



Review of Accident Towing and Storage Fees

Final Report

10 December 2018



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1. Summary

This report outlines our final recommendations to the Minister for Roads on accident towing, storage and salvage fees in the Melbourne controlled area. Our final recommendations are unchanged from the draft recommendations we made in our draft report in August 2018. In reaching our final recommendations, we considered the stakeholder feedback we received on our draft report.

We conduct reviews of fees and make recommendations to the minister

Under section 212A of the Accident Towing Services Act 2007, we must conduct and complete periodic reviews and make recommendations to the Minister for Roads on:¹

- whether any fee for accident towing or storage services previously determined by the minister is appropriate
- whether existing accident towing, storage or salvage services that are unregulated should be regulated and, if so, what regulated fees should apply
- a figure for the productivity adjustment contained in the annual adjustment mechanism, which is applied to regulated fees every year
- any other matter relating to accident towing services, the storage of accident-damaged vehicles or salvage that the minister specifies in writing.²

While the minister periodically determines regulated fees for accident towing and storage services³ in the Melbourne controlled area, the existing regulated fees are increased every year by an annual adjustment mechanism. The annual adjustment mechanism is calculated as the Melbourne Transport CPI minus the productivity adjustment factor.⁴

The focus of our review is accident towing, storage and salvage pricing matters within the Melbourne controlled area as outlined in the Accident Towing Services Act.

¹ Accident Towing Services Act 2007, section 212A(1)

² The minister did not specify any additional matters for us to consider in this review.

³ Accident Towing Services Act 2007, section 211

⁴ Accident Towing Services Act 2007, section 212H

Throughout this review, we have considered the objective of the Accident Towing Services Act⁵, which is to promote the safe, efficient and timely provision of accident towing services.⁶

We have four recommendations for the Minister for Roads

We make final recommendations for each component of section 212A(1) of the Accident Towing Services Act, as per table 1.1. The basis for our recommendations is outlined in chapters two, three, four and five of this report and is summarised below.

Table 1.1 The commission’s final recommendations on accident towing, storage and salvage fees in the Melbourne controlled area

Recommendation number	Our recommendation for the minister
Recommendation 1	The current regulated accident towing fees (as determined by the minister under section 211(a) of the Accident Towing Services Act) are appropriate and should not be changed.
Recommendation 2	The current regulated storage fees (as determined by the minister under section 211(a) of the Accident Towing Services Act) are not appropriate and should be increased. We recommend that the ‘under cover’ vehicle storage fee be increased from \$17.00 per day to \$25.00 per day, and all other regulated storage fees be increased by the same proportion (47 per cent).
Recommendation 3	The productivity adjustment factor (which applies to all fees subject to a determination under section 211 of the Accident Towing Services Act) should remain unchanged at 0.5 per cent.
Recommendation 4	Basic salvage services should not be subject to a determination under section 211 of the Accident Towing Services Act. We have not identified any accident towing or storage services that do not have a regulated fee determined under section 211 of the Act.

Recommendation 1 – regulated accident towing fees

Current regulated accident towing fees (as escalated each year by the annual adjustment mechanism) appear appropriate. While accident towing fees are regulated in Melbourne, tow truck operators are able to set their own fees for other towing services they conduct (such as trade towing services). In our review, we used fees for contestable trade towing services as a benchmark

⁵ Accident Towing Services Act 2007, section 4. The Act also has an objective to ensure that persons who provide accident towing services are of appropriate character, are technically competent, act with integrity and have regard to vulnerable persons.

⁶ In addition, s. 212D of the Accident Towing Services Act 2007 provides that, except to the extent that the minister otherwise determines, the objectives of the commission under the Essential Services Commission Act 2001 or any other Act do not apply to the functions and powers of the commission under its role to periodically review charges.

for the regulated fees. We found that regulated fees were relatively consistent with benchmark trade towing fees, as well as with regulated accident towing fees in other jurisdictions.

While we relied on a benchmarking approach to review fees for this review, we may consider adopting a cost of service methodology for the next review. The development of this methodology would occur after the completion of this review and before our next periodic review. We outline our reasons for using a benchmarking approach for this review in appendix B of this report.

Recommendation 2 – regulated storage fees

Current regulated storage fees (as escalated each year by the annual adjustment mechanism) are not appropriate and are too low. To reach this conclusion, we compared regulated storage fees against benchmarks of storage fees for unregulated storage services in Melbourne (trade towing and impounding of vehicles) and regulated storage fees for accident-damaged vehicles in other jurisdictions.

We have recommended an increase in regulated storage fees that reflects the benchmark fees we analysed in our review. We consider that a fee of \$25.00 per day for ‘under cover’ vehicle storage would be appropriate, which would result in an \$8.00 increase in the current \$17.00 per day fee. Reflecting the common cost drivers for this increase, mainly property leasing costs, we consider that all other regulated storage fees (that is, ‘under cover’ and ‘locked yard’ storage for vehicles and motorcycles) should also be increased by the same proportion (i.e. 47 per cent).

We received feedback that regulated daily storage fees be increased for storage of more than seven days to encourage vehicle owners to remove their vehicles from storage facilities. We do not consider this change is necessary at this time, as our recommendation to increase all regulated storage fees should have an effect on vehicle owner behaviour.

We also received feedback that vehicle owners be immediately informed of their vehicles location when it arrives at a storage facility. This would allow vehicle owners to more promptly remove their vehicles from storage facilities. While we do not recommend a formal measure to address these concerns, we note that stakeholders may approach VicRoads, the industry regulator, with concerns related to conditions and requirements for accident towing operators (as outlined in the Accident Towing Services Regulations 2008).

Recommendation 3 – productivity adjustment factor

We recommend that the productivity adjustment factor not be changed from 0.5 per cent. The productivity adjustment factor is used to offset annual fee increases by an amount that reflects the productivity improvements that the industry is capable of achieving.

Our analysis of publicly available data⁷ and VicRoads data indicates that productivity has increased in the towing industry since our last review. While we consider there is scope for accident towing operators to further improve their productivity in the coming years, the measures we have analysed do not appear to provide conclusive evidence as to the appropriate level of the productivity adjustment factor. For this reason, we concluded there was no significant reason to depart from the default value of 0.5 per cent.

Recommendation 4 – basic salvage services

We recommend that fees for basic salvage services not be subject to a determination under section 211 of the Accident Towing Services Act. While there may be merit in regulating basic salvage fees, and we have recommended this previously, we do not consider the justification for regulation is as strong as in the past. In coming to this recommendation, we considered that:

- the government has not adopted our prior recommendations to directly regulate fees, preferring instead to require that fees are reasonable, in terms of specified factors that a court must consider⁸
- we have not received detailed feedback or evidence during this review that indicates that customers are being charged excessive salvage fees that would justify more direct price regulation
- where stakeholders have raised concerns, these have mainly related to the transparency of the services provided when charged a salvage fee.

To the extent that there are issues related to the transparency of salvage fees, these should be directed to VicRoads. We have informed VicRoads of issues raised by stakeholders at each stage of our consultation process.

Our final recommendations may lead to some changes to regulated fees

Table 1.2 lists the 2018-19 regulated accident towing and storage fees and compares these to the fees that would apply if our final recommendations outlined in table 1.1 were adopted. The 2018-19

⁷ The publically available data we analysed included productivity and turnover measures published by the Australian Tax Office and Australian Bureau of Statistics.

⁸ Accident Towing Services Act 2007, section 212(1) (2) specifies factors that the court must consider when determining what is a 'reasonable' charge for the provision of accident towing services:

- the nature of the service provided
- the day and time the service is provided
- any administration costs incurred in providing the service
- the amount that would be charged for the same or similar service that is not an accident towing service
- the amount that would be charged for the same or similar service by another accident towing service provider in the same or similar area.

regulated fees will continue to apply in the Melbourne controlled area until the minister makes a new fee determination, which may occur in response to our final recommendations.⁹

Table 1.2 Regulated accident towing and storage fees in the Melbourne controlled area, 2018-19 actual fees and our recommended fees

Fee or charge description	2018-19 actual (\$ incl. GST)	2018-19 recommended (\$ incl. GST)
Accident towing fees		
Base fee (incl. first 8km travel by tow truck)	221.40	221.40
Additional fee per kilometre beyond 8km	3.50	3.50
After hours surcharge ^(a)	75.60	75.60
Storage fees (charge per day)		
Car – under cover	17.00	25.00
Car – in locked yard	11.50	16.90
Motorcycle – under cover	5.60	8.25
Motorcycle – in locked yard	3.60	5.30

Note: (a) applies from 5pm to 8am Monday to Friday, 5pm Friday to 8am Monday, and public holidays.

Source: VicRoads, Victorian Government Gazette Special

⁹ Accident Towing Services Act 2007, s. 212. This section states that the minister may only determine charges for accident towing and other services after (a) receiving a recommendation from the commission on the matter; and (b) receiving a report from VicRoads.

2. Regulated accident towing fees appear appropriate

The Minister for Roads regulates fees for accident towing services in the Melbourne controlled area, under section 211 of the Accident Towing Services Act 2007. The minister last made a determination about fees in October 2014.¹⁰ In particular, the minister has set a base fee, distance fee and an additional surcharge for after-hours jobs.

We are required under section 212A(1)(a) of the Act to recommend to the minister as to whether any amount the minister has previously determined for accident towing fees is appropriate.

Recommendation 1: The current regulated accident towing fees are appropriate and should not be changed.

Our draft recommendation was that accident towing fees appeared appropriate

In our draft report we considered that the current regulated accident towing fees should not be changed.¹¹ We made a draft recommendation that regulated accident towing fees were appropriate. This was based on our observations that:

- regulated fees appeared consistent with fees for unregulated benchmarks, namely trade towing, when we considered the additional time required for an accident towing job compared to a trade towing job
- regulated fees appeared consistent with regulated fees in other jurisdictions, when we took into account different regulatory settings.

We found that accident towing jobs were more expensive on average than trade towing jobs. In order to compare the prices of both types of jobs on a like-for-like basis, we made some adjustments to account for the main cause of the difference between the two services (that is, the time required to complete each type of job). We did not have sufficient information to make direct comparisons between the price per hour of accident towing and trade towing jobs. However, our available information appeared to explain that accident towing fees were more expensive than trade towing fees due to the additional time required for accident towing jobs. Our analysis did not

¹⁰ The Hon Terry Mulder MP 2014, *Determination of charges for the towing and storage of accident-damaged motor vehicles under section 211*, Victoria Government Gazette, No. S 406 Friday 31 October 2014.

¹¹ Essential Services Commission 2018, *Review of accident towing and storage fees: Draft report*, August, p. 6

support any increase in accident towing fees and we proposed that accident towing fees remain unchanged.

We sought stakeholder feedback on our methodology and invited stakeholders to provide reliable data on the time required for trade towing jobs in Melbourne in order to assist us make a more direct comparison of the hourly prices of accident towing and trade towing for our final report.

One submission asked for an increase in accident towing fees

The Victorian Automobile Chamber of Commerce (VACC) proposed that the accident towing base fee (currently set at \$221.40) be increased by \$20.00 to \$241.40.¹² The VACC also invited the commission to work with its staff in the development of an accident towing cost methodology before the next fee review.¹³ The VACC stated that the objective of this project would be to agree on a methodology that can be relied upon for future fee reviews and replace the current benchmarking approach.

While the Insurance Council of Australia did not specifically comment on our draft recommendation on accident towing fees, it noted it was generally supportive of our draft recommendation.¹⁴

Our final recommendation is for no changes to accident towing fees

Our final recommendation is that accident towing fees (as escalated by the annual adjustment mechanism¹⁵) are appropriate and should not be changed. This recommendation is unchanged from our draft recommendation. Our draft recommendation was based on the results of our analysis of benchmarking work conducted by our consultant (our analysis is reproduced in appendix B of this report).

In our draft report, we identified that our benchmarking analysis could be improved if we were provided with reliable data on the time required for trade towing jobs in Melbourne.¹⁶ This data would enable us to directly compare the price per hour for accident towing jobs and trade towing jobs (based on the total price and total time required for each type of job). However, we did not receive any feedback from stakeholders on the benchmarking methodology and did not receive

¹² VACC 2018, *Submission to Review of accident towing and storage fees: draft report*, 21 September, p. 1

¹³ *Ibid*, p. 1

¹⁴ Insurance Council of Australia 2018, *ESC Review of Accident Towing and Storage Fees – Draft Report*, 3 October, p. 1

¹⁵ The formula for the annual adjustment mechanism is explained in chapter 4 of this report. The annual adjustment mechanism is outlined in s. 212H of the Accident Towing Services Act 2007.

¹⁶ Essential Services Commission 2018, *Review of accident towing and storage fees: Draft report*, August, pp. 8-9

any additional data. Therefore, we are satisfied that the results of our benchmarking analysis sufficiently explain the difference between fees for accident towing and trade towing jobs.

The VACC suggested that the base fee be increased by \$20.00 for each accident towing job. We have decided to rely on our benchmarking approach in this review, as it was our preferred approach throughout the review and stakeholders have not suggested that we move away from this methodology. The results of our benchmarking approach do not support any increase in accident towing fees. In addition, the VACC has not provided justification for a \$20.00 increase in the base fee in its submission.

We will consider the VACC's proposal to assist us in developing a cost methodology following the completion of this review. The scope of this project will be subject to further discussion between the commission and industry, although we appreciate the offer from the VACC to draw upon its resources and provide us with access to its member data. We would also seek support and input from other stakeholders in the industry, such as insurers, VicRoads and non-VACC affiliates.

3. Regulated storage fees appear to be too low

The Minister for Roads regulates fees for storing accident-damaged vehicles in the Melbourne controlled area, under section 211 of the Accident Towing Services Act 2007. The minister last made a determination about fees in October 2014.¹⁷ In particular, the minister has set regulated fees for 'under cover' and 'locked yard' storage for both vehicles and motorcycles.

We are required under section 212A(1)(a) of the Act to recommend to the minister as to whether any amount the minister has previously determined for storage fees is appropriate.

Recommendation 2: The current regulated storage fees are not appropriate and should be increased. We recommend that the 'under cover' vehicle storage fee be increased from \$17.00 per day to \$25.00 per day, and all other regulated storage fees be increased by the same proportion (47 per cent).

Our draft recommendation was that storage fees were too low

In our draft report we considered that the current regulated storage fees were not appropriate and should be increased.¹⁸ We made a draft recommendation that the 'under cover' storage fee should be increased from \$17.00 per day to \$25.00 per day, and all other regulated storage fees be increased by the same proportion (47 per cent). This was based on:

- regulated fees being lower than storage fees associated with trade towing and impounding
- regulated fees being lower than regulated storage fees in other jurisdictions
- our analysis of the feedback we received on our consultation paper.

Based on our analysis of the benchmark fees, we considered that it would be appropriate for the regulated 'under cover' storage fee to be set between \$20.00 and \$26.50 per day. We decided to make a draft recommendation that the 'under cover' storage fee be set at \$25.00 per day, which would equalise this fee with the trade towing storage benchmark fee in Melbourne.

We received feedback requesting additional conditions for storage fees

The Victorian Automobile Chamber of Commerce (VACC) stated that our draft recommendation on storage fees was a 'reasonable and sensible adjustment', while noting that \$25.00 per day was at

¹⁷ The Hon Terry Mulder MP 2014, *Determination of charges for the towing and storage of accident-damaged motor vehicles under section 211*, Victoria Government Gazette, No. S 406 Friday 31 October 2014.

