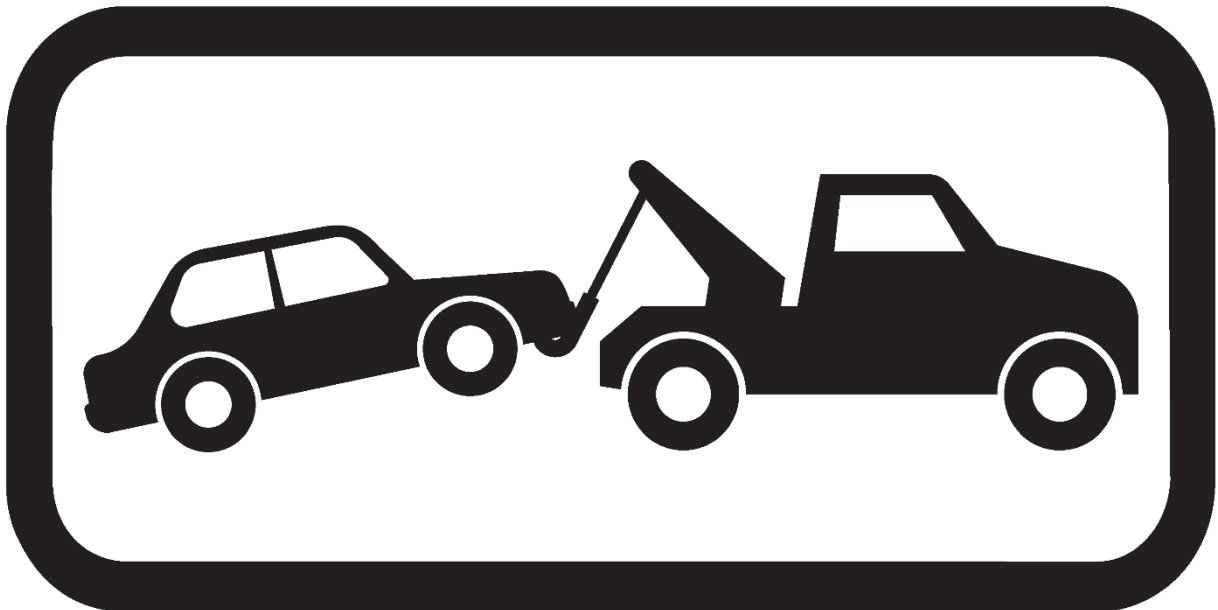




Decision Regulatory Impact Statement

Proposal for the Regulation of the Crash Towing Industry in Western Australia



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Prepared for Department of Transport

Prepared by Driver and Vehicle Services

Date June 2024

Objective number A20699998

This Decision Regulatory Impact Statement has been prepared in compliance with the Western Australian Government's requirement for Regulatory Impact Assessments and supplements the Department of Mines, Industry Regulation and Safety (DMIRS) Accident Towing Industry Consultation Report¹ (February 2022).

This document has been prepared by the Department of Transport (DoT), Driver and Vehicle Services, to assess the potential impacts of proposed reforms relating to the crash towing industry in WA. It explores the likely impact of the changes on crash towing industry participants and the broader community, consultation undertaken with stakeholders and possible costs and benefits of the proposed reforms.

Every care has been taken to ensure accuracy in the preparation of this paper.

This publication is free. The Department of Transport has no objection to copying all or part of this document. Due recognition of the source would be appreciated.

¹ The Consultation Report is available on the DEMIRS website at www.commerce.wa.gov.au/publications/accident-towing-industry-consultation-report

Table of Contents

1.	Glossary	5
2.	Executive Summary	6
2.1	Need for Government Intervention	6
2.2	Proposed Reforms	7
2.3	Government’s Decision-for Reforms	8
2.4	Difference between DoT modified Option 4 from DMIRS Option 4	8
2.5	Regions Covered by These Reforms	11
2.6	Commencement of Reforms	11
3.	Background	12
3.1	Industry Snapshot	12
3.2	Projected number of industry authorisations	13
3.3	Towing industry regulation in other Australian jurisdictions	14
4.	Statement of the Issue	15
5.	Reform Objectives	16
5.1	Broad Policy Objective	16
5.2	Specific Policy Objectives	16
6.	Scope of Industry Reform	17
6.1	Introduction of Maximum Towing Charges – Perth and Peel	17
6.1.1	Indicative maximum towing charges	18
6.2	Introduction of Maximum Storage Charges – Perth and Peel	20
6.2.1	Indicative Maximum Storage Charges – Perth and Peel	20
6.3	Towing Industry Authorisations	22
6.3.1	Tow Truck Driver Authorisation	24
6.3.2	Towing Service Provider Authorisation	25
6.3.3	Storage Yard Standards	26
6.4	Authority to Tow	27
6.5	Banning Spotter’s Fees and Other Incentives	28
6.6	Establishment of penalties and legal sanctions	28
6.7	Safety Standards	29
7.	Consultation	30
7.1	Department of Mines, Industry Regulation and Safety Consultation	30

7.1.1	Written submissions	31
7.1.2	Surveys	31
7.2	Department of Transport Consultation	31
8.	Options Analysis	32
9.	Recommended Option	34
10.	Cost to Government	36
10.1	Costs and Benefits – Maximum Charges	36
10.2	Costs and Benefits – Towing Industry Occupational Authorisations	36
10.3	Costs and Benefits – Enforcement Capabilities	37
10.4	Costs and Benefits – Storage Yards	37
11.	Cost Recovery	37
12.	Impact on Small Business and Regions	38
12.1	Impact of Towing Authorisations	38
12.2	Impact of Maximum Charges	39
13.	Communications	39
14.	Implementation and Evaluation	39
15.	Project Timeline	40
16.	Conclusion	40

1. Glossary

Term	Description
Consultation Report	The ' <i>Accident towing industry consultation report</i> ' published by DMIRS in February 2022
C-RIS	Consultation Regulatory Impact Statement
Crash Towing	The towing of vehicles involved in a crash
DMIRS	Department of Mines, Industry Regulation and Safety now the Department of Energy, Mines, Industry Regulation and Safety
DoT	Department of Transport
D-RIS	Decision Regulatory Impact Statement
Light Vehicle	A vehicle with a gross vehicle mass of 4.5 t or less
Regulating Jurisdictions	Queensland, New South Wales, Victoria, South Australia and the Northern Territory ²
WA	Western Australia

² The regulation of the crash towing industry in the Northern Territory relates only to the banning of spotter's fees and authority to tow.

2. Executive Summary

The crash towing industry in Western Australia (WA) serves a pivotal function within the State's transport system. The swift and safe removal of vehicles from crash scenes significantly enhances public safety and prosperity by mitigating traffic congestion and minimising potential road hazards.

This Decision Regulatory Impact Statement (D-RIS) provides an overview of the community consultation³ undertaken and the options considered in developing a regulatory framework to reform the crash towing industry in WA.

2.1 Need for Government Intervention

Concerns about the crash towing industry have been raised in the community and highlighted in the media over a number of years. This has resulted in strong calls for more effective regulation of the crash towing industry from industry participants, insurers and the wider community. Concerns include, poor conduct, predatory behaviour targeting drivers who have just been involved in crashes, excessive charges being applied for the towing and storage of vehicles involved in crashes and known links to criminal activity and organised crime⁴.

Drivers who have been involved in crashes find themselves in a vulnerable state. Consequently, the regulation of the crash towing industry aims to address this vulnerability and ensure consumers are protected when engaging such services.

Complaints about predatory and inappropriate behaviour include examples of drivers being accosted to sign authority to tow documents while receiving medical treatment in ambulances, physical violence and fraudulent claims that towing service providers had been sent by insurance companies or Main Roads WA to remove the crashed vehicle.

There are examples of vehicles being towed without the owner's consent and towing service providers failing to inform owners of the location of their vehicle. While the owners search for their vehicles, excessive daily storage charges accumulate.

There are complaints about crash chasing, which include dangerous driving as tow trucks race to the scene of crashes, putting all other road users at risk. There are allegations of bribes being offered to allow unscrupulous towing service providers to take the tows, with the cost of these bribes then being recouped through excessive charges to vehicle owners and/or insurers.

There have been examples of inflated prices for crash towing, including \$5,000 for a straightforward metropolitan tow of less than ten kilometres. There are inflated costs being applied where it is ascertained at the roadside that the person at fault is insured. The inflated towing prices evident in the State has seen a change in policy by certain insurance companies operating in Western Australia to cover only 'reasonable costs' or to cap reimbursement for crash towing costs.

³ Community consultation in the form of a Consultation Regulatory Impact Statement (C-RIS) as well as two online surveys targeting consumers & industry participants. The C-RIS is available on the DEMIRs website at www.commerce.wa.gov.au/publications/future-regulation-was-accident-towing-industry-consultation-paper

⁴ The organised crime presence in the towing industry was confirmed in Operation City in November 2023. www.police.wa.gov.au/About-Us/News/Operation-City-Tow-Truck-Enforcement

A 2018 CHOICE article about crash towing noted that, “most states have tightened things up, but Western Australia really is the ‘wild west’ of accident towing, with no regulation of fees and allegations of overcharging”.⁵

These unconscionable behaviours have driven Government to take action and reform the largely unregulated crash towing industry.

2.2 Proposed Reforms

Serious issues of community concern, including excessive charging for the towing and storage of crash damaged passenger vehicles, predatory industry behaviour targeting vulnerable consumers at crash scenes and physical altercations between tow truck drivers, have led the WA Government to scope a new regulatory framework for crash towing in Western Australia.

The development of the regulatory framework outlined in this document has been led by the Department of Transport (DoT), following industry and community consultation⁶ about options for reforming Western Australia’s towing industry, undertaken by the Department of Mines, Industry Regulation and Safety (DMIRS)⁷ in 2020. Further detail on the consultation undertaken by DMIRS and DoT can be located in [Section 7](#) of this document,

The regulatory framework developed by DoT to reform the crash towing industry considered the options and recommendations outlined in the ‘*Accident towing industry consultation report*’⁸ published by DMIRS in February 2022 and seeks to achieve the objectives as stated in [Section 5](#) of this document.

