

VACC Submission

VACC Preliminary Submission on Accident Towing Services Regulations 2008

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List of Recommendations

Recommendation 1: VACC recommends that the regulations include a clear explanation that key industry stakeholders can request VicRoads to start the process if they perceive the charges set at a particular time may be out of date and in need of such a review.

Recommendation 2: VACC recommends that the Geelong self-managed allocation scheme continue to operate and VicRoads should acknowledge its approach to continuous improvement as noteworthy.

Recommendation 3: VACC recommends that VicRoads and the Essential Services Commission undertake a comprehensive study of the 'real' (full) cost recovery by small business operators within the Melbourne Controlled Area, before any attempt to extend the regulation of fees outside the Melbourne controlled area.

Recommendation 4: VACC recommends abolishing the one size fits all approach to setting storage charges and is replaced with a schedule that shows charges for various geographical areas across Melbourne and the State.

Recommendation 5: VACC recommends allowing (with appropriate rules) the use of multiple tows with a single tow truck. Multiple tows should be permitted for light vehicles on a state-wide basis.

Recommendation 6: VACC recommends that VicRoads gives further consideration to facilitating greater use of double tows.

Recommendation 7: VACC recommends that VicRoads publish boundaries in the Melbourne controlled area. We also recommend that if a person requests to move a licence or depot, other licence holders in a 20-kilometre radius are notified.

Recommendation 8: VACC recommends that tow truck driver accreditation should be extended to 10 years.

Recommendation 9: VACC recommends that where there is regulatory overhang, VicRoads should update policies to ensure limited regulatory burden on tow operators.

Recommendation 10: VACC recommends existing regulation, with particular reference to record keeping, be scrutinised by government to ensure policies are fit for purpose and pose as little regulatory burden as possible on operators.

Recommendation 11: VACC recommends that the accident scene should be treated as a crisis situation and/or crime scene and the regulations should state that. The accident scene should only involve emergency service personnel.

Recommendation 12: VACC recommends plain English definitions which are instructorial in nature for 'basic salvage', 'salvage', 'road' and 'road related area' are included within the recommendations.

Recommendation 13: VACC recommends instructions related to Victorian Tow operators comply with cross border regulations (e.g. NSW) so they can perform their towing activities.

VACC PRELIMINARY SUBMISSION ON ACCIDENT TOWING SERVICES REGULATIONS 2008

Introduction

Regulations made under the Accident Towing Services Act 2007 are due to be replaced by 2019 with new regulations designed to meet the needs of the community and industry for the next 10 years.

The Victorian Automobile Chamber of Commerce (VACC) is Victoria's peak retail automotive industry association, representing the interests of more than 5000 members in more than 20 retail automotive sectors (including towing), employing more than 50,000 Victorians. VACC represents a significant proportion of accident tow truck operators in Victoria.

VACC is of the firm view that good regulatory design requires a regulation to be commensurate with the size of the problem, targeted at the source of the problem and effective in achieving specific policy objectives. Bad regulation is poorly targeted, fails to meet policy objectives and often punishes the regulated entities and other affected parties that are not the cause of the problem, but who still need to comply with the regulation.

VACC members are committed to working with VicRoads to formulate regulations that are focused on the accident driver and that are fair and equitable in compensating tow operators for the services they provide to industry and the community.

VACC welcomes VicRoads' invitation to make a submission. We look forward to be involved further in the development of the new regulations.

Submission Overview

Accident towing is a heavily regulated sector in Victoria and one that has provided positive industry and public services for many decades. VACC does not support additional and unnecessary regulation designed to address isolated incidents.

It is VACC's view that changing regulations based on a small number of incidents has the potential to unfairly penalise motorists, including the majority of accident tow operators and insurers who comply with the existing regulatory framework. VACC does not support the addition of burdensome regulations and argues that no part of the existing regulations should be deregulated.

The accident towing industry provides a safe, orderly and efficient service that meets the objectives of the Accident Towing Services Act 2007. The industry consistently meets the required performance and service standards set by the Government. It has minimal complaints from the public and maintains a high level of compliance with the existing regulations. This high level of compliance is reflected in the low rate of complaints and in the limited discussions required between towing operators and the Government on matters of non-compliance.

It is VACC's view that the litmus test for making any changes to the regulations should include:

- Eliminating existing red tape that constrains the work of tow operators, police, paramedics, firefighters and tow truck drivers.
- Improve accident towing services to motorists.
- Ensuring tow operators provide field-based services to recover their fair and legitimate expenses.

Table 1 summarises VACC’s assessment regarding Parts of the regulations deemed necessary for change and which Parts should remain unaltered.

