



TRANSPORT AND RESOURCES COMMITTEE

Members present:

Mr SR King MP—Chair
Mr LL Millar MP (virtual)
Mr BW Head MP (virtual)
Mr JR Martin MP
Mr LA Walker MP (virtual)

Staff present:

Dr J Rutherford—Committee Secretary
Mr Z Dadic—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE TOW TRUCK BILL 2023

TRANSCRIPT OF PROCEEDINGS

Tuesday, 11 July 2023

Brisbane

TUESDAY, 11 JULY 2023

The committee met at 11.00 am.

CHAIR: Good morning. I declare this public briefing for the committee's inquiry into the Tow Truck Bill 2023 open. My name is Shane King, member for Kurwongbah and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today, and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander people whose lands, winds and waters we all share. With me today on teleconference are Lachlan Millar MP, member for Gregory and deputy chair; Bryson Head MP, member for Callide; and Les Walker MP, member for Mundingburra. James Martin MP, member for Stretton, is physically here. Trevor Watts MP, member for Toowoomba North, is sadly an apology.

On 13 June 2023, the Minister for Transport and Main Roads and Minister for Digital Services introduced the Tow Truck Bill 2023 into the Queensland parliament. The bill was referred to the Transport and Resources Committee, and the purpose of today's briefing is to assist the committee with its consideration of that inquiry.

The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament. As parliamentary proceedings, under the standing orders, any person may be excluded from the hearing at the discretion of the chair or by order of the committee. The committee will not require evidence to be given under oath, but I remind witnesses that intentionally misleading the committee is a serious offence. You have been previously provided with a copy of instructions to witnesses, so we will take those as being read.

The proceedings are being recorded by Hansard and broadcast live on the parliament's website. Media may be present and will be subject to the chair's direction at all times. The media rules endorsed by the committee are available from committee staff if required. All those present today should note that it is possible you might be filmed or photographed during the proceedings by media, and images may also appear on the parliament's website or social media pages. I ask everyone present to turn mobile phones off or to silent mode.

CUMMINS, Ms Melissa, Acting Executive Director, Legislation, Standards and Accreditation, Department of Transport and Main Roads

DUMONT, Ms Nadine, Director, Industry Accreditation Policy, Department of Transport and Main Roads

SHAW, Mr Nick, Acting Deputy Director-General, Customer Services, Safety and Regulation, Department of Transport and Main Roads

CHAIR: We welcome representatives from the Department of Transport and Main Road. We have invited you along to brief the committee. I invite you to make a short opening statement after which we will have some questions for you.

Mr Shaw: Good morning. Thank you, Chair and committee members. My name is Nick Shaw. I am the Acting Deputy Director-General of Customer Services, Safety and Regulation in the Department of Transport and Main Roads. With me today are Melissa Cummins, Acting Executive Director of Legislation Standards and Accreditation, and Nadine Dumont, Director of Industry Accreditation Policy. Thank you for the opportunity to brief the committee today on the Tow Truck Bill 2023. To assist the committee, I will provide some background on the bill and its purpose. I will also provide an overview of notable enhancements compared to the current act following a review of the legislation.

This bill replaces the current Tow Truck Act 1973. The current act has remained largely unchanged since its introduction, aside from two significant changes. It was firstly revised in 1997 to include police seizure towing as a form of tow regulated under the legislation. The act was revised again in 2018 to regulate the towing of vehicles from private property. This change addressed a growing concern over unfair and intimidatory practices around the removal of vehicles parked on private property.

Given the limited changes to a decade-old act, the 2018 independent investigation into the towing industry, removal of vehicles from private property, made eight broad recommendations regarding the legislative framework. This included that TMR undertake a comprehensive review of the towing legislation, its penalties and offences. The Queensland government accepted all recommendations made as a result of the independent investigation. The Department of Transport and Main Roads subsequently conducted a review of the tow truck legislation. This review sought to ensure the legislative framework was simple, precise, accessible and appropriately targeted to achieve the intended policy objectives. These policy objectives include ensuring road safety through the timely, efficient and safe removal of vehicles from the road, ensuring public safety through the provision of consumer protections, and balancing this with industry needs. A review of all offences and penalties within the tow truck legislation was also undertaken to ensure they accurately reflect the seriousness of offences and provide the necessary deterrent effect to discourage noncompliant behaviour.

