



NATIONAL ROAD TRANSPORT ASSOCIATION

Submission to the Department of Customer Service, New South Wales

Tow Truck Industry Regulation 2019 and the related Regulatory Impact  
Statement

29 August 2019

## Introduction

1. The National Road Transport Association (NatRoad) is pleased to make comments on the *Tow Truck Industry Regulation 2019 (Reg)*<sup>1</sup> and the related Regulatory Impact Statement (RIS)<sup>2</sup>.
2. NatRoad is Australia's largest national representative road freight transport operators' association. NatRoad represents road freight operators, from owner-drivers to large fleet operators, general freight, road trains, livestock, tippers, car carriers, as well as tankers and refrigerated freight operators. We also have a number of heavy vehicle recovery businesses as members.
3. This submission responds to the questions posed in Appendix 7 of the RIS. In addition, we first set out the NatRoad policy on the tow truck legislation in New South Wales (NSW).
4. We believe that the legislation is overly prescriptive and poorly targeted and that more fundamental changes to the principal statute, the *Tow Truck Industry Act, 1998* (the Act) need to be made or the Reg expanded to include an exemption that has utility, as explained in this submission.
5. We have attached as Attachment A for the information of the Department a list of all State and Territory legislation regulating the towing industry. No other regime is as prescriptive or as wide in its scope than that which applies in NSW. The extent of other regulation should be an issue considered by NSW in the current context.
6. Heavy vehicle towing is an essential element of the road transport industry and is regulated under the Heavy Vehicle National Law. The sector is over regulated.
7. Further, the 2014 Independent Pricing and Regulatory Tribunal (IPART) report<sup>3</sup> had the clear conclusion that licensing should continue for all towing, but price regulation should only apply to light vehicle accident and recovery towing, in line with the reduced regulatory burden we urge in this submission. That perspective appears to have been lost in the preparation of the Reg and the RIS.
8. That is an extraordinary deficiency having regard to the fact that red tape reduction is a key policy of the NSW Government. The relevant inquiry was useful as a means to assess whether the regulatory regime remains an effective way to achieve the intended objectives without imposing undue regulatory burden on the tow truck industry. That objective was met and therefore the distance between what is currently proposed, and introduction of the Government endorsed recommendations from that report is puzzling to say the least.
9. The opportunity should not be lost for the heavy vehicle recovery sector to be separated from the consumer-oriented regime, given that in the most part, heavy vehicle recovery operators do not compete in the light vehicle market.

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<sup>1</sup> [https://www.fairtrading.nsw.gov.au/\\_data/assets/pdf\\_file/0007/543607/Tow-Truck-Regulation-consultation-draft.pdf](https://www.fairtrading.nsw.gov.au/_data/assets/pdf_file/0007/543607/Tow-Truck-Regulation-consultation-draft.pdf)

<sup>2</sup> [https://www.fairtrading.nsw.gov.au/\\_data/assets/pdf\\_file/0008/543608/Regulatory-Impact-Statement-Tow-Trucks.pdf](https://www.fairtrading.nsw.gov.au/_data/assets/pdf_file/0008/543608/Regulatory-Impact-Statement-Tow-Trucks.pdf)

<sup>3</sup> [https://www.ipart.nsw.gov.au/files/sharedassets/website/trimholdingbay/final\\_report\\_-\\_review\\_of\\_tow\\_truck\\_fees\\_and\\_licensing\\_in\\_nsw\\_-\\_december\\_2014.pdf](https://www.ipart.nsw.gov.au/files/sharedassets/website/trimholdingbay/final_report_-_review_of_tow_truck_fees_and_licensing_in_nsw_-_december_2014.pdf)

10. In addition, the opportunity should not be lost to clarify those vehicles and operators who should be the target of the legislation. At present, the breadth of the capture of the Act is nonsensical, as next discussed.