The proposed crash towing industry reforms will require new legislation and dedicated funding to build a crash towing occupational authorisation registry and supporting systems and to develop an enforcement capability to support the introduction of:

- price regulation to set maximum charges for the towing and storage of light vehicles⁹ involved in a crash in the Perth and Peel regions;
- occupational authorisation for tow truck drivers and towing service providers involved in crash towing, including fit and proper character provisions across the State;
- a prohibition on the advertising or payment of spotter’s fees across the State;
- safety standards for the crash towing industry across the State; and
- establishment of penalties and sanctions and enforcement powers.

The regulatory framework will only encompass roadside commercial crash towing and will affect those providing crash towing services as a commercial undertaking. The reforms do not seek to affect those undertaking breakdown, trade or compliance towing services.

⁵ Towing the line, Choice www.choice.com.au/transport/cars/general/articles/what-to-do-if-you-need-car-accident-towing

⁶ Community consultation in the form of a Consultation Regulatory Impact Statement (C-RIS) as well as two online surveys targeting consumers & industry participants. The C-RIS is available on the DEMIRS website at www.commerce.wa.gov.au/publications/future-regulation-was-accident-towing-industry-consultation-paper

⁷ Now known as the Department of Energy, Mines, Industry Regulation and Safety (DEMIRS).

⁸ The Consultation Report is available on the DEMIRS website at www.commerce.wa.gov.au/publications/accident-towing-industry-consultation-report

⁹ Vehicles with a gross vehicle mass of 4.5 tonne or less

Detailed information on the proposed reforms can be located in [Section 6](#) of this document.

2.3 Government's Decision for Reforms

Government noted the community's increasing concerns and dissatisfaction with the crash towing industry and in response to these concerns DMIRS (Consumer Protection) released a consultation paper in the form of a Consultation Regulatory Impact Statement (C-RIS) along with two online surveys targeting consumers and industry participants. The C-RIS outlined five options for public consultation that was released to the public in August 2020.

In February 2022, DMIRS published the '*Accident towing industry consultation report*'¹⁰ (the Consultation Report) which summarises the outcomes of the consultation and outlines the options for reforming the crash towing industry in WA, supporting Option 4: *Regulation of accident towing and consumer protection measures extending to the greater metropolitan area of Perth as well as some regional areas*.

Government considered the Consultation Report and noted that the Minister for Transport and the then Minister for Commerce had reached an agreement for DoT to take the lead in progressing this regulatory initiative, including administrative responsibility and further policy development. Government noted that DoT believed that some recommendations could go further, and authorised further targeted consultation with key stakeholders, with a final regulatory strategy presented for Government's consideration.

After consultation and further policy consideration, DoT recommended minor changes to Option 4, (modified Option 4), extending the occupational authorisation requirements to the whole of the State, but limiting price regulation to set maximum towing and storage charges to light vehicles¹¹ towed from the scene of a crash in the Perth and Peel regions.

2.4 Difference between DoT modified Option 4 from DMIRS Option 4

The DMIRS preferred Option 4 outlined an occupational authorisation scheme for accident towing business operators and tow truck drivers in the greater Perth metropolitan area and major regional centres of WA such as Bunbury and Busselton in the South-West, Geraldton in the Midwest, Kalgoorlie-Boulder in the Eastern Goldfields and Albany in the Great Southern, while DoT modified Option 4, expands the authorisation scheme to cover all crash towing industry participants across the State, as it is inequitable and unreasonable for people in regional areas to be offered a lower level of safety and reliability.

The proposed authorisation scheme uses standards similar to those of on-demand passenger transport drivers (for example Uber and Taxi drivers), which are as equally applicable for tow truck drivers, who as commercial drivers have a greater duty of care and often drive people who are stranded on the side of the road following a crash.

A comparison of the differences between DoT modified Option 4 and DMIRS Option 4 is detailed in Table 1 below.

¹⁰ The Consultation Report is available on the DEMIRS website at www.commerce.wa.gov.au/publications/accident-towing-industry-consultation-report

¹¹ Vehicles with a gross vehicle mass of 4.5 tonne or less

Table 1. Comparison of DMIRS Option 4 and DoT Modified Option 4

Option 4 (As published in the Consultation Report) ¹²	Modified Option 4 (Recommended for Implementation)	Reason for Enhancement
<p>Introduction of an occupational licensing requirement (including criminal history and criminal association checks) for accident towing business operators and tow truck drivers in the greater Perth metropolitan area and major regional centres of Western Australia such as Bunbury and Busselton in the South-West, Geraldton in the Midwest, Kalgoorlie-Boulder in the Eastern Goldfields and Albany in the Great Southern.</p>	<p>Introduction of an occupational authorisation requirement (including criminal history and medical checks¹³) for towing service providers and tow truck drivers who provide crash towing services State-wide.</p>	<p>The same standard of occupational authorisation requirements is to apply across the State to prevent shifting of criminal elements from Perth and Peel to regional areas if these authorisation requirements were to apply to Perth and Peel only.</p> <p>This facilitates a safe towing industry, as it is inequitable and unreasonable for people in regional areas to be offered a lower level of safety and reliability.</p>
<p>Introduction of maximum charges for accident towing and storage of accident damaged vehicles.</p>	<p>Introduction of maximum charges for the towing and storage of light vehicles involved in a crash in the in Perth and Peel regions.</p>	<p>Maximum charges for the towing and storage of light vehicles involved in a crash are to apply in Perth and Peel regions only initially.</p> <p>Consultation and analysis undertaken by DoT did not indicate any concerns of overcharging in the heavy vehicle towing sector and showed that the composition of towing service providers in regional areas are sparse and spread apart.</p> <p>DoT does not recommend setting maximum charges in the regions currently as it may cause market failure in certain regional areas with minimal towing services available to the public.</p>
<p>Introduction of additional requirements to be included in Authority to Tow Forms that are signed by consumers before a vehicle is towed to increase transparency about what the consumer is authorising.</p>	<p>No Change</p>	<p>Not applicable</p>

¹² Page 32 of the Consultation Report available on the DEMIRS website at www.commerce.wa.gov.au/publications/accident-towing-industry-consultation-report

¹³ Medical checks will only apply to tow truck drivers.

Option 4 (As published in the Consultation Report) ¹²	Modified Option 4 (Recommended for Implementation)	Reason for Enhancement
Banning the payment of accident spotting fees and other incentives.	Banning the payment of spotter's fees or other benefits or advantages in exchange for information as to the occurrence of a crash, or details of a vehicle that has been involved in a crash, break down or otherwise requires towing and extending the ban to include advertising or offering such incentives.	To discourage unlawful behaviour, this ban is extended to include a wider range of circumstances that attract spotter's fees. Non-pecuniary benefits in return for spotter's are included in recognition of the types of benefits offered. This will ensure the banning of spotter's fees regardless of the benefit offered and decrease the enforcement effort required accordingly. The advertising or offering of spotter's fees will be banned to assist in limiting the attraction of potential spotters.
Establishment of penalties and legal sanctions to deter unscrupulous behaviour and unsafe conduct.	Establishment of penalties and legal sanctions to deter unscrupulous behaviour and unsafe conduct, including enforcement powers for DoT.	The establishment of penalties and legal sanctions will require DoT to have the necessary powers to enforce these penalties and sanctions.
Establishment of a scheme for registration of depots used to store accident damaged vehicles.	Establishment of requirements for authorised towing service providers to have a suitable holding/storage yard to store vehicles that have been towed following a crash.	It is desirable to ensure that before a towing service provider is authorised to provide crash towing services that they have a secure and accessible holding/storage yard in which to store vehicles involved in a crash. Further, DoT has received multiple complaints of consumers being charged storage fees where the vehicle has been stored at a tow truck drivers' or towing service providers residential address and not at a secure facility.
Establishment of pathways for consumers to seek advice, resolve complaints and seek redress.	No change	Not applicable
Not included.	Introduction of safety standards.	DoT acknowledges the inherent safety risks posed to tow truck drivers and other road users at crash sites and therefore will introduce safety standards to minimise these risks.

Although the occupational authorisation scheme will be extended to encompass the entire State, the introduction of price regulation to set maximum charges will only apply to the towing and storage of light vehicles¹⁴ from crash scenes (which may include specified secondary tows) within the Perth and Peel regions and will not be applicable outside of these regions.

It remains a possibility that price regulation may also be introduced for heavy vehicle crash towing and/or crash towing in regional areas in the future should it become evident to Government that concerns have transferred to these areas of crash towing.

Under modified Option 4, support will be provided to tow truck drivers and towing service providers in the regions who may have difficulty complying with authorisation application requirements.

2.5 Regions Covered by These Reforms

While introduction of price regulation to set maximum charges for the towing and storage of crashed light vehicles will apply only in the Perth and Peel regions, it is proposed that the legislation will provide the power for these regions to be extended should it become evident to Government that consumers are being charged excessive fees that would justify more direct pricing regulation.

All other reform elements will apply across the State, including the authorisation of towing service providers and tow truck drivers who perform crash towing services, ban on the advertising or payment of spotter's fees and safety standards requirements.

2.6 Commencement of Reforms

The reforms will be introduced as soon as supporting legislation has been considered and passed by Parliament. It is anticipated that the legislation will be introduced and passed in mid-late 2024, at which time the towing reforms will be rolled out progressively once supporting Regulations have been gazetted, commencing with the introduction of maximum charges for the towing and storage of light vehicles involved in a crash in the Perth and Peel regions and the prohibition of advertising or payment of spotter's fees.

DoT will then introduce an authorisation process for tow truck drivers and towing service providers who perform crash towing services, including fit and proper person provisions. Authorisations will be rolled out in a phased approach once supporting systems can be developed, commencing with tow truck drivers and then progressing to towing service providers.

To support DoTs regulatory functions, funding for the systems necessary to support the regulatory regime is being sought as part of the reforms. These systems will be deployed over time and will be linked to specific commencement provisions of relevant parts of the new legislation.

¹⁴ A vehicle with a gross vehicle mass of 4.5 t or less as defined in Section 3 of the *Road Traffic (Vehicles) Act 2012*

3. Background

3.1 Industry Snapshot

The DMIRS Consultation Report provided an industry snapshot stating that:

“The towing industry comprises approximately 2,500 businesses providing employment for over 3,000 people across Australia and generates annual revenue of around \$432million. The towing industry is highly fragmented and is dominated by small businesses that service local areas. Many businesses are owner operated and do not directly employ staff. Towing businesses also provide impounding or vehicle storage services.