The review determined the fundamental of Queensland's regulatory framework for tow trucks was sound. These fundamentals include the need for suitable accredited persons to conduct certain towing activities in certain areas, the need for offences and penalties, the need for procedures to obtain consent, the towing and storage of vehicles and property safely, industry conduct requirements, maximum fees that may be charged, the requirement to maintain integrity and confidentiality of records and a framework for investigations and compliance. The review did, however, identify that the existing legislation contained outdated requirements, old drafting practices and either inflexible or ambiguous requirements which were not reflective of modern regulatory frameworks.

The review also identified several penalties that were inconsistent with other more modern transport legislation and highlighted some policy changes that would need to be addressed now or into the future. The bill addresses these matters and introduces a contemporary legislative framework for tow trucks. Importantly, the bill also establishes clear policy objectives by setting these out as a purpose of the legislation. The stated objectives of the legislation are enhanced road safety, provide consumer protections to motorists, while at the same time supporting Queensland's regulated tow truck industry to deliver efficient and essential towing services. It also facilitates industry best practice by providing a balanced framework for regulating the safe, competent and professional operation of tow trucks.

The fundamentals of the tow truck scheme that I have previously referred to are maintained by the bill. These are the aspects of the framework that are integral to the operation of the scheme if it is to meet its stated objectives. However, to further improve clarity as to how the tow truck scheme operates, the bill clearly indicates that the legislation only applies to the towing of motor vehicles involved in crashes, police seizures from all street regulated parking areas and the towing of vehicles from private property. Other towing activities like breakdown tows have not previously been regulated and nor are they included to be regulated in the proposed framework.

In addition, the regulated towing activities are only regulated within defined areas of Queensland, also known as regulated areas. These regulated areas will be prescribed by regulation to provide flexibility should there be a need to mend the boundaries in the future. While the specifics of the regulated areas have not changed, they have been made clearer to the community and the industry. Importantly, the bill will further protect vulnerable members of the public who require towing services such as after a traumatic accident or when left stranded late at night after their vehicle is towed without their consent from a private property location. This will primarily be achieved by an expanded suite of offences which I will talk to shortly. The bill introduces a new structure in terminology enhancing consistency across other various industry accreditations administered by the Department of Transport and Main Roads.

To ensure that the new legislation is responsive to emerging operational needs within the tow truck industry and administrative improvements, appropriate heads of power for operational matters have been included. This will allow for a timely response through regulatory amendments to minor matters that are likely to be modernised over time. For example, this could include changes to obtaining and dealing with towing authorities such as moving to electronic documents. Old terminology referring to an operator's licence, driver's certificate and assistant's certificate will be simplified under the one consistent term of accreditation. In addition, superfluous and outdated terms such as permits which are no longer used have been removed.

The bill also includes provisions for modernised enforcement powers to enable authorised officers, such as departmental compliance officers, to effectively enforce industry compliance. Authorised officers' powers have been consolidated into a central location within the bill, making responsibilities clear and accessible.

At the same time, the bill recognises the need to provide protections for accredited persons within the tow truck industry. One of these protections is the right against self-incrimination which ensures that a person cannot be compelled, for example, to provide help to an authorised officer or produce or certify documents if these activities may incriminate them. It also provides safeguards for the tow truck industry when a thing is seized for investigation purposes. These safeguards take the form of requiring the department to issue a receipt for items seized, allowing an owner to inspect a seized thing and requesting the return of seized things.