¹⁸ Essential Services Commission 2018, *Review of accident towing and storage fees: Draft report*, August, p. 12

the lower end of the range of fees it proposed in its first submission.¹⁹ The VACC also suggested that we recommend higher storage fees for vehicles kept in storage for longer than seven days. The VACC stated that storage providers require available space for incoming accident vehicles and there should be incentives for vehicle owners and insurers to remove vehicles from storage.²⁰

The Insurance Council of Australia (ICA) indicated that while they do not disagree that storage fees may be too low, they consider that any increase in storage fees should be accompanied by minimum service standards provided by storage providers.²¹ The ICA specifically raised the notification of stored vehicles as an area where service levels could be improved. The ICA stated that it is not uncommon for insurers to experience a time lag from when an accident occurs to when the owner (and insurer) are notified of the location of the damaged vehicle. The ICA noted this time lag impacts insurers' ability to mitigate the cost of motor vehicle accident claims, which may ultimately place upward pressure on the cost of vehicle insurance premiums.²²

Our final recommendation is that storage fees should be increased

Our final recommendation is that regulated storage fees (as escalated by the annual adjustment mechanism²³) are not appropriate and are set too low. This recommendation is unchanged from our draft recommendation and is based on our analysis of the benchmarking work conducted by our consultant. We have reproduced our draft report analysis in appendix C of this report. As noted above, stakeholders are comfortable with our proposed fee increases but have raised additional points for us to consider. We consider these points below and conclude that our recommendations in our draft report remain appropriate.

We do not propose higher fees to apply after seven days of storage

The VACC suggested that we recommend higher storage fees to apply after seven days of storage, to discourage vehicle owners leaving their vehicles in storage for long periods of time and taking up space needed for incoming accident vehicles. The ICA's submission raised a conflicting view, noting that insurers are sometimes not notified of the location of a vehicle immediately, which leads to delays in removing vehicles from storage facilities. From these submissions, we understand that both the VACC and ICA would prefer vehicles to be removed from storage

¹⁹ VACC 2018, *Submission to Review of accident towing and storage fees: draft report*, 21 September, p. 1

²⁰ *Ibid*, p. 1

²¹ Insurance Council of Australia 2018, *ESC Review of Accident Towing and Storage Fees – Draft Report*, 3 October, pp. 1-2

²² *Ibid*, p. 2

²³ The formula for the annual adjustment mechanism is explained in chapter 4 of this report. The annual adjustment mechanism is outlined in s. 212H of the Accident Towing Services Act 2007.

facilities as soon as possible. Representatives of these bodies also expressed these views to commission representatives during separate meetings held during the consultation period. However, neither body indicated to commission representatives that they had systematically recorded data on the instance of these issues.

Storage providers should ensure that vehicle owners (and their insurers) are aware that the vehicle is being stored at their facility to enable the prompt removal of the vehicle. We note that insurers (or vehicle owners) can directly raise issues with VicRoads, the industry regulator responsible for enforcing the Accident Towing Services Act and Regulations, about the conduct of accident towing and storage providers. In terms of placing conditions on regulated storage fees, we consider that these issues are better dealt with through the Accident Towing Services Regulations, as updated periodically by VicRoads and the government. The Accident Towing Services Regulations currently outline conditions and requirements for accident towing services (such as, the content of 'authority to tow' documents²⁴ and requirements for the records to be kept to charge salvage fees²⁵). If the ICA were to propose amendments to VicRoads, they should consider providing a greater level of detail (including data) on the magnitude and frequency of this storage issue, to enable VicRoads to make a considered response.

To the extent that storage providers are concerned about vehicles spending too long in storage, we consider that our recommendation to increase daily storage fees by 47 per cent should encourage vehicle owners to more promptly remove vehicles from storage facilities. We will assess whether the higher fees (if implemented) have an effect on vehicle owner behaviour when we next review storage fees. For the next review, we would expect storage providers and insurers to collect and provide us with data on the length of time vehicles remain in storage facilities, to enable us to assess whether a higher fee after a certain number of days would be appropriate. This would likely be collected through the bottom-up cost methodology that we are considering developing for the next review (as discussed in chapter 2 of this report).

We provide a schedule of storage fees that we consider to be appropriate

Table 3.1 outlines the 2018-19 regulated storage fees and compares these to the fees that would apply if our final recommendations were adopted. The 2018-19 regulated storage fees will continue to apply in the Melbourne controlled area until the minister makes a new fee determination, which may occur in response to our final recommendations.²⁶ If our recommended fees do not

²⁴ Accident Towing Services Regulations 2008, Schedule 2

²⁵ Accident Towing Services Regulations 2008, regulation 35(12)

²⁶ Accident Towing Services Act 2007, s. 212. This section states that the minister may only determine charges for accident towing and other services after (a) receiving a recommendation from the commission on the matter; and (b) receiving a report from VicRoads.

commence until the next financial year (2019-20), we would expect these fees to be escalated by the annual adjustment mechanism.

Table 3.1 Regulated storage fees and our recommended storage fees, 2018-19

Storage fees	2018-19 (per day)	2018-19 (per day) (final recommended fees)
Car – under cover	\$17.00	\$25.00
Car – in locked yard	\$11.50	\$16.90
Motorcycle – under cover	\$5.60	\$8.25
Motorcycle – in locked yard	\$3.60	\$5.30

Regulated storage fees appear to be too low

4. The productivity adjustment factor should not be changed

We are required under section 212A(1)(c) of the Accident Towing Services Act 2007 to make a recommendation to the Minister for Roads on a figure for the productivity adjustment to apply to fees for regulated services. Section 212H of the Act specifies that the productivity adjustment factor is 0.5 per cent, unless we recommend a different amount. In our previous reviews we have not recommended changes to the productivity adjustment factor.

Recommendation 3: The productivity adjustment factor should remain unchanged at 0.5 per cent.

Regulated fees are adjusted each year by a specified equation

In the Melbourne accident towing industry, regulated fees are amended each year by an ‘annual adjustment mechanism’, which is determined through a version of a ‘CPI minus X’ equation.²⁷ The purpose of offsetting annual fee increases by an ‘X’ factor is to reflect the productivity improvements that the industry is capable of achieving.

The industry legislation specifies the equation for annual fee changes

The equation used to make the annual adjustment in regulated accident towing and storage fees is specified in section 212H of the Accident Towing Services Act and is outlined below.

$$A \times \left(\frac{B}{C} - D \right)$$

where—

- ‘A’ is the regulated fee for the previous financial year
- ‘B’ is the most recent March quarter value of the Melbourne Transport CPI²⁸
- ‘C’ is the previous year March quarter value of the Melbourne Transport CPI
- ‘D’ is the productivity adjustment factor, set at 0.005 (unless we recommend a different value)²⁹

²⁷ Accident Towing Services Act 2007, s. 212H

²⁸ The CPI (Melbourne, Transport) index is available at; Australian Bureau of Statistics, 6401.0 – Consumer Price Index, Australia, Table 9.

The productivity adjustment factor should not be changed

Section 212H(3) of the Accident Towing Services Act restricts the formula from applying a negative value. We refer to this as a 'zero floor' on price changes. This means that regulated fees will remain unchanged in years that this equation returns a negative value.

The productivity adjustment factor is intended to promote cost reductions

The main purpose of the productivity adjustment factor is to promote accident towing businesses to achieve cost reductions and share these cost savings with consumers through lower fees. As regulated fees are annually adjusted by the Melbourne Transport CPI, the regulated fees will reflect any cost increases or decreases that occur in the broader transport industry. For example, in years where automotive fuel prices increase, this will be reflected in the increase in regulated accident towing fees in the following financial year. The productivity adjustment factor represents an amount that we expect the accident towing industry to outperform productivity changes in the broader Melbourne transport industry.

The productivity adjustment factor was introduced following our recommendations in our 2009 review of accident towing and storage fees. In that review we identified that a productivity adjustment factor of 0.5 per cent would be appropriate as accident towing operators had improved productivity through:³⁰

- consolidating their operations into fewer depots
- increasing the ratio of accident licenses to tow trucks, so to service a greater number of accident allocations with each tow truck
- using existing resources to engage in other services, such as trade towing.

The 'zero floor' on price changes protects operators from falling prices

The annual adjustment mechanism protects against downward fee adjustments through a 'zero floor' on price changes. This has resulted in regulated fees remaining unchanged in 2015-16 and 2016-17 despite reductions in the Melbourne Transport CPI.

The Melbourne Transport CPI has produced both large upward and downward annual movements in previous years, which means we are unable to predict whether the index will provide only positive values in any given future period. If there are years where negative values occur, the 'zero floor' of the annual adjustment mechanism would lead to regulated fees remaining unchanged.

²⁹ Section 212H of the Accident Towing Services Act refers to this as 'D'. This factor is often referred to as 'X' – as per the common usage of the term 'CPI minus X'.

³⁰ Essential Services Commission 2010, *Review of Accident Towing and Storage Fees: Final Report – Volume 2: Detailed Reasons and Methodology*, June, p. 40

The productivity adjustment factor should not be changed

In years where costs are falling, as measured by the Melbourne Transport CPI, the productivity adjustment factor has no impact on regulated fees. Customers only benefit from the productivity adjustment factor in years when the Melbourne Transport CPI is increasing.

Our draft view was to maintain the existing productivity factor

In the draft report, we considered that the productivity adjustment factor should remain unchanged at 0.5 per cent.³¹ We reached this draft recommendation following our assessment of our consultant's report on productivity changes in the Victorian towing industry.³² While our consultant did not present any direct measures of the productivity adjustment factor (which is an estimate of future productivity changes), they did provide an indication that the towing industry has achieved productivity gains since our 2013 fee review. This was based on analysis of:³³

- data published by the Australian Taxation Office on small business performance benchmarks for towing and comparing this against other transport industries
- the number of accident tows per licensed tow truck, as a partial measure of historical productivity
- multi-factor productivity published by the Australian Bureau of Statistics for the Transport, Postal and Warehousing Division.

We present a more detailed consideration of these measures from our draft report in appendix D. In summary, these measures did not appear to provide conclusive evidence as to the appropriate level of the productivity adjustment factor. We did, however, consider there was a case to maintain a productivity adjustment factor in order to retain the incentives for accident towing operators to minimise costs and improve efficiency. We did not find any significant reason to recommend departing from the default productivity adjustment factor of 0.5 per cent.

One stakeholder argued for the removal of the productivity adjustment factor

The Victorian Automobile Chamber of Commerce (VACC) recommended the removal of the productivity adjustment factor from the annual adjustment mechanism.³⁴ The VACC noted that this would bring the annual fee increases in line with Victorian Government regulatory fees that are

³¹ Essential Services Commission 2018, *Review of accident towing and storage fees: Draft report*, August, p. 20

³² Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, chapter 4

³³ *Ibid*, p. 28

³⁴ VACC 2018, *Submission to Review of accident towing and storage fees: draft report*, 21 September, p. 1

The productivity adjustment factor should not be changed

automatically subject to CPI increases with no productivity improvement requirements. The VACC argued that the accident towing industry faces restrictions in improving productivity, such as:³⁵

- the accident towing industry is not a competitive market, with licence numbers capped at 421 licences and each licence holder's operations limited to a specific allocation zone
- productivity gains and losses in trade towing services will impact on the overall tow truck utilisation of accident tow trucks, as trade towing forms part of their overall business
- accident towing is subject to greater regulatory barriers than the broader transport sector, which denies accident towing operators the ability to improve processes and practices to reduce hourly costs.

While the Insurance Council of Australia (ICA) did not specifically comment our draft recommendation on the productivity adjustment factor, it noted it was generally supportive of our draft recommendation.³⁶

The ICA also raised issues related to the structure of businesses within the industry and the integration of accident towing businesses with other non-regulated activities (particularly smash repair). In particular, the ICA commented that touting by towing operators continues to be a concern, despite this being prohibited.³⁷ Touting in the accident towing industry relates to a tow truck driver encouraging or pressuring an accident victim to agree to have their vehicle repaired by a smash repair business owned by, or affiliated with, the tow truck operator.³⁸ ICA noted that the majority of accident towing operators are owned by, or affiliated with, smash repair businesses, which can create an incentive for some accident towing operators to pursue smash repair work.³⁹

Our final recommendation is to maintain the existing productivity adjustment factor

Our final recommendation is that the productivity adjustment factor should remain at 0.5 per cent. This recommendation is unchanged from our draft recommendation, which was based on our analysis of our consultant's advice on relevant productivity measures for the towing industry. We have reproduced our analysis in appendix D of this report. In coming to our final recommendation, we also considered feedback from stakeholders, as outlined below.

³⁵ Ibid, p. 2

³⁶ Insurance Council of Australia 2018, *ESC Review of Accident Towing and Storage Fees – Draft Report*, 3 October, p. 1

³⁷ Ibid, p. 2

³⁸ Essential Services Commission 2015, *Accident towing regulation: Final report*, December, glossary

³⁹ Insurance Council of Australia 2018, *ESC Review of Accident Towing and Storage Fees – Draft Report*, 3 October, p. 2

The productivity adjustment factor should not be changed

We have considered the VACC's submission and have maintained our views

The VACC's submission raised similar points in regards to the productivity adjustment factor as in its submission to our consultation paper in May 2018.⁴⁰ We considered these issues when preparing our draft report and we maintain the views we expressed in that report. We briefly outline our views below.

We note the VACC's comments that regulatory barriers within the accident towing industry are larger than in other transport industries and restrict accident towing operators from improving productivity. Our analysis of productivity measures suggested that the broader towing industry (including trade towing and accident towing) appears to have had productivity improvements at least in line with the broader transport industry since our last review in 2013. We also consider that retaining the productivity adjustment factor would promote the efficient provision of accident towing services.

While there are some regulatory barriers for accident towing operators, aspects of the legislation are also likely to provide benefits to existing operators in the market. For example, the licence cap and allocation zone restrictions lead to fewer competitive pressures for towing operators than would otherwise occur. In the absence of the threat of competition to drive down accident towing fees, we consider a productivity adjustment factor provides an appropriate restraint on accident towing fees.

The ICA's comments on business structure are outside the scope of our review

The ICA noted that we had previously reviewed industry structure (including the affiliation of accident towing operators with smash repair businesses) in our 2015 review of Victorian accident towing and storage regulation.⁴¹ We provided our final recommendations on Victorian accident towing and storage regulation to the Minister for Finance in January 2016. No legislative changes have been made in response to this review.

As the ICA acknowledged in its submission, the scope of our current review only includes regulated fees in the Melbourne controlled area. As such, issues of industry structure are outside the scope of the current review and we have not considered these issues in this report. The ICA should consider instead raising these issues directly with VicRoads, the industry regulator for the accident towing industry.

⁴⁰ VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 22

⁴¹ Insurance Council of Australia 2018, *ESC Review of Accident Towing and Storage Fees – Draft Report*, 3 October, p. 2

The productivity adjustment factor should not be changed

5. We do not recommend a regulated salvage fee

Fees for basic salvage services in the Melbourne controlled area are not currently regulated under section 211 of the Accident Towing Services Act 2007. Instead, basic salvage fees must be a 'reasonable charge for the provision of that service'.⁴² We are required under section 212A(1)(b) of the Act to make a recommendation to the Minister for Roads on whether existing accident towing, storage or salvage⁴³ services that are unregulated should be regulated and, if so, what regulated fees should apply.⁴⁴

Recommendation 4: Basic salvage services should not be subject to a determination under section 211 of the Accident Towing Services Act.