Towing businesses are dispersed across Western Australia broadly in line with population numbers and vehicle concentration. Remote areas tend to rely on services offered by mechanics or other agencies rather than towing operators.”¹⁵

In regard to volume of crashes on WA roads, DoT obtained statistics that in the twelve months of September 2021 to August 2022, Main Roads WA attended 21,451 incidents on the metropolitan state road network (predominantly on freeways and major roads within Perth). Of these incidents, 3,320 were vehicle crashes and 6,970 were vehicle breakdowns. A further 2,818 vehicle breakdowns were responded to by the Royal Automobile Club of WA (RAC). Some months can be much busier, for example Main Roads responded to 358 crashes in August 2022, some 30% higher than the monthly average of 277. As such, on average for every one vehicle crash, there are three vehicle breakdowns. These crashes represent the main source of problems, with complaints mainly relating to the towing of vehicles from freeways and highways in the Metropolitan area.¹⁶

As the crash towing industry is largely unregulated in Western Australia, the exact scale of the industry is unknown.

Table 2 below is an extract from the DMIRS Consultation Report that sets out an estimate of the industry scale by the Options considered in the C-RIS¹⁷. Consultants engaged by Consumer Protection to undertake financial modelling applied a number of underlying assumptions to determine the numbers identified in Table 3.

These assumptions include:

- The proportion of trucks used some or all of the time in accident towing (as opposed to breakdown towing) is 76 per cent. This figure is based on New South Wales data.¹⁸ The remaining 24 per cent of tow trucks are involved in non-accident towing only.
- An estimate of tow truck companies is taken using the known ratio of trucks to businesses (approximately 2.4 trucks per business from the New South Wales data)

¹⁵ IBISWorld Industry Report Towing Services in Australia, Report OD5416, July 2020, p. 7, as cited in page 3 of the Consultation Report available on the DEMIRS website at www.commerce.wa.gov.au/publications/accident-towing-industry-consultation-report

¹⁶ Source – Main Roads Network Operations.

¹⁷ Appendix 1 of the Consultation Report available on the DEMIRS website at www.commerce.wa.gov.au/publications/accident-towing-industry-consultation-report

¹⁸ Independent Pricing and Regulatory Tribunal (IPART) NSW 2014, Review of tow truck fees and licensing in NSW, Transport – Final Report, December 2014, page 62.

and applying this ratio to the estimated number of trucks used in accident towing in Western Australia.

- Tow truck driver numbers are known in Victoria¹⁹. These numbers have been used as a basis and scaled as a proportion of Western Australia's population and truck numbers.
- The model has assumed a ratio of 0.1 assistants to every driver (i.e. one out of every 10 drivers has an assistant). This assumption has been based on data from Queensland²⁰.
- Vehicle storage depot site numbers are known in Victoria. These numbers have been used as a basis and scaled as a proportion of Western Australia's population.
- Manager numbers – these have been estimated based on an assumed one manager for every two sites.

Table 2. Estimate of industry scale by option

	Option 3 Perth only Accident towing	Option 4 Perth & regional centres Accident towing	Option 5 State-wide Accident and roadside breakdown towing
Trucks used in regulated towing	490	549	838
Tow Truck companies	204	228	348
Tow truck drivers in accident (or breakdown) towing	993	1,112	1,698
Driver's assistant	99	111	170
Vehicle storage depot sites	64	72	84
Managers of vehicle storage depots	32	36	42
Estimated accident tows/year	16,300	18,200	21,200

3.2 Projected number of industry authorisations

Using the analysis undertaken by independent consultants engaged by DMIRS, and published in the DMIRS Consultation Report, and factoring the population growth in WA in recent years DoT estimate the scale of authorisation applications under modified Option 4 to be:

Table 3. Estimate of industry authorisations

Towing Service Provider Authorisations	Tow Truck Driver Authorisations
250	1,222

¹⁹ Essential Services Commission 2015, Accident Towing Regulation, Final Report, December 2015, page 11.

²⁰ December 2018 figures provided to DMIRS by the Queensland Department of Transport and Main Roads (107 tow truck licence holders, 759 tow truck drivers and 46 tow truck assistants).

3.3 Towing industry regulation in other Australian jurisdictions

Table 4 below provides an overview of regulation of the towing industry across Australian jurisdictions.

Table 4. Regulation of crash towing industry across Australia²¹

	Victoria	New South Wales	Queensland	South Australia	Northern Territory
Legislation	<i>Accident Towing Services Act 2007 (Vic)</i> Towing Services Regulations 2019	<i>Tow Truck Industry Act 1998 (NSW)</i> Tow Truck Industry Regulation 2020	<i>Tow Truck Act 1973 (Qld)</i> Tow Truck Regulation 2009	<i>Motor Vehicles Act 1959 (SA)</i> Motor Vehicles (Crash Towing Roster Scheme) Regulations 2015 <i>Prices Act 1948</i>	Consumer Affairs and Fair Trading (Tow Truck Operators Code of Practice) Regulations (NT)
Administered by	VicRoads	Department of Customer Service (NSW Fair Trading)	Department of Transport and Main Roads	Department of Planning, Transport and Infrastructure	Department of the Attorney-General and Justice (Commissioner for Consumer Affairs)
Type of towing activity regulated²²	Crash towing	All forms of towing incl crash and trade towing	Crash towing and private parking towing	All forms of towing incl crash and trade towing	Crash towing
Licensing/ accreditation/ authorisation	Drivers Person accompanying driver Towing Service Providers Storage Yard Managers	Drivers Towing Service Providers	Drivers Towing Service Providers Driving assistants	Drivers of any tow truck within greater metro area of Adelaide Registration of premises	N/A
Setting of Maximum charges	Yes	Yes	Yes	Yes	No

²¹ Page 7 of the Consultation Report available on the DEMIRS website at www.commerce.wa.gov.au/publications/accident-towing-industry-consultation-report and updated by DoT in June 2024.

²² Some jurisdictions also encompass private parking and trade towing, but this has been excluded as irrelevant to this D-RIS.

	Victoria	New South Wales	Queensland	South Australia	Northern Territory
Spotter's fees prohibited	Yes	Yes	Yes	Yes	Yes
Authority to Tow Form to be signed by consumer and copy provided prior to tow	Yes	Yes	Yes	Yes	Yes
Other	Touting for repairs prohibited. Scope in Regulations to strengthen range of requirements, subject to consultation with stakeholders for example, specifying qualifications.	Tow Truck Industry Code of Practice. Code is enforced by NSW Fair Trading with scope to appeal disciplinary action to NSW Civil and Administrative Tribunal.	Nil	Drop or spotter's fees prohibited.	Crash spotter's (alerting a tow truck driver to a crash) and touting for repairs are prohibited.

4. Statement of the Issue

Concerns about the crash towing industry have been raised in the community and highlighted in the media over a number of years. This has resulted in strong calls for more effective regulation of the crash towing industry from industry participants, insurers and the wider community. Serious concerns include:

- unsafe, unscrupulous, threatening, deceptive and unethical conduct;
- predatory industry behaviour targeting vulnerable consumers at crash scenes;
- charging excessive towing and daily storage charges;
- dangerous driving to reach crash scene to secure crash towing jobs, putting all road users at risk;
- physical altercations between tow truck drivers competing to secure crash towing jobs;
- known links to criminal activity and organised crime; and
- tow truck drivers and/or towing service providers securing jobs by making payments to spotters in exchange for crash information, including making corrupt payments to public officers.

5. Reform Objectives

The regulatory strategy developed by DoT seeks to achieve the following objectives:

Safety and Efficiency: The primary goal is to ensure the safe, efficient, reliable and timely provision of crash towing services in Western Australia. This involves promptly assisting motorists involved in crashes while maintaining safety standards.

Affordability: The framework aims to strike a balance by providing reasonable costs to consumers, to prevent excessive charges while ensuring fair compensation for towing service providers.

Industry Reputation: to enhance and uphold the reputation of the towing industry in Western Australia. This includes promoting professionalism, transparency, and ethical practices among crash towing service providers.

These objectives align with those set out in the DMIRS Consultation Report which stated the following broad and specific policy objectives for crash towing industry reform.²³

5.1 Broad Policy Objective

The broad policy objective is to achieve a regulatory framework which provides appropriate protections for consumers in their dealings with accident towing service providers while maintaining the commercial viability of the tow truck industry.

5.2 Specific Policy Objectives

Specific policy objectives include:

- addressing the issue of excessive and inflated charges for accident towing services and associated services, for example, vehicle storage charges.
- ensuring that accident towing service providers are of appropriate character and act with integrity given the vulnerability of vehicle drivers and their passengers following involvement in an accident.
- preventing unscrupulous, dishonest and unlawful behaviour at the scene of crashes.
- excluding criminal elements from the industry.
- protecting the industry's reputable tow truck drivers and towing service providers.
- addressing public safety concerns caused by the practice of crash chasing.
- addressing the issue of spotter's fees and steering business to repairers in return for commissions.

²³ Towing Industry Consultation Report – February 2022 – Department of Mines, Industry Regulation and Safety p.23

6. Scope of Industry Reform

This section provides further detail on the scope of the proposed crash towing industry reforms as outlined in the DMIRS Consultation Report and section 2.2 of this document.

6.1 Introduction of Maximum Towing Charges – Perth and Peel

Government has endorsed the setting of price regulation to establish maximum charges for all standard crash towing across the Perth and Peel regions that may later be extended to other regional areas where there is evidence that consumers are being charged excessive fees that would justify more direct pricing regulation.

The setting of price regulation to establish maximum charges for the towing of light vehicles involved in a crash in the Perth and Peel Regions, is an important element of modified Option 4.

By establishing maximum charges, assurance is provided to the community that towing service providers cannot charge unreasonable amounts for their services. This protection is particularly important during stressful situations like crashes, where consumers are vulnerable and unaware of fair pricing. While maintaining consumer protection, setting maximum charges also aims to increase transparency. It encourages the towing industry to operate efficiently while still safeguarding consumers. It is believed that setting maximum charges will reduce costs to motorists paid directly to towing service providers, or indirectly through motor insurance premiums.

Excessive over-charging for crash towing and vehicle storage is one of the most frequently raised issues by consumers and the media. The media reports costs of up to \$5,000 for straightforward metropolitan tows.²⁴ The over inflation of costs applied by some towing service providers has been accompanied by a change in policy by certain motor vehicle insurance providers operating in Western Australia to cover only 'reasonable costs' or to cap reimbursement for crash towing costs.