#### **Change to definition in the Act Required**

11. We have previously criticised the current laws as being generally burdensome to the heavy vehicle fleet in communication with the former Minister for Better Regulation, the Hon M J Kean. In a letter dated 12 March 2019 from NatRoad to the then Minister the following was said:

The issue that is of most concern relates to the meaning of “tow truck” in section 4 of the Act and the broad definition of “motor vehicle” which, under the Act, includes a trailer. Consequently, the Act can be interpreted to apply to a wide range of trucks and trailers used to transport equipment and therefore unintentionally captures businesses outside the vehicle recovery sector. These definitions are also inconsistent with the meaning of “tow truck” and “motor vehicle” in the Heavy Vehicle National Law.

Until the transfer of responsibility for the Act from Roads and Maritime Services (RMS) to NSW Fair Trading from 1 July 2017, this issue did not arise. RMS acknowledged that an amendment to the law was needed and, in the interim, adopted an approach of administratively exempting from the licensing requirements members who, although captured by the definition under the Act, are not operating a “towing business” for accident recovery purposes.

NSW Fair Trading, on the other hand, is now applying a strict interpretation of the poorly drafted Act and requiring members to be licensed who do not operate businesses that the Act is established to regulate.

The purpose of the legislation was described by the NSW Government in its response to the Independent Pricing and Regulatory Tribunal’s Review of Tow Truck Fees and Licensing in NSW:

*The Act and Regulation establish a regulatory framework that includes a licensing scheme for tow truck operators and drivers; and provides for the maximum fees that licensed tow truck operators may charge for towing, salvage and storage of vehicles towed from accidents. These regulatory requirements are an important mechanism in place to provide a level of protection for the people of NSW in an often traumatic and difficult time.*

Despite this clear intent and the prior decision by RMS that the strict application of the Act would not be invoked (because it defeated the purpose of the legislation), NSW Fair Trading has issued infringement notices requiring members who are not conducting a towing business to be licensed because they operate one or more of the types of vehicle described in section 4.

The solution to this issue is to amend the definitions in the Act to ensure it only applies to the vehicle recovery sector and to then define a tow truck consistently with the Queensland legislation, the *Tow Truck Act, 1973 (Qld)* which is as follows:

*“tow truck” means a motor vehicle—  
(a) equipped with a lifting or loading device capable of being used for the towing of a motor vehicle; or*

*(b) being used at the material time for the towing of a trailer on which a damaged or seized motor vehicle is being carried.*

12. In response, NatRoad received a letter dated 3 April 2019 from the Executive Director of Regulatory Policy, Better Regulation Division of the Department as then constituted that in part responded thus:

*I note your concern that business owners of non-recovery vehicles used to transport equipment may be being caught in the regulatory scheme created by the Act. As you will be aware, on 1 July 2017 responsibility for the administration of the Act and Tow Truck Regulation 2008 (the Regulation) transferred from Roads and Maritime Services to NSW Fair Trading. To support the transfer Fair Trading published a statement on its website outlining its approach to compliance of the Act. This statement notes that a key component of Fair Trading's role is to ensure all individuals and businesses engaged in towing work comply with the requirements of the Act and Regulation. It also recognises that other NSW Government authorities, such as NSW Police, also play a role in monitoring compliance. A copy of this document is available at <https://www.fairtrading.nsw.gov.au/trades-and-businesses/business-essentials/towtrucks/tow-truck-compliance-and-enforcement>.*

*With respect to business owners of non-recovery vehicles being within scope of the Act, the NSW Government has announced that it will be pursuing reforms to will allow persons to apply to the Secretary for an exemption from the requirement to hold a licence or a drivers certificate under certain conditions. Fair Trading is now working through the detail of the reform and will be consulting closely with key industry stakeholders, including the National Road Transport Association, as part of that consultation.*

13. We reiterate our concern that the definition of a tow truck in the Act is so broad that it could cover virtually all heavy vehicle combinations. Accordingly, NatRoad indicates that we stand by the policy communicated in the March 2019 letter to the then Minister.
14. In line with the IPART report, the scope of the legislation should be narrowed so that, at the least, tow truck is as defined in the Queensland legislation as set out above. There should also be active consideration of separating out the heavy vehicle recovery sector.
15. Further the Reg is proposed to commence on 1 September 2020 and the litigation discussed below shows that there is a need to act much sooner than the proposed date of commencement.
16. To illustrate the breadth of the scope of the Act we note in particular at s4(1)(b) of the Act the definition is so broad it catches virtually all heavy vehicles: "tow truck" means any of the following motor vehicles that are used or operated for the purposes of towing motor vehicles (b) a motor vehicle that is equipped with a trailer, towing attachment or other similar device." By virtue of their inherent function, all prime movers have a towing attachment.<sup>4</sup> Most rigid heavy vehicles have a tow bar. But there are only a limited number of heavy vehicles actually operating in the business of towing for recovery purposes.
17. The exemption provisions in the Reg that now fall to be considered fall well short of permitting members who are not in the heavy vehicle recovery sector from obtaining the requisite exemption. **This issue is particularly important as members are currently defending**