The Tow Truck Bill provides stronger ground for ending, cancelling or suspending accreditation including under public interest grounds. It establishes a reasonable expectation that members of the public will be adequately protected from aggressive, coercive or inappropriate behaviour from accredited persons performing tow truck services, and these provisions align with other transport legislation aimed at providing or supporting better outcomes for the Queensland community.

The bill introduces a range of new offences to address issues of dishonest and predatory behaviour within the tow truck industry, and to strengthen compliance and enforcement outcomes. These new offences are aimed at addressing specific concerns ensuring that appropriate measures are in place to deter and penalise such behaviour. For example, one of the new offences introduced in the bill is the act of destroying a vehicle in an unauthorised holding yard. This offence is designed to ensure that only secure and authorised locations are used for vehicle storage, allowing motorists to easily locate and retrieve their vehicle. This measure helps to ensure that vehicles are stored in secure locations, minimising the risk of theft, damage or unauthorised access to a person's vehicle. This new offence will have a maximum penalty of 80 penalty units or \$12,384.

The bill also includes an offence that makes it illegal for a person to obtain a towing authority without being accredited to do so. This provision aims to ensure that only suitable and accredited individuals are involved in providing towing services to members of the public, particularly in situations where they may be distressed and vulnerable, such as following a vehicle crash. The provision not only promotes the safety and wellbeing of individuals involved in crashes but also helps to prevent potential exploitation or unethical practices by unaccredited drivers. It ensures that those who respond to these towing situations are appropriate and accountable, providing a high level of service and protection of members of the public during distressing events. This new offence will have a maximum penalty of 60 penalty units or \$9,288.

It will also be an offence to operate an unauthorised tow truck. This will ensure that only suitable tow trucks that have undergone appropriate compliance inspections by TMR are used to safely transport passengers and vehicles. The introduction of this offence emphasises the importance of maintaining standards within the tow truck industry, particularly when transporting passengers. This new offence will attract a maximum penalty of 50 penalty units or \$7,740.

The bill includes a new offence for tow truck business owners who direct their employees to act in contravention of their obligations under the act. This is a serious offence targeting situations where business owners abuse their power and undermine the integrity of the tow truck industry. This includes directing employees to perform towing services without proper accreditation, carrying unacceptable passengers and towing vehicles without necessary authority or consent. The bill seeks to hold business owners accountable for their actions and ensure that they do not exert undue influence that compromises compliance with the legislation. This provision helps to promote a culture of compliance and professionalism within the industry while discouraging unethical practices and safeguarding the interests of consumers. Given the seriousness of this activity, this offence will have a maximum penalty of 160 penalty units or \$24,768.

The bill also includes offences related to fraudulent use of documents; specifically it introduces an offence of forging an accreditation document, towing authority or towing consent with the intent to defraud. The provision targets those who create or alter documents in a deceptive manner to misrepresent themselves within the tow truck industry. Additionally, the bill introduces an offence for knowingly using or directing a person to use an accreditation document fraudulently. This offence targets those who are aware that the accreditation document being used is forged or fraudulent, yet still engage in the deceptive practice of using such documents to gain an unfair advantage or deceive others. By including these offences, the bill aims to address and deter fraudulent behaviour within the tow truck industry. These measures ensure that persons are held accountable for their actions when it comes to misrepresentation or fraudulent misuse of documents. These offences also seek to promote honesty, transparency and trustworthiness within the regulated tow truck industry and prevent fraud practices that can harm consumers and undermine the integrity of the tow truck industry. These offences will have a maximum penalty of 60 penalty units or \$9,288.

The bill further focuses on transparency and accountability with the industry by expanding the existing requirement for accredited operators, drivers and assistants to notify the chief executive if they have been charged with or convicted of a notifiable offence. A new requirement will also include that business operators must also inform their fellow business partners or executive officers if charged or convicted of a notifiable offence. The expansion of the requirement for notification was done in conjunction with the review of the list of notifiable offences to ensure that only offences that are directly related to the towing profession are included. An important consideration in this provision was maintaining an individual's privacy. Where offences have no direct bearing on a person's suitability or ability to perform their towing role, there is no requirement to notify anyone.