We made a draft recommendation to not regulate basic salvage services

In the draft report, we considered that basic salvage services should not be subject to a determination under section 211 of the Accident Towing Services Act.⁴⁵ While we consider there may be merit in regulating basic salvage fees, and have recommended this previously, the Victorian Government has adopted an alternative approach that relies on greater transparency of fees (such as through requirements for photographs of salvage operations⁴⁶).

We also noted that stakeholders had mainly raised concerns around the transparency of fees rather than the magnitude of fees.⁴⁷ We advised that issues around the transparency of fees should be addressed through enforcement of the Accident Towing Services Regulations 2008, which is the responsibility of VicRoads.

⁴² Accident Towing Services Act 2007, s. 212(1)(b).

⁴³ Salvage is the moving of an accident-damaged motor vehicle to a place on a road or road-related area or into an upright position (or both) so that it may be towed by a tow truck without assistance. Salvage may involve the use of additional tow trucks or equipment.

⁴⁴ We are unaware of any unregulated accident towing or storage services and none have been raised by stakeholders. We have not further considered these in this draft report.

⁴⁵ Essential Services Commission 2018, *Review of accident towing and storage fees: Draft report*, August, p. 29

⁴⁶ Accident Towing Services Regulations 2008, regulation 35(12)

⁴⁷ Essential Services Commission 2018, *Review of accident towing and storage fees: Draft report*, August, p. 29

Stakeholders' raised opposing views on the topic of salvage fees

The Victorian Automobile Chamber of Commerce supported our recommendation that basic salvage services not be subject to regulation.⁴⁸

The Insurance Council of Australia (ICA) restated their position from their consultation paper submission⁴⁹ that a regulated basic salvage fee should be introduced.⁵⁰ The ICA considered that a regulated basic salvage fee would provide a more appropriate level of protection to consumers from excessive salvage fees.

We recommend that basic salvage fees not be regulated

While regulating basic salvage fees would address the potential for operators to levy excessive salvage fees, we have recommended that basic salvage services not be subject to a fee determination. We have not received detailed feedback that indicates customers are being charged excessive salvage fees that would justify more direct price regulation of salvage fees.

The ICA supported the regulation of basic salvage fees to provide protection to consumers from excessive salvage fees. In our draft report⁵¹, we outlined some of the protections for consumers in the current legislation such as, that salvage fees must be 'reasonable'⁵² and that towing operators must photograph the condition and location of any accident-damaged vehicle whenever salvage is undertaken⁵³.

While the ICA expressed support for regulated fees, in meetings between insurance stakeholders and commission representatives during this review we were informed that issues with transparency of salvage fees were of most concern to insurers. We consider that ensuring transparency of the service being provided should protect consumers from being overcharged. If the ICA, or any other stakeholder, has been charged excessive salvage fees, they should inform VicRoads (the industry

⁴⁸ VACC 2018, *Submission to Review of accident towing and storage fees: draft report*, 21 September, p. 2

⁴⁹ Insurance Council of Australia 2018, *ESC Review of Accident Towing and Storage Fees*, 18 May, p. 2

⁵⁰ Insurance Council of Australia 2018, *ESC Review of Accident Towing and Storage Fees – Draft Report*, 3 October, p. 2

⁵¹ Essential Services Commission 2018, *Review of accident towing and storage fees: Draft report*, August, p. 30

⁵² Accident Towing Services Act 2007, section 212I(1)(b). In addition, s. 212I (2) specifies factors that the court must consider when determining what is a 'reasonable' charge for the provision of accident towing services:

- the nature of the service provided
- the day and time the service is provided
- any administration costs incurred in providing the service
- the amount that would be charged for the same or similar service that is not an accident towing service
- the amount that would be charged for the same or similar service by another accident towing service provider in the same or similar area.

⁵³ Accident Towing Services Regulations 2008, regulation 35(12)

We do not recommend a regulated salvage fee

regulator). For the next fee review, we will revisit this issue and consider any data from stakeholders on the occurrence and magnitude of excessive salvage fees and the outcomes of VicRoads' enforcement in this area.

Appendix A: Background on the accident towing industry

In this appendix, we briefly describe the accident towing industry, the regulatory regime that applies to the industry and our two most recent reviews related to the accident towing industry, where:

- in 2013, we reviewed the fees for accident towing, storage and salvage services and made some recommendations to the Minister for Roads
- in 2015, in response to a terms of reference issued by the Minister for Finance, we reviewed the economic regulation of Victorian accident towing services.

Accident towing is the towing of an accident-damaged vehicle to a requested location

Accident towing is the towing of an accident-damaged vehicle by a tow truck from an accident scene. Accident towing does not involve trade towing (such as the towing of breakdown vehicles), which is not a regulated service in Victoria. Accident towing includes three distinct services:

- **towing:** refers to the towing of an accident-damaged vehicle from a road accident scene to the location requested by the vehicle driver or owner
- **storage:** refers to the storing of an accident-damaged vehicle in a secure location at the tow truck operator's depot to await repair or towing to another location
- **salvage:** refers to the moving of an accident-damaged vehicle that, as a result of the accident –
 - is in a location that is not a road or road-related area
 - is embedded in a building or in an object that is not a motor vehicle
 - is overturned or on its sideto a place on a road or road-related area or into an upright position where it can be towed without assistance.

The minister regulates accident towing and storage fees in Melbourne

The industry regulator, VicRoads, issues licences to operators and drivers to perform accident towing services in Victoria. Licences are subject to geographical restrictions on where an accident tow can be performed. The Accident Towing Services Act 2007 also requires that accident towing operators and drivers must be accredited by VicRoads.

Victoria is separated into three separate geographic areas for accident towing services. These are:

- the Melbourne controlled area (metropolitan Melbourne and the Mornington Peninsula)⁵⁴
- the Geelong self-management area (Geelong and surrounding areas)
- the remainder of Victoria.

Accident towing and storage fees in the Melbourne controlled area are regulated by the Minister for Roads.⁵⁵ Accident towing and storage fees are not subject to regulation in other areas of Victoria, but there is a requirement that fees are reasonable.⁵⁶ The minister also has the power to determine a regulated fee for basic salvage services in the Melbourne controlled area but has not yet done so.

We must conduct and complete periodic reviews and make recommendations to the Minister for Roads on accident towing, storage and salvage services in the Melbourne controlled area. In particular, we must make recommendations on:⁵⁷

- whether any fee for accident towing or storage services previously determined by the minister is appropriate
- whether existing accident towing, storage or salvage services that are unregulated should be regulated and, if so, what regulated fees should apply
- a figure for the productivity adjustment contained in the annual adjustment mechanism, which is applied to regulated fees every year
- any other matter relating to accident towing services, the storage of accident-damaged vehicles or salvage that the minister specifies in writing.⁵⁸

The current regulated fees for accident towing and storage services will continue to apply in the Melbourne controlled area until the minister makes a new fee determination, which may occur in response to our final recommendations in this report.

The Melbourne controlled area has an accident allocation scheme

Light vehicle road accidents within the Melbourne controlled area are assigned to tow truck drivers via an accident allocation scheme administered by VicRoads. The Royal Automobile Club of Victoria (RACV), under contract with VicRoads, runs the call centre that allocates accident towing

⁵⁴ The boundaries of the controlled area are specified in the Victoria Government Gazette. See; Victoria Government Gazette 2009, *Accident Towing Services Act 2007: Declaration of controlled area*, No. S 494, Tuesday 29 December 2009.

⁵⁵ Accident Towing Services Act 2007, section 211.

⁵⁶ Accident Towing Services Act 2007, section 212I(1)(b). In addition, s. 212I (2) specifies factors that the court must consider when determining what is a 'reasonable' charge for the provision of accident towing services.

⁵⁷ Accident Towing Services Act 2007, section 212A(1).

⁵⁸ The minister has not specified any additional matters for us to consider in this review.

jobs to operators. Tow trucks are not permitted to attend an accident scene without an accident allocation.

The Melbourne controlled area is divided into allocation zones. When an accident occurs, the accident towing job is allocated to the depot within the allocation zone of the accident and the operator of that depot (or depot manager) allocates the job to a specific licence. If there is more than one depot within an allocation zone, the job is allocated to the depot that has received the least allocations per licence in that month.

The accident allocation scheme grants accident towing operators a monopoly entitlement to attend an accident in the Melbourne controlled area. The government introduced fee regulation in order to prevent towing operators from charging excessive prices and ensure that accident towing remains a profitable and viable industry.

Accident towing licences are linked to specific tow trucks

An accident towing licence is essentially a permit for a tow truck to commercially tow vehicles. The licence is tangible and comes in the form of a specific number plate that must be used on the accident towing vehicle assigned to that licence. In the Melbourne controlled area, an accident towing licence gives the operator a place in the accident allocation scheme.

The number of accident towing licences is restricted

VicRoads is only able to issue new licences with authorisation from the Minister for Roads. The number of regular accident towing licences has remained constant at 421 in the Melbourne controlled area since before our 2009 review. However, these licences are transferable and can be purchased or leased, subject to the transfer being approved by VicRoads.

The Accident Towing Services Act specifies that the minister may only authorise the issuing of a new licence if the minister:⁵⁹

- considers it to be in the public interest to do so having regard to any increase in the need for tow trucks operating in the area; or
- is issuing licences to replace licences that have been cancelled; or
- considers that there are exceptional circumstances that justify the further issue of regular tow truck licences; or
- is of the opinion that the freeway corporations of the CityLink or EastLink (or contractors of these corporations) require additional licences to perform the obligations, exercise the rights or carry out the functions outlined under various pieces of legislation.⁶⁰

⁵⁹ Accident Towing Services Act, section 14(2).

'Dormant' licences remain entitled to accident allocations

Licensees are able to hold licences that have not been assigned to a particular tow truck and retain the associated entitlement to accident allocations through the accident allocation scheme. In the Melbourne controlled area, there is a practice where licence holders will affix a licence to whichever tow truck is available when receiving an accident allocation for that licence. Licensees are able to use 'dormant' licences to reduce the number of tow trucks they operate and manage the use of their tow trucks more efficiently.

The area of operation is specified in the accident towing licence

An accident towing licence applies only to the depot specified in the licence, which limits the area in which the licensee can potentially conduct business. In particular:

- only a licensed accident tow truck operating from a depot in the Melbourne controlled area may attend an accident in the controlled area
- the location of the specific depot determines a licence's allocation zone for the purposes of the accident allocation scheme and restricts the licence holder to conduct business with that licence in that particular allocation zone.

However, if the licence holder applies to VicRoads, it may have the conditions of the licence changed (including the specified depot). In this way, it is possible for the depot location, and therefore the assigned allocation zone within the controlled area, of a particular licence to change.

Overview of our 2013 review of accident towing and storage fees

We completed a review of accident towing, storage and salvage services in July 2013 and made recommendations to the Minister for Roads on the matters outlined in section 212A of the Accident Towing Services Act. The minister made a determination about regulated fees in response to our final recommendations in October 2014.⁶¹

Our reviews are recommendatory only and it is at the minister's discretion whether accident towing, storage and salvage fees change or new fees are introduced. Currently regulated fees continue to be adjusted annually for inflation (minus a productivity adjustment) in accordance with section 212H of the Accident Towing Services Act.

⁶⁰ This legislation is; the Accident Towing Services Act 2007, the Melbourne City Link Act 1995 and the EastLink Project Act 2004.

⁶¹ The Hon Terry Mulder MP 2014, *Determination of charges for the towing and storage of accident-damaged motor vehicles under section 211*, Victoria Government Gazette, No. S 406 Friday 31 October 2014.

We recommended no changes to accident towing and storage fees

We recommended that the existing regulated accident towing and storage fees continue to apply.⁶²

We analysed various aspects of industry performance in our review, such as licence values and changes in industry productivity. We also conducted a benchmarking analysis to compare regulated accident towing fees against unregulated towing fees in Victoria and against regulated accident towing fees in other Australian states. We concluded from our benchmarking analysis that the existing regulated accident towing and storage fees were appropriate.

We recommended no changes to the productivity adjustment factor

We recommended that the productivity adjustment of 0.5 per cent continue to apply under the annual adjustment mechanism.⁶³

We engaged a consultant (NERA Economic Consulting) to provide advice on the productivity adjustment factor. NERA estimated the annual change in industry productivity by using the average change in revenue per truck.

NERA's analysis indicated that annual productivity changes in the accident towing industry (relative to the wider Melbourne transport industry) from 2008 to 2012 could range between 1.8 per cent and -2.3 per cent, depending on how the number of licences per tow truck is estimated. We further refined this range to between -1.0 per cent and 1.8 per cent in our final report.⁶⁴ We concluded that the existing 0.5 per cent productivity adjustment remained reasonable because it was within the range of reasonable estimates of productivity growth in the accident towing industry.⁶⁵

We recommended the regulation of basic salvage services

We recommended that basic salvage should be regulated and that a prescribed basic salvage fee of \$71 per hour (incl. GST) would be appropriate.⁶⁶

As tow truck operators have the exclusive right to attend an accident through the accident allocation scheme, drivers of accident-damaged vehicles have limited negotiating power in relation to the salvage fee or whether a salvage fee is required. We were also concerned about the salvage fees being charged and the ability for consumers to determine the reasonableness of these

⁶² Essential Services Commission 2013, *Periodic review of accident towing and storage fees: Final report*, July, p. 4.

⁶³ *Ibid.*, p. 5.

⁶⁴ *Ibid.*, p. 53.

⁶⁵ *Ibid.*, p. 54.

⁶⁶ *Ibid.*, pp. 6-7.

charges from provided documentation. As such, we considered a form of protection, in the form of price regulation, was warranted.

In recommending a fee of \$71, we applied two methodologies to estimate this amount:

- rolling forward the basic salvage fee we recommended in our 2009 review
- benchmarking fees against total salvage fees in New South Wales (we also considered South Australian salvage fees but found that these fees were not comparable).

We recommended no changes to the treatment of non-commercial tows

We recommended the retention of the current practice of making an allowance for the costs of non-commercial tows in the regulated fee.⁶⁷

VicRoads requested that we consider options for the treatment of non-commercial tows in this review. Non-commercial tows (or bad debts) are accident towing jobs for which a tow truck operator is not paid. This may occur where the vehicle owner refuses or neglects to pay because, for example, their vehicle is uninsured or they abandon the vehicle at the operator's storage facility. The costs associated with non-commercial tows were included in the regulated fees we recommended in the 2009 review.

We considered three alternatives to address non-commercial tows:⁶⁸

- direct compensation, where tow truck operators are fully compensated in cases where they are unable to recover the costs of non-commercial tows (this could be financed through a levy on vehicle registration fees)
- processes for selling abandoned vehicles, where operators use the proceeds from the disposal of abandoned vehicles to compensate the cost of non-commercial tows
- providing an allowance in the cost base underpinning the regulated fees, as currently occurred.

We decided to recommend the retention of the current practice due to the simplicity of making an allowance for the costs of non-commercial tows in the regulated fees.

Overview of our 2015 review of Victorian accident towing and storage regulation

In January 2014, the Minister for Finance issued terms of reference under section 41 of the Essential Services Commission Act 2001, requesting that we review the economic regulation of

⁶⁷ Ibid, p. 12.

