Queensland Government

Queensland Treasury

RIA Ref: DTMR0424-0321
File Ref: 03511-2021

Elizabeth Robinson
Manager, Legislation Services
Department of Transport and Main Roads
61 Mary Street
BRISBANE QLD 4000

Email: elizabeth.h.robinson@tmr.qld.gov.au

Dear Elizabeth

Post implementation review – Tow Truck Act 1973

Thank you for your enquiry of 15 July 2021 seeking advice on the adequacy of the Decision Post Implementation Review (PIR) *'Private Property Towing Reforms & Broader Tow Truck Scheme Review'*.

Background

The *Tow Truck Act 1973* (the Act) regulates the towing of motor vehicles in prescribed areas of Queensland. The *Tow Truck and Other Legislation Amendment Act 2018* was legislated in response to the recommendations of an independent report to government (August 2017). It commenced on 30 March 2018. The report made 22 recommendations to reform the removal of vehicles from private property by the towing industry, as well as raising a further eight matters for consideration by government. The private property towing amendments commenced on 16 April 2018.

The amendments extended the scope of regulated activities from only crash scene towing and certain vehicles seized by police to include the removal of vehicles from private property. The amendments introduced controls on how tow truck operators could act before, during and after towing a vehicle from private property, capped or prohibited certain fees, introduced notification and signage obligations, restricted information disclosure, increased penalties, and amended licensing requirements.

Consultation PIR

The Department of Transport and Main Roads (the department) was granted a Cabinet exemption from preparing a Regulatory Impact Statement (RIS) under the condition a PIR was completed under the Queensland Government Guide to Better Regulations (the guidelines).

A Consultation PIR was released in 2019 and detailed the private property towing amendments and referenced the analysis presented in the independent report.

The Consultation PIR was not submitted to the OBPR for assessment prior to being submitted to the decision maker and released for consultation as required under the guidelines.

The Consultation PIR was approved for release and was open for public comment from 28 October 2019 to 1 December 2019. Stakeholder feedback was solicited via an online survey and 215 stakeholders responded. The department also convened industry forums

1 William Street
GPO Box 611 Brisbane
Queensland 4001 Australia
Telephone +61 7 3035 1933
Website www.treasury.qld.gov.au
ABN 90 856 020 239

for tow truck licence holders and held targeted stakeholder meetings with the Queensland Police Service and the Royal Automobile Club of Queensland.

Decision PIR

The Decision PIR recommends continued regulation of the removal of vehicles from private property by the towing industry, with no change to the activities regulated or fees prescribed.

The Decision PIR also recommends a range of amendments to the broader regulation of towing, including:

- increasing the area regulated by adding new local government areas and updating the boundaries of others
- committing the department to notify towing licensees when their licence is approaching expiry and advise them of their options
- removing the requirements for tow truck driver licence applicants to have held a driver's licence for three continuous years and complete an operational test
- adding a new penalty infringement notice for tow truck licence holders who use unaccredited tow truck drivers or assistants for regulated towing work
- prohibiting the offer of towing incentives to motorists
- developing a separate towing authority for Class 4 tow truck licence holders
- exempting Class 4 tow trucks from the prescribed standard tow fee when towing heavy vehicles
- applying a $26 maximum daily storage fee to all regulated towing other than heavy vehicles
- prohibiting the charging of fees for activities the department considers part of a standard towing service.

Assessment

Private property towing

Under the guidelines, a Decision PIR is required to fulfil the adequacy criteria plus include an assessment of, and departmental response to, submissions received.

The OBPR acknowledges the considerable effort made by the department in preparing the Decision PIR. However, the review was undertaken without reference to the requirements set out in the guidelines or direct engagement with the OBPR.

As currently structured, the PIR does not fulfil key adequacy criteria. The PIR does not:

- identify the nature, scope or magnitude of the problem
- assess the impact of the regulation in addressing the problem and whether there have been any unintended effects of the regulation, including on competition, private property and vehicle owners
- present a range of feasible regulatory and non-regulatory options to address the problem, or an analysis of the costs and benefits of the feasible options.

As a result the Decision PIR does not demonstrate that the recommended option is the one that generates the greatest net benefit to the community. Stakeholder concerns, particularly regarding adverse impacts on the availability of towing services, are not sufficiently addressed as required under the guidelines.

Given the above, the current Decision PIR does not adequately assess the effectiveness, efficiency and continuing relevance of the private property towing reforms. Consistent with the guidelines, the department may choose to submit a revised Decision PIR for reassessment. The OBPR notes it is likely further public consultation is required

to fulfil all aspects of the PIR adequacy criteria. Once a Decision PIR is approved for release it is published on the OBPR's website along with the final letter of advice.

Proposed additional amendments – regulation of broader towing matters

The OBPR considers that the amendments proposed to the broader regulation of towing (separate to the private property reforms and the PIR) are likely to result in significant adverse impacts, including potentially on the viability of towing services in regulated areas. The information presented is not proportional to the regulatory burden imposed or the scope for unintended outcomes, particularly competition impacts, and does not provide an evidence base demonstrating a net benefit to the Queensland community. Under the guidelines, further regulatory impact analysis is required in the form of a Consultation RIS.

The OBPR recognises that private property towing practices have raised community concerns. However, sufficient analysis has not been undertaken to demonstrate that the regulation delivers a net public benefit. We are keen to work with you to ensure decision makers receive sufficient information to assess alternative approaches.

Please contact Tim Elliott, Economist, on (07) 3035 3488 if you require any additional information or guidance in relation to the above comments or the guidelines in general.

Yours sincerely



Dr Karen Hooper
Productivity Commissioner

30 July 2021