

Tow Truck Industry Regulation consultation
Regulatory Policy, Better Regulation Division
NSW Department of Customer Service
2-24 Rawson Place
HAYMARKET NSW 2000

RE: PROPOSED AMENDMENTS TO NSW TOW TRUCK REGULATION 2019

29 August 2019

1. I am a Queensland based Australian Heavy Recovery Consultant and in-house Trainer with in excess of 55 years experience in all facets of the industry including but not limited to: Legislation, Equipment Design/Construction, Recovery Company Operator, Enforcement, Author of various Equipment Operation Manuals and Heavy Recovery Training Manuals.
2. I have **NO** involvement with the car towing fraternity either in NSW or other states.
3. In response to the proposed NSW Tow Truck Regs and RIS I hereby submit information for *serious consideration to resolve long standing anomalies this onerous Legislation has created against the Heavy Recovery Towing and Transport Industry of Australia.*
4. The IPART report of DECEMBER 2014 is outdated and of questionable use. The present RIS questions in the main, pertain specifically to **Light Towing and Consumerism.....** Unfortunately, in the same vein as the previous Tow Truck Act (1998) and Regs, the RIS questions have no relevance or understanding of the unique operations of the Heavy Recovery Towing component of the Transport Industry.
5. NSW Fair Trading proposal to remake the Tow Truck Regulation **fails** to include changes for the betterment of the Heavy Recovery Towing component of the Transport Industry.....Heavy Recovery Towing and Transport operators have been laboring under this inappropriate legislation for going on 30yrs, waiting another ten for the possibility to get some relief is untenable.
6. To be clear, Heavy Towing and Recovery...
 - IS an important component of the Australian Transport Industry**
 - Is **NOT** part of the Car Towing (under 4.5 tonne GVM) industry.
 - Is **NOT** part of the *lucrative* car smash repair industry
 - Is **NOT** consumer related.
7. Heavy Towing and Recovery should never have been included in legislation clearly designed for the car towing and smash repair industry.
8. Amalgamating them together as one was a fundamentally flawed policy. It was ill conceived. The fact is that the Heavy Towing Industry has it's own culture and business model. FROM THE ENGAGEMENT, SELECTION AND TRAINING OF DRIVERS IT IS STAND ALONE IN IT'S PRACTICES.
9. Simply put, Heavy Recovery and Towing, and Light Towing are two totally different business types.....any similarity starts and ends in **name only**.

10. The amalgamation of heavy and light towing together has given rise to tension and resentment on the part of both industries.

11. Ernst and Young were previously appointed to conduct an enquiry, did so and made very workable recommendations..... None were adopted.

12. Recommendations from the E & Y enquiry included, but were not limited to relaxing the criteria for licensing and drivers certificates for Heavy TowingA White Paper was issued.

13. Unfortunately a change of Government led to the White Paper being disregarded.... The Tow Truck Act 1998 and Regulations were introduced with total disregard to the White Paper.

14. Previously, the general feeling within the Heavy Recovery Towing Industry at the time was that the Act/Regs of 1989 were totally unsuitable for heavy recovery towing.... This was reflected in the Ernst and Young Report.

15. The subsequent 1998 Act/Regs bear definitions virtually the same as the previous Act/Regs of 1989 which had already proved inadequate. The result is what you see today, the Legislation structure and definitions clearly identifies to the Car Towing Industry.

16. The financial, operational difficulties, and red tape impost against Heavy Recovery Towing businesses under the previous 1989 Act/Regs has been repeated under the 1998 Act/Regs, **albeit with greater red tape, increased costs and onerous rules.**

17. The definition for "Tow Truck" from 1989 to present time has remained far too wide. Part 1. S4.(1) of the Act captures almost every type of vehicle to be found on the roadways as an unlicensed tow truck.

i) The NSW Tow Truck Legislation is badly drafted...

*Eg; A motor cycle with a tow ball (yes they exist), **OR** a car with a tow ball **OR** a prime mover are all captured by the "Tow Truck" definition.*

ii) NSW prosecutions now before the Courts against sectors of the Transport Industry, create a *perception* the Legislation is **protectionist** of the NSW Light Towing Industry whilst discriminating against the entire Australian Transport Industry.

18. The time frame given for input to the RIS is unreasonably short. There is not the time and space here to hi-light all issues. Bearing this in mind I have only selected 4 Heavy Recovery Towing case study examples as illustration.

See attached Schedules 1 to 4.

SCHEDULE 1. The Business of Towing.

