering box damage, damaged kingpins, cracked steering arms or cracked front axles – all of which are common in written-off trucks and trailers.

Evidence suggests vehicles written-off by an insurer (as they were deemed uneconomical to repair by a licensed repairer) are sold at auction and repaired by unlicensed or backyard repairers. They are then sold to customers, who return the vehicle to the road.

The absence of a mechanism to flag whether a vehicle or trailer has been written-off due to an accident has severe implications for road-user safety and increases the risk of damage, injury or death.

The existing state-legislated Written-Off Vehicles Register for light vehicles already prohibits the return of written-off vehicles to the road. This should be extended to include a heavy vehicle category.

Recommendation 16

That the next Victorian Government prioritises the extension of the existing Written-Off Vehicles Register to include heavy vehicles.

5.2 Annual roadworthy for older vehicles

According to the latest statistics from the Transport Accident Commission (TAC), 113 people had been killed on Victorian roads as of mid-June 2022 – an increase of 18.9 per cent over the same time last year.

This increase in road deaths is alarming, not only in respect to the Victorian Government's strategy to halve road deaths by 2030, but also because many of these deaths could have been avoided.

“ While driver error is a major cause of car accidents, poorly maintained older vehicles also contribute to the road toll each year. ”

Every life lost on Victoria's roads is a tragedy. It is also an immense cost to the economy, with the Value of Statistical Life of just one road death estimated to be \$8.56 million in 2020 dollars.³

TAC data confirms around two-thirds of drivers and passengers killed on Victorian roads were travelling in vehicles aged more than 10 years. While driver error is a major cause of car accidents, poorly maintained older vehicles also contribute to the road toll each year. Research conducted by the Monash University Accident Research Centre shows vehicle defects are a contributing factor in more than six per cent of crashes and periodic roadworthiness tests could reduce the number of crashes caused by vehicle defects by about 50 per cent.⁴

³ Department of Transport Road Safety (Vehicles) Regulations 2021 Regulatory Impact Statement (2021) 15 [6].

⁴ Monash University Accident Research Centre. Report #164 [2000]. The effect of vehicle roadworthiness on crash incidence and severity. G. Reznitzner, N. Haworth & N. Kowadlo. URL: https://www.monash.edu/_data/assets/pdf_file/0017/216710/The-effect-of-vehicle-roadworthiness-on-crash-incidence-and-severity.pdf

The next Victorian Government should make a firm commitment to reduce Victoria's road toll by instigating an annual roadworthy requirement for vehicles aged eight years and over. This requirement should be linked to the ongoing annual registration of the vehicle. This initiative will save lives by reducing the number of deaths caused directly or indirectly by vehicle defects.

For low-income earners unable to afford vehicle repairs to meet the roadworthy standard, the government may wish to consider making a co-contribution towards the roadworthy check and subsequent vehicle repairs. This co-contribution could be means-tested.

Recommendation 17:

That the next Victorian Government commits to further decreasing Victoria's road toll by implementing an annual roadworthy requirement for vehicles aged eight years and over. This roadworthy requirement should be linked to the ongoing annual registration of the vehicle.

5.3 Review of IM240 emissions testing requirements

The motor vehicle modification industry, which includes car enthusiasts, individually constructed vehicle builders and performance specialists, is experiencing significant delays and high costs to obtain an IM240 emissions test in Victoria. This test is required in accordance with the regulation outlined in the National Code of Practice for Light Vehicle Construction and Modification (VSB14) administered by the federal Department of Infrastructure, Transport, Regional Development and Communications.

“ The current IM240 testing situation is a market failure.”

The current IM240 testing situation is a market failure. Only one service provider in Victoria is available to carry out the prescribed test and is often unavailable. Such a situation works against the red tape reforms supported by the Victorian Government in its 2021 Small Business Regulation Review.⁵ A similar situation has arisen in New South Wales (NSW), although the NSW Government has instituted a six-month exemption to the test to allow for an alternative solution to be found.