Table 1: VACC summary table of recommendations for changes to the regulation

PART 1—PRELIMINARY	VACC RECOMMENDATION
1. Objectives	No change
2. Authorising provision	No change
3. Commencement	No change
4. Definitions	Additions
PART 2—INDUSTRY ACCREDITATION AND DRIVER ACCREDITATION	
5. Qualifications for accreditations and renewals	Change
6. Information to accompany applications for accreditations and renewals	Change
7. Additional information to accompany industry accreditation applications and renewals	Change
8. Conditions of towing operator accreditation	Change
9. Condition of towing depot manager accreditation	Change
10. Conditions of tow truck driver accreditation	Change
11. Consultation requirements	Change
PART 3—TOW TRUCK LICENCE CERTIFICATES	
12. When a tow truck licence certificate must be returned	No change
13. Lost, stolen or destroyed certificates	No change
13A. Annual licence fees	No change
13B. Alteration of specified depot	Change
PART 4—RECORDKEEPING AND SPECIFIED DEPOTS	
14. Records to be kept by a licence holder	Minor change
15. Manner and form in which records are to be kept	Minor change
16. Specified depots	Minor change
PART 5—VEHICLES	
17. Specifications and equipment	No change
18. Maintenance of equipment	No change
19. Information to be displayed on licensed tow truck	No change
20. Inspection of tow trucks proposed to be specified in a tow truck licence	No change
21. Notice requiring repairs etc.	No change
22. Operation of warning lights on a licensed tow truck	No change

PART 6—TOW TRUCK OPERATIONS IN A CONTROLLED AREA	
Division 1—Road accident scene rosters	
24. Definitions	No change
25. Appointment of chief allocation officer and allocation officer	No change
26. Road accident scene roster	No change
27. Inclusion in the roster	No change
28. Removal or suspension from the roster	No change
29. Review of decision by VCAT	No change
30. Time period for making application to VCAT	No change
Division 2—Allocations	
31. Authorisation to attend road accident scene	No change
32. Authorised tow truck must attend	Change
32A. Attendance at road accident scene outside controlled area	No change
33. Substitute tow truck	No change
PART 7—TOW TRUCK OPERATIONS GENERALLY	
Division 1—Authorities to tow	
35. Authorities to tow	No change
36. Moving motor vehicle to reduce a hazard	No change
Division 2—Road accident scenes	
37. Conduct of tow truck drivers at road accident scene	No change
38. Duty to advise owner or driver of an accident damaged motor vehicle	No change
39. Refusal to salvage or tow from road accident scene	Change
Division 3—Outstanding charges	
40. Method of receiving payment for outstanding charges	No change
PART 8—ACCIDENT TOWING DEMERIT POINTS	
41. How accident towing demerit points are incurred	No change
42. Notice of recording of accident towing demerit points	No change
43. Notice of suspension of accreditation	No change
44. Cancellation of demerit points	No change
PART 9—INFRINGEMENTS	
45. Infringements	No change
PART 10—ENFORCEMENT	Change

Section 1: Sustainability of Accident Towing Services by Towing Operators

The Minister can set and amend charges for accident towing services. Information in the Accident Towing Services Act 2007 (the Act) explains how Consumer Price Index (CPI) adjustments are calculated. However, the Act and the regulations are silent on how the 'amount of a charge is determined' as the base to which CPI is then applied.

VACC has examined the Department of Treasury and Finance (DTF) Cost Recovery Guidelines (2013) for setting fees and user charges imposed by Victorian Government departments and central agencies. The activity based cost templates provided by DTF are illuminating. VACC contends that if actual costs to be recovered by tow operators in the Melbourne-controlled area were aligned to the major cost and indirect cost templates, the 'amount of a charge determined' would provide the Minister with accurate information and remove the conflict and subsequent dissatisfaction related to accident towing charges.

The current calculation for the 'amount of a charge is determined' is based on an historical 'estimate' only and has never been subjected to professional research scrutiny. This, VACC believes, is the root cause for so much disaffection among key industry stakeholders. A proper review would provide the Minister with solid evidence that the 'amount of a charge determined' is sufficiently accurate that he may set a revised base charge.

Why is this so important? If tow operators (dominated by small businesses) are to continue their services in a manner that befits the Government's intention, it is necessary that they remain financially viable. Return on investment (ROI) in the towing industry must be retained so that existing operators are willing to continue to invest and that normal exits/retirements are replaced with new operators. It is imperative that the rewards for a particular tow are such that an operator is encouraged to respond to a call to tow (allocation). This includes compensation for accident scene call-ups.

Many tow operators are finding it increasingly difficult to sustain their accident towing services because the Government has not ensured that regulators set fair and reasonable fees based on the real costs incurred, particularly in the Melbourne controlled area. There is real concern that small businesses are cross-subsidising the accident towing system and putting their livelihoods at risk.

This is something the DTF alludes to by discouraging poor cost recovery calculations in government departments and agencies. DTF also explains when recognised 'cross-subsidies' remain hidden, the favoured groups receive benefits without those incurring the costs being fairly compensated.

There is reasonable evidence that such practices are occurring today in the Melbourne controlled area, which is contrary to the important principle of 'transparency'¹. The concern expressed by tow operators is that the central agencies, who set the Melbourne controlled area rates, have done this from a flawed historical estimate. VACC argues that the failure to undertake a proper study of tow operator costs is the root cause of the problem.