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<sup>4</sup> <https://www.nhvr.gov.au/files/201806-0827-nhvim-section-3-couplings.pdf>

**infringement notices in NSW courts, notices which apply where the business of the heavy vehicle owner is not related to heavy vehicle recovery.**

18. Accordingly, where the RIS currently indicates in respect of Option 1 that one of the benefits for industry is that they “can continue operations under usual practices”<sup>5</sup> the controversy flaring about the extent of the Act’s regulatory reach has not been recognised.

19. It is clear that there is power to exempt a large number of vehicle classes by technical specification or by the purpose for which the vehicle is used per s4(2A) Act which is as follows:

*"tow truck" does not include:*

*(a) a motor vehicle that is declared by the regulations not to be a tow truck for the purposes of this Act (any such motor vehicle may be described by reference to a particular class of motor vehicle), or*

*(b) a motor vehicle referred to in subsection (1) if it is used or operated in such circumstances, or for such purposes, as may be prescribed by the regulations for the purposes of this subsection.*

20. NatRoad therefore indicates that as an alternative to the change sought in respect of the Act, we propose an exemption in the Reg of all heavy vehicles other than used in recovery operations from the requirements of the Act, an exemption that fits with the original intention of the legislation and which is aimed primarily at regulating the towing, salvage and storage of vehicles towed from accidents, a matter reinforced by IPART.

21. We propose an exemption of all heavy vehicles (above 4.5 tonne GVM or as otherwise defined in the Heavy Vehicle National Law<sup>6</sup>) other than heavy vehicles used for the following purposes:

- Towing between premises/depots– this would include towing such as the transport of unladen vehicles between a transport depot and a workshop.
- Accident towing – this would include the removal of a heavy vehicle that has been damaged as a result of an accident and cannot be safely driven on its own from the crash site or cannot be driven on a road without compromising the safety of other road users.
- Disabled vehicle towing – this would include the removal from a road or road related area of a broken down vehicle due to a mechanical or system failure.<sup>7</sup>

22. We will return to this proposal when answering the specific questions raised in the RIS.

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<sup>5</sup> Page 12 of the RIS, above note 2

<sup>6</sup> See s6 HVNL (NSW) [http://classic.austlii.edu.au/au/legis/nsw/consol\\_act/hvnl277/](http://classic.austlii.edu.au/au/legis/nsw/consol_act/hvnl277/)

<sup>7</sup> Adapted from this SA policy document

[https://www.sa.gov.au/\\_data/assets/pdf\\_file/0011/166448/Operation-of-Heavy-Tow-Trucks-in-South-Australia-Policy-MR1567.pdf](https://www.sa.gov.au/_data/assets/pdf_file/0011/166448/Operation-of-Heavy-Tow-Trucks-in-South-Australia-Policy-MR1567.pdf)

**Question 1. Do you think it is appropriate to exclude multi-deck car carriers from the definition of a tow truck?**

23. Absolutely. These vehicles are not of a kind intended to be regulated by the Act. We reiterate that the NSW Government has said (as set out in the extract from the NatRoad letter at paragraph 5 of this submission) that the purpose of the legislation is to protect consumers where there has been an accident. Hence, the scheme of the Act should be principally designed for regulating towing, salvage and storage of vehicles towed from accidents. This could even see the exemption of vehicles exclusively used for heavy vehicle towing.