Over-reliance on one provider is anti-competitive and unsustainable. Reforms must be applied to allow businesses to efficiently and fairly meet their regulatory obligations.

Recommendation 18:

That the next Victorian Government removes the obligation to conduct IM240 tests. VicRoads has no other option but to permit alternative, feasible emissions testing for vehicle enthusiasts, modifiers and individually constructed vehicles.

5.4 Greater protections for motor vehicle dealers under the Motor Car Traders Act

Motor dealers in the most populous state in Australia, NSW, are afforded protections under their equivalent to the Motor Car Traders Act 1986 (Vic) against unfair contracts and unjust conduct. In particular, under the Motor Dealers and Repairers Act 2013 (NSW):

1. A motor vehicle dealer or motor industry group may apply to the Small Business Commissioner for assistance in dealing with a dispute about an unfair term of a supply contract or a class of supply contracts or unjust conduct by a manufacturer who is a party to a supply contract or class of supply contracts (s.144). A manufacturer includes an assembler or manufacturer or distributor of motor

⁵ Victorian Government Small Business Regulation Review (2021, webpage). URL: <https://business.vic.gov.au/about-us/small-business-regulation-review>

vehicles (whether assembled or manufactured in or outside Australia) who supplies those motor vehicles for sale by a motor dealer and includes any person (s.141);

2. If a dispute about an unfair contract or unjust conduct is not resolved by the Small Business Commissioner:
 - (a) a motor vehicle dealer may apply to the NSW Civil & Administrative Tribunal (Tribunal) for compensation or orders including varying the contract or declaring it void in whole or in part (ss.145(2) and 147); and
 - (b) a motor industry group or the Small Business Commissioner may apply to the Tribunal on behalf of a motor dealer or class of motor dealers for relief under the Act (ss. 145(1) and 147).

The same protections should be instituted for Victorian motor vehicle dealers. Since 2013, the NSW Parliament has considered that NSW dealers require protection against unfair contracts and unjust conduct yet, since that time, the Victorian Parliament has neglected to protect Victorian dealers in the same way. The next Victorian Government should amend the Motor Car Traders Act 1986 (Vic) so Victorian dealers have the same protections as NSW counterparts and that the Victorian Small Business Commission is given more powers to help protect dealers.

Recommendation 19:

That the next Victorian Government amends the Motor Car Traders Act 1986 (Vic) so Victorian dealers have the same protections as their NSW counterparts and that the Small Business Commissioner in Victoria is given more powers to help protect dealers.

5.5 Addressing unfair contract terms in consumer and small business contracts for financial products and services in Victoria

The next Victorian Government should amend the Australian Consumer Law and Fair-Trading Act 2012 (Vic) or introduce a new act of parliament to include a regime that effectively regulates unfair contract terms in consumer and small business contracts for financial products and services. This recommendation is aimed at addressing the prevalence of unfair contract terms (UCTs) in insurance contracts, particularly in connection with standard form repair authorities and preferred repairer agreements (repairer insurance contracts), being financial products under section 12BAA of the Australian Securities and Investments Commission Act 2001 (Cth) (ASIC Act).

In early 2022, the Federal Government released a draft bill proposing substantial amendments to the UCTs regime under the Australian Consumer Law and the ASIC Act that would introduce financial penalties for businesses that attempt to use, apply or rely on a UCT and increase the number of small business contracts that would benefit from the UCT regime.

The bill had only reached the second reading stage in the lower house when parliament was dissolved before the election, so the bill officially lapsed. This leaves the position on UCT reform uncertain, with no guarantee the newly elected Federal Government will introduce the same bill or similar.

The Victorian Government should amend the Australian Consumer Law and Fair-Trading Act 2012 (Vic) or introduce new legislation to include protections that were proposed under the federal bill.