VACC supports tow operators who claim the rates for metropolitan accident towing are too low and the regulation, unfair.

A suggested solution is for VicRoads and the Essential Services Commission (ESC) to fund a comprehensive study into the true costs of towing. The research would use the DTF Cost Recovery Guidelines and activity based costing templates to ensure that current operating costs, including toll road costs, are reflected in the baseline. This research is required immediately to set a new and more accurate base estimate.

¹ Department of Treasury and Finance, Cost Recovery Guidelines, January 2013, page 28.

Section 2: The Case for ‘No Change’ Regulation of fees and other fee-related issues

VACC strongly recommends that VicRoads and the ESC undertake a comprehensive study of the ‘real’ (full) cost recovery by small business operators before any extension to the regulation of fees outside the Melbourne controlled area. Our recommendation is premised on determining what ‘fair’ and ‘reasonable’ total operating costs are and that they are consistent with the DTF’s activity based costing templates. These resources are used to derive fair and reasonable costs borne by operators (Attachments A and B). Any tow truck operator costs study should include the real costs that may occur within metropolitan Melbourne and across regional Victoria and adjust the Melbourne controlled area rates appropriately. For example from 1 April 2017 CityLink is increasing its toll rates for Heavy Commercial Vehicles, which in turn increases the costs for small business operators (Attachment C).

Melbourne controlled area

It is the VACC’s position that towing operator services within the Melbourne controlled area have been successful, but have come at a cost to the vast majority of operators. Operators feel they are not being fairly compensated for the legitimate expenses they incur in providing accident towing services.

There is little dispute that fees should remain regulated in the controlled area. This is because the allocation scheme grants an exclusive right to towing operators to attend an accident scene. The allocation scheme has also reduced the impact of congestion on motorists and successfully addressed behavioural issues associated with multiple tow operators attending an accident scene.

However, the base historical estimate used to apply transport CPI increases has never been validated as a true and accurate reflection of the actual costs incurred by a tow operator in the Melbourne controlled area.

VACC contends this failure by central agencies to undertake a proper and diligent cost analysis study is the root cause of the viability problem faced by operators today. The Government needs to instruct the ESC and VicRoads to undertake the necessary research to settle this concern. This is the best way to ensure rates are set based on sound evidence gathered through the application of quality research techniques.

VACC further supports the application of the DTF’s Cost Recovery Guidelines (January 2013) to any study, including application of the activity based costing templates.

Geelong self-managed area

The Geelong self-management area and the unregulated portion of the state should not be subject to fee regulation. VACC strongly argues that fees charged in the self-managed and unregulated areas are based on the actual costs of running a business.

VACC members provided a proper and professional cost analysis of tow operations in Geelong to the ESC. Their contribution to the ESC review was based on the actual use of tow trucks and the hourly running costs. It involved a full and detailed explanation of direct, indirect and overhead costs, including operations of the self-managed allocation area.

VACC believes regulators must have a proper understanding of the operational and administrative costs for operators across all areas, including the Melbourne controlled area, before they decide that tow operator charges outside the Melbourne controlled area are unreasonable.

VACC stresses that a proper study into the actual costs of operators in the Melbourne controlled area would refute the unsubstantiated claims by some insurers that charges outside metropolitan Melbourne are expensive or unreasonable.

The Geelong self-managed area tow operators justified their charges by opening their books to the ESC in 2015. These operators provided hard evidence that their charges were based on recovery of fair, reasonable and legitimate operating costs, which is necessary if their efficient businesses are to remain afloat.

The proven operating costs for towing operations in the Geelong self-managed area should be the basis for setting the rate for tow operators in the Melbourne controlled area until a proper study is undertaken of the actual costs incurred.

Unregulated area

In 2015, VACC demonstrated to the ESC that tow operators in the uncontrolled areas (rural Victoria) are, on average, required to service a far greater square kilometre footprint than their counterparts in New South Wales (NSW).

Servicing such a large geographical area contributes significantly to increased operating costs, vehicle and equipment maintenance, asset depreciation, labour costs, and the time taken to get to an accident scene.

Insurers claim tow operations can be expensive in rural areas. When they contest the fee charged, they inevitably declare they are basing their judgment on a comparison with the rates used for tow operators in the Melbourne controlled area. This argument is perpetuated by insurers' self-interest and propagates the myth that tow operators are unfair and insurers are being duped.

Therefore, VACC reiterates its call for a proper study to be undertaken by the regulator into the actual costs incurred by tow operators in the Melbourne controlled area. This will establish an accurate baseline for fair costs to be recovered by tow operators. It will also help eliminate claims by insurers that tow operators outside the Melbourne controlled area are overcharging for accident towing services.

Any notion of a pricing cap for accident towing in the unregulated area would amount to market distortion of the real costs of providing the service. Such a move would be detrimental to a substantial number of small business operators in regional and rural Victoria.