This contrasts with the circumstances in other Australian regulating jurisdictions where maximum charges for crash towing and vehicle storage are regulated in specified geographical zones in South Australia, New South Wales, Victoria and Queensland²⁵.

The setting of maximum towing charges may later be extended to other regional areas where there is evidence that concerns have transferred to these areas of crash towing and consumers are being charged excessive fees that would justify more direct pricing regulation.

Some jurisdictions allow for additional charges to be applied for tows that exceed defined kilometre allowances, tows performed outside of business hours and salvage tows where the vehicle is particularly difficult to access and/or load or is salvaged from an area that is not a road or road related area.

Maximum charges may also be set for a secondary tow where a crashed vehicle is moved from a storage yard to another location, for example but not limited to, moving a vehicle from a storage yard to a licensed repairer, vehicle wrecker, auction house or insurance

²⁴ Gary Adshead, 'Time to end towies' fees free-for-all', Business News, 11 April 2022.

²⁵ Storage charges are only set in QLD where a vehicle has been towed as a parking control measure. Storage charges cannot be applied by a towing operator for the first 72 hours where a vehicle has been towed after a crash.

assessment centre. Any regulated charges will reflect the lower cost of providing such services because they do not involve attendance at a crash scene, are not time critical, and are generally undertaken during business hours.

6.1.1 Indicative maximum towing charges

The setting of maximum towing charges will be informed by independent expert economic analysis and cost modelling that acknowledges the higher vehicle and business operating costs in WA, and that has been benchmarked against other regulating jurisdictions. The final maximum towing charges will be set by Regulations.

Maximum towing charges are set in Victoria, New South Wales, Queensland and South Australia, which range between \$265 to \$405, as shown in Table 5 below.

Table 5. Jurisdictional comparison of maximum towing charges (2023-2024)

Jurisdiction	Maximum Base Towing Charge	Distance Fee (per km)	Business Hours	After Hours
Victoria (metropolitan)	\$265	\$4.20 after 8 km	8am-5pm	\$90
New South Wales (metropolitan)	\$319	\$6.60 after 10 km	8am-5pm	20% uplift to base fee and distance fee
Queensland	\$405	\$8.05 after 50 km	N/A	N/A
South Australia	\$375	\$3.00 after 20 km	7:30am-5pm	\$66 plus \$5.00 per km after the first 20 km
Average Maximum Base Towing Charges for Regulating Jurisdictions	\$341			

Independent expert economic analysis and cost modelling commissioned by DoT indicates that maximum charges for a 'standard tow' of a crashed light vehicle in Perth and Peel regions may be in the region of 40% higher than the average base charges of other regulating jurisdictions, as illustrated in Figure 1, and the indicative charges that may be set in the Perth and Peels regions in Table 6 below.

Figure 1. Comparison of maximum towing charges across Australia

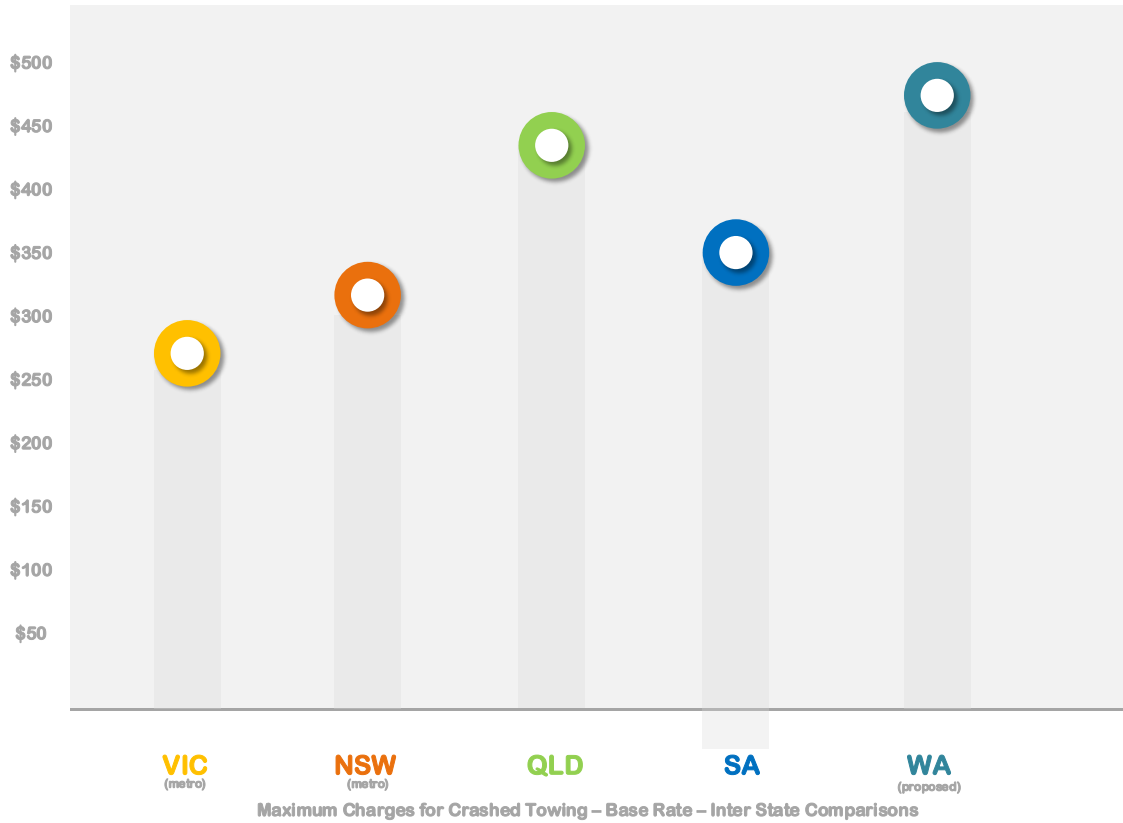


Table 6. Indicative Perth and Peel Maximum Towing Charges

Standard Base Tow	Indicative Charges
Cost per tow (Business hours)	\$484.69
Cost per tow (After hours)	\$622.73 (includes after hours surcharge)
After hrs surcharge	\$138.04

It must be stressed that the charges in Figure 1 and Table 6 above depict the maximum crash towing charges applied in other regulating jurisdictions, and the indicative charges that may be set in WA, noting that final charges will be set by Regulations.

The key reasons why the modelled fees are more expensive than other Australian jurisdictions are:

- higher salary costs in Western Australia – due to competition with mining industry;
- higher vehicle costs in Western Australia due to a smaller market;
- WA is not currently proposing to introduce a towing allocation system, reducing the reliability of crash towing as an income source for Perth tow truck drivers; and
- the model allows for a longer waiting and working time than Melbourne – which is able to draw on detailed data, obtained over an extended period.

There may be variations to encompass towing out of hours, where vehicles must be towed exceptionally long distances, or where the recovery and/or loading of a vehicle is particularly complex due to the location of the vehicle, position of the vehicle, the equipment required to

load the vehicle (additional tow trucks, mobile crane, extraction devices), additional skilled personnel/labour required, and the time taken to recover a vehicle.

6.2 Introduction of Maximum Storage Charges – Perth and Peel

Government has endorsed the setting of price regulation to establish maximum storage charges in the Perth and Peel regions where a vehicle is towed from the scene of a crash to a towing service providers storage/holding yard.

The setting of maximum storage charges may later be extended to other regional areas where there is evidence that consumers are being charged excessive fees that would justify more direct pricing regulation.

The setting of price regulation to establish maximum storage charges for the storage of light vehicles towed from a crash in the Perth and Peel Regions, is an important element of modified Option 4 which seeks to:

- promote fairness and transparency in the crash towing industry; and
- protect consumers by preventing towing service providers from charging arbitrary or exorbitant fees, which could otherwise lead to financial hardship for vehicle owners.

It is believed that setting maximum storage charges will reduce costs to motorists paid directly to towing service providers, or indirectly through motor insurance premiums.

The requirement to have a suitable storage/holding yard will form part of the eligibility requirements for crash towing service providers applying for authorisation. The regulation and approval of whether a storage/holding yard meets the standards for the purposes of safely and securely storing vehicles towed following a crash will apply across the State. Further details on proposed storage yard standards can be located in [Section 6.3.3](#) of this document.

6.2.1 Indicative Maximum Storage Charges – Perth and Peel

The setting of maximum storage charges will be informed by independent expert economic analysis and cost modelling that has been benchmarked against other regulating jurisdictions. The final maximum storage charges will be set by Regulations.

Maximum storage charges for the storage of light vehicles towed following a crash are regulated in New South Wales (metropolitan Sydney and regional NSW), Victoria (within the Melbourne controlled area) and South Australia (metropolitan Adelaide), while Queensland regulates the daily storage charge rate where a vehicle has been towed from a private parking area.

Storage charges cannot be applied by a towing operator in Queensland for the first 72 hours where a vehicle has been towed after a crash, as these charges are factored into the 'standard' base towing charge.

Daily storage yard charges are set in Victoria, New South Wales, Queensland²⁶ and South Australia, which range between \$16 to \$34 per day for the secure storage of light vehicles, as shown in Table 7 below. Western Australia already sets a maximum daily storage charge of

²⁶ Storage charges are only set in QLD where a vehicle has been towed as a parking control measure. Storage charges cannot be applied by a towing operator for the first 72 hours where a vehicle has been towed after a crash.