SCHEDULE 2. Not Consumer related

SCHEDULE 3. Holding Yard Exemption Failure

SCHEDULE 4. Drivers Certificate Hindrances.

19. Any perusal of case study examples in the attached Schedules, illustrates that, comparison of the NSW tow truck legislation alongside **actual real life requirements** demonstrates necessity for removal of the regime from Heavy Recovery Towing.

20. Removal will free up business operations and enable personnel recruitment/training **parallel** with the existing Heavy Haul, Over Dimensional Haulage and Transport Industry in general.

21. Under NHVR (National Heavy Vehicle Regulator) Heavy Recovery Tow Truck operations are controlled by virtue of a National "Class 3 Tow Truck Mass or Dimensional Exemption Permit"

See attached;

SCHEDULE 5. NHVR NATIONAL HEAVY TOW TRUCK PERMIT.

Heavy Recovery Towing is already successfully operating NATIONALLY without issues via this Permit.

22. "Heavy Vehicle National Law NSW-Definitions" provides **real life** meanings, in particular, of a Tow Truck.....

See attached;

SCHEDULE 6. HEAVY VEHICLE NATIONAL LAW (nsw)- DEFINITIONS.

Heavy Tow Trucks are by Definition a Heavy Motor Vehicle. Accordingly, all operations are already well regulated Nationally.

23. In truth the NHVR Heavy Tow Truck Permit already operating successfully *hand in glove* with the National Heavy Vehicle Transport Laws, should be recognized as the **ONLY** requirement for Heavy Recovery Towing. The NSW Tow Truck Legislation is superfluous.

24. The NSW Tow Truck Act and Regs should be removed from the Heavy Recovery Towing component of the Transport Industry.

J.W.DARKE

SCHEDULE 1.

THE BUSINESS OF TOWING

1. I am aware of calls to adopt the Queensland definition of Tow Truck into NSW to stop unnecessary prosecutions against the Transport Industry for Unlicensed Towing.

2. Although a good step forward, the QLD definition alone would fail under the NSW regime.

Tow Truck Act 1973 QLD

“Tow Truck” means..

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 carried.

3. The QLD definition relies on common sense and discretion from authorities to work.

Assume for example.....

An Australia wide “B” Double operator loads 2 x vehicles in Sydney, one on each of his 2 trailers.....they could be cars or trucks, it makes no difference!!.

The destination of one vehicle is Broken Hill (within NSW)

The destination of the other vehicle is Perth W.A.(outside NSW)

Q. Does he commit any offence if the QLD definition was used in NSW Tow Truck Legislation?

A. The answer in the eyes of NSW enforcement would undoubtedly be two offences under para (b) as an “unlicensed tow truck” which would lead to further breaches for “uncertified driver” etc.

4. Such a vehicle transport scenario is a common, everyday, Transport Industry event throughout Australia.....Due to common sense and discretion exercised by QLD authorities it has never been an issue under their QLD definition and is unlikely to ever be.

5. Unfortunately with a growing *de facto* Police Force under NSW Fair Trading, common sense and discretion parallel to QLD appears **devoid** in NSW. This situation is **magnified** by the existence of prosecutions now before the NSW courts against Transport Vehicles which are clearly not in “the business of towing” but in the unfortunate situation whereby their vehicle has been captured under the ill conceived NSW Tow Truck Definition.

6. Adopting the QLD definition in NSW and adding the words “**when used in the business of towing**” at the end of paras (a) and (b) of the QLD Definition, and properly Defining “**the business of towing**”, extinguishes the likelihood of further **enforcement harassment** against Transport Operators in NSW.

SCHEDULE 2

HEAVY RECOVERY TOWING IS NOT CONSUMER RELATED .

1. The often use of the word “Consumer” is a misnomer; Goods are consumed.....See definitions in Competition and Consumer Act 2010.

2. Heavy Recovery Towing is **NOT a “good”**.

It is a service provided within the Transport Industry on Business to Business basis.

3. Additionally, The NSW Tow Truck legislation, being “Consumer” orientated appears in conflict with Sect 4B 1 (b) Competition and Consumer Act 2010 Aust...