However, the bill ensures that more serious offences of a violent nature, theft or intimidation that directly impact safety are subject to notification requirements. This helps maintain public trust and safety by ensuring that individuals with a history of violent or relevant criminal conduct are appropriately restricted from entering or remaining in the regulated tow truck scheme. These offences will attract the maximum penalty of 20 penalty units or \$3,096.

In addition to the new offences, a review of penalty amounts was also conducted to ensure that the penalties associated with offences within the tow truck industry appropriately reflected the seriousness of the offences committed. The review established a fair and consistent penalty framework that aligns with other offences across transport legislation more broadly. Nine penalties were increased, 18 remain the same and one penalty was decreased. The purpose of amending the penalties is to ensure that they are proportional to the significance of the offence committed. Penalties should serve as an effective deterrent against non-compliance and provide appropriate consequences for those who engage in unlawful or unsafe practices. This in turn supports the overall objectives of promoting safety, fairness and accountability within the regulated tow truck industry.

In terms of the consultation that has been undertaken, the towing industry has played an important role in shaping the Tow Truck Bill 2023. Their input was sought on a number of policy issues and proposed legislation changes. They were supportive of the need for clearer and more modern legislation reflecting the industry's desire for a legislative framework that is easily understood, aligned with current practices and provides clarity on compliance requirements. The department undertook extensive stakeholder engagement throughout the review process. Firstly, the Queensland towing industry, including drivers, assistants and operators, were provided with the opportunity to respond to the findings of the legislative review. This was through the release of a public discussion paper and online survey published on the government's 'Get involved' website in late 2019. The department also considered industry reviews gathered through two industry forums in late 2019, along with targeted meetings with the Queensland Police Service, the RACQ and the Queensland Trucking Association. Since the release of the review outcomes in 2019, TMR has continued to receive direct feedback from the industry and has met with industry members to discuss their views. Industry was provided with additional opportunities for feedback on policy issues in mid-2022 and again in early 2023. The industry did not raise any significant opposition to the proposed approach to the bill and the reforms it contains.

It should be noted that a new tow truck regulation will be required to support the bill and this regulation is currently being developed for government consideration should the bill be passed by the Legislative Assembly. The regulation will prescribe the operational details and implement the requirements and objectives set out in the act, including administrative procedures. Industry was also consulted on proposed changes that are likely to be included as part of any draft regulation and the majority of these proposed changes relate to reduction in red tape for the industry and removing unnecessary burden and as such the industry did not raise any concerns. As always, the department continues to receive suggestions from industry and in line with our continuous improvement process it is recognised that additional work may need to continue to better understand and evaluate these suggestions. Thank you for your time and we welcome any questions.

CHAIR: If we run out of time for questions, is it okay if we write to you with any further questions? Also, any questions taken on notice, if they could be provided by 4 pm, Tuesday, 18 July that would be much appreciated

Mr Shaw: Yes. Thank you, Chair.

CHAIR: We will go to those online because they have been waiting patiently. Member for Gregory, did you have any questions?

Mr MILLAR: Yes. Thanks for coming in. Is there a peak body that represents Queensland tow truck operators with whom the department has consulted and which industry participants have been consulted during the review of this act?

Mr Shaw: Thank you, member for Gregory. I might defer to one of the team in terms of that response.

Ms Cummins: The simple answer is no, there is no organised peak body for the industry. We reach out to key regulated parties as representatives of the industry and that is whom we engaged with throughout that consultation process that Nick has just spoken to. It has been a lengthy consultation process whereby we have reached out to those key contacts to provide feedback on the entire package, but also as new issues have evolved over time we have put specific issues in front of them. We have also had an open invitation to industry members to contact us should they have any need for a discussion regarding the proposed legislation.

Mr MILLAR: Who were the key contacts? Who are we talking to?

Ms Cummins: The key contacts are essentially those businesses that operate tow truck services across the regulated areas. I will not name particular names, but they would be familiar to the committee.