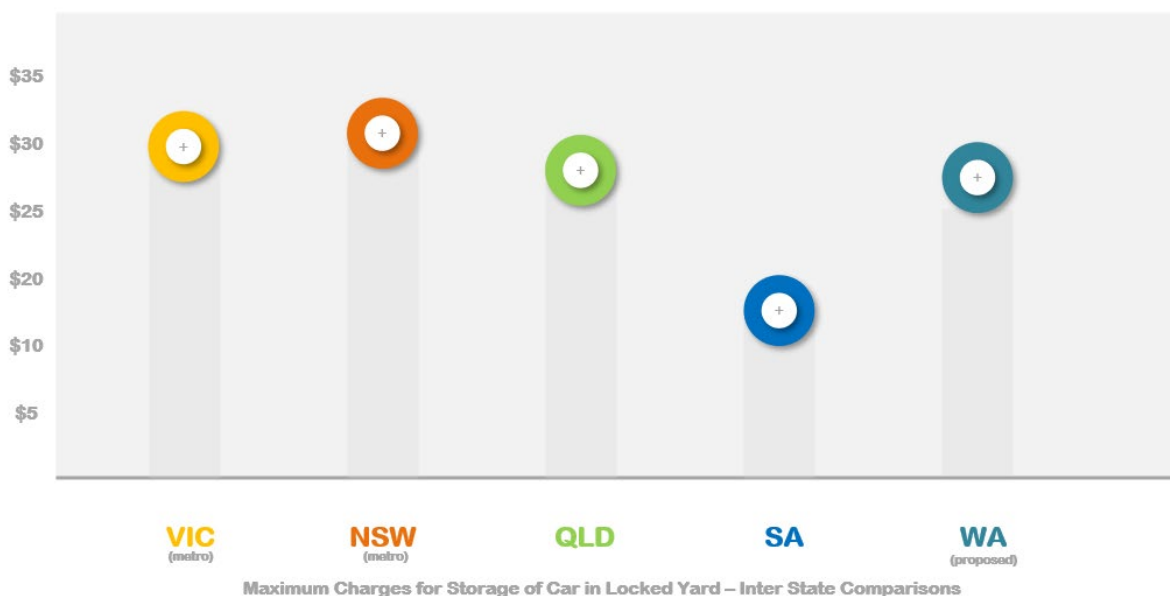
\$25 per day for vehicles towed as a parking control measure, as set out in the Road Traffic (Towing of Vehicles) Regulations 2020.

Table 7. Jurisdictional Comparison of Daily Storage Charges (2023-2024)

Jurisdiction	Car in Covered Locked Yard	Car in Open Locked Yard	Motorcycle Under Cover	Motorcycle in Locked Yard
Victoria (metropolitan)	\$30.00	\$20.30	\$9.90	\$6.30
New South Wales (metropolitan)	N/A	\$31	N/A	\$15
Queensland	N/A	\$28.05 - per day for storing a vehicle towed from private property	N/A	N/A
South Australia	\$28.00	\$16.00	N/A	N/A
Western Australia	N/A	\$25 - per day for storing a vehicle towed from private property	N/A	N/A

Expert economic analysis and cost modelling commissioned by DoT indicates that maximum storage charges in the Perth and Peel regions will be comparable to other regulating jurisdictions, as illustrated in Figure 2 below.

Figure 2. Comparison of daily storage charges across Australia



Modelling the potential maximum daily storage charges for vehicles towed after a crash in the Perth-Peel region, were benchmarked against other jurisdictions as well as Western Australian storage charges related to the storing of vehicles towed as a parking control measure and storage of abandoned vehicles, where they have been published by local government authorities.

It is envisaged that the setting of daily storage charges will also minimise the practice of ‘carnapping’ – where crash towing service providers refuse or fail to return vehicles to their owners, while inflated daily storage charges continue to accumulate.

It is proposed that in setting maximum storage charges, towing service providers will be prohibited from charging fees, other than those fees that are regulated. The prohibition of the imposition of charges will include but not be limited to the following matters:

- allowing the owner of a vehicle, or the owner’s agent, to view, have access to, or take personal property from, a vehicle during business hours;
- moving a vehicle within a storage/holding yard;
- moving a vehicle to another storage/holding yard owned/operated by a towing service provider unless the movement of the vehicle is specifically authorised by a vehicle owner or the owner’s agent;
- undertaking regulated administrative tasks such as keeping a register of vehicles towed, stored and released from a storage/holding yard; and
- releasing a vehicle from a storage/holding yard.

While it is proposed that charges cannot be applied for releasing a vehicle from a storage yard, it is suggested that an administrative charge may be regulated which would be added to the storage charges when a vehicle is released from a storage yard.

The regulated administrative charge would cover all requests and expenses incurred while the vehicle was stored in the storage/holding yard (for example, but not limited to, photographic evidence, maintaining a storage yard register, moving a vehicle into and out of position or general yard handling charge). It would be a ‘one-off’ charge with no additional add-ons beyond the regulated daily storage charges.

Table 8 below provides the indicative charges that may be set in WA, noting that final charges will be set by Regulations.

Table 8. Indicative WA Daily Storage Charges (2023-2024)

Storage/Holding Yard Charge	Indicative Charges
Daily Storage Charge	\$25 - \$30 per day
Administrative Charge (payable at the time of vehicle release)	\$80.00 – \$100 one-off charge

6.3 Towing Industry Authorisations

A key element of modified Option 4 is the introduction of occupational authorisation requirements for towing service providers and tow truck drivers who perform crash towing services. This is in line with practice in Queensland, New South Wales, Victoria and South Australia.

The DMIRS Consultation Report described an authorisation system only in areas of high population density. However, it is suggested that the occupational authorisation scheme – particularly the requirement that tow truck drivers and towing service providers be fit and proper persons – should apply across the State. All Western Australians should be offered the same

protections and safety standards when engaging crash towing services. Additionally, this will reduce the likelihood of displacing inappropriate behaviours and activities to regional areas.

The purpose of occupational authorisations is to ensure that crash towing is undertaken by reputable parties who perform their duties safely, efficiently and in accordance with the law. It also serves to provide reassurance to motorists that a tow truck driver attending the scene of a crash is authorised and can be easily identified. There is currently little regulation of who can undertake crash towing in Western Australia.

The authorising of towing service providers and tow truck drivers who perform crash towing helps to ensure that crash towing is undertaken by reputable parties and that all industry participants understand their legal obligations, including safety standards for crash towing, maximum charges that can be applied, and documentation/record keeping.

A 2014 independent review of tow truck fees and licensing in New South Wales determined *“that there remains a clear need for licensing, in both the accident and trade towing markets and the light and heavy vehicles markets. In particular, it is important to ensure that all tow truck operators continue to satisfy character requirements – for example, criminal records and criminal association checks should continue to be carried out, and fit and proper person requirements assessed”*. In particular, the review found that *“the fit and proper person requirements of the current licences and certificates are an essential part of keeping undesirable persons out of the industry and should be maintained and strengthened in some areas”*.²⁷

In light of the role vehicle storage/holding yards play in storing vehicles that have been towed following a crash, it is important to extend regulation and maximum charges to storage yards utilised by crash towing service providers. The regulation of storage/holding yards will be achieved through the authorisation of towing service providers under Modified Option 4 to include:

- Requirements for crash towing service providers to have a suitable storage/holding yard that meets specified standards when applying for authorisation.
- Setting of standards for storage/holding yards of authorised crash towing service providers.
- Price regulation to set maximum daily storage charges for vehicles towed following a crash in the Perth and Peel areas.
- Access to, and release of vehicles, from storage/holding yards of authorised crash towing service providers.

Although the occupational authorisation scheme will be extended to encompass the entire State, the introduction of price regulation to set maximum charges will only apply to the towing and storage of light vehicles from crash scenes (which may include specified secondary tows) within the Perth and Peel areas and will not be applicable outside of these regions.

Government has endorsed the introduction of occupational authorisation requirements for towing service providers and tow truck drivers who perform crash towing across the State.

Occupation authorisations will introduce new costs for the crash towing industry, and the fees for authorisation applications, grant and renewals have not yet been set. The fees for towing

²⁷ Independent Pricing and Regulatory Tribunal NSW 2014, Review of tow truck fees and licensing in NSW, Transport – Final Report December 2014, p. 42.

industry occupational authorisations will be determined in accordance with the Department of Treasury's '*Costing and Pricing Government Services Guidelines*'²⁸ and benchmarked against other regulating jurisdictions.

6.3.1 Tow Truck Driver Authorisation

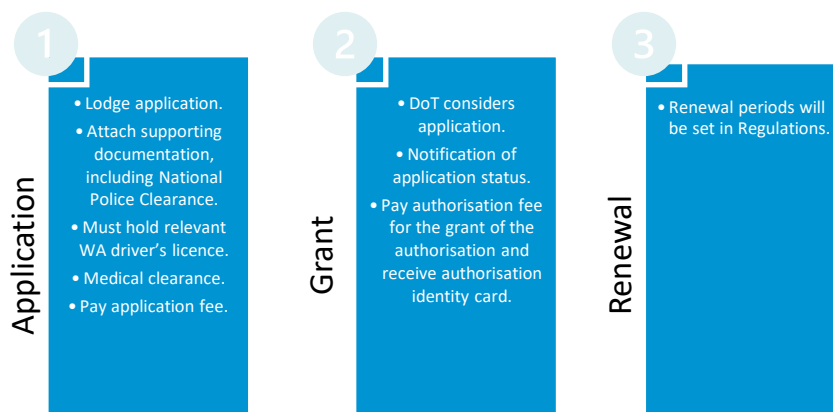
The proposed authorisation of tow truck drivers who perform crash towing services, will apply across the State and will require applicants to:

- have attained the minimum age (proposed to be 18 years of age) in which an authorisation can be granted;
- be the holder of a valid WA driver's licence that authorises the class of tow truck being driven;
- undergo a medical assessment against commercial driving standards;
- undergo a fit and proper person (character) assessment, with a review of National Police Clearance for serious offences including, but not limited to, assault, endangering life or health, fraud, drug trafficking, weapons/firearm and sexual offences;
- comply with:
 - consumer protection measures, including authority to tow procedures and forms, and ensuring towing and storage charges are in accordance with the prescribed rates;
 - prescribed safety standards, such as the wearing of appropriate personal protective equipment, and conduct at crash scenes, including but not limited to obeying any reasonable direction given by police officers, firefighters, ambulance officers or transport wardens who are present at the crash scene and exercising their official duties; and
 - any conditions of the tow truck driver authorisation.

The tow truck driver authorisation application requirements align with those in other regulating jurisdictions and of on-demand passenger transport drivers in Western Australia (for example Uber and taxi drivers), which are as equally applicable for tow truck drivers, who as commercial drivers have a greater duty of care and often drive people who are stranded on the side of the road following a crash. Figure 3 below provides an overview of the proposed authorisation application process.

²⁸ These Guidelines are available online at www.wa.gov.au/government/publications/costing-and-pricing-government-services

Figure 3. Proposed Tow Truck Driver Authorisation Application Process



DoT will establish a process to allow tow truck drivers to apply for authorisation if they wish to perform crash towing services.