4. **Heavy Recovery Towing has NO “Consumer” contact.** Below are but a small proportion of typical Heavy Towing and Recovery Clients

a) Heavy Towing is **ONLY** business to business, by contract, agreement, prior arrangement etc or similar.

b) Heavy Towing clients mainly encompass fellow Transport Industry Operatives, Insurance Companies, Truck and Equipment Manufacturers/Suppliers etc.

c) There are many other arrangements in place, for instance, with Govt/Council Departments etc. which are typically pre-arranged/tendered/contractual arrangements.

d) Due to Chain of Command/Insurance issues many professional Transport Operators already have in place a plan of who their Heavy Recovery Towing Company will be, in the event of any unforeseen future incident.

e) **Recognition by their peers** within the Transport and Insurance Industries marketplace, (**not the NSW Tow Truck Legislation**), dictates which heavy recovery company is preferred/best suited to a particular operation.

f) Many clients are regular account customers.

5. Heavy Recovery Towing is NOT Consumer related

6. Emergency Authorities have and always will have the power in the event of emergency/roadblock/rescue/crime scene situations to use whatever means they wish to overcome the situation they are faced with....They have, do, and rightly so, will always use their powers to overrule anything in 3 above in the event of a heavy vehicle incident.

This has nothing to do with consumerism!!

7. The NSW Tow Truck Legislation is of **no benefit** to the **Heavy Recovery Towing component of the Transport Industry.....The Legislation should be removed.**

SCHEDULE 3

HOLDING YARD EXEMPTION FAILURE

1. Part 4, para 49, page 28 'Holding Yards' in proposed 2019 Regs on the face of it **purportedly** gives an exemption to Heavy Towing Operators from requirements of holding yards.

2. **This is NOT as straight forward as would be inferred.....**the exemption **FAILS** by the ill conceived requirement of **25 tonnes GCM minimum** requirement of a Tow Truck before the exemption can be applied for.....see para 3 below, copied from RMS HOLDING YARD POLICY.

3. *"Under clause 40 of the Regulation, nothing in the Act requires the following tow truck operators to maintain a holding yard:*

*A tow truck operator who **only** operates tow trucks with a gross combination mass of 25 tonnes or more....."*

5. Hence, any Heavy Towing Operator not towing cars, but with a truck of less than 25 tonnes GCM is captured into providing;

- i) a holding yard for light vehicles **that they do not tow or store!!**.
- ii) a Holding Yard Register **which they don't use!!!**.

4. This is an impost, but they **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 they can't show them the Real Estate they leased/purchased **and don't need**, plus a Holding Yard Register they **don't use** they stand to be prosecuted for non Compliance!!

5. I have a client who operates a large fleet of specialized Heavy Recovery Underlift Units with depots in QLD, Sydney Metro and Country. THEY DO NOT TOW CARS.

6. In their comprehensive Recovery vehicle fleet they have one specially designed *extra long low bed* (low C of G) tilt tray truck with winch. It has smaller tyres and has a third axle, it is a 3 axle rigid truck. It is a "Heavy Vehicle" by definition. It is specifically designed and built for such jobs as carrying high pantechs, high midi buses, high mobile homes, high machinery, damaged truck cabs, damaged truck bodies or parts thereof etc resulting from Heavy Vehicle incidents.

7. The specific design criteria to achieve the lowest possible deck height and C of G, dictated smaller tyres, suspension etc, limiting the GCM to 20 tonnes.

8. This unit spends much of its service outside NSW on an interstate basis, between Sydney and QLD depots.

9. However, because just this one vehicle within their entire heavy vehicle fleet has by *special purpose* design a limited GCM of 20 tonnes, their **entire business** is captured by the ludicrous Holding Yard requirement of 25 tonnes minimum GCM.

10. The result being, in order to comply with holding yard requirements without risk of prosecution, they have incurred extra financial stress and purchased real estate for a holding yard that otherwise would not have been necessary.....and they do not even tow cars!!

11. The Holding Yard Criteria is Discriminatory to Heavy Recovery Towing Operators.
The IPART Report, RIS and 2019 Proposed Regulation do nothing to correct this.
12. 25 tonnes GCM is **far** more than necessary for any car tow truck. To operate a **25 tonne GCM heavy vehicle** as a light towing (car) tow truck, is absurd.....Such a vehicle is restricted by it's physical size and cost.
13. It is mere Common Sense that holding yard criteria should be based on;
what it holds = cars. **NOT what towed them there!!**
14. **The Holding Yard Criteria serves no useful purpose.**
Instead it demonstrates necessity to remove the NSW Tow Truck legislation from the Heavy Recovery Towing component of the Transport Industry.

SCHEDULE 4

PART 1.