It would effectively increase margins for insurance companies at the expense of tow operators. Worst-case scenario would be job losses and economic erosion affecting the towns and communities that these small business operators help to support. It is also the antithesis of fair trading between big and small business.

Monitoring of accident fees in the unregulated area

VACC does not support the recommended fee notification for the unregulated area that is being encouraged by the ESC. Adoption of this recommendation by VicRoads will likely see it also used by insurers, with real costs being bundled up into insurance premiums. In this scenario, independent tow operators are likely to be marginalised and moved out of the industry.

The ESC has not produced any evidence of public complaints about towing costs. VACC understands that VicRoads receives a handful of complaints each year, mostly from uninsured drivers. The small number of complaints does not point to a systemic problem, given the estimated 62,000 accident tows conducted each year.

If the Government wishes to monitor towing fees in the unregulated area, VACC believes it should consider a lower-cost option that enables the collection of price information but applies a user-pays principle. VicRoads could conduct an annual survey of all tow operators by phone or email and collate the required information. In this way, the cost is being borne predominantly by the Government, which would be the primary beneficiary of price monitoring. This option would also reduce the time burden for tow operators in providing prices compared with a more formalised arrangement under a price notification scheme.

Any concerns about fee monitoring within the unregulated area appear to be a resourcing issue for VicRoads. It would seem logical to address the issues and make improvements before introducing further regulation in the form of price notification, which can only benefit insurers. This is because insurers will pressure tow operators to meet the lowest rate without any regard for the tow operator's costs, initiating a dangerous downward price spiral that will threaten the existence of tow operators in unregulated areas.

Accident allocation schemes

VACC towing operators believe the allocation system in the Melbourne controlled area has eliminated the poor practices previously used by some operators competing for work at an accident scene. As metropolitan Melbourne expands, it is important to review allocation boundaries to ensure zones match the regulatory need to manage towing competition at the scene of an accident. VACC supports regular reviews of the allocation zones based on accident statistics and feedback provided to VicRoads by the public and industry.

The Geelong self-management allocation scheme is working well, with no allocation-related issues reported by VACC members in that region. The notion of proximity-based allocation for the Melbourne controlled area is not supported by tow operators or VACC.

Problems associated with the concept of proximity-based depots

VACC does not support a proximity-based allocation system because our operators are adamant that it will not work.

VACC has previously argued that the case for proximity-based allocation presented in the ESC's recent reports was overstated. The alleged gains from a proximity-based allocation system should be viewed with much scepticism by VicRoads and the Minister. This is because the ESC's analysis assumed vehicles were dispatched from depots. VACC was able to clearly demonstrate that a substantial proportion of accident towing vehicles are garaged at the residences of their drivers and not at a depot.² This arrangement consistently works well and uses the available towing resources in an efficient and effective manner.

As a result, the ESC amended its final report³ recommendation to emphasise that VicRoads should benchmark the efficiency of the current allocation scheme by measuring its performance against a proximity-based benchmark. Such benchmarking may enable future decisions about the allocation scheme to be better informed by potential benefits, recognising that the costs associated with these types of changes will need to be considered.

VACC is concerned that allowing licensed tow truck operators to move depots and licences without VicRoads' approval will lead to over-servicing in areas with higher volumes of accidents and under-servicing in areas with lower volumes of accidents. This is contrary to the purpose of a planned approach in accident towing allocation and is not supported by any concrete evidence of endemic system failure. VACC will not support recommendations that enable operators to move depots based on accident volumes, given the negative downstream effect this would have on consumers.

VACC recommends that the self-managed allocation scheme continue to operate and VicRoads should acknowledge its approach to continuous improvement as noteworthy.

Recommendation 1: VACC recommends that the regulations include a clear explanation that key industry stakeholders can request VicRoads to start the process if they perceive the charges set at a particular time may be out of date and in need of such a review.

Recommendation 2: VACC recommends that the self-managed allocation scheme continue to operate and VicRoads should acknowledge its approach to continuous improvement as noteworthy.

Recommendation 3: VACC recommends that VicRoads and the Essential Services Commission undertake a comprehensive study of the 'real' (full) cost recovery by small business operators before any extension to the regulation of fees outside the Melbourne controlled area.

² VACC Submission, Industry Response to the Essential Services Commission, Accident Towing Regulation, Draft Recommendations, September 2015.

³ Essential Services Commission, Accident Towing Regulation – Final Report (December 2015).

Section 3: The Case for ‘Change’

Review of charges set by the Minister

VACC understands that the process outlined in the Accident Towing Services Act 2007, Section 211, in which the Minister may determine charges for accident towing services, requires a report to be produced and provided by VicRoads to the ESC. The ESC can then request a review of charges by the Minister. The Minister can amend or set charges for the towing service and storing of accident-damaged vehicles, basic salvage services and other salvage services.

VACC recommends that the regulations include a clear explanation that key industry stakeholders can request VicRoads to start the process if they perceive the charges set at a particular time may be out of date and in need of such a review.