**Question 2. Are there any other types of work that should be included or excluded from the definition of “tow” and “tow truck”?**

24. Yes. The proposals by NatRoad are threefold. First, change the principal statute in the way suggested by NatRoad in the letter of March 2019 to the then Minister; secondly, bring in a limitation that fits better with the purpose of the statute; or thirdly exempt heavy vehicles completely, including those used exclusively in heavy vehicle recovery.

**3. Do you agree that an applicant must provide proof they have the relevant consent approval for the use of a holding yard? If so, why?**

25. The RIS indicates that proposed clause 9 of the Reg would prescribe that if an applicant for a license has not obtained the necessary approval for use of a specified place as a holding yard then the application may be refused. We would suggest that the words “or has provided information that shows an application for approval has been lodged” should be added.
26. The RIS indicates that the provision is “consistent with IPART recommendations 21 and 22.” But the NSW Government did not accept those recommendations.<sup>8</sup> Indeed the Government’s response to IPART Recommendation 19 should guide the current drafting. The Government said: “It is important for the vehicles to be stored in an area that the operator has control over in regards to (sic) access and egress.”<sup>9</sup>
27. Given this comment by the NSW Government, the provision should be re-worked so that the licensee must prove that it controls access and egress to the premises where vehicles will be stored.
28. In addition, we note the exemption for heavy vehicles in relation to the maintenance of a holding yard at proposed Regulation 49(1)(a) that relates to heavy vehicles of a GCM of 25 tonnes or more. We have had feedback from the heavy vehicle recovery sector that this cut-off seems arbitrary. We attach a case study at Attachment B received from a heavy vehicle recovery member as part of our consultations. We recommend that the figure be set at 20 tonnes.

**4. Do you agree that a tow truck drivers certificate should only be suspended and not revoked for medical reasons or for failure to renew a drivers licence? If so, why?**

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<sup>8</sup> <https://www.transport.nsw.gov.au/sites/default/files/media/documents/2017/201512-nsw-government-response-to-ipart-tow-truck-review.pdf> at page 7

<sup>9</sup> Id at p6

29. No. The RIS indicates that the change to suspension is consistent with IPART recommendations 88 and 90. Yet the NSW government rejected these recommendations saying:

*If a tow truck driver no longer holds a driver licence they are unable to legally drive and must also hand in their driver's certificate to RMS. If the certificate is not revoked, there is the potential for drivers to continue driving and undertake towing work unlicensed. Once the driver regains their driver licence, they must re-apply for their driver's certificate and this triggers criminal history and fit and proper checks and legal grounds for refusal. This is an important consumer protection and road safety mechanism.<sup>10</sup>*

**5. Do you think there are any other crimes that should prevent a licensee or driver certificate holder from holding a license? If so, why?**

30. No, the list is already comprehensive. We disagree with the fact that the warning under Section 93X of the Crimes Act NSW is able to be given orally. We would like to see the incorporation of the offence in the Reg being subject to a caveat that "so long as the requisite warning under this provision was the subject of a written warning." This is so that there is objective evidence of the enforcement process.

**6. Are all of the offences listed in clauses 7 and 16 proportionate to the penalty of automatic revocation if convicted? If so, why?**

31. The RIS does not contain any evidence that the sorts of criminal behaviour targeted by listing the offences is currently a matter of concern i.e. are there licensees and drivers currently within the sector who have been convicted of these offences? In the absence of evidence of that kind, there is a difficulty in answering the question.
32. What evidence exists that the Act has proven successful or unsuccessful in curtailing criminal intervention in the general industry?

**7. Do you think any other information should be included in the towing authorisation form?**

33. No. There is too much information required already and the explanation of rights issue is difficult in an often traumatic situation. In respect of heavy recovery vehicles, the explanation is redundant and there should be separate requirements for heavy vehicle recovery.

**8. Are there any other rights of the owner/driver that should be included in the Regulation?**

34. No. They are more-than-adequately protected at the consumer level. At the commercial level (i.e. for heavy vehicles and non-consumers) less prescription is desirable, as recommended by IPART.