DRIVERS CERTIFICATE HINDRANCE TO HEAVY RECOVERY TOWING OPERATIONS

1. A perusal of NSW IPART REPORT and Proposed Regulation shows lack of understanding of how the Drivers Certificate requirement for Heavy Recovery Towing is a hindrance rather than a benefit.
2. The usual rhetorical response of the drivers certificate being necessary in Heavy Recovery Towing is a myth!!.
3. A Drivers Certificate is NOT needed from any consumer perspective.
4. A Drivers Certificate is not needed to keep the so called “bad element” out of the Heavy industry....There is a Crimes Act and Police Force. There are specific Police squads to target criminal activity. Compared to previous Traffic Act 5 1909, the National Road Laws are far, wide and reaching. With powers never seen before, Transport Inspectors and Police ensure compliance, making a Drivers Certificate unnecessary.
5. A Drivers Certificate for Heavy Recovery Towing is often misconstrued to mean “Qualifications” or “Experience” in the Heavy Industry..... This is incorrect, in truth it only means that under Tow Truck Act/Regs, upon payment of a non refundable fee, and being deemed fit and proper, a Certificate was granted!! ...it has nothing to do with Heavy Recovery Towing skills or operational ability whatsoever.
6. In effect a person with a suitable Heavy Vehicle Drivers License, but without a Drivers Certificate is **punitively precluded** from being trained/employed in Heavy Recovery Towing.
7. However that same person precluded in 6. above can be deemed **“fit”** and **“Qualified”** (*as defined under Heavy Vehicle National Law NSW-SECT 5, Definitions*) **to drive a Heavy Vehicle** which could be a;
Eg;..... *Road Train*
Over Dimensional Heavy Haul that could be in the region of 100’s of tonnes
Loaded B Double
Fuel Tanker etc etc
- Is legal to drive and operate that Heavy Vehicle anywhere in Australia without being the holder of a Drivers Certificate.
8. The NSW Drivers Certificate requirement is discriminatory to Heavy Recovery Towing within the Transport Industry and appears in conflict with National Heavy Vehicle National Laws.
9. Some typical examples set out in 10. below further demonstrate how in the field operations and safety are hindered by the Drivers Certificate requirements.

10. Physical assistance/manpower for Heavy Towing and Recovery.

- i) Lifting/extending/winchng functions etc of heavy recovery machinery are of course, power operated. However physical effort and skill is required for setting up the special equipment..... Eg: Fittings/tools/forks/wheel lifts, chains, straps, snatch blocks etc etc.

ii) Necessity of design strength dictates this specialised equipment is heavy and has to be carried piece by piece and manually set up. Sometimes difficult locations or positions create physical difficulties for one person...where assistance is needed for workplace safety.

iii) When setting up equipment the situation in (ii) above can arise **unexpectedly** that a second pair of hands is an absolute necessity.....this requirement cannot be predicted as no two jobs are the same.

iv) It is not viable to have a second certificated person standing around in case they are needed at some remote site.

v) Similarly to send a second certificated/licensed person on every job on the off chance they may be required, the cost of the job would be increased. It would have to be passed on for the entirety of the "time out " to the " time in" of the job, when their actual assistance may only be for some short period of time.

v) In a "one out" operation, a situation can change without notice, necessitating an assistant/s.

vi) This often entails engaging assistance from. Eg: Available person/s from a nearby farm/town, on scene truck drivers, local machine operator, mechanic etc etc. **All of whom would not hold a Drivers Certificate...thereby they commit a breach of Division 2, 23, (1) (b) of the Tow Truck Act... Likewise the Operator commits a breach of his Operators License under Division 4, 59 of the Act.....By extension this could also be construed against the Certificated Driver.**

11. Anecdotal evidence suggests enforcement officers **may** "turn a blind eye" or "discretion" **may** apply in 10. (vi) above,all very well on the face of it, but experience shows ability to "turn a blind eye" or apply "discretion" also opens the door for possible corruption.

12. Drafting of the Legislation and the Drivers Certificate requirement For Heavy Recovery Towing overlooks further serious possibilities;

i) **Q.** *What if something goes wrong in 10. (vi) above and a "blind eye" or "discretion" have to be set aside?*

A. *The Helper, the Operator and probably the Driver being in breach all stand to be prosecuted for offences under the NSW Tow Truck Legislation.*

ii) **Q.** *What happens to the Operator's Public Liability/Workcover Insurance if he is deemed in breach?*

A. *???????????????*

13. It is totally unreasonable that the operator of a heavy towing and recovery business and any well meaning assistants risk being breached for an offence when any of the above scenarios are **already being conducted daily** in the interests of common sense and workplace safety.