⁶⁸ Essential Services Commission 2013, *Periodic review of accident towing and storage fees: Draft report*, May, pp. 74-77.

accident towing and storage services in Victoria. The review covered both regular and heavy vehicle accident towing in all of Victoria (not just the Melbourne controlled area). The terms of reference required us to consider three key matters:

- the regulation of fees
- the allocation of accident towing jobs (that is, whether jobs are allocated or whether operators are free to compete for towing jobs)
- the necessity for, and location of, boundaries that set up different regulatory approaches (for example, the Melbourne controlled area and Geelong self-management area).

As this was a review of the broad economic regulation of accident towing and storage services in Victoria, we did not review the regulated fees and did not make a recommendation on the appropriateness of these fees to the Minister for Roads.

Our final 19 recommendations from this review were aimed at three broad areas.⁶⁹

- improving the processes by which accident tows are allocated to tow truck operators where such allocations schemes exist, to best promote consumers' interests
- ensuring that fees for accident towing services are fair and reasonable for consumers, regardless of whether accidents occur in the controlled area, self-managed area or in the rest of Victoria
- ensuring that consumers are appropriately informed of their rights and responsibilities once in an accident.

We provided our final report and recommendations in January 2016. No legislative changes have been made in response to this review.

⁶⁹ Essential Services Commission 2015, *Accident towing regulation: Final report*, December, p. xvii.

Appendix B: Benchmarking analysis on regulated accident towing fees

For this review, we considered two different methodologies for assessing whether regulated accident towing and storage fees are appropriate:

- a cost of service approach, where we would review existing fees based on the estimated costs of providing that service
- a benchmarking approach, where we would review existing fees based on comparisons to fees charged for similar services in other jurisdictions (such as interstate) and for unregulated towing services in Victoria.

We decided to review fees based on a benchmarking approach. This was partly due to the difficulty and time required to obtain the required cost information to undertake a cost of service approach for this review. A benchmarking approach relies relatively less on receiving information from accident towing operators and can provide a good indication of the fees charged in contestable markets.

We concluded through our benchmarking analysis that accident towing fees are appropriate and should not be changed.

We decided to apply a benchmarking methodology for this review

We adopted a benchmarking approach for this review, which we modified from the approach we used during our 2013 review. In particular, aspects of our benchmarking approach are similar to the approach used by the Independent Pricing and Regulatory Tribunal (IPART) in its 2014 review of New South Wales tow truck fees and licensing. We decided not to conduct a cost survey for this review as we were concerned it would not be a useful exercise. We will revisit the proposed use of a cost survey prior to commencing our next fee review.

Trade towing jobs are a useful unregulated benchmark for accident towing jobs

Trade towing refers to general towing services that are not the immediate result of a road accident. This can include clearway towing (where vehicles are illegally parked in designated clearway zones) and breakdown towing. Trade towing services are unregulated in Victoria. We consider that clearway and breakdown towing jobs are useful benchmarks for accident towing services as they broadly require the same inputs as accident towing jobs (such as a tow truck, driver and fuel) and require similar standby capacity. Most accident towing operators supplement their accident towing jobs with trade towing work.

The main difference between accident towing and trade towing work is that accident towing jobs generally take longer to complete. This may be due to, for example, the complications involved in towing accident-damaged vehicles and waiting for police to allow the removal of the vehicle. The broader regulatory environment for accident towing operators is likely to result in the costs of providing these services exceeding the costs of providing trade towing services. For example, accident towing operators are required to attend an accident site within 30 minutes of receiving an allocation⁷⁰, requiring tow trucks on standby to meet this requirement and resulting in lower tow truck utilisation rates. Trade towing jobs that are time sensitive (in particular, clearway and breakdown towing) may be the most comparable to accident towing jobs. Our analysis in this review is based on fees for clearway and breakdown towing.

In addition to unregulated trade towing benchmarks, our benchmarking analysis compared regulated accident towing fees against regulated accident towing fees interstate. Broadly, in undertaking our assessment we:

- compared the regulated accident towing fees in Melbourne against regulated accident towing fees in other jurisdictions. We adjusted the benchmarks to enable comparability across jurisdictions
- calculated an average fee for accident towing and trade towing jobs and found the price premium for accident towing jobs compared to trade towing jobs.

We chose not to conduct a cost survey for this review

In its submission to our consultation paper, the VACC suggested that we conduct a cost survey as part of adopting the methodology of IPART's 2014 review.⁷¹ We considered the relative benefits and downsides associated with a cost survey and a benchmarking approach and decided to not conduct a cost survey for this review. In its submission to our draft report, the VACC outlined its willingness to support the commission develop a cost methodology before the next fee review.⁷²

We have previously conducted a cost survey of accident towing operators

We previously conducted a cost survey in our 2009 review. In that review, we issued an industry-wide survey to operators to collect information on the costs of accident towing services. The main issues we encountered in conducting that cost survey was:

- there was poor participation from operators, with very few responses received

⁷⁰ Accident Towing Services Regulations 2008, regulation 32.

⁷¹ VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 8.

⁷² VACC 2018, *Submission to Review of accident towing and storage fees: draft report*, 21 September, p. 1

- it was difficult to identify and address issues with common costs in the industry, arising due to integration of accident, trade and breakdown towing (and to a lesser extent, smash repair).

In our 2013 review, we concluded that the benefits of conducting another cost survey were likely to be outweighed by the costs, particularly when compared to the other options available.⁷³

The challenges related to a cost survey outweigh the benefits

Although the results of a cost survey could be used as a cross check on our benchmarking analysis, we considered that the challenges involved in conducting a cost survey did not outweigh the benefits. The challenges of conducting a cost survey include that:

- undertaking a cost survey can be a costly and burdensome exercise
- it would take time to complete the cost survey process and would push out our review timelines
- the costs provided may not reflect the efficient costs of providing accident towing services and we would need to make adjustments to the cost figures, which would likely be imprecise
- we may have received poor participation in the survey, as was the case in 2009, which would mean that the results would not be statistically significant.

In contrast, the benefits of benchmarking are that it is simpler to apply than a cost survey and does not require obtaining data directly from accident towing operators. We consider that the fees in contestable markets will better reflect efficient costs than the underlying costs of accident towing operators. There are a number of good benchmarks for the accident towing industry, as trade towing operators provide similar services with similar inputs and operate in a contestable market.

However, there are some downsides related to the benchmarking approach, which we have also considered. For example, we need to adjust the benchmark fees to reflect the differences between accident towing and trade towing services (such as the time to complete an average job), which requires us to make assumptions about the extent of these differences. The need to make assumptions creates some imprecision in the benchmarking approach, which means that the benchmarks will not precisely reflect the efficient costs for all accident towing jobs.

While we did not undertake a cost survey during this review, we analysed movements in public cost indices to see if there had been significant changes in costs since our last review.⁷⁴ We found that the major costs underpinning accident towing work have not significantly changed since 2013. The exception to this is the cost of industrial land leasing, which we have addressed separately in our analysis on storage costs.

⁷³ Essential Services Commission 2013, *Periodic review of accident towing and storage fees: Draft report*, May, p. 27.

⁷⁴ Essential Services Commission 2018, *Review of accident towing and storage fees: Draft report*, August, p. 46

We may conduct a cost survey for our next fee review

While we have not conducted a cost survey as part of this fee review, we will consider the VACC's proposal (as outlined in its submission to our draft report⁷⁵) to assist us in developing a cost methodology for our fee reviews. As we stated in chapter 2 of this final report, any such review would require further discussion between the commission and industry, and would require the support of the VACC through the use of its resources and member data. We would also seek support and input from other stakeholders in the industry, such as insurers, VicRoads and non-VACC affiliates.

Our benchmarking analysis suggested that regulated fees are appropriate

Through our analysis of trade towing benchmarks, we concluded that regulated accident towing fees are currently appropriate. The current regulated fees (as escalated by the annual adjustment mechanism) should provide adequate compensation for the additional work required for an accident towing job compared to a trade towing job. We consider that the current regulated accident towing fees should enable accident towing services to be provided in a safe, efficient and timely manner.

We benchmarked trade towing fees using analysis by our consultant

Our consultant, Advisian, estimated the average fees for both accident towing and trade towing jobs in Melbourne and found that the average accident towing fee in Melbourne was \$292 in 2017-18, and trade towing fees in Melbourne ranged between \$101 and \$183 (with a median of \$157).⁷⁶ That is, the fee for an average accident tow is \$135 higher than the median trade towing fee in Melbourne.⁷⁷ Accident towing jobs, however, take more time than trade towing jobs, which helps to explain why accident towing fees per job are higher than trade towing fees on average. Because we do not have information about the average time required for a trade towing job in Melbourne, we were unable to make direct comparisons between the price per hour of accident towing and trade towing jobs.

⁷⁵ VACC 2018, *Submission to Review of accident towing and storage fees: draft report*, 21 September, p. 1

⁷⁶ This was based on information from three trade towing operators and the results from an internet-based platform that connects consumers with towing operators in Melbourne. Source: Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, pp. 15-16.

⁷⁷ Advisian focused their analysis on the median trade towing fee rather than the average, due to the limited number of data sources available. If we instead used the average trade towing fee, it would be \$143 lower than an average accident towing fee. Using the average trade towing fee would not change the conclusions we reach in this report.'

In order to compare accident towing fees to trade towing fee benchmarks, we adopted an approach similar to that used by IPART in New South Wales. We note that the VACC proposed in its submission to our consultation paper that we consider adopting IPART's approach from its 2014 review of tow truck fees.⁷⁸ In IPART's 2014 review, it made a comparison of accident towing and trade towing fees based on a complete set of data on the average time to complete each type of job.⁷⁹ Advisian identified that the extra time that an average accident tow takes in Sydney (which IPART has estimated to be one and a quarter hours⁸⁰) could apply in Melbourne. Using IPART's estimate, the hourly fee that is being paid for the additional time required for an average accident tow in Melbourne is \$108 (that is, \$135 divided by 1.25). This is only a little above the hourly benchmark towing cost in Sydney, and on this basis regulated accident towing fees in Melbourne (as escalated by the annual adjustment mechanism) appear to be appropriate and sufficient to recover the additional time involved in accident towing jobs compared to trade towing jobs.⁸¹

Advisian's methodology and results are outlined in pages 15 to 17 of their report.⁸² Table B.1 summarises Advisian's analysis.

⁷⁸ VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 8

⁷⁹ IPART 2014, *Review of tow truck fees and licensing in NSW: Transport – Final Report*, December, p. 69.

⁸⁰ IPART 2014, *Review of tow truck fees and licensing in NSW: Transport – Final Report*, December, p. 69.

⁸¹ Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, p. 17.

⁸² Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, pp. 15-17.

Table B.1 Estimate of accident towing and trade towing fees in Melbourne, 2017-18

	Accident towing (1)	Trade towing (2)	Difference (1) – (2)
Estimated fee	\$292	\$157	\$135
Average job time	N/A	N/A	75 minutes
Average hourly fee	N/A	N/A	\$108 per hour
Benchmark hourly fee (NSW benchmark)	N/A	N/A	\$100 per hour

Note: The estimated fees are based on an average job that consists of 57 per cent of tows in non-business hours, 11 kilometres of tow distance for trade tows (from the vehicle's location) and 18 kilometres of tow distance for accident tows (includes distance from depot to accident scene).

Source: Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, pp. 15-17.

Regulated fees across Australia are consistent with fees in Melbourne

In addition to trade towing benchmarks, we also considered regulated accident towing fees in other Australian jurisdictions. As these fees are regulated, they are likely to be less reflective of the underlying efficient costs than fees set in a contestable market (such as trade towing fees). However, regulated accident towing services have similar characteristics (such as the inputs used and the service provided) to accident towing services provided in Melbourne. For this reason, we considered that regulated accident towing fees in other Australian jurisdictions are a useful check on whether the regulated fees in Melbourne are reasonable. Our comparisons suggested that regulated accident towing fees in Melbourne appear to be relatively consistent with those charged elsewhere once adjustments are made to account for different regulatory settings between jurisdictions.

There are a number of similarities between accident towing services across Australia. However, there are also a number of unique factors, such as different regulatory settings. Table B.2 presents a simple comparison of fees for accident towing for 2017-18 across each relevant jurisdiction (excluding storage and salvage services, which are addressed elsewhere in this report).

Table B.2 Accident towing fees across different jurisdictions in Australia, 2017-18

	Melbourne controlled area	New South Wales (metro)	Queensland	South Australia
Base fee	\$216.20	\$261.80	\$348.95	\$345.00
Distance fee	\$3.40 (after 8km)	\$5.69 (after 10km)	\$6.90 (after 50km)	\$3.00 (after 20km)
Business hours	8am to 5pm	8am to 5pm	N/A	7.30am to 5pm
After hours surcharge	\$73.80 flat rate	20% uplift to base fee and distance fee	N/A	\$57 on base fee and \$1 on distance fee
Fee for a simple average tow ^(a)	\$292.30	\$342.40	\$349.00	\$377.50

Note: (a) defined as 18 kilometres of tow distance and 57 per cent of jobs occurring in non-business hours

Source: Victorian Government Gazettes, Tow Truck Industry Regulation 2008 (NSW), Tow Truck Regulation 2009 (Qld) and declarations of maximum prices pursuant to the Prices Act 1948 (SA)

Without any adjustments to the average tow to account for differences between jurisdictions, regulated fees in Melbourne appear relatively lower than elsewhere in Australia. However, there are a number of differences in fee structures across jurisdictions that impact on the comparison. In table B.3, we make adjustments to the average tow fees to account for some of the differences to Melbourne fees, for example:⁸³

- the Queensland base fee includes an allowance for three days storage, so an estimate of \$25 per day has been subtracted from the fee for a simple average tow to remove storage revenue⁸⁴
- accident towing jobs in NSW and Queensland do not begin measuring distance until the vehicle is picked up from the accident scene. In comparison, distance of jobs in Melbourne are measured from the depot where the tow truck driver accepts the job.
- additional working and waiting time beyond 30 minutes is not included in regulated fees in SA, so an assumption of the average working and waiting time for an accident towing job (an additional 13 minutes of charged time) is added to the fee for an average tow
- the business hours are longer in SA, so the fee for an average tow has been adjusted using the assumption that 55 per cent of jobs occur outside of business hours (rather than 57 per cent assumed for other jurisdictions).

⁸³ Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, p. 12 & 40.

⁸⁴ This value of \$25 is estimated based on the regulated private property towing storage fees in Queensland.

Table B.3 Adjusted accident towing fees across different jurisdictions in Australia, 2017-18

	Melbourne controlled area	New South Wales (metro)	Queensland	South Australia
Fee for an adjusted average tow ^(a)	\$292.30	\$298.10	\$273.95	\$387.25
Melbourne fee relative to each jurisdiction	N/A	2% lower	7% higher	24% lower

Note: (a) based on the 'simple comparison tow' in table 2.1, adjusted for differences in fee structures when compared to the Melbourne controlled area.

Source: Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, p. 13, table 6

We considered the adjustments outlined above make fees across jurisdictions more comparable. An additional difference between jurisdictions that has not been adjusted for is the inclusion of salvage fees within the base fee in NSW (for the first 30 minutes) and SA. Advisian did not have sufficient information on salvage requirements in these jurisdictions to estimate the necessary adjustment.⁸⁵ As salvage is a separate charge in Melbourne, we would expect regulated fees in Melbourne to be lower than in NSW and SA to reflect that difference.