While VACC acknowledges this would require the Victorian Government to first consult with the Legislative and Governance Forum on Corporations, in accordance with section 519 of the Corporations Agreement 2002, the public interest in providing sufficient protections outweighs any

administrative inconveniences the government might face. Action of this nature taken by the Victorian Government might encourage the Federal Government to again prioritise UCT protection at a federal level.

Recommendation 20:

That the next Victorian Government commits to the inclusion of state-based legislative protections to properly address unfair contract terms, given the interruption of unfair contract terms reform at a national level.

5.6 Overhaul of VCAT complaints handling procedures

The Victorian Civil and Administrative Tribunal (VCAT) is under strain in the scheduling of complaints and cases involving the automotive retail sector, with delays of up to 18 months. VACC has seen evidence that a large proportion of these cases involve vexatious and malicious consumer complaints.

There are many instances where applicants do not attend the scheduled VCAT hearings, adding further pressure to an overburdened tribunal and wasting the time and resources of the automotive retail businesses concerned. It is evident the purpose of numerous complaints against automotive businesses is to inflict harm, based on (at times) buyers' remorse arising from poor consumer information and choices.

Industry can no longer be the party that bears the sole financial and resource-intensive burden of cases that should have been mediated by Consumer Affairs Victoria (CAV) in the first instance.

To address this situation, the next Victorian Government should fund a resource at VCAT to screen automotive retail applications to ascertain the seriousness, legality, nature and likelihood of success. It is possible many of these matters could be referred back to CAV for mediation.

“ VACC recommends legislative reform to the Victorian Civil and Administrative Tribunal Act 1998 (Vic) that allows respondents to any malicious, opportunistic or vexatious VCAT applications to have liquidated damages applied.”

Using the VCAT daily schedule as a guide, cases involving retail automotive business are not voluminous. The potential VCAT resource could be funded by redirecting government subsidies allocated to consumer protection agencies and other consumer-facing entities. The proposed resource would help alleviate the crisis and strain with VCAT.

Furthermore, Victoria needs legislative reform to the Victorian Civil and Administrative Tribunal Act 1998 (Vic) that allows respondents to any malicious, opportunistic or vexatious VCAT applications to have

liquidated damages applied. The cost burden for industry in dealing with poorly informed consumers, especially those advised incorrectly by consumer action groups, should not be absorbed by VCAT, the Victorian Government or industry.

Recommendation 21:

That the next Victorian Government provides additional resources to assist the acceleration of automotive retail applications to the Victorian Civil and Administrative Tribunal.

Recommendation 22:

That the next Victorian Government reforms the Victorian Civil and Administrative Tribunal Act 1998 (Vic) to allow respondents to Victorian Civil and Administrative Tribunal applications that are malicious, opportunistic or vexatious to claim liquidated damages.

6. Workplace Relations

6.1 Maintain additional funding until the Victorian Workers Compensation System is fit-for-purpose

VACC supports the Victorian Government's decision to provide an additional \$300 million of funding to the Victorian Workers Compensation System (the WorkCover Scheme) to ensure no increases to WorkCover premiums for 2022-23.

This decision reflects widespread concern over the impact of COVID-19 on the psychological health of the Victorian community and the important ongoing role employers play in providing support – including through the introduction of provisional payments and the mental health and wellbeing surcharge.

However, it is vital for the future sustainability of the WorkCover Scheme, that this investment continues while businesses recover from the effects of COVID-19 (including the impact of cost-push inflation). Perhaps more importantly, the WorkCover Scheme needs structural reform to ensure it is fit-for-purpose to manage psychological injury claims as effectively as it manages physical ones.

To succeed, Victorians must have confidence the shared interests and responsibilities of both employee and employer are acknowledged and reflected in practical reforms that ensure only genuinely work-related psychological injury claims are accepted and that employees suffering from such injuries are provided with the support needed to return them to productive work as quickly as practicable.

“ The WorkCover Scheme needs structural reform to ensure it is fit-for-purpose to manage psychological injury claims as effectively as it manages physical ones.”