PART 2.

DRIVERS CERTIFICATE HINDRANCE TO HEAVY RECOVERY TOWING SKILL LEARNING/TRAINING

1. Historically Heavy Recovery Businesses were 2nd and 3rd generation family companies. Learning was typically handed down from senior experience (= on the job training) to the pupil from a young age..... This was a great system.... Young persons, both from within the family and young employees “grew” into Heavy Recovery and by the time they held a suitable drivers license were well skilled/trained in full operations/maintenance etc before even getting behind the wheel...Likewise the young person had a chance to discover if Heavy Recovery was or was not **really** going to be their career choice for the future!!.

2. Heavy towing and recovery is NOT just a job..... experience, knowledge and ability to make correct sit-reps and decisions is a must.... It is a way of life and requires passion, dedication, and unique skills **not available elsewhere.**

3. Present NSW Tow Truck Legislation precludes Heavy Towing Operators from putting in place a young person training “*apprenticeship style*” scheme unless participants have a **heavy drivers license first.**the result is good, young candidates are lost forever to careers elsewhere and operators are forced to select from Driver Certificated candidates who may otherwise not have the best skillset. This is counter- productive to the Industry and safety.

4. The punitive requirement to hold a suitable class “full” drivers license **before they can apply** for a Driver’s Certificate precludes candidates from being able to assist/trained in the uniqueness of heavy recovery **first**..... After paying the NON REFUNDABLE fee a waiting period is required before knowing if a Certificate will be granted or refused...Drivers Certificate refusal **precludes** them no matter how good their potential.

5. The result is, drivers under the present ill conceived regime, having just obtained a Heavy Drivers License can then apply for a Tow Truck Drivers Certificate and if granted, with nil heavy recovery towing experience whatsoever, are by the Tow Truck Legislation “**Qualified**” and **perfectly legal** to operate a heavy recovery unit = this is an outrageous flaw in the legislation.

6. The common belief that heavy recovery operators can be *readily selected from existing* Certificated Light Towing drivers is another rhetorical **myth!!**.....**Mostly, Light Towing drivers have no skills suitable for Heavy Recovery Towing operations....generally they lack heavy vehicle experience and have the wrong attitude/ability for learning the required skills...**

7. Experience shows the best pools for selecting Heavy Towing Driver candidates from includes, but is not limited to operatives from;

Rural Industry/farms, Long Distance Heavy Vehicle Drivers, Over Dimensional/Overmass Heavy Vehicle Drivers, Heavy vehicle mechanics, Aust Army, Engineering, Construction, Heavy machinery drivers etc etc.

Unfortunately it is not uncommon that some of these **best candidates** for heavy recovery towing careers are precluded, because they don’t fit the far too onerous and restrictive drivers certificate criteria which is aimed at car towing and fails to understand the uniqueness of Heavy Recovery Towing.

8. Nearly 30 years of this ill conceived legislation has created the situation where many heavy recovery towing drivers are now ageing. The inability to have passed on knowledge and skills to keen younger persons early, ensuring they are more likely to stay in the industry has created a **dangerous knowledge and skill void.**

9. The Heavy Towing and Recovery industry urgently needs to **return to a system of “on the job training and experience” long before** being allowed behind a steering wheel!!! Such an

arrangement would allow personnel to get the “feel” for the industry over time to decide if they see the industry as a long term commitment at an early age, in line with other specialist careers.

10. The Drivers Certificate Criteria serves no useful purpose to Heavy Recovery Towing. It is in fact a hindrance.

11. Removing the NSW Tow Truck Legislation from the Heavy Recovery Towing component of the Transport Industry will extinguish Driver Certificate hindrance and permit sourcing the best suitably skilled personnel for Training and Employment in best Safe Industry Practice.

The driver of the heavy vehicle who is driving a vehicle that is subject to a permit issued under the HVNL must keep a copy of the permit for the exemption in the driver's possession.

The driver or operator of a heavy vehicle being used on a road that is subject to a permit issued under the HVNL must not contravene a condition of the permit.

The driver or operator must comply with the provisions of the *Heavy Vehicle (Mass, Dimension and Loading) National Regulation* unless anything contrary is applied within this permit.

It is an offence to operate a vehicle at a mass limit greater than indicated by an official traffic sign.