Abolish VicRoads ‘one-size-fits-all’ approach to setting storage charges

VicRoads one size fits all approach to setting the storage charges is inappropriate. It is hurting small business operators who are, inadvertently, subsidising accident towing services and other parties. The approach used by VicRoads should be abolished immediately.

According to most operators involved in providing services in accordance with the Accident Towing Services Act, they are not recovering their fair and legitimate expenses for providing accident vehicle storage.

VACC proposes storage charges be reviewed as part of a separate study undertaken by VicRoads. The aim would be to establish storage charges for various areas cross metropolitan Melbourne and the State.

This study to be undertaken by VicRoads should include, but not be limited to the cost of real estate, direct, indirect and overhead costs which vary across areas of metropolitan Melbourne and Victoria more generally. VACC would envisage a variable base rate and variable rate for overheads would help to construct a more valid and reliable charge for storing accident vehicles depending on what geographical area the vehicle was stored.

Industry accreditation and driver accreditation – Part 2 of the regulations

Sections 5 to 11 are supported by VACC, however, VACC acknowledges that the regulator has not invoked any activities around this part of the regulations.

VACC proposes that we work with VicRoads to consider self-regulation or industry management of these parts of the regulations to ensure that the human factors important to understanding the Act (rights and responsibilities), maintaining and enhancing standards for operators, and improving driver retention are introduced and managed effectively and efficiently. This suggestion also includes the appropriate training for depot operators and managers.

Non-accident vehicle debris clean-up at accident scenes

Tow operators have not been adequately compensated for clean-up of non-accident vehicle debris at accident scenes and have been unfairly cross-subsidising the regulators and insurers.

VACC says that routine clean-up activities at an accident scene should be limited to cleaning up accident vehicle debris. This is part-and-parcel of the regulated fees and no further charge is proposed or being contested by tow operators.

However, when the accident clean-up includes transported load debris, the work can be extensive – Subsequently, the tow operator should be compensated for removing this debris. VicRoads should establish a set hourly rate for this activity and the rate should be made explicit in the regulations.

Under DTF’s principle of ‘transparency’ (a fair trading concept), VicRoads needs to ensure that it has not set up a system whereby small business operators are cross-subsidising the regulator or insurers. It is unfair for a small business to be short-changed in the recovery of fair and legitimate costs for the time they spend cleaning load debris from the accident scene.

Multiple tows to be permitted

VACC recommends allowing (with appropriate rules) the use of multiple tows with a single tow truck. Multiple tows should be permitted for light vehicles on a state-wide basis. Government support for this action will have a positive impact on the industry, raise infrastructure productivity and may also create opportunities for improved towing costs to consumers.

Allowing for double tows on the same truck could lead to faster response and clearance times, given that it potentially removes the requirement for accident vehicle owners to wait for multiple tow trucks to respond when a single respondent would be sufficient. VACC recommends that VicRoads gives further consideration to facilitating greater use of double tows.

Increasing the transparency of depot relocations and movement

VicRoads needs greater transparency in its decision making for depot relocations and movements.

VACC recommends that VicRoads publish boundaries in the Melbourne controlled area. We also recommend that if a person requests to move a licence or depot, other licence holders in a 20-kilometre radius are notified.

VicRoads must understand that depot relocation and movement issues, including changes to management and ownership, alter the allocation system substantially and can quickly destabilise a system that is already operating effectively.

Recovery of fair and legitimate salvage costs

Recovery of fair and legitimate salvage costs from the owner of the accident vehicle has been an ongoing concern for tow operators. The Act does not stipulate that a towing operator can hold a vehicle when monies are outstanding as a result of salvage.

The tow operator is forced to release the vehicle and then pursue charges for salvage at a later date. This is often a costly and time-consuming activity. Operators are entitled to recover their costs and should not be forced to negotiate after the vehicle has been released or, as frequently happens, not be paid at all. The regulations should reflect the principles of fair trading and transparency by allowing tow operators to recoup legitimate and reasonable costs, or to place a lien on the vehicle until fees are received.

Touting at the accident scene

VACC stresses that the accident scene should be treated as a crisis situation and/or a crime scene. The regulations should state that. The regulations should also make it clear that the accident scene should only involve emergency services personnel (police, ambulance, fire brigade, tow truck driver) with the priority to assist accident victims, safely clear the accident scene and restore the roadway to enable traffic flow.

To provide consumers with time to review their options and reduce the practice of touting at the accident scene, VACC suggests maintaining the maximum set of destination choices for regulated accident tows by upholding the use of the VicRoads tow docket in its current form.

The VACC's view is that the scene of an accident is not a place for consumers to make a vehicle repair decision, and certainly not to be pressured to do so by the insurer. The regulations must insist that insurers refrain from using their e-business systems to solicit and steer damaged vehicles to their preferred repair facilities or locations under their control. The maximum user-choice model must be preserved in the new regulations. Any move away from the current user choice principles will likely have the effect of reducing consumer rights and may lead to a lessening of confidence in the state's towing system.