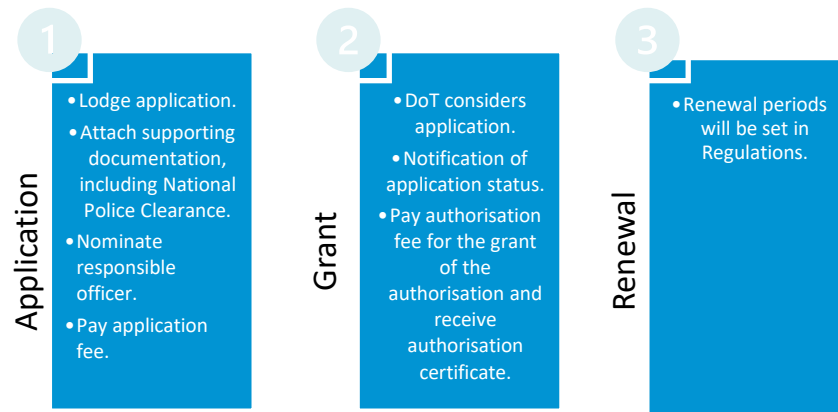
6.3.2 Towing Service Provider Authorisation

The proposed authorisation of towing service providers who perform crash towing services, will apply across the State and will require applicants to:

- undergo a fit and proper person (character) assessment, with a review of National Police Clearance for serious offences such as, but not limited to, assault, endangering life or health, fraud, drug trafficking, weapons/firearm and sexual offences;
- nominate one or more individuals who are directly involved in the day-to-day management of the towing business to represent the applicant in conducting the towing business (nominated officers will also be required to undergo a fit and proper person (character) assessment);
- have a storage/holding yard that is suitable for the storage of crash damaged vehicles and meets the storage yard standards (refer [section 6.3.3](#) for details on storage yard standards);
- ensure that all tow truck drivers who perform crash towing on behalf of the towing service provider are authorised and follow safety standards;
- have appropriate insurance coverage;
- comply with:
 - requirements in relation to the storage of vehicles towed from a crash, including but not limited to, the maximum daily charges that can be applied, moving of vehicles from a storage yard to another location and the release of vehicles from a storage yard;
 - set maximum charges when invoicing crash towing services;
 - administrative requirements, including but not limited to, keeping relevant business records, displaying authorisation document and keeping a register of vehicles towed; and
 - any conditions of the towing service provider authorisation.

Figure 4 below provides an overview of the proposed authorisation application process.

Figure 4. Proposed Towing Service Provider Authorisation Application Process



6.3.3 Storage Yard Standards

When assessing an application for a towing service provider authorisation, DoT will need to be satisfied that the towing service provider has a storage/holding yard in which to safely and securely store vehicles that have been towed following a crash.

The setting of standards and approval of storage/holding yards is crucial to ensure that vehicles involved in crashes are:

- handled and stored safely and appropriately;
- securely stored to prevent theft, vandalism, or further damage;
- stored in a location that is accessible to the public; and
- not stored on residential properties or in residential areas.

The approval of storage/holding yards has been slightly modified from Option 4 outlined in the DMIRS Consultation Report which recommended “*Establishment of a scheme for registration of storage yards used to store crash damaged vehicles*” and seeks to reduce red-tape for crash towing service providers by reducing the need to apply for separate authorisation, in turn reducing application and ongoing fees.

In determining whether a storage/holding yard is suitable, it is proposed that DoT may consider matters such as:

Location

- Is the storage/holding yard in a location that is accessible to the public?
- Is the storage/holding yard located in an area that is zoned appropriately to allow for the storage of vehicles?

Facilities

- Is the yard appropriately adapted to the requirements of the tow truck driver or class of tow truck drivers by which it is to be used?
- Does the yard enable towing/storage yard charges to be paid at the premises and a receipt for payment issued?
- Does the yard have a phone number that provides a recorded message outside of business hours?

- Does the yard have facilities in place to allow vehicle owners and/or their agents to safely access their vehicle to remove personal property and/or assess the damage to the vehicle?
- Does the yard have facilities in place to safely deliver a vehicle to its owner/agent?

Accessibility

- How far is the yard from the towing service provider's main business address?
- Is there signage showing the towing service provider's name that is clearly visible from the street?
- What are the opening hours of the storage yard - is it open to the general public during normal business hours?
- Is the yard reasonably accessible using public transport or on-demand transport?

Security

- Will vehicles being stored be exposed to likely damage or access from unauthorised persons?
- Is the yard enclosed by a fence or wall that is structurally sound?
- Does the yard have lockable gates or doors that are closed and securely locked, other than when a vehicle is being moved into or out of the area?
- Does the yard have sufficient lighting when vehicles are stored there?
- Does the yard have a closed-circuit television system or monitored security alarm system installed?
- Does the yard have the capability to securely store business records?

6.4 Authority to Tow

There has been no modification of Option 4 outlined in the DMIRS Consultation Report which recommended *“Introduction of additional requirements to be included in Authority to Tow Forms that are signed by consumers before a vehicle is towed to increase transparency about what the consumer is authorising”*.

DoT progressed amendments to the Road Traffic (Vehicles) Regulations 2014 (the Regulations), which commenced on 7 November 2022, and requires that the maximum fee that will be charged for the tow, salvage or storage of a vehicle must be included on a tow truck driver's statement (authority to tow form) before a vehicle is towed from the scene of an accident.

While it is an offence for the driver of a tow truck to tow or salvage any vehicle from the scene of an accident unless the tow truck driver has completed, in duplicate, a written statement containing the prescribed particulars and the driver of the vehicle/person authorising the tow has signed the statement, it is acknowledged that the current penalty for not complying with these requirements is not a sufficient deterrent.

The Regulations also prohibit the charging of a fee, other than the fees for the tow, salvage or storage of a vehicle from the scene of an accident and those fees must not exceed the fee stated on the tow truck driver's statement.

While this provides consumers with an element of price transparency, complaints received since this time indicate continued problems. Consumers involved in a crash have reported being in shock and not understanding the charges stated on the form. Reports include that tow truck drivers have given incorrect assurances that other parties will cover all costs.

It is therefore proposed that authority to tow requirements are repealed from the Regulations and incorporated in the new legislation.²⁹The new legislation may also provide for other matters related to towing authorisations such as, but not limited to, towing in accordance with an authority to tow form, alteration of a signed authority to tow form and record keeping requirements.

This change would allow any authority to tow requirements to be directly tied to the responsibilities of tow truck drivers and towing service providers providing crash towing services and may include increased penalties and sanctions for non-compliance.

6.5 Banning Spotter's Fees and Other Incentives

A key element of modified Option 4 is the banning of advertising, or payment of spotter's fees or other benefits or advantages that may not be monetary, in exchange for information as to the occurrence of a crash or details of a vehicle that has been involved in a crash. The ban will apply across the State and seeks to further protect consumers and reduce the incentive for tow trucks to rush dangerously to crash sites after receiving a tip about a crash.

Spotter's fees are banned in Queensland, New South Wales, Victoria, South Australia and the Northern Territory.

6.6 Establishment of penalties and legal sanctions

Government has endorsed the establishment of penalties and legal sanctions to deter unscrupulous behaviour and unsafe conduct in the crash towing industry. Under modified Option 4 it is proposed that DoT authorised officers will investigate complaints and carry out targeted roadside enforcement.

The legislation will give DoT authorised officers a range of compliance tools, including audit, improvement and show cause notices, as well as the ability for infringements and prosecutions against specific offences.

There will be a range of sanction options, including rehabilitation or education for minor offences and corrective measures for more significant or ongoing breaches, in order to resolve complaints and promote positive industry conduct efficiently. Administrative powers will complement the use of infringements and prosecution powers.

The lowest level of rehabilitation or education would be improvement notices intended to remedy a contravention or likely contravention of the towing regulatory framework. Administrative powers to suspend or cancel authorisations will be available to stop or reduce harm to the community while breaches of the legislation are investigated. They may also form part of a sanction in a management action approach that demonstrates that compliance breaches have been quickly addressed and supports towing service providers and tow truck drivers in improving their performance. This encourages positive compliance behaviours and

²⁹ The intention is to make further changes to the authority to tow form, beyond those introduced in November 2022. The legislation may establish the authority to tow form as a form approved by the Chief Executive Officer of Transport.

self-regulation, thereby rewarding compliant behaviour and cost-effectively addressing breaches.

More serious sanction options include fines, penalties, and powers to suspend or cancel authorisations. There are also 'show cause' provisions in the regulatory framework that will require those in the crash towing industry to demonstrate why an authorisation should not be suspended or cancelled, as the case may be.

As highlighted in Figure 5 below, sanctions for towing offences may not necessarily need to be fines; and can be focussed on education, or suspension/cancellation of occupational authorisations.

Figure 5. Sanction Process



6.7 Safety Standards

The DMIRS Consultation Report did not address the safety of the towing industry, but modified Option 4 introduces increased requirements for tow truck drivers and towing service providers to ensure, as far as practicable, the health and safety of workers in line with the *Work Health and Safety Act 2020*.

Given the inherent dangers of working with heavy equipment on roads or at roadside areas, and the dangers posed to tow truck drivers, drivers of vehicles involved in a crash, and all other road users, the DoT proposes to also introduce safety standards for tow truck driver's attending crash scenes, with the primary goal of ensuring the safe, efficient, reliable and timely provision of crash towing services in Western Australia.

Proposed safety standards include the requirement to wear approved personal protective equipment (PPE), such as high-visibility vests to enhance visibility and protect tow truck drivers from potential hazards, steel capped boots and heavy-duty gloves to protect tow truck drivers from broken glass or metal surrounding a crash site.

The proposed safety standards will also apply to the conduct of tow truck drivers at crash scenes, including, but not limited to, obeying any reasonable direction given by police officers, firefighters, ambulance officers or authorised officers who are present at the crash scene and exercising their official duties.

Safety standards will apply across the State.

7. Consultation

Extensive stakeholder consultation has been undertaken by Government to determine whether there is a genuine need to reform the crash towing industry in Western Australia, along with possible options for reforming the industry.

7.1 Department of Mines, Industry Regulation and Safety Consultation

In August 2020, the Department of Mines, Industry Regulation and Safety (Consumer Protection Division) undertook public and industry consultation on reforming the crash towing industry in the form of a Consultation Regulatory Impact Statement (C-RIS)³⁰ along with two online surveys targeting consumers and industry participants.