Declaration

Delegate of the National Heavy Vehicle Regulator

Signed:

Peter Caprioli
Executive Director Network Access

Dated: [REDACTED]/2018

Attachments No Yes Specify

N/A

Disclaimer:

The National Heavy Vehicle Regulator (NHVR) accepts no liability for any errors or omissions and gives no warranty or guarantee that the material, information, maps or publications made accessible are accurate, complete, current or fit for any use whatsoever. The information contained within the NHVR Route Planner online map system is subject to change without notice.

The National Heavy Vehicle Regulator (NHVR) accepts no liability for the information provided within the authorised route as part of this exemption/authorisation. The operator must ensure prior to travel that the roads/areas/networks listed in the authorised route are still current and accessible as the approved network is subject to change at any given time.

To the extent permitted by law, NHVR excludes liability for any loss (including loss from viruses, or consequential damage) caused by use of or reliance on the NHVR Route Planner.

Access to the Application is only provided for your personal use. You may not sell or rebrand information obtained from the NHVR Route Planner without NHVR's written permission, or represent that the information is from a source other than NHVR.



Permit Number

Class 3 – Tow Truck - Mass or Dimension Exemption Permit

Heavy Vehicle National Law

This Permit is issued under the provisions of *Section 122 of the Heavy Vehicle National Law Act 2012* for the operation of a Class 3 vehicle (*as defined in this Permit*) subject to the conditions set out in this Permit and any attachments.

Permit details

This Permit is issued to:

Description of vehicle:

Tow Truck

Issue period

From: To:

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Period Permit

Vehicle details

Vehicle Registration OR Identification	State of Vehicle Registration	Type of vehicle	GVM (kgs)	GCM (kgs)
	NSW	Tow Truck	26000	90000

Maximum Loaded Vehicle dimensions

Width (metres)	Length (metres)	Height (metres)	Rear Overhang (metres)	Total Mass (kgs)
3.50	50.00	4.60	Prescribed	90000

Load description

Towing Of Broken Down And Disabled Heavy Vehicles

Grouped Axle Mass and Spacings

Unit Number	Axle Number	Number of Tyres	Steerable Axle	Distance from previous axle (metres)	Tyre Size (mm)	Ground Contact Width (metres)	Axle Mass Limits (kgs)
1	1	2	Y	-	295	2.40	6500
	2	4	N	6.00	279	2.40	20870
	3	4	N	1.40	279	2.40	

Authorised Routes

Turn by turn description Area of operation

ROADS AND MARITIME SERVICES - NSW

Travel is permitted on all State Classified Roads in New South Wales. A copy of the Schedule of Classified Roads, where you can identify the State roads can be downloaded from the Roads and Maritime Services website at:

<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/lgr/documents/classified-roads-schedule.pdf>

Road Conditions

Refer to Attachment A and B for further conditions.

Travel Conditions

Refer to Attachment A and B for further conditions.

Vehicle Conditions

Refer to Attachment A and B for further conditions.

Other Conditions

Refer to Attachment A and B for further conditions.

ATTACHMENT A

** HEAVY TOW TRUCK PERMIT CONDITIONS **

1. This list of conditions and the Heavy Tow Truck Permit must be carried at all times in the tow truck.
2. For the purpose of this permit the term "tow truck" means a vehicle used for towing disabled (broken down or damaged) heavy vehicles and which comprises or has permanently affixed to it a crane or similar apparatus for lifting a vehicle partially clear of the ground and is equipped to maintain it in such a position whilst towing it. The term "towed vehicle" refers to a rigid vehicle, trailer or vehicle combination (articulated vehicle, road train, B-Double etc).
3. The Heavy Tow Truck Permit applies only to the tow truck described on the Heavy Tow Truck Permit or when the same vehicle is operating in combination with a broken down, damaged, unregistered, abandoned or defective registrable motor vehicle/motor vehicle combination. A Registrable vehicle is a vehicle which does not exceed a general access mass or dimension limit.
4. The travel restrictions and curfews outlined in the Class 1 Load Carrying Vehicles Notice and the 'Additional Access Conditions for oversize and overmass heavy vehicles and loads' apply in the following circumstances if exceeding a relevant mass and/or dimension limit:
 - a) If a tow truck is to tow a disabled heavy vehicle or combination on a road or zone to which a travel restriction or curfew is applicable it must use the shortest practical route:
 - i. To travel off the applicable road or zone; or
 - ii. To travel to a destination if it is located on or within the applicable road or zone.
 - b) If towing a disabled heavy vehicle or combination a tow truck must not travel on a road or zone to which a travel restriction or curfew is applicable, except for the circumstances outlined in 5(a).
5. A sign must be secured in a clearly visible position at the rear of the "towed vehicle" at all times whilst it is being towed. This sign must:
 - a. Be of a durable and waterproof material of minimum dimensions 1200mm x 300mm
 - b. Have a yellow 10mm edge strip and a black 20mm wide border
 - c. Have black lettering complying with Australian Standards AS1743 and 1744 on a fluorescent yellow retro reflective background complying with Australian Standard AS1906 (Part 1 – 1990 class 1 or 2).
 - d. Display the words "TOWED VEHICLE" in at least 150mm high Series CN lettering