We note that there are some difficulties in standardising the distances travelled for a typical accident towing job, as the average job in SA and Queensland will likely be longer than those in Melbourne or Sydney (as reflected by the longer distances included in the base fees).

Based on table B.3, we are satisfied that accounting for differences in fee structures across jurisdictions shows that regulated accident towing fees in Melbourne are not significantly different to other jurisdictions. As this conclusion corresponds with the results of our benchmarking of trade towing fees, we conclude that the current accident towing fees (as escalated by the annual adjustment mechanism) in Melbourne are appropriate.

⁸⁵ Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, p. 12.

Appendix C: Benchmarking analysis on regulated storage fees

As stated in appendix B, we have reviewed regulated fees based on a benchmarking approach. We have modified the benchmarking approach that we used in our 2013 review and have placed greater consideration on the differences in fees between jurisdictions and business models. We have also considered accident towing fees and storage fees separately in this review. This appendix outlines the methodology and results of our storage fee benchmarking. In summary, we concluded that storage fees are too low and should be increased. We outline our final recommendations on storage fees in chapter 3 of this report.

We used a benchmarking approach for storage fees

In this review, we considered the benchmarking results for storage fees in greater detail than in our 2013 review. We have decided to rely solely on these benchmarking results and have not sourced data on land leasing costs for industrial land in Melbourne to use in our analysis. We considered that the benchmark fees adequately reflected changes in the costs of operating storage facilities.

Storage for trade towing and impounding are relevant benchmarks for regulated accident towing storage

Tow truck operators provide other storage services in addition to storage for accident-damaged vehicles, such as for:

- clearway towing, where a tow truck removes a vehicle parked in a clearway (or on a freeway) during restricted hours
- impounding of vehicles, which is the responsibility of local councils in some circumstances. Vehicles may be impounded when they are abandoned, derelict or otherwise causing obstruction. Councils generally outsource the towing and storage of vehicles to towing companies and pay a competitively negotiated rate.
- other trade towing jobs, when storage is requested by a customer (for example, where customers seek storage for their broken down vehicle). Customers are able to compare fees across different trade towing operators and decide where they will store their vehicle.

Storage services are effectively the same in each towing market (accident, trade and clearway/impound towing), with similar lots used to store vehicles.⁸⁶ Storage for trade towing, clearway and impound jobs are all unregulated services and operators in these markets publish their storage fees. We consider that the similarity of these services means they are useful unregulated benchmarks for the fees for storage of accident-damaged vehicles.

The main difference between the storage services will be the administrative costs associated with each (for example, accident towing operators are required to regularly notify vehicle owners of their ongoing debt).⁸⁷ While we have considered these differences in our analysis, we do not consider there is a need to specifically adjust the benchmark fees to improve comparability.

We do not consider that car parking facilities are a useful benchmark

While we consider that the storage fees charged by trade towing operators in Melbourne are a useful comparison, we do not consider that car parking facilities represent a useful comparison for regulated storage fees. In particular, the nature of the service being provided by car parking operators is different to accident towing operators.

We have relied on benchmarking results rather than data on land leasing costs

We consider that benchmarking is an appropriate methodology to assess whether storage fees are appropriate. Although data on industrial land value changes could be a useful input to this analysis, the benchmark fees we used in our analysis should reflect changes in underlying costs.

In its submission to our consultation paper, the VACC stated that Melbourne industrial property lease prices have increased since 2014 and have contributed to increasing operating losses incurred by accident towing operators providing storage services.⁸⁸ The VACC provided a cost analysis for the provision of covered and uncovered storage in inner and outer Melbourne based on the results of its survey of leasing costs, assumptions around space requirements and estimates of administrative costs, bad debts and profit margin.⁸⁹ The VACC concluded that daily storage fees for 'under cover' services should increase by between 54 to 78 per cent, and daily storage fees for 'locked yard' services should increase by between 26 and 59 per cent.⁹⁰

⁸⁶ As noted by the VACC in its submission to the consultation paper, section 151 of the Accident Towing Services Act 2007 requires accident towing licence holders to provide, within ten business days, vehicle owners with a written notice stating the amount of storage charges owing, the daily rate at which charges are accumulating and that charges will continue to accumulate. Subsequent written notices must be provided within each period of 20 business days.

⁸⁷ Accident Towing Services Act 2007, s. 151.

⁸⁸ VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 9.

⁸⁹ *Ibid*, pp. 16-17.

⁹⁰ *Ibid*, pp. 17-18.

Regulated fees are lower than storage fees for trade towing and impound

Our review of benchmark fees for storage associated with unregulated towing suggested that regulated storage fees (as escalated by the annual adjustment mechanism) are currently too low and do not align with the market price for these services. In particular, while the regulated storage fees for accident-damaged vehicles are \$11.50 per day for 'locked yard' storage and \$17.00 per day for 'under cover' storage, the benchmark trade towing storage fee is \$25.00 per day and the average benchmark impound storage fee is around \$26.50 per day (based on published storage fees).

Storage fees for trade towing are significantly higher than regulated storage fees

Our consultant, Advisian, obtained quotes from two trade towing operators on the storage fees they charge for towed vehicles.⁹¹ Advisian advised that both trade towing respondents quoted a rate of \$25.00 per day for vehicles, without differentiating between covered or uncovered storage or providing separate quotes for motorcycles.⁹² Although there are only two datapoints for trade towing storage, one of the respondents is a large provider of trade towing in Melbourne.⁹³ We also note that the two quoted rates were identical. In our draft report, we considered that these datapoints provided a sufficient indication of the storage fees likely to be charged by trade towing operators generally.

These fees are significantly higher than the regulated fees for storage of accident-damaged vehicles (\$17.00 for 'under cover' storage and \$11.50 for 'locked yard' storage). As the storage services provided by trade towing operators are likely to be largely similar to storage services provided by accident towing operators, we consider the storage fees in both markets should be more closely aligned.

Storage fees for impounded vehicles are generally higher than regulated storage fees

We analysed the fees for impound storage services and found these are generally more than \$20.00 per day and varied greatly by local council. Local councils negotiate contracts with towing companies to provide these services and outline the fees they will pass on in their annual budgets. While the storage fees for impounded vehicles may be a relevant benchmark, the storage fees for clearway jobs are less comparable. In particular, these storage fees only apply after a few days and the first few days of storage are included within the 'release fees', which are a flat fee to

⁹¹ Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, p. 19.

⁹² Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, p. 19.

⁹³ Nationwide Towing & Transport is a large independent towing operator and the preferred supplier to RACV for towing.

retrieve an impounded vehicle from storage. For this reason, we placed a lower weight on clearway towing benchmarking results in our analysis.

Councils will likely consider the costs of storage services when setting fees in their budgets. Most councils publish a 'release fee' for impounded vehicles that covers all costs involved in retrieving a vehicle, although some councils publish a separate storage fee. Table C.1 shows that, apart from a few outliers, local councils tend to charge more than \$20.00 per day for impound vehicle storage and around \$26.50 per day on average.

Table C.1 Summary of council storage fees for impounded vehicles, 2017-18

Council name	Storage fee (incl. GST)
City of Boroondara	\$10.00 (per day)
City of Casey	\$8.50 (per day)
City of Darebin	\$41.00 (per day)
City of Maribyrnong	\$47.00 (per day)
City of Monash	\$33.30 (per day)
Manningham City Council	\$26.00 (per day)
Moreland City Council	\$26.20 (per day)
Nillumbik Shire Council	\$20.00 (per day)
Average council fee	\$26.50 (per day)

Source: 2017-18 Annual Budgets of each council

Clearway towing is mainly operated by VicRoads in Melbourne, although the councils of Melbourne and Port Phillip manage the clearway towing in their respective municipalities. Each of these clearway managers quote the storage fees associated with impounded vehicles, as shown in table C.2. While each of these clearway managers charge less than \$20.00 per day for storage, these fees generally apply after a few days. This means that the first few days of storage are undisclosed and are incorporated into the vehicle 'release fee'. As noted above, this is a flat fee charged to vehicle owners in order to retrieve their vehicle from the storage facility.

Table C.2 Storage fees for impounded vehicles towed from clearways, 2017-18

Organisation	Storage fee (incl. GST)	Storage location
VicRoads	\$15.20 (after 5 days)	Collingwood
City of Melbourne	Not specified (first 2 days included in release fee)	Collingwood
City of Melbourne ^(a)	\$17.60 (per day)	Blackburn (auction yard)
City of Port Phillip	\$18.50 (after 2 days)	Collingwood

Note: (a) City of Melbourne states that if the vehicle is towed from the Collingwood impound yard to the Blackburn auction yard, different fees will apply (including the \$17.60 storage fee per day)

Source: Vehicle towing sections of VicRoads, City of Melbourne and City of Port Phillip websites

Storage fees are also lower than regulated fees in other jurisdictions

We consider that regulated storage fees in other jurisdictions (i.e. Sydney and South Australia) are also a useful benchmark for regulated Melbourne storage fees. We found that the regulated storage fees in Melbourne are lower than most other regulated storage fees.

Although the storage of accident-damaged vehicles is broadly the same service across all jurisdictions, there are state-specific cost drivers that will influence the regulated fees in each jurisdiction. The main difference between the jurisdictions (apart from different fee structures) is the underlying property lease costs that influence the fees. For this reason, our analysis of Melbourne-based unregulated storage (for trade towing and impound storage services) will be a closer and more appropriate benchmark than these regulated comparisons.

Table C.3 presents a comparison of the 2017-18 regulated storage fees in Melbourne, Sydney and South Australia. The regulated storage fees in Melbourne are comparable to those of non-metropolitan Sydney and are noticeably lower than those in metropolitan Sydney and South Australia.

Table C.3 Regulated storage fees per day in Melbourne, Sydney and South Australia for accident-damaged vehicles, 2017-18

Storage fees	Melbourne controlled area	Sydney (metro)	Sydney (non-metro)	South Australia
Car – under cover	\$16.60	\$25.30	\$15.40	\$25.00
Car – in locked yard	\$11.20	\$25.30	\$15.40	\$15.00
Motorcycle – under cover	\$5.50	\$13.20	\$7.70	N/A
Motorcycle – in locked yard	\$3.50	\$13.20	\$7.70	N/A

Source: Victorian Government Gazettes, Tow Truck Industry Regulation 2008 (NSW) and declarations of maximum prices pursuant to the Prices Act 1948 (SA)

In Queensland, the first three days of storage of accident-damaged vehicles is included in the base fee for accident towing services. Storage fees for longer than three days are subject to a requirement that fees are ‘reasonable’.⁹⁴ However, in 2018 the Queensland Government introduced regulated accident towing and storage fees for private property towing.⁹⁵ The regulated storage fee for storing a ‘private property motor vehicle in a holding yard’ is \$25.00 per day.⁹⁶ This regulated fee is comparable to the regulated storage fees in metropolitan Sydney and South Australia.

We propose that storage fees be set in line with the benchmarking results

The results from our benchmarking analysis suggested that regulated storage fees (as escalated by the annual adjustment mechanism) are not appropriate and are set too low. We determined a range of appropriate values for regulated storage fees based on the benchmarking results. We made a draft recommendation that the 2018-19 regulated ‘under cover’ storage fee be increased by \$8.00 per day to \$25.00 per day and all other regulated storage fees to increase by the same proportion (47 per cent). As outlined in chapter 3, we have maintained our draft recommendations for this final report.

The benchmarks we have analysed for the storage of accident-damaged vehicles indicate that there is a case to increase the regulated storage fees in Melbourne. Both the regulated and

⁹⁴ Accident Towing Regulations 2009 (Qld), section 32, p. 27.

⁹⁵ Private property towing involves removing vehicles parked on private property where the vehicles may be trespassing or parked in contravention of parking conditions.

⁹⁶ Queensland Government, Department of Transport and Main Roads 2017, *Government response to the Independent Investigation into the Towing Industry: Removal of Vehicles from Private Property*, 8 August.

unregulated benchmark fees tend to indicate that a regulated storage fee between \$20.00 and \$26.50 per day would be appropriate. In our draft report, we proposed an 'under cover' storage fee of \$25.00 per day. This would make the 'under cover' storage fee equivalent to the trade towing storage benchmark fee in Melbourne, which reflects the prices paid by consumers that directly source storage services from towing operators. This represents an \$8.00 per day increase on the 2018-19 'under cover' storage fee (around a 47 per cent increase). We applied this same percentage increase to each of the other regulated storage fees ('under cover' and 'locked yard' storage fees for motorcycles and 'locked yard' storage fees for vehicles).

In its submission to the consultation paper, the VACC suggested that the storage fee for motorcycles be set at half of the storage fee for cars. The VACC stated that motorcycles require almost half of the storage space of cars and the administrative cost of storage should also be borne by motorcycle owners.⁹⁷ While there may be merit in this approach, our benchmarking analysis has only provided us with information related to the cost of storing cars. We were not provided any additional information from stakeholders since the draft report on relevant benchmarks for motorcycle storage fees. As such, we maintained our proposal to increase fees for motorcycle storage by the same percentage adjustment as for vehicles.

⁹⁷ VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 19.

Appendix D: Productivity of the accident towing industry appears to have increased

Our consultant, Advisian, provided expert advice on data sources that can be used to assess past productivity changes in the accident towing industry.⁹⁸ We presented this analysis in our draft report, which suggested that productivity has increased in the towing industry since our last review. Productivity is the comparison of changes in outputs (such as, revenue or turnover) relative to changes in inputs (such as, costs of operating the business).

In preparing its advice, Advisian analysed a number of data sources, including:⁹⁹

- multi-factor productivity published by the Australian Bureau of Statistics (ABS) for the Transport, Postal and Warehousing Division
- the number of accident tows per licensed tow truck, as a partial measure of historical productivity
- data published by the Australian Taxation Office (ATO) on small business performance benchmarks for towing and comparing this against other transport industries.

While none of the data sources analysed are a direct measure of the productivity adjustment factor (which is an estimate of future productivity changes), they provide an indication that the accident towing industry has achieved productivity gains since our 2013 review.

Productivity of the towing industry appears to have increased

Multifactor productivity measures are not as relevant to our assessment

Advisian considered changes in multifactor productivity for the Transport, Postal and Warehousing Division¹⁰⁰ as published by the ABS.¹⁰¹ The ABS's multifactor productivity data is commonly used to measure the efficiency of transforming combined labour and capital inputs into outputs. While this would be a good measure to estimate productivity of the towing industry, the data on multifactor productivity is not available for the towing industry. Instead, the data for the towing industry is incorporated into the productivity changes across a broad range of transport industries.

⁹⁸ Advisian's consultant report is publically available on our website.

⁹⁹ Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, p. 28.

¹⁰⁰ The Transport, Postal and Warehousing Division includes road, rail, water, air and other transport, as well as postal pick-up and delivery, warehousing and storage, and transport support. Source: Australian Bureau of Statistics 2006, *Australian and New Zealand Standard Industrial Classification (ANZSIC), 2006 (Revision 1.0)*, Catalogue No. 1292.0.

¹⁰¹ Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, p. 34.

As such, the available multifactor productivity data may not reflect the actual changes in productivity in the towing industry.