The C-RIS and surveys were widely publicised, including through the media, social media, electronic bulletins and direct contact with over 6,000 stakeholders via letters and emails, including towing businesses, insurers, government agencies and other stakeholders. Consumer Protection received a total of 37 written submissions and 414 survey responses, as outlined in section [7.1.1](#) and [7.1.2](#) of this document. The overwhelming majority of responses supported increased regulation of the crash towing industry.

In February 2022, DMIRS published the *'Accident towing industry consultation report'*³¹ (Consultation Report) which presents the outcome of the public consultation undertaken by Consumer Protection in August 2020.

The Consultation Report documented the Western Australian Government's serious concerns about unsafe, unscrupulous, threatening, deceptive and unethical conduct and excessive crash towing and storage charges and highlighted the deterioration of the industry over recent years, making it difficult for ethical towing service providers to compete.

The Consultation Report set out five options for Government consideration, all involving regulating the industry to varying degrees. It identified weaknesses in the ability of existing road traffic legislation and consumer law to adequately regulate the industry.

The five options for reform were analysed against the objectives for crash towing industry reform with Option 4 being chosen as the preferred option. These options and associated definitions have been slightly modified for the purpose of this document.

Option 1: Retain the status quo (no change to current requirements).

Option 2: Self-regulation in the form of a voluntary industry code of conduct.

Option 3: Regulatory intervention: Regulation of accident towing and consumer protection measures limited to the greater metropolitan area of Perth.

Option 4: Regulatory intervention: Regulation of accident towing and consumer protection measures extending to the greater metropolitan area of Perth as well as some regional areas.

³⁰ The C-RIS is available on the DEMIRs website at www.commerce.wa.gov.au/publications/future-regulation-was-accident-towing-industry-consultation-paper

³¹ The Consultation Report is available on the DEMIRS website at www.commerce.wa.gov.au/publications/accident-towing-industry-consultation-report

Option 5: Regulatory intervention: Regulation of accident towing and breakdown towing across Western Australia.

Further information on the analysis of these options can be located in [Section 8](#) of this document.

7.1.1 Written submissions

DMIRS Consumer Protection division received a total of 37 written submissions in response to C-RIS published in 2020. These written submissions indicated current behaviour by crash towing service providers was causing significant detriment to consumers, industry participants and insurers. The overwhelming majority of written submissions supported increased regulation of the crash towing industry.

An overview of responses to options presented in the C-RIS indicates that although 15 industry submissions expressed support for regulation, they did not identify a preferred option. Of those which did express a view, two industry submissions supported Option 3 and two supported Option 5.

There was general support from insurer submissions (including the Insurance Council of Australia), for Options 3, 4 or 5.

Consumer submissions expressed support for regulation including one which specifically expressed support for Option 3.

There was general support from government submissions for Options 3, 4 or 5.

7.1.2 Surveys

In addition to the written submissions, 414 responses were received to the two online surveys published as part of the DMIRS industry and community consultation in 2020. There were 268 consumer responses and 146 industry participant responses.

A large number of respondents provided free text responses which confirmed the existence of problems identified in the C-RIS. Free text responses included specific references to poor and unscrupulous conduct on the part of the accident towing industry and specific references to charging excessive fees.

In addition, some industry responses specifically raised concerns about ethical operators no longer being able to compete in the marketplace and raised or implied concerns about possible links to criminal activity and organised crime in the industry.

The surveys did not canvas views about the specific options as obtaining meaningful responses from a short survey was considered difficult. However, ninety-four per cent of consumer respondents and eighty-eight per cent of industry respondents agreed or strongly agreed that the accident towing industry should be regulated which indicates broad support for Options 3, 4 or 5.

7.2 Department of Transport Consultation

When developing the regulatory framework, DoT consulted with relevant Government agencies and industry stakeholders about modified Option 4, including:

- Better Regulation Unit;
- Department of Mines, Industry Regulation and Safety;
- Department of Treasury;
- Insurance Commission of Western Australia;
- Insurance Council of Australia;
- Main Roads WA;
- Royal Automobile Club of Western Australia;
- Road Safety Commission;
- Small Business Development Corporation;
- WA Police Force; and
- WorkSafe WA.

A Towing Industry Advisory Group was established by DoT with representation from insurance and towing service providers of varying sizes and from various geographical areas of the State, including metropolitan and regional areas. This group expressed strong support for reform of the crash towing industry, noting the difficulties that reputable players have in competing with parties willing to act in a predatory and unconscionable manner. Consultation on modified Option 4 elicited reports of intimidation, large cash bribes and an unwillingness of some stakeholders provide input and intelligence without assurances of anonymity.

Industry feedback included that if medical screening is required, there should be some allowance for the time it can take to get a driver medical in some regional centres. DoT believes that these types of delays could be managed through risk-based extension approvals – for example providing a mechanism to provide a longer period for a medical report to be completed, rather than exempting the need for a medical.

Expert economic analysts commissioned by DoT to undertake cost modelling held a series of consultation workshops with a range of local stakeholders, including tow truck operators and insurers.

The Department of Treasury has been consulted in the development of the financial modelling for crash towing industry reform. DoT is confident that these crash towing industry reforms will yield significant benefits to industry and the Western Australian public.

8. Options Analysis

In achieving the objectives for reforming the crash towing industry five options were considered and presented in the C-RIS ranging from retaining the status quo through to regulation applicable across WA including:

- Option 1: Retain the status quo (no change to current requirements).
- Option 2: Self-regulation in the form of a voluntary industry code of conduct.
- Option 3: Regulatory intervention: **Minimal level** of regulation of accident towing and consumer protection measures limited to the greater metropolitan area of Perth.

- Option 4: Regulatory intervention: **Medium level** of regulation of accident towing and consumer protection measures extending to the greater metropolitan area of Perth as well as some regional areas.
- Option 5: Regulatory intervention: **High level** of regulation of accident towing and breakdown towing across WA.

The five options were assessed against the objectives of the reforms. Table 9 below presents a comparative assessment of options against policy objectives for reform, noting that Options 3, 4 and 5 meet the policy objectives.

Table 9. Overview of assessment against objectives³²

Objectives	Option 1 No change	Option 2 Voluntary industry-led code	Option 3 Regulation in the greater metropolitan area	Option 4 Regulation in Perth and regional centres	Option 5 Regulation across WA
Provide adequate protections for consumers whilst maintaining the commercial viability of the towing industry	x	x	x	✓	x
Ensure that accident towing service providers are of appropriate character and act with integrity given the vulnerability of drivers and passengers following involvement in an accident	x	x	✓	✓	✓
Prevent unscrupulous, dishonest and unlawful behaviour at the scene of accidents	x	x	✓	✓	✓
Eliminate criminal elements from the industry	x	x	✓	✓	✓
Protect the industry's reputable tow truck drivers and towing service providers	x	x	✓	✓	✓
Address the issue of excessive and inflated charges for accident towing services and associated services, for example, vehicle storage fees	x	x	✓	✓	✓
Address safety concerns caused by the practice of crash chasing	x	x	✓	✓	✓

³² Towing Industry Consultation Report – February 2022 – Department of Mines, Industry Regulation and Safety, p.29-30.

Objectives	Option 1 No change	Option 2 Voluntary industry-led code	Option 3 Regulation in the greater metropolitan area	Option 4 Regulation in Perth and regional centres	Option 5 Regulation across WA
Address the issue of spotting fees and steering business to repairers in return for commissions	✘	✘	✔	✔	✔

A Public Benefit Assessment was undertaken by DMIRS that summarises the impacts of the five options on stakeholders as set out in Table 10 below.

Overall, the costs associated with Options 1, 2, 3 and 5 appeared to outweigh the benefits, resulting in a net negative public benefit under these options.

Table 10. Impact Summary Table³³

Options	Cost	Benefit	Overall Benefit
Option 1	Low	Low	Low
Option 2	Low	Low	Low
Option 3	Low to Medium	Low to Medium	Low to Medium
Option 4	Medium	High	Medium to High
Option 5	Medium	Medium	Medium

Option 4 was assessed as providing the best overall balance between costs and benefits.

The benefits of implementing Option 4 appeared to outweigh the costs resulting in a net public benefit under Option 4.

Implementing Option 4 was assessed as likely to:

- reduce the risk of detriment to (often vulnerable) consumers involved in vehicle accidents through social impacts and costs which may cause financial hardship where consumers cannot afford to pay excessive fees and extra costs to retrieve their vehicles;
- increase some costs for the accident towing industry;
- provide for fairer competition and level playing field for industry; and
- result in reduced costs for insurers which may in turn be passed on to consumers in the form of reduced insurance premiums.³⁴

9. Recommended Option

Based on stakeholder input and an assessment of the options against the objectives for reform, Options 1, 2, 3 and 5, were found unsuitable.

³³ Towing Industry Consultation Report – February 2022 – Department of Mines, Industry Regulation and Safety, p.29-31.

³⁴ Towing Industry Consultation Report – February 2022 – Department of Mines, Industry Regulation and Safety, p.29-31.

Modified Option 4 was chosen by DMIRS as the preferred option and includes the following key elements.³⁵

- Introduction of occupational authorisation requirements for crash towing service providers and tow truck drivers across the State.
- Establishment of a scheme for registration of storage yards used to store crash damaged vehicles.
- Introduction of maximum charges for crash towing and storage of vehicles towed from a crash.
- Introduction of price transparency in authority to tow forms that are signed by consumers before a vehicle is towed.
- Banning the payment of crash spotter's fees and other incentives and banning the advertising of spotter's fees and other incentives.
- Establishment of penalties and legal sanctions to deter unscrupulous behaviour and unsafe conduct.
- Establishment of pathways for consumers to seek advice, resolve complaints and seek redress.³⁶

These reforms are consistent with approaches taken in other Australian regulating jurisdictions for the following reasons:

- Meets the objective of protecting consumers and, at the same time, maintaining the commercial viability of the crash towing industry.
- Appropriately balances the needs of consumers and industry and addresses the serious issues raised by the community, industry and insurers.
- Represents a proportionate response given the vulnerability of consumers and unscrupulous tactics of some industry participants.
- Delivers improved consumer protections by reducing the risk of consumer detriment due to excessive charges, poor conduct, unscrupulous practices and links to criminal or illegal activity.
- Delivers an overall net public benefit.³⁷

The reform objectives are consistent with crash towing industry regulatory frameworks in other regulating jurisdictions (Queensland, New South Wales, Victoria and South Australia). A ban on spotter's fees applies across all regulating jurisdictions and the Northern Territory.