**9. Is there anything else that should be included in the holding yard provisions to ensure the safety of vehicles?**

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<sup>10</sup> Id at pps 21-22

35. No. The level of prescription is too great. Has the addition of CCTV or a monitored security alarm system to the current requirements of Clause 36(1) of the current Regulation been made? If not, why not? This obligation could cost the industry millions of dollars. What evidence is there that it is needed. It should not proceed.
36. Further IPART said: RMS should issue a new Storage Arrangements Policy that requires CCTV cameras to be installed in shared storage facilities or facilities **that are not owned or leased by the tow truck operator.**<sup>11</sup>

**10. Do you think a fee unit of 0.6 per hour is an appropriate amount for the clean-up of debris from a heavy vehicle accident or accidents in non-metropolitan areas? If so, why?**

37. No. The IPART recommendation that was supported in principle by the NSW Government is as follows:

For heavy vehicle accident towing services, price regulation should be removed.<sup>12</sup>

**11. Do you think the tow truck equipment outlined in clause 83 is appropriate for the clean-up of debris? If so, why?**

38. NatRoad supports the removal of prescriptive requirements and their replacement with performance based requirements such as appear in proposed Clause 83(2)(a) i.e. that there should be “equipment and tools to enable the efficient removal of accident debris.”

**12. Do you think that scrap metal operators should be required to keep clean-up equipment in their tow truck? If so, why?**

39. No – Clause 26(2) of the Reg is inserted to provide an exemption from the requirement to hold a relevant licence and the Reg should therefore not otherwise regulate this sub-sector. Other laws would apply where the load was lost e.g. the provisions of s111 HVNL for heavy vehicles. This point reinforces the overwhelming conclusion about the over-regulation of the heavy vehicle recovery sector.

**13. Do you think that the amount of \$3,000 is an appropriate amount for the disposal of unclaimed vehicles? If so, why?**

40. No, the clause should not have any monetary threshold for application. IPART Recommendation 70<sup>13</sup> which the Government supported does not contain any monetary requirement.
41. NatRoad remains disappointed that the RIS does not have a comprehensive assessment of the IPART recommendations accepted or otherwise by the Government that compares the elements of the Reg with the relevant outcome.

**14. Do you agree with the proposal to reduce the number of days from 28 days to 14 for the disposal of an unclaimed motor vehicle, after reasonable attempts have been made to locate the owner? If so, why?**

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<sup>11</sup> Above note 3 at p5

<sup>12</sup> Above note 8 at p3

<sup>13</sup> Id at p18



42. Yes, one of IPART's criteria in Recommendation 70 was "the vehicle has been held in storage by the operator for at least 14 days." Propose Regulation 90(5) should also have the reduced period of 14 days rather than a retention of the 28 day period.

**15. Do you agree that those who tow recreational vehicles should be exempt from the requirement to be licensed under the Regulation? If so, why?**

43. The RIS says "The purpose of the Act is to protect consumers from misconduct by tow truck operators and to discourage any illegal behaviour."<sup>14</sup>

44. That is exactly the point made to support NatRoad's earlier proposals for the exemption of heavy vehicles. The points made apply equally in the current context and in fact are reinforced by the recognition of the purpose of the Act in the terms expressed.

**16. Do you agree that mechanics should be allowed to drive a tow truck under the circumstances outlined above? If so, why?**

45. Yes, mechanics should be exempt as they do not provide towing services to consumers or for the benefit of others and they do not pose a risk to consumers under the conditions proposed in the Reg.

**17. Do you agree with the proposal to add types of motor vehicles that are allowed to be towed without a licence or driver certificate? What type of equipment should be exempt and why?**

46. The RIS says: "The NSW Government is considering exempting companies and persons who are using their own tow trucks to transport their own equipment, from licensing requirements."<sup>15</sup>

47. This exemption underlines the policy principles reflected in the NatRoad proposal to exempt heavy vehicles as there are no good consumer-related reasons to regulate this area.

**18. Do you agree that the penalty should match the crime? Do you think a maximum a \$550 penalty amount is too low to act as a deterrent?**

48. More fundamental reform of the legislation is required than is assumed by this question, as is evident from NatRoad's comments throughout this submission.

49. But, specifically, NatRoad opposes the imposition of penalties for administrative offences without them being preceded by a warning. The application of penalties to any administrative matter does not affect the risks that the Act was established to control i.e. consumers being exploited.