Advisian noted that the multifactor productivity data for the Transport, Postal and Warehousing Division has been relatively volatile in recent years and has declined overall since the mid-2000s.¹⁰²

Changes in accident tow truck utilisation suggest that productivity has improved

We also reviewed data related specifically related to accident towing services in Melbourne. The change in the number of accident tows per licensed tow truck can provide an indication of changes in tow truck utilisation. The available data suggested that tow trucks are better utilised in 2017 than in 2012, which is a result of operators' using smaller tow truck fleets to conduct a larger number of accident tows.

Table D.1 outlines the accident allocations per tow truck in 2012 and 2017. We do not have data on the number of licensed tow trucks for the intervening years. The number of accident allocations per tow truck increased by 29.7 per cent over this period, due to a decrease in the number of tow trucks and increase in accident allocations. This equates to around 5.3 per cent growth per annum in the number of accident allocations for each licensed tow truck.

Table D.1 Annual accident allocations per licensed tow truck, 2012 and 2017

	2012	2017	Percentage change
Number of accident allocations	45,312	50,143	10.7 %
Number of licensed tow trucks	252	215	-14.7 %
Accident tows per tow truck	180	233	29.7 %

Source: VicRoads

This is a partial measure of productivity, as it only captures one input (the number of tow trucks) that would be involved in accident towing. Other inputs would include labour and fuel. Similarly, the number of accident tows is also only a subset of the total output of an accident towing business, as these businesses will also have their productivity affected by storage, salvage, trade towing and other services they may provide.

¹⁰² Ibid, p. 34.

ATO data suggests productivity may have increased in the towing industry

As an additional consideration of productivity changes, we have also assessed data from the ATO on small business performance benchmarks for a number of industries within the Transport, Postal and Warehousing Division, including for towing services.

Advisian used the ATO benchmarks to estimate the ratio of turnover (a measure of outputs) to expenses (a measure of inputs).¹⁰³ Figure D.1 presents the results of this measure from 2012-13 to 2015-16 for the towing industry and the average of all transport industries reported (towing, courier, delivery and road freight transport).¹⁰⁴

The overall movements in the lines in figure D.1 will not necessarily solely reflect changes in productivity over time. This is because expenses will be affected by both changes in the prices of inputs (for example, changes in fuel prices) as well as productivity changes (for example, the use of more fuel efficient trucks). As a result, we cannot use figure D.1 to determine how much productivity has improved overall in the towing industry.

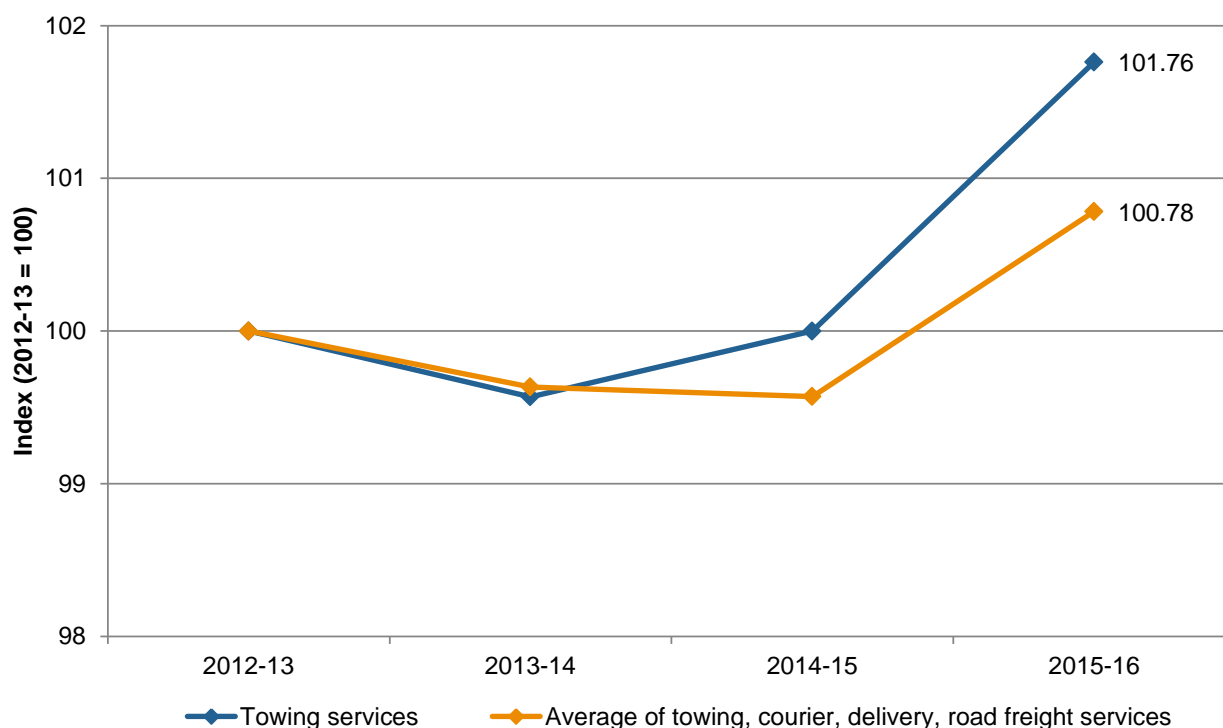
However, as the towing industry and the transport industry use similar inputs we can compare the trend for both industries to gain some understanding of which industry has had the larger relative increase in turnover relative to these inputs. As seen in figure D.1, the towing industry has outperformed the average of the transport industries on this measure. This result suggests that, assuming that the towing and transport industries use similar inputs and pay similar prices for them, the towing industry appears to have been more productive than the broader transport industry since 2012-13.¹⁰⁵

¹⁰³ Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, Figure 4, p. 31.

¹⁰⁴ This figure is a reproduction of figure 4 in Advisian's consultant report. Source: Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, Figure 4, p. 31.

¹⁰⁵ In this example, the broader transport industry includes towing, courier, delivery and road freight transport services as outlined on the ATO's website at; <https://www.ato.gov.au/Business/Small-business-benchmarks/>

Figure D.1 Ratio of turnover to expenses for towing firms and other transport firms, 2012-13 to 2015-16 (presented as an index with 2012-13 = 100)



Source: Australian Taxation Office data, analysed by Advisian

The accident towing industry can improve productivity further

As noted above, our analysis suggested that the accident towing industry has improved its productivity since our 2013 review. Based on historical data we expect that productivity should continue to increase over the next four years. As outlined in chapter 4, our final recommendation is to maintain the default productivity adjustment factor of 0.5 per cent.

We expect that productivity should continue to increase

We have found that accident towing operators were able to service a larger number of allocations with fewer tow trucks from 2012 to 2017. We outline in appendix E that service levels have not significantly changed over this same period. Productivity improvements would only be an efficiency gain if quality levels are able to be maintained or increased.

Accident allocations are likely to continue growing over time, which should result in continual improvements in productivity in the accident towing industry.¹⁰⁶ This conclusion assumes that the

¹⁰⁶ As Advisian referenced in its report, Infrastructure Victoria forecasts 3.5 million additional trips per day in Melbourne in 2030, with car trips accounting for 70 per cent of all journeys. Source: Infrastructure Victoria 2018, *Five-year focus: immediate actions to tackle congestion*, April, p. 4.

number of tow trucks being used remains at a similar level to 2017 and are able to service an increasing number of allocations with similar service levels.

We can also consider changes in historical productivity measures to inform our view of what productivity changes can be expected in the coming years. In its report, Advisian provided a summary of the annual productivity growth calculated through each of the historical productivity measures it analysed. This summary is reproduced in table D.2. Advisian noted that there is a limited historical period for which data is available, which limits the extent to which conclusions may be made about whether historical productivity measures will reflect potential future productivity gains.¹⁰⁷

We considered that these measures do not appear to provide a consensus as to the appropriate level of the productivity adjustment factor. This contributes to our final recommendation in chapter 4 of this report that the productivity adjustment factor should not be changed from 0.5 per cent.

Table D.2 Annual growth in select productivity measures, various year ranges

Productivity measure	Industry	Measurement period	Compound annual productivity growth
Multifactor productivity	Transport, Postal & Warehousing Division (Australia)	2012-13 to 2016-17	-1.00%
ATO benchmark (business turnover divided by total expenses)	Towing, courier, delivery & road freight services (Australia)	2012-13 to 2015-16	0.26%
ATO benchmark (business turnover divided by total expenses)	Towing services (Australia)	2012-13 to 2015-16	0.58%
Annual accident tows per licensed tow truck	Accident towing (Melbourne)	2012 to 2017	5.34%
Annual accident tows per licensed tow truck (Advisian sensitivity test) ^(a)	Accident towing (Melbourne)	2012 to 2017	2.05%

Note: (a) Advisian's sensitivity test assumed there were no changes in the number of licensed tow trucks from 2012 to 2017

Source: Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, p. 36, table 16

¹⁰⁷ Advisian 2018, *Accident towing fees: Fee benchmarking and productivity review*, June, p. 31.

Appendix E: Performance of the accident towing industry

In this appendix, we outline our analysis of publicly available data, as well as data provided to us by VicRoads, to assess the performance of the accident towing industry since our last review. The general performance of the industry can be used as part of an assessment of whether the existing regulated fees are too low or too high. We found that the existing regulated fees (as escalated by the annual adjustment mechanism) are not likely to be negatively impacting on the finances of operators in the accident towing industry. This is based on:

- demand for accident towing work increasing while supply has remained relatively unchanged
- revenue for accident towing work increasing at a faster rate than costs, as estimated through the Melbourne Transport CPI¹⁰⁸
- quality of service levels have not significantly changed.

Demand for accident towing has increased while supply is unchanged

Accident towing allocations have grown in each year since 2013, while the supply of accident towing licences has remained unchanged. The available data indicate that there are now fewer operators in the accident towing industry than in 2013 and that the average operator is receiving more accident allocations than in 2013.¹⁰⁹ We consider that the reduction in the supply of operators may be partly due to a high number of licence transfers in recent years.

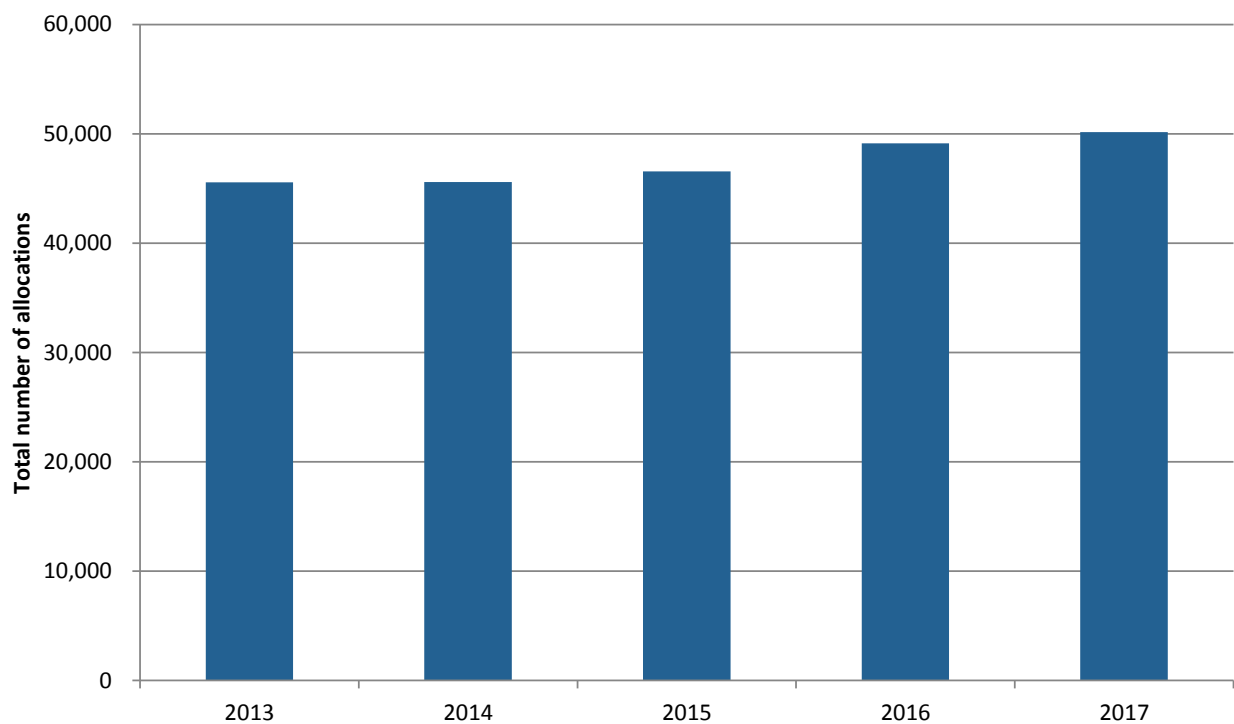
Demand for accident towing has increased as shown by allocation numbers

Since 2013, the number of accident allocations in Melbourne has steadily increased, with a noticeable increase in 2016 (as shown in figure E.1). In total, there were around 10 per cent more accident allocations in 2017 than in 2013.

¹⁰⁸ The CPI (Melbourne, Transport) index is available at; Australian Bureau of Statistics, 6401.0 – Consumer Price Index, Australia, Table 9.

¹⁰⁹ We recognise the VACC's view that accident towing operators do not receive an equal share of allocations or an equal share in the growth of allocations (page 20 of submission to consultation paper). However, we consider that the data in this chapter provides an accurate estimate of the circumstances for the average operator in the Melbourne controlled area.

Figure E.1 Accident allocations in the Melbourne controlled area, 2013 to 2017



Source: VicRoads

Supply of licences is unchanged, but operator numbers have declined

While accident allocations have been increasing, the number of accident towing licenses in operation has remained constant. As such, the number of annual allocations per accident towing licence has increased since 2013. Table E.1 shows that while licence numbers have remained constant since 2013 there has been consolidation in the number of accident towing operators, from 106 to 101. As a result, the annual average number of tows per operator has increased by almost 16 per cent since 2013.

Table E.1 Number of annual accident allocations per accident towing operator and licence in the Melbourne controlled area, 2013 to 2017

	2013	2014	2015	2016	2017
Number of operators	106	105	107	104	101
Number of licences	421	421	421	421	421
Number of tows per operator	429.8	434.1	435.1	472.3	496.5
Number of tows per licence	108.2	108.3	110.6	116.7	119.1

Source: VicRoads

We do not consider that market exit has been driven by financial viability concerns

We considered the reasons for the number of operators declining while demand continues to increase. Generally, exit in a market could be due to:

- fees set too low to cover the costs associated with providing the service
- the industry is consolidating (for example, operators merging businesses), which could be an indication of efficiency improvements.

Costs have remained relatively stable for accident towing services (as outlined in the next section). We have also seen some changes in the sizes of accident towing depots, with fewer depots with less than six licences in 2017 than in 2013 (table E.2). We consider that this may be an example of industry participants continuing to consolidate their businesses.

Table E.2 Number of licences held by each Melbourne controlled area depot, 2013 to 2017

Licences per depot	2013	2014	2015	2016	2017
5 or fewer	20	19	21	18	17
6 to 10	11	12	11	14	15
11 to 15	7	7	7	9	8
16 to 20	4	5	4	2	3
21 or more	4	3	3	3	3
Total depots	46	46	46	46	46

Source: VicRoads

We have also observed changes in the structure of the industry through the number of licences transferred over time. Figure E.2 shows that there have been a significant number of licence transfers since 2013, with the majority (78) of licence transfers occurring in 2015. Feedback from accident towing stakeholders has revealed that the majority of these transfers were due to existing licence holders transferring their licences between their different business names for administrative purposes.