DoT has undertaken scoping work on policy recommendations, financial modelling, regulatory strategy and potential system design requirements to support the reforms.

³⁶ Towing Industry Consultation Report – February 2022 – Department of Mines, Industry Regulation and Safety, p.29-32.

³⁷ Towing Industry Consultation Report – February 2022 – Department of Mines, Industry Regulation and Safety, p.32.

10. Cost to Government

The towing industry has previously been largely unregulated in Western Australia. The regulation of the crash towing industry is new work for Government and requires new legislation and dedicated funding to build a towing authorisation registry, supporting systems, and to develop an enforcement capability.

Regulation of the crash towing industry as a whole has economic benefit to the general public, industry and government. Some of the economic benefits include:

- Benefit to the public in the prescribing of maximum charges to ensure those who are most vulnerable are not charged exorbitant towing and storage costs.
- Benefit to industry participants by reducing the competitive advantage currently in play because of overcharging, intimidation, fraud and other unconscionable acts.
- Benefit to Government due to the reduction in complaints and investigations required due to character and medical fitness requirements winnowing out those in the crash towing industry who cannot meet the new requirements.

It should be noted that given the low number of towing services providers, it may not be possible for Government to fully recover costs associated with regulating the industry, as this would make occupational authorisations too expensive for a continuing towing industry. The costs of introducing these regulatory reforms may need to be funded through alternative methods.

10.1 Costs and Benefits – Maximum Charges

The ongoing cost in staffing at DoT to administer a regulatory regime modelled on modified Option 4, including the enforcement of maximum towing/storage charges, has been analysed and estimated. These staffing requirements were established through an internal review of the requirements in administering and enforcing all aspects of the crash towing regulatory regime. This is new work for DoT that requires additional staffing. In addition to staffing costs for ongoing regulation, costs to develop, build and implement DoT registries and supporting systems will be required.

10.2 Costs and Benefits – Towing Industry Occupational Authorisations

The cost to Government of establishing registries and supporting systems to manage applications and authorisations of tow truck drivers and towing service providers undertaking crash towing services is currently being analysed and scoped for consideration in the next budget process.

As noted above, these costs are in addition to the estimated staffing costs to administer and enforce the towing regulatory regime.

Establishing an authorisation process in modified Option 4 for those involved in crash towing represents a benefit to the general public as it provides enhanced consumer protections, assurance that crash tow truck drivers and towing service providers meet fit and proper person standards, and that the crash towing industry is reputable. This benefit is to be weighed against the cost to Government to establish a regulatory regime.

The regulatory regime is anticipated to level the playing field for good operators in the crash towing industry and is expected to have positive effect in reducing motor vehicle insurance premiums and is therefore anticipated to bring significant social benefits to the WA community.

There is also benefit to the Western Australian crash towing industry as a whole, as the authorisation process will eliminate any criminal element and make it easier for reputable agents to provide crash towing services.

10.3 Costs and Benefits – Enforcement Capabilities

A number of Senior Investigation Officers and Governance Assurance and Compliance Officer roles have been estimated to support the enforcement of the crash towing regulatory regime. These roles are independent from other roles required to assist in the administration of the crash towing regulatory regime. There may be start up enforcement costs, as the towing industry in Western Australia has previously been largely unregulated, has recognised predatory behaviour and has an organised crime presence.³⁸

Enforcing the authorisation and maximum charge requirements will mean a safer and more reputable crash towing industry for all motorists. The cost of enforcement falls on Government, as there has been a failure in the marketplace.

Under modified Option 4 DoT will liaise with the crash towing industry and run an education campaign in order to ensure all parties are aware of their responsibilities. The dis-benefits of enforcement fall only on non-compliant towing service providers and tow truck drivers.

10.4 Costs and Benefits – Storage Yards

The introduction of price regulation to establish maximum daily storage charges represents a benefit to the community at large, particularly in light of insurance providers increasing reluctance to cover unreasonable costs.

By setting maximum charges, the government ensures that storage fees are reasonable and consistent. This provides transparency about the costs involved and prevents excessive charges to protect vehicle owners from exploitation. Further, vehicle owners can better understand what to expect and make informed decisions as to where their vehicle should be towed.

Requiring those towing service providers who perform crash towing services to have a suitable storage yard will further protect consumers by ensuring their vehicle is stored in a secure, safe, and accessible location.

An authorisation process also benefits the community as a whole by offering a safe, accessible and reliable storage industry.

11. Cost Recovery

Preliminary modelling indicates that the fees for occupational authorisation may be insufficient for DoT to fully recover costs associated with regulating the crash towing industry, and that the

³⁸ The organised crime presence in the towing industry was confirmed in Operation City in November 2023 www.police.wa.gov.au/About-Us/News/Operation-City-Tow-Truck-Enforcement

administrative functions of the crash towing regulatory framework will need to be supported through other Government funding sources.

Given the small size of the crash towing industry cohort and its growth, it is not feasible for towing ongoing regulation costs to be fully cost recovered from the industry.

12. Impact on Small Business and Regions

12.1 Impact of Towing Authorisations

Key elements of the crash towing regulatory regime, including occupational towing authorisations, banning of spotter's fees and safety standards will apply across the entire State.

The towing industry is dominated by small businesses that service local areas. Many towing service provider businesses are owner operated and do not employ additional staff. The towing industry is highly concentrated in capital cities, though towing service providers are also situated throughout regional areas, with the exception of remote areas where mechanics or other agencies often provide towing services across a broad region. There is very little competition between small towing service providers in regional WA, as each tends to service a different area.

The occupational authorisation scheme – particularly requiring that those in the crash towing industry be fit and proper persons – applies across the State. All Western Australians should be offered the same protections and safety when engaging crash towing services.

It may be that some of these small crash towing service providers will not be able to meet the fit and proper person requirements under the crash towing regulatory regime. This could lead to businesses changing ownership, which could lead to disruptions to the provision of towing services in some regional areas. However, in the long term it should result in better service provision as tow truck drivers and towing service providers will be fit and proper persons.

The average taxable income for tow truck drivers nationally in 2019-20 was \$63,754. Given overheads such as vehicle running costs are understood to be nationally consistent, and Western Australia is the last major jurisdiction to introduce towing industry regulation, it is reasonable to treat these figures as accurate for Western Australian workers.³⁹

According to national benchmarking of towing services by the Australian Taxation Office, the percentage total expenses for businesses with a turnover of \$50,000 to \$200,000, the total expenses as a proportion of annual turnover is an average of 66%, rising to 76% for turnover \$200,000 to \$500,000, and 86% for turnover over \$500,000.⁴⁰

Under modified Option 4, consideration will be given to crash towing service providers in the regions who have difficulty complying with the requirements of authorisation due to time constraints or travel difficulties.

³⁹ Source ATO 8 August 2022 – [Taxation-statistics-2019-20](#)

⁴⁰ Source - <https://www.ato.gov.au/Business/Small-business-benchmarks/In-detail/Benchmarks-by-industry/Transport,-postal-and-warehousing/Towing-services/>

DoT has engaged with the Small Business Development Corporation in the development of the towing industry reforms.

12.2 Impact of Maximum Charges

The setting of maximum charges for the towing and storage of crashed vehicles is to be introduced in the Perth and Peel regions, where there is a great deal of competition in the towing industry and strong evidence of overcharging in these regions.

There is no immediate intention to introduce maximum charges where there are limited towing service providers covering large regions and where tows are often for very long distances as to date there have been few complaints about towing in regional areas.

The setting of maximum towing charges may later be extended to other regional areas where there is evidence that consumers are being charged excessive fees that would justify more direct pricing regulation.

13. Communications

It will be essential to establish effective communication channels to support the crash towing industry during this regulatory transition. As the regulation of the crash towing industry is new, there is a need for clear and long-term public and industry communications. DoT will support the towing industry to understand and comply with the new regulatory framework.

DoT will engage directly with crash towing service providers. This approach ensures that industry stakeholders receive accurate information and understand their obligations under the new regulatory framework. DoT will create a dedicated landing page on its website to host frequently asked questions, templates, and other related resources where those in the crash towing industry can access this information conveniently.

This communication will be separate to, and more specific than, the general communications campaign for the public about crash towing reforms.

While separate from industry-specific communication, DoT will run a public awareness campaign. The goal is to educate consumers about their rights when engaging crash towing services. This campaign will start on social media in July 2024.

As various reform elements take effect, DoT's messaging will evolve to become more targeted and specific, addressing different aspects of the regulatory reforms. In combining these approaches, DoT aims to facilitate compliance, transparency, and informed decision-making within the crash towing industry.

14. Implementation and Evaluation

Implementation of the crash towing industry regulatory regime will commence following the development and passing of new legislation which provides the overall framework and necessary enforcement powers.

It is envisaged that the banning of advertising or payment of spotter's fees and other incentives will commence upon the new legislation passing and receiving royal assent, along with associated administrative and enforcement powers.

DoT will then develop supporting regulations to set maximum towing and storage charges and communicate to industry and the public about the new regulatory framework, as agreed with the Department of Treasury.

15. Project Timeline

Table 11 below sets out an indicative 4-year project timeline to include the following milestones:⁴¹

Table 11. Project Milestones

Financial Year	Milestone
2023-24	Policy and legislation development
2024-25	Legislation introduced and passed
	Develop regulations to set maximum towing/storage charges
	Communication with industry and public about new regulatory framework
	Commence enforcement of maximum charges and ban on spotter's fees
2025-26	Commence interim authorisation application process for tow truck drivers
2026-27	Commence authorisation application process for towing service providers

16. Conclusion

Based on the outcome of industry and community consultation, there is a strong case for regulation of the crash towing industry through a combination of occupational authorisation and price regulation.

This conclusion stems from the gravity of the issues highlighted during the consultation process, as well as the substantial risks faced by vulnerable consumers. By implementing these measures, the WA Government aim to enhance safety, protect consumers, and promote fair practices within the crash towing industry.

⁴¹ This timeline is subject to Government funding and priorities.