Note: (This sign may be combined with the "OVERSIZE" sign outlined in condition 6.)
6. An "OVERSIZE" sign must be displayed as set out in the Class 1 Load Carrying Vehicles Notice.

Note: (This sign may be combined with the "TOWED VEHICLE" sign outlined in condition 6.)
7. All stop and direction turn indicator signal lamps fitted to the "towed vehicle" must be operational from the towing vehicle at all times or a portable light board which is operational from the towing vehicle must be secured to the rear of the "towed vehicle". Additionally, between sunset and sunrise and at times of restricted visibility, all operational clearance, side marker and tail lamps are to be lit and in the case of a damaged/defective vehicle, emergency side lamps must be fitted and operational at intervals no greater than 6 metres.
8. The driver of the tow truck must hold an appropriate current drivers licence as follows –
 - HR when towing a rigid truck, including a prime mover, and
 - MC when towing any prime mover with a semi-trailer attached,
 - MC when towing any B-Double or Road Train.

ATTACHMENT B

1. The maximum axle loads specified in Schedule 1 apply only to a tow truck that has a manufacturer's Gross Combination Mass of 18000 kgs or greater provided the travel restrictions listed in Schedule 1 together with the conditions specified in Schedule 2 are complied with.

SCHEDULE 1 – LOAD LIMITS

REAR AXLE GROUP	MAXIMUM AXLE LOADS	TRAVEL RESTRICTIONS
Dual tyre single axle	up to 10 tonnes	No travel restrictions
Dual tyre tandem axle	up to 18.5 tonnes	No travel restrictions
Dual tyre tandem axle	From 18.5 to 20 tonnes	No travel restrictions. Maximum speed on restricted bridges 10 km/h
Dual tyre tandem axle	From 20 to 22 tonnes	May be towed a distance not greater than an area of a 450 kilometre radius from the point of first towing the disabled vehicle or combination. Must not travel across any restricted bridges.
Dual tyre tandem axle	Exceeding 22 tonnes	May be towed off the road if causing a danger to people or property, preventing the safe flow of traffic or where directed by a Police Officer only. May not travel across any restricted bridges.

SCHEDULE 2 – CONDITIONS

1. The manufacturer's Gross Combination Mass (GCM) for the tow truck must be displayed in kilograms in block letters and figures at least 50mm high on the right hand side of the vehicle.
2. Despite the mass limits listed in the above table in Schedule 1, a tow truck must not exceed the mass limits listed under 'Mass and Associated Dimensions' on this permit.
3. The tow truck's GCM or GVM must not be exceeded under any circumstances.
4. The tow truck's minimum front axle load shall not be less than 1800 kgs.
5. The manufacturer's maximum axle and suspension rating for the tow truck are not to be exceeded.
6. The load on the tyres fitted to the tow truck must not exceed the manufacturer's maximum tyre capacity.
7. The towed vehicle's brakes must be interconnected with the braking system of the tow truck and be capable of independent operation by the tow truck's driver, where the towed vehicle's weight, including any loading, exceeds six (6) tonnes or exceeds the tow truck's unladen weight.

EXCEPTION: Items 4 and 7 do not apply to a tow truck that is used to tow a vehicle off the road if it is causing a danger to people or property, preventing the safe flow of traffic or where directed by the Police.

SCHEDULE 6

EXAMPLES OF HEAVY VEHICLE NATIONAL LAW (NSW)-DEFINITIONS

"tow truck" means--

(a) a heavy motor vehicle that is--

- (i) equipped with a crane, winch, ramp or other lifting device; and
- (ii) used or intended to be used for the towing of motor vehicles; or

(b) a heavy motor vehicle to which is attached, temporarily or otherwise, a trailer or device that is--

- (i) equipped with a crane, winch, ramp or other lifting device; and
- (ii) used or intended to be used for the towing of motor vehicles.