**19. Do you think any of the penalties in the Regulation need to be changed? If so why?**

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<sup>14</sup> Above note 2 at p28

<sup>15</sup> Id at p29

50. As indicated in the prior paragraph the issue of fines for minor administrative offences is overly prescriptive and unjust when measured against the purposes of the legislation.
51. An assessment of penalties issued to date would have assisted the responses to the RIS. How many prosecutions have been taken? What was the spread of consequences that flowed? This sort of analysis would assist stakeholders.

**20. Do you think it is appropriate to change the CPI fee to be consistent with other Regulation fee calculations in the Customer Service portfolio?**

52. No, IPART recommended and the NSW Government accepted the following recommendation:

*RMS should review its tow truck licensing fees each year and revise them to reflect efficiency savings resulting from the changes to the design and administration of the licensing scheme.<sup>16</sup>*

53. The Reg and the RIS should accept this recommendation and a grass roots review of fees established.

**21. Do you have any other feedback on the proposed Regulation?**

54. Yes, we suggest that it and the RIS be withdrawn and the two documents revised to better align the regulatory regime with published NSW Government policy that reflected the intensive work that IPART undertook and which should not be set aside.
55. NatRoad believes that the changes are not sufficiently aligned with Government policy to proceed.

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<sup>16</sup> Above note 8 at p 24

## Attachment A

State/Territory	Principal statute	Regulations	Notes
<b>NSW</b>	Tow Truck Industry Act, 1998 (NSW)	Tow Truck Industry Regulation 2008 (NSW)	See clause 22 re auxiliary number plates Road Transport (Vehicle Registration) Regulation 2017 and see conditions re auxiliary number plates here <a href="https://www.fairtrading.nsw.gov.au/trades-and-businesses/business-essentials/tow-trucks/tow-truck-auxiliary-number-plates">https://www.fairtrading.nsw.gov.au/trades-and-businesses/business-essentials/tow-trucks/tow-truck-auxiliary-number-plates</a>  There is a published summary of the legislation here <a href="https://www.fairtrading.nsw.gov.au/_data/assets/pdf_file/0005/368420/tow-truck-industry-act-approved-summary.pdf">https://www.fairtrading.nsw.gov.au/_data/assets/pdf_file/0005/368420/tow-truck-industry-act-approved-summary.pdf</a>
<b>Victoria</b>	Accident Towing Services Act 2007 (Vic)	Accident Towing Services Regulations 2008 (Vic)	VicRoads advises that non-accident towing undertaken for hire or reward, e.g. breakdown towing may be done by anyone with a vehicle capable of performing the towing function, including tow trucks licensed to attend accident scenes.  See <a href="https://www.vicroads.vic.gov.au/business-and-industry/tow-truck-industry/information-for-the-towing-industry">https://www.vicroads.vic.gov.au/business-and-industry/tow-truck-industry/information-for-the-towing-industry</a>
<b>Queensland</b>	Tow Truck Act 1973 (Qld)	Tow Truck Regulation 2009(Qld)	See section 38 Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010 re accessory plate for tow trucks
<b>Tasmania</b>	No specific legislation	No specific legislation	
<b>South Australia</b>	S98D to s98PG Motor Vehicles Act, 1959 (SA) relates to a certification process for the greater metropolitan area of Adelaide	Motor Vehicles (Accident Towing Roster Scheme) Regulations 2015 (SA); and <a href="#">Motor Vehicles (Accident Towing Roster Scheme) (Fees) Variation Regulations 2018 (SA)</a>	12 page brochure that outlines the operation of heavy vehicle tow trucks within SA is here <a href="https://www.sa.gov.au/_data/assets/pdf_file/0011/166448/Operation-of-Heavy-Tow-Trucks-in-South-Australia-Policy-MR1567.pdf">https://www.sa.gov.au/_data/assets/pdf_file/0011/166448/Operation-of-Heavy-Tow-Trucks-in-South-Australia-Policy-MR1567.pdf</a>
<b>Western Australia</b>	Road Traffic (Vehicles) Act 2012 (WA)	Part 12 Road Traffic (Vehicle Regulations) 2014	
<b>NT</b>	Consumer Affairs and Fair- Trading Act	Consumer Affairs and Fair	