Improvements to the Accident Allocation Centre

Software upgrade

On the transparency of queuing in the Melbourne controlled area, the ESC agreed in its final report (December 2015)⁴ that under the current depot-based allocation scheme there would be benefits from allowing tow truck operators to know their position in the allocation queue through a desktop or mobile device.

Making such information available to operators will allow them to better coordinate and manage their assets to deliver efficient and cost-effective towing services. The information is already collected and the costs of designing a web-based (online) portal to access the information should not be significant. It would appear it is a software development issue for VicRoads to resolve.

Automatic release of the accident driver's telephone number

Tow operators in the Melbourne controlled area – particularly those servicing the high-density inner city/city precinct – require immediate access to the accident driver's telephone number. This will speed up service times and accident scene clearance. At present, tow operators who request the telephone number are told that the information cannot be released because it is 'private'.

The tow operator is always furnished with the number once they seek out and locate the accident driver from the many spectators at these high-density accident locations. The 2-3 extra minutes has a negative impact on efficiency, makes the site less safe for the tow operators as they are distracted from the technical operations task at hand, and has an adverse impact on accident scene clearance rates and traffic congestion.

VACC has placed this issue here, but it could equally be placed in the red tape section of our submission.

Plain English definitions for salvage, road and road reserve required for the regulations

Clear, plain English definitions of what constitutes 'basic salvage', 'salvage', 'road' and 'road related area' would assist VicRoads in decision making and help to minimise/eliminate tow operator and insurer disputes about an operator's legitimate cost recovery for salvage work. VACC favours clearer definitions in this area and would welcome an opportunity to assist in the process.

Infringements

VACC understands that VicRoads may prescribe penalties of not more than 20 penalty units for any contravention of the regulations. We recommend that VicRoads conducts a focus group among primary stakeholders who are required to comply with the Act and regulations to evaluate reweighting penalty units so they are appropriate and in keeping with the new regulations. It is VACC's view that some penalty unit allocations are unnecessarily severe.

Red tape reductions

Cross-border issues

VACC seeks advice from VicRoads and/or instructions from VicRoads in the form of a new clause/subclause within the regulations about how a Victorian-licensed tow truck operator holding a Victorian tow truck licence can perform towing activities in the state of New South Wales without penalty from either VicRoads or Road Transport Authority NSW.

VACC recognises that VicRoads may have to meet with its NSW counterpart to clarify cross-border confusion, as illustrated by the points made by VACC below:

- Clause 55: This grants a person who holds a tow truck licence or permit in a state other than NSW an exemption from the requirements of the Tow Truck Industry Act 1998 to hold a licence or driver's certificate in the state of NSW.
- Subclause 2 would appear to contradict subclause 1 in Clause 55 by stating that the exemption contained in subclause 1 does not apply if the towing work commences in NSW.

- Subclause 3 further complicates an interpretation of the provisions by stating that Clause 55 does not affect any entitlement or rights of a person who holds a tow truck licence or driver's certificate in another state.
- The note that forms the conclusion to Clause 55 indicates that a holder of a tow truck licence in another state must register his licence with the RTA in NSW, which can impose conditions on the registration and use of the licence consistent with the conditions imposed upon the licence in the home state. In other words, if the licence in Victoria is a trade towing licence, then the operator will be restricted to using the vehicle for trade towing purposes only. Similarly, if the licence permits the attendance at an accident scene, then it follows that such a licence holder would be permitted to attend an accident scene in NSW.
- On our reading of the legislation, subclauses 1 and 3 are consistent; however, subclause 2 contradicts 1 and 3. In these circumstances, if a charge were to be laid against one of our members, there would be a strong defence available due to conflict of the law which, in our view, should lead to a dismissal of any charge.
- It is our view that a Victorian licensed tow truck operator and/or driver with the appropriate certificate can attend an accident scene in NSW provided the licence holder is permitted to do so in his home state and provided the licence holder registers his licence with the RTA in NSW.
- This view is based upon a literal analysis of Clause 55. We have conducted a search of the NSW Supreme Court database and can find no reported decisions on the point.
- We have also searched the NSW statutory database for any legislative amendment to Clause 55. Regrettably, there are no further amendments, and the Regulation of 2008 remains the most current and the prevailing law about this issue.

Further red tape reductions

VACC recommends that tow truck driver accreditation should be extended to 10 years. This would reduce red tape and ensure truck drivers have one less identification card to carry.

