

Terms of Reference - Independent Investigation

Preamble

In Queensland, the towing of a motor vehicle from the scene of a crash or police seizure under the *Police Powers and Responsibilities Act 2000*, is regulated by the *Tow Truck Act 1973* (TT Act) and *Tow Truck Regulation 2009* (TT Regulation). The TT Act and TT Regulation apply only in regulated areas which are mainly limited to South East Queensland and the urban local government centres along the East Coast.

All other forms of towing, including the removal of vehicles and associated fees from private property, are not currently subject to the legislative provisions.

At common law, property owners have a right to deal with vehicles parked on private land. These rights apply where vehicles are trespassing or if vehicle owners do not obey the terms and conditions for parking on the land which are usually displayed on a sign. Owners/Managers of private parking areas frequently arrange for tow truck operators to remove vehicles on their behalf.

There has been increasing community discontent and recent media attention surrounding practices involving the removal of parked motor vehicles from private property. Common issues raised include:

- motor vehicles being removed without the owner's permission, which has left vehicle owners stranded and feeling vulnerable;
- the level of fees being charged by the tow truck operator (between \$400 - \$1000);
- the absence, lack of clarity or poor placement of signage outlining the terms and conditions of parking;
- vehicles having to be retrieved from the tow truck operator sometimes many kilometres away;
- the behaviour or other conduct of the tow truck driver;
- privacy fears by handing over their Queensland Drivers Licence or other form of identification.

Successive governments have been challenged in addressing certain aspects of the tow truck industry. In particular, private and breakdown towing remain beyond the scope of current legislation despite some similarity in the nature of the work undertaken with currently regulated aspects of the industry. It is clear that some current practices within the industry fall short of community expectation. It is important that a balance be struck between what is fair and reasonable from a community perspective and a property owner's right to remove vehicles parked without permission on their property or against signed parking conditions

Nature of Investigation

The Minister for Main Roads, Road Safety and Ports has commissioned Mr Michael Forde to conduct an independent investigation into the removal of vehicles from private property, as per the Terms of Reference, and provide a written report back to the Minister within 3 months. The Department of Transport and Main will provide administrative and secretariat support for the investigation.

Scope of Investigation

The independent investigation will examine and recommend possible regulatory and other reforms or recommendations with regard to aspects of the tow truck and vehicle removal industry not already covered by provisions in the TT Act or TT Regulation.

The independent investigation will advise the Minister on, but not necessarily be limited to, the following matters:

- a. Whether there is a need for legal clarification of the circumstances where a vehicle parked on private property may be legally towed on behalf of the property owner.
- b. Whether there are other appropriate mechanisms for regulating these practices beyond existing transport regulations.
- c. Whether minimum standards should be established for signage in private parking. Such requirements could include outlining the terms and conditions of parking, the location and frequency of signage or other variables impacting the signage.
- d. Whether fees and charges for towing and storage should be regulated and in what manner.
- e. Whether there should be restrictions on the maximum distance which a vehicle may be towed from where it was first parked.
- f. Whether there is a need for consumer protections such as limiting predatory practices and acts such as 'spotting'.
- g. Whether existing licensing and accreditation schemes under the TT Act and TT Regulation could be expanded to cover, the practice of removing parked vehicles from private car parks and private roads accessible to the public.
- h. How privacy can be adequately protected when motor vehicle drivers interact with tow truck entities.
- i. What supporting education and other industry communication measures could be implemented to improve consumer understanding.
- j. How any proposed regulatory reforms would be enforced, including which agencies could undertake the task.
- k. Other matters as related to the terms of engagement.

Stakeholders

The independent investigation will incorporate appropriate input and consultation from key stakeholders including key government agencies and major community stakeholders such as the following:

- Department of Transport and Main Roads
- Department of Premier and Cabinet
- Queensland Police Service
- Department of Justice and Attorney-General
- RACQ
- Brisbane City Council
- Local Government Association, Queensland
- Queensland Tow Truck Industry
- Queensland Consumer Association.
- Queensland Tow Truck operators
- Queensland Hotels Association
- Relevant Associations covering Car Park Managers, Small Business & Restaurant Owners

The investigation will need to include a means by which the wider Queensland community can have a say in the investigation and the possible measures being considered.