VACC is committed to working with the Victorian Government, WorkSafe and other stakeholders to do this necessary work, consistent with the longstanding legislative objectives of the WorkCover Scheme.

Recommendation 23:

That the next Victorian Government maintains additional funding until the Victorian Workers Compensation System is fit-for-purpose.



7. Fairer compensation and more equitable business support

7.1 Fair compensation for administrative obligations imposed by VicRoads on Victorian automotive dealers

Considering the privatisation of VicRoads' registration and licensing operations, the time is now right to appoint licensed motor car traders (LMCTs) as 'agents' of the state under their licensing agreements. For many years, LMCTs have collected data and administered fees on behalf of VicRoads and the State Revenue Office without compensation for their time and resources. Moreover, this work is unrelated to LMCTs' core business, offering no direct financial return.

For example, LMCTs complete vehicle inspections on behalf of VicRoads, who charges the vehicle owner \$37.50 for each inspection. However, despite having conducted the inspection, collected the fee and updated the online portal, the LMCT does not receive any portion of the fee. They have effectively completed this task, which was once conducted by VicRoads, for free.

Furthermore, LMCTs who make payments electronically rather than via a personal visit to a Customer Service Centre (which would create a cost burden for government) are charged a merchant fee. This is unrelated to the commercial benefit to the business, is otherwise unavoidable, and is not reimbursed by the regulator.

The recently announced VicRoads modernisation initiative will undoubtedly benefit from the work of the LMCT network. In light of the new commercially oriented joint venture, LMCTs should be adequately compensated for the work they perform.

In promoting commercial fairness, VACC contends that an agency agreement should be entered into (similar to the agreement between VicRoads and Australia Post) whereby LMCT costs and merchant fees are reimbursed.

Further to this point, VACC advocates for more collaborative engagement between the Chamber and VicRoads to ensure the best regulatory outcomes for motorists, businesses and the community.

Recommendation 24:

That the next Victorian Government appoints all licensed motor car traders in the VicRoads Dealer Online and Dealer Certification Scheme as agents for the new joint venture and be compensated for conducting work for the entity.

Recommendation 25:

That the next Victorian Government mandates meaningful consultation between VicRoads and industry in the pursuit of effective regulation and red-tape reduction.

7.2 Equitable distribution of any future business relief packages

Automotive dealer franchisees (dealers) and other large automotive retailers should be exempt from the turnover and employee thresholds that applied to many government COVID-19 relief and stimulus packages.

Research conducted by VACC at the height of the 2020 Victorian lockdown estimated 70 per cent of dealers nationally did not qualify for three of the key relief packages (Boosting Cash Flow for Employers, protections mandated under the National Cabinet Mandatory Code of Conduct for SME Commercial Leasing Principles during COVID-19, and apprentice wage subsidies) due to aggregated turnover, insufficient loss of business turnover – required in some instances to be more than 70 per cent – or high staff levels.

Many major employers in the Victorian automotive retail sector were unable to qualify for assistance as a result of poorly identified Australian and New Zealand Standard Industrial Classification codes.

The intricacies of the threshold criteria, such as an aggregated turnover for an entity as opposed to an individual dealership, to qualify for support are not reasonable – especially when applied to new car dealerships or large automotive retail outlets whose products have high retail value.

The \$50-million turnover threshold to access support further exacerbated the problem, especially where multi-franchised annual turnovers were combined. A similar example relates to the \$1 billion threshold and demonstrated 50 per cent downturn to qualify for JobKeeper. Exemptions should be included in any future criteria for pandemic or state of emergency-related business support to ensure a more equitable division of state-funded business assistance.

Recommendation 26:

That the next Victorian Government exempts automotive dealer franchises and large automotive retailers from any future staffing and turnover thresholds associated with pandemic or state of emergency business relief payments.

Recommendation 27:

That the next Victorian Government ensures all automotive retailers are eligible for any future government subsidies related to pandemic or state of emergency relief payments, regardless of their Australian and New Zealand Standard Industrial Classification code.

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