VACC is unsure whether it is a regulatory burden or a hangover from rules placed on tow operators to keep documents that operators describe as unnecessary and red tape. If it is the latter, VACC recommends VicRoads inform operators they do not need to keep such detailed manualised records. If the former is true, VicRoads should remove the following burden:

- Records to be kept by a licence holder – (b) in chronological order. This is impossible to comply with and is a waste of tow operators' time (duplication). VicRoads should know each driver has their book stamped and with their registered number allocated. The tow docket number can be easily retrieved once entered into the operator's business computer and when required to be shown.
- Further red tape reductions could be made by removing antiquated practices such as keeping a record of the name, address, tow truck driver accreditation number and driver licence number of every person who drives the tow truck. This information is already documented through the business clocking-on system. Company practices for towing operations in this area are already covered by specially designed recordkeeping for WorkCover practices and protection. The information is also documented on each tow authority docket.
- This results in triple handling for the tow operator and keeping unnecessary hard copy records places further cost and time burdens on the operator. As way of further example, keeping records referred to in sub-regulation (1)—(a) at the specified depot for the licensed tow truck; and (b) for a period of at least one year from the date the last entries in the records were made, is unnecessary because the information, if required by VicRoads, can also be retrieved through the business's clocking on system.

Low-cost dispute resolution

The regulator needs to be made accountable for the administration decisions its officers make. If a reasonable argument results, then the applicant to the dispute ought to be able to settle the matter swiftly and at low cost.

VACC supports the Victorian Small Business Commission and/or the Victorian Civil and Administrative Tribunal (VCAT) being used to mediate an acceptable outcome on any administrative decision made by VicRoads relating to the regulations and affecting a tow operator.

Enforcement

VACC's recent experience of changes occurring inside VicRoads as the enforcement operation team is further developed is proving to be well regarded by tow operators. Continued clarification of regulations and compliance behaviour for tow operators is seen as extremely valuable and is appreciated by industry. This is accelerating the shift away from an adversarial model to an informed field-based model. As a consequence, tow operator complaints and frustrations with the 'regulator' are reducing.

Recommendation 4: VACC recommends abolishing the one size fits all approach to setting storage charges and is replaced with a schedule that shows charges for various geographical areas across Melbourne and the State.

Recommendation 5: VACC recommends allowing (with appropriate rules) the use of multiple tows with a single tow truck. Multiple tows should be permitted for light vehicles on a state-wide basis.

Recommendation 6: VACC recommends that VicRoads gives further consideration to facilitating greater use of double tows.

Recommendation 7: VACC recommends that VicRoads publish boundaries in the Melbourne controlled area. We also recommend that if a person requests to move a licence or depot, other licence holders in a 20-kilometre radius are notified.

Recommendation 8: VACC recommends that tow truck driver accreditation should be extended to 10 years.

Recommendation 9: VACC recommends that where there is regulatory overhang, VicRoads should update policies to ensure limited regulatory burden on tow operators.

Recommendation 10: VACC recommends existing regulation, with particular reference to record keeping, be scrutinised by government to ensure policies are fit for purpose and pose as little regulatory burden as possible on operators.

Recommendation 11: VACC recommends that the accident scene should be treated as a crisis situation and/or crime scene and the regulations should state that. The accident scene should only involve emergency service personnel.

Recommendation 12: VACC recommends plain English definitions which are instructional in nature for 'basic salvage', 'salvage', 'road' and 'road related area' are included within the recommendations.

Recommendation 13: VACC recommends instructions related to Victorian Tow operators comply with cross border regulations (e.g. NSW) so they can perform their towing activities.

Attachments

Attachment A – Department of Treasury and Finance Template for Major Cost Items

The following template of major cost items is intended to be used as a checklist. It will assist in ensuring that all relevant cost items are included in the cost base. However, it is underlined that not all costs will be applicable to each specific case. Equally, there may be costs relevant to specific cases that are not included in the following checklist, and which therefore should be added to the relevant cost base.

Salaries <ul style="list-style-type: none"> Operational staff Technical support Supervisory staff Management 	Non-wage labour costs^a <ul style="list-style-type: none"> Long service leave Superannuation WorkCover premiums Sick leave Annual leave 	Capital costs^b <ul style="list-style-type: none"> Software costs Maintenance of software applications
Office expenses <ul style="list-style-type: none"> Rent^c Office equipment Utilities Motor vehicles & equipment* Other (cleaning, etc) 	Operational expenses <ul style="list-style-type: none"> Publications costs Communications Toll road costs* 	Overheads^d <ul style="list-style-type: none"> Divisional overheads Corporate overheads

Notes:

a. Care should be taken to avoid double counting in applying these costs. Where an annual salary figure is used in direct costs, it will effectively include sick leave and annual leave. However, where costs per transaction are being calculated, care should be taken to ensure that the quantum of inputs (i.e. days) obtained in respect of one full-time equivalent (FTE) takes these items into account.

b. Care should be taken to ensure that capital costs are amortised over an appropriate time period. This will vary widely according to the type of asset considered. The amortisation period should be determined with reference to the likely productive life of the asset.

c. Actual figures should be used where possible. Where it is possible to identify clearly the rent attributable to a particular activity, a pro rata approach, based on the proportion of FTE engaged in the activity should be used.

d. See **Appendix C** for methods to allocate such costs.

e. [Major cost items included by VACC into DTF's template](#)

Attachment B – Department of Treasury and Finance Allocation of Indirect Costs

Step 6 in Chapter 4 outlined the two categories of approaches that might be adopted to allocate indirect costs to outputs – the activity based costing method, and the pro rata approach.