Figure E.2 also shows that average transfer price for licences has increased since 2013. Generally, an increase in licence values indicates that the financial viability of the industry is likely to be improving. However, the value of an accident towing licence can be difficult to assess for a variety of reasons:

- **licences are not readily traded:** accident towing licence holders require VicRoads' approval in order to transfer a licence. In addition, licences can only be traded between registered and accredited tow truck operators.
- **expected profit streams differ between allocation zones:** each accident towing licence is associated to a particular geographic zone, which will have a different number of expected accident allocations each year.
- **reliability of VicRoads licence sale data:** not every licence transfer has a specified price in the data we have sourced from VicRoads, so the dataset is not a complete picture of the licence transfer values. It is also unclear whether the reported licence transfer values include other items in the sale, such as vehicles, equipment, goodwill or other assets included with the purchase.
- **licences provide access to unregulated revenue sources:** licence values may also be influenced by the financial viability of services that are unregulated. For example, we have previously identified that licence values are partly driven by the ability to secure smash repair work from accidents.¹¹⁰

In its submission to our consultation paper, the VACC stated that the market share of trade towing undertaken by accident towing operators has declined since the last fee review in 2013.¹¹¹ The VACC suggested that this is partly due to insurance companies beginning to contract secondary tows (when the vehicle is towed from the depot to the smash repairer).¹¹²

Although accident towing operators have been receiving a greater number of accident towing allocations since 2013, it may be the case (as raised by the VACC) that this is being at least partly

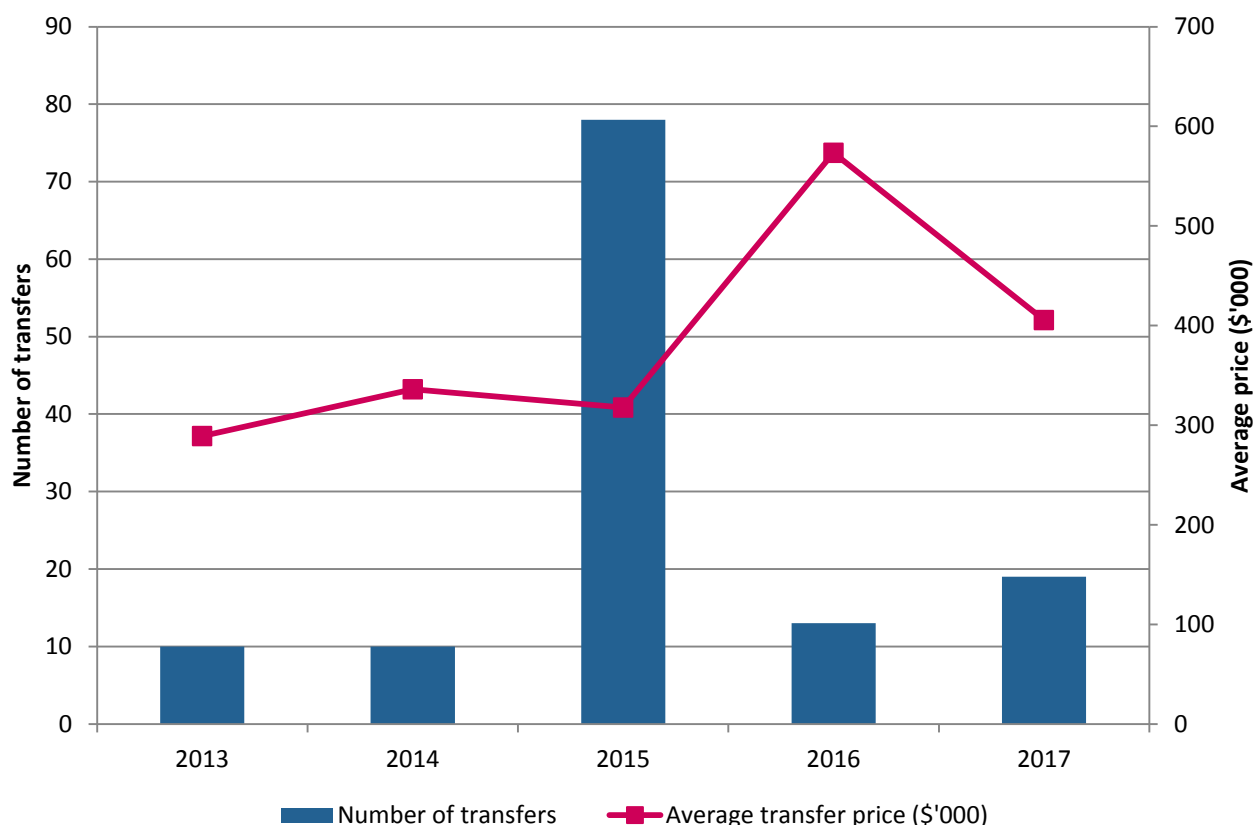
¹¹⁰ Essential Services Commission 2015, *Accident towing regulation: final report*, December, p. 50.

¹¹¹ VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 7.

¹¹² *Ibid*, p. 7.

offset by reductions in unregulated trade towing business. Although, it does not appear that reductions in trade towing business have affected the value of accident towing licences in the Melbourne controlled area.

Figure E.2 Melbourne controlled area licence transfers and average transfer price, 2013 to 2017



Source: VicRoads

Accident towing revenue is increasing while costs are at a similar level to 2013

As regulated fees and accident allocations have both been growing since 2013, total revenue for accident towing services has increased over this period. In contrast, the costs in the industry (measured by the Melbourne Transport CPI) have been volatile over this period and are currently at a level relatively similar to 2013.

Revenue has grown due to increases in regulated prices and accident allocations

Revenue for accident towing services has continued to increase each year since 2013, driven by increases in both regulated prices (table E.3) and the number of accident allocations (figure E.1). As the number of licences has remained steady over this period (at 421 licences), we have also

seen an increase in revenue per accident towing licence over each year, as shown in table E.4. We estimate that total regulated revenue is around 17 per cent higher in 2017 than it was in 2013.

Table E.3 Percentage change in Melbourne accident towing fees, 2013-14 to 2017-18

	2013-14	2014-15	2015-16	2016-17	2017-18	Total % change from 2013-14 to 2017-18
Percentage change in regulated fees (annual adjustment mechanism)	2.8 %	2.4 %	0.0 %	0.0 %	4.3 %	6.8 %

Note: The annual adjustment mechanism formula is specified in s. 212H of the Accident Towing Services Act 2007

Table E.4 Estimated revenue in the Melbourne controlled area, 2013 to 2017

	2013	2014	2015	2016	2017	Total % change from 2013 to 2017
Estimated revenue	\$14,390,935	\$14,783,223	\$15,285,300	\$16,126,877	\$16,808,485	16.8 %
Estimated revenue per tow truck licence	\$34,183	\$35,115	\$36,307	\$38,306	\$39,925	16.8 %
% annual increase	N/A	2.7 %	3.4 %	5.5 %	4.2 %	N/A

Note: To calculate a value for revenue, we:

- estimated the price of a 'comparison tow' job, which we have estimated as 30 minutes of time at the accident scene, 18km of travel, three days of storage and includes a 57 per cent weighting on jobs undertaken during non-business hours
- multiplied the price of a 'comparison tow' job by the number of allocations for that calendar year

The percentage annual increase is the same for the 'estimated revenue' and 'estimated revenue per tow truck licence' as licence numbers have remained constant at 421 over this period.

Source: ESC estimates created using VicRoads data

Costs, as approximated by Melbourne's transport CPI, are at the same level in 2017 as in 2013

We have also compared revenues with cost changes since 2013, as any significant divergence may justify increases or decreases to regulated fees. As per our 2013 review, we have considered industry cost changes as approximated by the Melbourne Transport CPI published by the Australian Bureau of Statistics.¹¹³ This CPI is at around the same level in 2017 as it was in 2013.

Table E.5 lists changes in the Melbourne Transport CPI, which is our main indicator of accident towing costs, alongside its component cost indices, those for motor vehicles (including accessories and other services), automotive fuel, urban transport fares and maintenance and repair of vehicles. We have also outlined changes in the Melbourne Wage Price Index, which estimates changes in labour costs.

Table E.5 shows that some cost indices that have decreased since 2013 while others have increased. In particular, the decreases in the Melbourne Transport CPI in 2015 and 2016 appear to have been largely driven by decreases in the cost of automotive fuel. While some cost categories have increased since 2013, none of the cost indices highlighted in table E.5 have increased more than estimated revenues for the accident towing industry over the same period (around 17 per cent). This suggests that the growth in regulated accident towing fees since 2013 has been large enough to more than recover changes in the cost of providing these services over the same period. This supports our finding in this review that accident towing fees are appropriate.

However, in relation to the costs of providing storage facilities, the Melbourne Transport CPI does not capture industrial property lease costs that underpin the provision of storage. In this review, we benchmarked regulated storage fees against regulated and unregulated storage services and concluded that the current regulated storage fees in Melbourne are too low. This may suggest that the costs of providing storage services (such as property lease costs and wages) in Melbourne have increased at a faster rate than the Melbourne Transport CPI since 2013.

¹¹³ Essential Services Commission 2013, *Periodic review of accident towing and storage fees: final report*, July, p. 81.

Table E.5 Annual percentage changes in relevant cost indices, 2013 to 2017

	2013	2014	2015	2016	2017	Total % change from 2013 to 2017
Melbourne CPI (transport)	1.8 %	1.5 %	-3.9 %	-1.1 %	3.5 %	-0.2 %
Melbourne CPI (motor vehicles)	-3.4 %	-0.4 %	-1.1 %	-0.1 %	-1.1 %	-2.6 %
Melbourne CPI (spare parts and accessories for motor vehicles)	0.6 %	1.3 %	3.9 %	-0.4 %	1.5 %	6.5 %
Melbourne CPI (automotive fuel)	2.5 %	1.0 %	-14.3 %	-6.1 %	11.2 %	-9.5 %
Melbourne CPI (maintenance and repair of vehicles)	4.4 %	-0.4 %	3.9 %	1.9 %	0.9 %	6.4 %
Melbourne CPI (other services in respect of motor vehicles)	6.8 %	6.5 %	5.5 %	1.7 %	1.9 %	16.5 %
Melbourne CPI (urban transport fares)	5.5 %	2.2 %	-15.8 %	1.4 %	4.0 %	-9.3 %
Victoria Wage Price Index (WPI)	3.0 %	2.6 %	2.4 %	2.1 %	2.0 %	9.3 %

Note: The changes have been calculated by comparing the sum of all index values in each calendar year
The WPI used is the 'quarterly index; total hourly rates of pay excluding bonuses; Victoria; Private; All'

Source: Australian Bureau of Statistics, CPI table 9 and WPI, table 3b

Service levels have not changed significantly since 2013

In addition to the above measures, industry performance can also be assessed through changes in service quality. We have found that available service level indicators are not significantly different in 2017 compared to 2013. In particular:

- clearance times appear to have slightly worsened since 2013, which may be partly due to increased road congestion in Melbourne (as raised by the VACC in its submission to our consultation paper¹¹⁴)
- complaint numbers in 2017 are around the same as those received in 2013, however, there were substantially more complaints received in 2015 and 2016.

As was the case in our 2013 review, we have found it difficult to reach definitive conclusions based on available service level data. In particular, the data is not reported in a consistent and complete way. We consider there would be value in more recorded data on response times and total complaint numbers.

Response times are not collected

Tow truck drivers are subject to a requirement to take reasonable steps to arrive at an accident scene within 30 minutes of accepting an accident allocation.¹¹⁵ We are unable to assess whether the achievement of this requirement has improved over time, as data on response times is not regularly collected for this indicator. This data should be collected as required by clause 32(6) of the Accident Towing Services Regulations, and would verify one of the aims of the accident allocation scheme and zone boundaries designed by VicRoads, namely to ensure accidents are responded to within the 30 minute time limit.

Clearance times appear to have slightly worsened in 2017 compared to 2013

Although response times are not collected, 'clearance times' are. We have estimated the clearance time as the time between an allocation job being dispatched and the driver becoming available for further allocations.

In our analysis of the available data, we have identified cases of misreported data where the allocated jobs take implausibly short or long times. To correct for some of these errors, we have filtered the 2017 data to remove jobs that were reported to be completed in less than 5 minutes or more than 600 minutes. We expect that this data could be further filtered to remove misreported figures.

In its submission to our consultation paper, the VACC stated that its members are beginning to experience difficulties in arriving at road accident scenes within the 30 minute response time (as prescribed in the Accident Towing Services Regulations¹¹⁶). The VACC suggested that we review

¹¹⁴ VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 7.

¹¹⁵ Accident Towing Services Regulations 2008, clause 32(1).

¹¹⁶ Accident Towing Services Regulations 2008, clause 32(1).

our assumption on the average time to conduct an accident tow, in light of the changes to Melbourne’s traffic conditions.¹¹⁷

Table E.6 shows that the proportion of accidents cleared within 75 minutes of being allocated in 2018 appears to be largely similar to 2013. The data shows an insignificant decline in accidents cleared within one hour and does not appear to substantiate the VACC’s claim that traffic conditions have worsened since our last review.

Table E.6 Accident clearance times in the Melbourne controlled area; 2013 and 2017

	2013	2017
0 – 59 mins	45.3 %	44.6 %
60 – 74 mins	17.2 %	18.1 %
75 – 89 mins	10.4 %	11.4 %
90 – 104 mins	6.3 %	7.2 %
105 – 119 mins	3.6 %	4.2 %
120+ mins	17.2 %	14.6 %

Note: We have filtered the 2017 data to remove jobs of less than 5minutes and more than 600 minutes

Source: VicRoads

Complaint numbers increased in 2015 and 2016 but have returned to the average level

VicRoads provided us data on the number and type of investigated complaints received in relation to accident towing operators. Trends in the number of complaints (in total or on a specific topic) may indicate that service levels are increasing or decreasing in the industry.

We understand that VicRoads does not record the number of complaints in relation to simple matters that are resolved without requiring an investigation (for example, resolution is reached by contacting an operator to inform them that they cannot charge a particular fee). Therefore, the complaints data presented in this section does not reflect the total number of complaints in relation to the accident towing industry, However, we consider that changes in the number of investigation-worthy complaints may indicate changes in service levels over time.

Table E.7 shows that the number of investigated complaints was significantly higher in 2015 and 2016 than in 2012. The level of investigated complaints in 2017 returned to a similar number to

¹¹⁷ VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 7.

those in 2012. In those years with larger than normal investigated complaints, the largest category of complaints were:

- complaints about unlicensed operators (about a quarter of complaints).
- complaints about fees (almost one in every five complaints).

Table E.7 Complaints in relation to accident towing in the Melbourne controlled area, 2012 and 2015 to 2017

	2012	2015	2016	2017
Complaints	64	104	103	63
Complaints per 1,000 allocations	1.41	2.23	2.10	1.26

Source: VicRoads

Appendix F: Non-commercial tows (bad debts)

Non-commercial tows (also referred to as unpaid tows) are accident towing jobs for which a tow operator is not paid. This can occur when the owner of a vehicle refuses or fails to pay for the tow (for example, because the owner abandons the vehicle).