		Trading (Tow Truck Operators Code of Practice) Regulations.	
<b>ACT</b>	No specific legislation	No specific legislation	AS with other jurisdictions some basic rules are in the Road Rules. See clause 41 Road Transport (Safety and Traffic Management) Regulations 2000
<b>National</b>	Heavy Vehicle National Law The driver of a heavy tow truck must keep a copy of the permit for the vehicle s133(1) HVNL and produce the permit per s 568(2)(b)		<p>The following is recorded on the HVNL web site at <a href="https://www.nhvr.gov.au/road-access/access-management/applications/tow-truck-permit">https://www.nhvr.gov.au/road-access/access-management/applications/tow-truck-permit</a> where it is noted that a tow truck permit is required where the tow truck does not comply with the <a href="#">prescribed mass or dimension requirements</a>.</p> <p>To apply for a tow truck permit:</p> <ul style="list-style-type: none"> <li>• For travel within ACT/Qld/Tas/Vic - apply through the NHVR Portal. Note: Queensland has a class 4 tow truck permit-based scheme that allows for the movement of broken-down heavy vehicles. For more information contact the <a href="#">Department of Transport and Main Roads</a>.</li> <li>• For travel within NSW - apply through the <a href="#">NHVR Portal</a>.</li> <li>• For travel within SA - apply through the <a href="#">NHVR Portal</a>. For more information see the <a href="#">Common Class 3 combinations - South Australia (PDF, 926KB)</a> and the <a href="#">NHVR Portal input sheet - South Australia Class 3 (PDF, 1.2MB)</a>.</li> <li>• For cross-border travel - apply through the <a href="#">NHVR Portal</a>. Note: The NHVR processes all cross-border applications except for travel within the Northern Territory and Western Australia. For these jurisdictions, apply directly to the <a href="#">relevant state or territory road transport authority</a>.</li> </ul>

## Attachment B

### Case Study – Heavy Vehicle towing requirements in NSW – Holding Yards

In seeking feedback from the heavy vehicle recovery sector a member reported to us as follows:

1. (Member name) do not have any involvement whatsoever with the business of car/light vehicle towing (under 4.5 gvm). Simply put, (Name) do not tow cars.
2. The proposed 2019 Regs on the face of it gives an exemption to holding yard requirements for Heavy Towing Operators from requirements of holding yards.
3. This is NOT as straight forward as inferred by the authorities the exemption fails by the ill-conceived requirement of 25 tonne GCM before applying the exemption.
4. Hence, for years (member name) has been required to provide:
  - i) a holding yard for light vehicles that we do not tow or store!
  - ii) a Holding Yard Register which we don't use!
5. This is an impost, but we have no choice. The power of entry granted under the Act and Regs gives enforcement inspectors power to walk in unannounced at any time. In the event of an inspection if we can't show them the Real Estate purchased (but don't need), plus a Holding Yard Register we stand to be prosecuted for non-Compliance.
6. (Name) operate a fleet of 9 Heavy Recovery Units with depots at (three locations, one in Queensland).
7. One of our NSW units is a specially designed extra-long low bed (low Centre of Gravity) tilt tray with winch. It has small wheels and has a third axle; it is a 3 axle rigid truck. It is specifically built for such jobs as carrying high pantechs, high minibuses, high mobile homes, high machinery, damaged truck cabs, damaged truck bodies or parts thereof etc.
8. This unit often works on an interstate basis, between (2 locations, one in Queensland) depots.
9. The design criteria to achieve the low centre of gravity dictated smaller wheels and tyres thereby limiting the manufacturers GCM to 20 tonnes.
10. The legislated 25 tonne GCM is far more than necessary for any car tow truck. To operate a 25 tonne heavy vehicle as a light towing (car) tow truck, is restricted by its physical size and is financial stupidity.
11. Using the Legislated 25 tonnes GCM as a differentiation point between light and heavy towing is CONTRADICTIONARY TO THE NHVR (National Heavy Vehicle Regulator) Heavy Tow Truck Permit. This Australia wide permit by not being available to tow trucks with less than 18 tonnes GCM clearly demonstrates 25 tonnes as being ill conceived criteria for car towing holding yards.