"conduct" means an act, an omission to perform an act, or a state of affairs.

"consent" includes an approval or concurrence.

"contract" includes an agreement.

"employed driver" , of a heavy vehicle, means a person who is employed by someone else to drive the vehicle.

"employee" means an individual who is employed by someone else.

"employer" means a person who employs someone else.

"fit" , to drive a heavy vehicle, or to start or stop its engine, for a person, means the person--

- (a) is apparently physically and mentally fit to drive the vehicle, or start or stop its engine; and
- (b) is not apparently affected by either or both of the following--

- (i) alcohol;
- (ii) a drug that affects a person's ability to drive a vehicle; and

(c) is not found to have an alcohol concentration in the person's blood or breath exceeding the amount permitted, under an Australian road law of this jurisdiction, for the driver of a heavy vehicle; and

(d) is not found to be under the influence of a drug or to have present in the person's blood or saliva a drug that the driver of a heavy vehicle is not permitted to have present in the driver's blood or saliva under an Australian road law of this jurisdiction.

"place of business" , of a responsible person for a heavy vehicle, means a place--

- (a) at or from which the person carries on a business; or
- (b) occupied by the person in connection with a business carried on by the person; or
- (c) that is the registered office of the person if the person is a body corporate.

"relevant place" means--

- (a) a [place of business](#) of a responsible person for a heavy vehicle; or
- (b) the relevant garage address of a heavy vehicle; or

(c) the base of the driver or drivers of a heavy vehicle; or

(d) a place where records required to be kept under this Law or a heavy vehicle accreditation are located or are required to be located under this Law or a heavy vehicle accreditation.

"qualified" , to drive a heavy vehicle, or to start or stop its engine, for a person, means the person--

- (a) holds a driver licence of the appropriate class to drive the vehicle that is not suspended; and
- (b) is not prevented under a law, including, for example, by the conditions of the driver licence, from driving the vehicle at the relevant time.

"registered operator" , of a heavy vehicle, means the person recorded on a vehicle register as the person responsible for the vehicle, however named, kept under another Australian road law.

"registration number" , for a heavy vehicle, means the identifying registration number, however described, given to the vehicle under an Australian road law.

"responsible person" , for a heavy vehicle, means a person having, at a relevant time, a role or responsibility associated with road transport using the vehicle, and includes any of the following--

(a) an owner of the vehicle or, if it is a combination, an owner of a heavy vehicle forming part of the combination;

(b) the vehicle's driver;

(c) an operator or registered operator of the vehicle or, if it is a combination, an operator or registered operator of a heavy vehicle forming part of the combination;

(d) a person in charge or apparently in charge of--

(i) the vehicle; or

(ii) the vehicle's garage address or, if it is a combination, the garage address of a heavy vehicle forming part of the combination; or

(iii) a base of the vehicle's driver;

(e) a person appointed under a heavy vehicle accreditation to have monitoring or other responsibilities under the accreditation, including, for example, responsibilities for certifying, monitoring or approving the use of heavy vehicles under the accreditation;

(f) a person who provides to an owner or registered operator of the vehicle or, if it is a combination, an owner or registered operator of a heavy vehicle forming part of the combination, an intelligent transport system for the vehicle;

(g) a person in charge of a place entered by an authorised officer under this Law for the purpose of exercising a power under this Law;

(h) a consignor of goods for road transport;

(i) a packer of goods in a freight container or other container or in a package or on a pallet for road transport;

(j) a person who loads goods or a container for road transport;

(k) a person who unloads goods or a container containing goods consigned for road transport;

(l) a person to whom goods are consigned for road transport;

(m) a person who receives goods packed outside Australia in a freight container or other container or on a pallet for road transport in Australia;

(n) an owner or operator of a weighbridge or weighing facility used to weigh the vehicle, or an occupier of the place where the weighbridge or weighing facility is located;

- (o) a responsible entity for a freight container on the vehicle;
- (p) a loading manager for goods in heavy vehicles for road transport or another person who controls or directly influences the loading of goods for road transport;
- (q) a scheduler for the vehicle;
- (r) an employer, employee, agent or subcontractor of a person mentioned in any of paragraphs (a) to (q).

"transport activities" means activities, including business practices and making decisions, associated with the use of a heavy vehicle on a road, including, for example--

- (a) contracting, directing or employing a person--
 - (i) to drive the vehicle; or
 - (ii) to carry out another activity associated with the use of the vehicle (such as maintaining or repairing the vehicle);