It is difficult for accident towing businesses to manage non-commercial tows. This is because operators cannot refuse an accident tow once they have accepted the allocation and are only paid after they have performed the towing service. As such, operators are unable to determine the risk of non-payment because they do not have an opportunity to verify the insurance or financial status of the customer prior to providing the service.

In our 2013 review, we were requested to specifically consider options for the treatment of non-commercial tows. As these costs form part of the consideration of appropriate accident towing fees, we have considered non-commercial tows again in this review. We have not received evidence that the proportion of non-commercial tows has significantly increased since our last review. As such, we have decided to maintain our existing treatment of non-commercial tows.

An allowance for non-commercial tows is included in regulated fees

In our 2009 review, we recommended that the cost for non-commercial tows be included in the cost base that underpinned our recommended fees. We included an explicit annual allowance of \$1,394 per tow truck in the cost base, based on the average cost of non-commercial tows reported in a cost survey filled in by accident towing operators.¹¹⁸

In the 2013 review, we considered that the most cost effective way of recouping the costs of relevant non-commercial tows is through the allowance we provided in the regulated fees. During that review, we were not provided any new evidence that suggested that the level of the allowance in the fees needed to be reviewed.¹¹⁹

In both reviews, we considered different ways of treating non-commercial tows before reaching a conclusion to provide an allowance in the regulated fees:

- a system of direct compensation, which could be financed through a small levy added to vehicle registration fees collected by VicRoads

¹¹⁸ Essential Services Commission 2010, *Review of accident towing and storage fees – final report: volume 2: detailed reasons and methodology*, June, p. 56.

¹¹⁹ Essential Services Commission 2013, *Periodic review of accident towing and storage fees: final report*, July, pp. 59-62.

- allowing operators to sell unclaimed damaged vehicles, which was already allowed through the ability to dispose of goods within two or six months after abandonment (depending on the value of the goods)
- a continuation of the current allowance for bad debts in the regulated fees.

In those reviews, we concluded that there should be no change to how non-commercial tows are treated. This was due to:¹²⁰

- the potential administrative costs associated with the option of direct compensation
- the absence of significant impediment posed by the regulatory requirements for abandoned vehicle disposal
- the benefits of making an allowance for the costs of non-commercial tows in the regulated fees outweighed the administrative costs and complexity of other options.

We also concluded that there was no new evidence that suggested the level of the allowance for bad debts needed to be reviewed.¹²¹

We received feedback that the allowance for non-commercial tows should be recovered through storage fees

In its submission to our consultation paper, the VACC suggested that the vehicles abandoned as a non-commercial tow can be sold to the wreckers for around \$200, which does not recoup the debt involved for the tow and storage provided (estimated to be around \$750 on average).¹²² The VACC stated that the costs of non-commercial tows should be incorporated into the storage fee and not the base fee. The VACC stated that owners that only receive towing services should not incur associated administrative costs of storage.

The VACC did not raise any additional points relating to non-commercial tows in its submission to our draft report. No other stakeholders raised non-commercial tows as an issue during our consultation following the release of the draft report.

Our recommendation is to retain the current practice

The VACC's estimate of the loss per vehicle for bad debts does not appear to take into account that the current regulated fees compensate operators for non-commercial tows. That is, the current regulated fees are higher than they otherwise would be to allow for around five per cent of towing

¹²⁰ Essential Services Commission 2013, *Periodic review of accident towing and storage fees: final report*, July, pp. 60-62.

¹²¹ Essential Services Commission 2013, *Periodic review of accident towing and storage fees: final report*, July, p. 61.

¹²² VACC 2018, *Review of accident towing and storage fees 2018* Essential Services Commission, May, p. 15.

jobs resulting in a bad debt.¹²³ The feedback we received throughout this review does not appear to indicate that non-commercial tows have become a larger proportion of total accident towing jobs since 2013. For example, in its submission to our consultation paper, the VACC stated that around two per cent of stored vehicles result in abandonment and a bad debt.¹²⁴

We consider that the current practice to account for bad debts is appropriate and there is no need to fund bad debts solely through regulated storage fees (rather than through all regulated fees). As the VACC identified in its submission to our consultation paper, when operators have a non-commercial towing job they will miss out on both the towing fees and storage fees associated with the job. We consider that the cost of a non-commercial tow is not solely a storage administration cost, as there is also a revenue loss related to the accident tow that is conducted.

Our current review of accident towing and storage fees is based on a benchmarking approach rather than on the values from the cost base. The benchmark fees are an approximation of the appropriate fees for accident towing and will not precisely reflect the efficient costs for all accident towing jobs for all operators. Our view is that the current regulated fees should provide, on average, appropriate revenue for accident towing operators conducting accident towing work (including non-commercial tows). As we have not received feedback from stakeholders' on whether the cost of non-commercial tows has changed since our last review, we have relied on our benchmarking result that regulated accident towing fees are appropriate.

¹²³ Essential Services Commission 2010, *Review of accident towing and storage fees – final report: volume 2: detailed reasons and methodology*, June, p. 53.

¹²⁴ VACC 2018, *Review of accident towing and storage fees 2018 Essential Services Commission*, May, p. 16.

Appendix G: Legislative framework

The following sets out the relevant sections of the Accident Towing Services Act 2007.

Section number	Section detail
s. 4	<p>Objective</p> <p>The objective of this Act is to—</p> <ul style="list-style-type: none"> (a) promote the safe, efficient and timely provision of accident towing services and other related services; (b) ensure that persons who are providing accident towing services— <ul style="list-style-type: none"> (i) are of appropriate character; and (ii) are technically competent to provide the services; and (iii) when providing the services, act with integrity and in a manner that is safe, timely, efficient and law abiding, and in particular, that regard is had for vulnerable persons.
s. 212D	<p>Objectives not to apply</p> <p>Except to the extent (if any) that the Minister otherwise determines, the objectives of the Commission under the Essential Services Commission Act 2001 or any other Act do not apply to the functions and powers of the Commission under this Division.</p>
s. 211	<p>Minister to determine charges for accident towing services and other services</p> <p>The Minister may from time to time determine the amounts that may be charged by the providers of the following—</p> <ul style="list-style-type: none"> (a) accident towing services; (b) the service of storing accident damaged motor vehicles; (c) basic salvage services— <p>for the provision of those services.</p>
s. 212 (1)	<p>Determinations of charges</p> <p>The Minister must not make a determination under section 211 unless he or she—</p> <ul style="list-style-type: none"> (a) has received a recommendation from the Commission under Division 2 on the matter; and (b) has received a report from VicRoads.
s. 212 (2)	<p>A determination of the Minister under section 211—</p> <ul style="list-style-type: none"> (a) may be of general or of specially limited application; and (b) may differ according to differences in time, place or circumstance.
s. 212 (3)	<p>A determination under section 211 takes effect when it is published in the Government Gazette, or, if a later day is specified in the determination, on that day.</p>
s. 212 (4)	<p>A determination under section 211 may be amended or revoked and the provisions of this section apply to any such amendment or revocation of a</p>

Section number	Section detail
s. 212A (1)	<p>determination in the same manner as that in which they apply to the making of the determination.</p> <p>Periodic review of charges</p> <p>The Commission must, at the time specified in subsection (3), conduct and complete a review and make a recommendation to the Minister as to all of the following—</p> <ul style="list-style-type: none"> (a) whether or not any amount determined by the Minister under section 211 is appropriate; (b) in relation to accident towing services, services relating to the storage of accident damaged vehicles and salvage services for which no amount has been determined under section 211— <ul style="list-style-type: none"> (i) whether or not that service should be subject to a determination under that section; and (ii) if the Commission considers that the service should be subject to a determination, what that determination should be; (c) a figure for the productivity adjustment of those services that are or are to be subject to a determination under section 211; (d) any other matter relating to accident towing services, the storage of accident damaged vehicles or salvage that the Minister specifies in writing.
s. 212A (2)	<p>The Minister must consult with the Minister administering the Essential Services Commission Act 2001 before specifying a matter for review under subsection (1)(d).</p>
s. 212A (3)	<p>The Commission must conduct and complete a review and make a recommendation to the Minister under this section—</p> <ul style="list-style-type: none"> (a) not later than 30 June 2014; and (b) before the expiry of each subsequent period of 4 years commencing from the date that the last review commenced.
s. 212B (1)	<p>Additional review at Minister’s direction</p> <p>The Minister may at any time, by written direction, require the Commission to conduct and complete a review and make a recommendation to the Minister as to whether or not an amount determined under section 211 is appropriate.</p>
s. 212B (2)	<p>The Minister must consult with the Minister administering the Essential Services Commission Act 2001 before requiring the Commission to conduct a review and make a recommendation under subsection (1).</p>
s. 212B (3)	<p>A written direction under this section must specify terms of reference for the review.</p>
s. 212B (4)	<p>The Minister may—</p> <ul style="list-style-type: none"> (a) specify a period within which a recommendation is to be made to the Minister under subsection (1); (b) require the Commission to make a draft copy of the recommendation publicly available or available to specified persons or bodies during the review; (c) require the Commission to consider specified matters;

Section number	Section detail
	<ul style="list-style-type: none"> (d) give the Commission specific directions in respect of the conduct of the review; (e) specify objectives that the Commission is to have in performing its functions and exercising its powers in relation to the review.
s. 212B (5)	If the Minister has directed a matter to the Commission for review under subsection (1), the Minister may, by written notice given to the Commission, withdraw or amend the direction at any time before the Minister has received the recommendation from the Commission.
s. 212B (6)	The Minister must cause notice of a direction given to the Commission under this section to be published on an Internet site maintained by VicRoads.
s. 212C (1)	<p>Conduct of review</p> <p>Subject to this Act and any directions under section 212B, the Commission may conduct a review under this Division in any manner the Commission considers appropriate.</p>
s. 212C (2)	In conducting a review, the Commission is not bound by the rules of evidence and may inform itself on any matter in any way it thinks fit.
s. 212C (3)	The Commission may receive written submissions or statements.
s. 212C (4)	<p>If the Commission holds a public hearing—</p> <ul style="list-style-type: none"> (a) the Commission has a discretion as to whether any person may appear before the Commission in person or be represented by another person; (b) the Commission may determine that the hearing, or part of the hearing, be held in private if it is satisfied that— <ul style="list-style-type: none"> (i) it would be in the public interest; or (ii) the evidence is of a confidential or commercially sensitive nature.
s. 212C (5)	<p>In conducting a review, the Commission—</p> <ul style="list-style-type: none"> (a) may consult with any person that it considers appropriate; (b) may hold public seminars and hold workshops; (c) may establish working groups and task forces.
s. 212H (1)	<p>Charges to be adjusted for CPI</p> <p>Subject to subsection (2), an amount of a charge determined under section 211 must be varied, in respect of each financial year, in accordance with the formula—</p> $A \times \left(\frac{B}{C} - D \right)$ <p>where—</p> <ul style="list-style-type: none"> “A” is the amount of the charge for the financial year immediately preceding the relevant year; “B” is the transport group consumer price index for Melbourne in original terms for the reference period in which falls the March quarter of the financial year immediately preceding the relevant year last published by the Australian Bureau of Statistics before the relevant year; “C” is the transport group consumer price index for the corresponding

Section number	Section detail
	reference period one year earlier than the reference period referred to in B last published by the Australian Bureau of Statistics as at 15 June in the financial year immediately preceding the relevant year; “D” is the productivity adjustment figure specified in the recommendation under section 212A most recently made by the Commission or, if the Commission has not made a recommendation under section 212A that relates to the relevant year, “D” is 0.005.
s. 212H (2)	If it is necessary for the purposes of this section to calculate an amount that consists of or includes a fraction of a whole dollar, the amount is taken to be calculated in accordance with this section if the calculation is made to the nearest whole 10 cents.
s. 212H (3)	If the variation under subsection (1) of the amount of a charge would reduce the amount of that charge, the amount of the charge must not be varied under subsection (1).
s. 212H (4)	If the amount of a charge is varied under subsection (1), VicRoads must publish a notice in the Government Gazette specifying— (a) the service to which the charge relates; and (b) the amount of the charge as varied; and (c) the data from which the charge as varied applies.
s. 212H (5)	In this section, relevant year means the financial year for which the adjusted amount is being varied.

Glossary

Term	Definition
Accident allocation scheme	A roster-based system for allocating accident towing jobs between tow truck licence holders. Separate schemes operate in the Melbourne controlled area and Geelong self-management area.
Accident towing	The towing and storage of accident-damaged motor vehicles from road accident scenes. Accident towing and storage fees are regulated within the Melbourne controlled area.
Breakdown towing	The towing of vehicles as part of the road side assistance service offered by car insurance providers and car retailers. Breakdown towing fees are not regulated.
Clearway towing	The towing of vehicles illegally parked in designated clearway zones during specified times, under contract with the responsible authority. Clearway towing fees are not regulated.
Depot	Premises from which accident tow trucks operate. A single depot may be shared by multiple accident towing service businesses.
Driver	A person who drives a tow truck to accident scenes and performs the tow. Under the Accident Towing Services Act 2007, drivers must be accredited by VicRoads.
Geelong self-management area	A declared area consisting of Geelong and surrounding areas. Tow truck drivers may only attend an accident scene after receiving an allocation through the self-managed allocation scheme. Accident towing and storage fees are not regulated beyond a requirement to be 'reasonable'.
Impound towing	The towing of vehicles that are either abandoned, derelict or otherwise causing obstruction, as arranged by the local council. Impound towing fees are not regulated.
IPART	The Independent Pricing and Regulatory Tribunal of NSW. IPART undertook a broad review of economic regulation of the NSW tow truck industry in 2014.
Operator	A person who owns or operates a tow truck business. Under the Accident Towing Services Act 2007, operators must be accredited by VicRoads.
Melbourne controlled area	A declared area consisting of the Melbourne metropolitan area and the Mornington Peninsula. Accident towing and storage fees are regulated within the Melbourne controlled area.
Salvage	Salvage, in the case of an accident damaged motor vehicle

Term	Definition
	<p>that, as a result of the accident—</p> <ul style="list-style-type: none"> (a) is in a location that is not a road or road related area (b) is embedded in a building or in an object that is not a motor vehicle (c) is overturned or on its side <p>means the moving of the motor vehicle to a place on a road or road-related area or into an upright position or both so that it may be towed by a tow truck without assistance.</p> <p>Salvage may involve the use of additional tow trucks or equipment. Specific salvage fees are not regulated, however fees are required to be 'reasonable'.</p>
Secondary tow	Occurs when an accident-damaged vehicle is towed from the accident scene and delivered to the destination listed on the authority to tow docket and then is subsequently towed to another destination. Secondary tow fees are not regulated.
Storage	Occurs when an accident-damaged vehicle is transported to the tow truck operator's depot and stored in a secure location to await repair or towing to another location.
Trade towing	General towing and storage services that are not the immediate result of a road accident, including any tows following the delivery of an accident-damaged vehicle to the location specified on the authority to tow docket. Examples include breakdown, clearway, impound and secondary tows. Trade towing fees are not regulated.
Unregulated area	For regular vehicle accident tows, refers to areas of Victoria excluding the Melbourne controlled and Geelong self-management areas.
VicRoads	The accident towing industry regulator. VicRoads is the Victorian Government agency responsible for administering the Accident Towing Services Act 2007.