This appendix provides further details of these two categories, and contains examples and case studies as further guidance.

Activity based costing (ABC) method

The activities that comprise the production process culminate in the delivery of outputs. ABC examines the activities undertaken within an organisation, determines why they are used in the production process, and then assigns costs to outputs according to the consumption of each activity in the production of the outputs. Each activity is costed on the basis of the resources consumed.

Where products use common resources differently, a weighting is needed in the cost allocation process. The measure of the use of a shared activity by each of the products is known as the cost driver, which is the factor or variable that has the greatest effect on the level of activity. Examples of cost drivers are contained in Table A.1.

Meanwhile, Box A.1 provides an example that illustrates the application of activity based costing in the case of allocating the indirect costs associated with human resources services.

Table A.1: Examples of indirect cost drivers

Cost	Possible cost driver	Comments
Building costs, utilities, cleaning	No. of employees	Data collection and cost allocation is simple. It is suited to processes where all staff occupy similar floor space.
	Floor space (sq. metres)	Applicable if floor space occupied by staff working on different output varies considerably. Data collection is more difficult than employee numbers.
Depreciation, government financing charge, maintenance, leases, insurance	No. of outputs produced	May present difficulties if individual major assets are used to produce a number of different outputs.
	Floor space (sq. metres)	A simple and useful driver to use for building and associated costs.
Information technology	No. of employees	Low cost to develop and maintain. Applicable where the number of terminals and level of IT support is similar for most employees. Not recommended if different activities require different systems and levels of support.
	No. of personal computers	Can be more accurate than using the 'no. of employees', but again not recommended if different activities require different systems and levels of support.
	CPU seconds used	Accurate and sensitive to change, but may be costly to develop and maintain.

Attachment B Con't– Department of Treasury and Finance Allocation of Indirect Cost

Cost	Possible cost driver	Comments
Communications (e.g. phone, fax, mail, courier)	No. of employees	Low cost and simple. Assumes use of communications by employees is similar.
	No. of outlets (e.g. no. of phones, fax machines)	Low cost, relatively simple, but additional benefits may not outweigh costs of data collection compared to using no. of employees.
	Actual usage	Accurate and sensitive to change. Data generally available, as systems are capable of producing reports.
Customer inquiries	No. of phone calls	Accurate, but would require a system to track calls and the output to which they related, which may encounter resistance. An estimate could be made or based on a sample of calls.
Management salary	No. of outputs, assets employed, or linked to staff	The decision here should be guided by management's role in an organisation (i.e. is more time spent managing outputs, assets or people?)
Payroll services	No. of employees	Data simple to collect but may not accurately reflect costs if some groups of employees require greater level of payroll services.
	Payroll amounts	Simple, as data would be readily available, but the dollar amount for payroll amount may not accurately reflect time and cost associated with processing.
	No. of payments processed	Data collection simple, and probably more reliable than no. of employees.
Human resources services	No. of employees	Data simple to collect.
	Payroll amounts	Data available, but unlikely there will be a strong cause and effect relationship between payroll and HR costs.
	No. of new recruits	Relevant as new recruits would take more time than dealing with existing staff. However, would not represent the resources devoted to existing employees.
Accounts payable services	No. of fund transfers made	Would require a system to sum the number of payments for each charge code.
	No. of line items in invoices processed	Would require a system to sum the number of line items processed for each charge code.
Vehicles	Link to driver's salary and allocate in same way	Simple and low-cost method. However, it is inaccurate if use of the vehicle varies between different outputs. Recording is difficult if more than one driver.
	Time, recorded in log books	Accurate and data can be used for fringe benefit tax purposes. Can be costly to implement and maintain, and there may be staff resistance.

Source: Appendix B from DTF's Output Costing Guide.

Attachment C – Table of CityLink increased costs from 1 April 2017

The below table gives an indicative summary of the changes based on today's toll rate:

Trip	Current cost	Indicative new cost from 1 April 2017*
Trip over Bolte Bridge (6am - 8pm)	\$5.64	\$8.91
Trip over Bolte Bridge (8pm - 6am)	\$5.64	\$5.94
Moreland Road to Flemington Road (6am - 8pm)	\$4.50	\$7.14
Moreland Road to Flemington Road (8pm - 6am)	\$4.50	\$4.76
Trip through Domain Tunnel (6am - 8pm)	\$10.14	\$16.14
Trip through Domain Tunnel (8pm - 6am)	\$10.14	\$10.70
Day trip cap (6am - 8pm)	\$11.85	\$26.70
Night trip cap (8pm - 6am)	\$8.90	\$17.80

**Actual costs at 1 April 2017 will vary to reflect quarterly toll adjustments*

Thank you for choosing CityLink to get around Melbourne. We are focused on getting you safely where you need to go.