CHAIR: I understand where the member for Gregory is going. We have put out for stakeholders to contact us for our public hearing and there are not too many. As you said, they are fairly satisfied, but it would be good for us to hear from some. We were going to contact RACQ, Queensland police—you mentioned them and that is good—Ready Towing, and some of the bigger organisations like that. We have had some of the heavy vehicle ones contact us.

Mr Shaw: I think it is fair to say, just talking to the team, we did get feedback through the process, but the major reforms were in 2018 and this was more of a tidy up of the act and legislation, but I take your point. There are about 99 operators in Queensland. I think the other complex part is we are not talking about the whole state, we are only talking about those specific regulated areas.

CHAIR: And not breakdown.

Mr Shaw: In the major urban areas and those major crash zones. There is a map that articulates where those areas are, but it is not across the whole of the state and all regions.

CHAIR: I chaired that one as well.

Mr MARTIN: I have a follow-on question about the key players. Would you be able to provide the committee with the top five large operators who would have more of a capacity to make submissions whom we can reach out to?

Ms Cummins: Certainly. We can provide a list.

CHAIR: Member for Callide, did you have anything at this stage?

Mr HEAD: Thank you, Chair. I note firstly the department has not had a chance to peruse the submissions we have received and you will be able to respond later, but a submitter has raised concerns about inconsistency within the department for giving approvals for driver certificates, specifically in relation to the process of determining whether someone is an appropriate person. Is the department aware of any formal or informal complaints about this inconsistency?

Mr Shaw: I might ask one of the team to respond to that.

Ms Dumont: I thank the member for the question. I am not across every single complaint that has come in to the Department of Transport and Main Roads so I cannot categorically say that we have definitely not had a complaint about that, but what I will say is, like all applications which assess suitability on a more subjective criteria—so, in essence, when a person applies to be a tow truck driver, for example, they put in their application and they need to undergo some assessments and suitability checking to ensure that they are appropriate people to interact with vulnerable members of the community—one of those things is a criminal history check. There is no bible which provides a direct list of ‘if this offence, then this outcome’, so each application is assessed on its merits and therefore a person who is given the delegation from the chief executive to assess that application will assess the person on their merits.

Inherently there is a possibility that it could be seen as inconsistent. However, that is not the intent. The intent is always to ensure that a person is suitably qualified and a person that would have an extensive criminal history of a violent nature, for example, would not be considered a suitable person. However, with the depth of different criminal histories and traffic histories that a person can have, there is potential for that individual decision-maker to make a slightly different decision to someone else. However, they are appealable decisions and a person is well within their rights to get that internally reviewed and then subsequently go to QCAT if they are still dissatisfied with that decision.

Mr HEAD: Thank you. The provisions outlining matters to be considered in deciding whether persons are appropriate persons to hold or continue to hold accreditations, are they the same under this new bill as what currently exists or have these general provisions been updated as well?

Ms Dumont: Yes, there have been some slight changes to this area. The first being public interest for a person to hold an accreditation. That is ensuring that that is consistent with all our other accreditation schemes. Again, it is quite a subjective test. However, it is essential that if information comes to hand that would not be in the public interest for these people to hold an accreditation, then we can refuse that accreditation. That is new, but that is to ensure consistency. The other thing that has changed is what is considered a notifiable offence. Previously it was pretty much every offence in the Criminal Code, which as you can imagine is an extensive list of offences. We have gone through systematically and ensured that only those offences relevant to towing are now notifiable offences. Therefore, that list is a little bit more condensed just to give a little bit more clarity. We are actually providing a list of what those offences are, which will hopefully improve transparency and give the industry a little bit more clarity about the types of things that we are looking for.

CHAIR: Clause 63 makes it an offence for a tow truck operator or employee to disclose sensitive information they have obtained in the course of the business. This includes personal information about the owner or driver of a motor vehicle involved in an accident or vehicle seizure. Obviously we do not want to get into any sensitive information, but what types of sensitive information have been released to necessitate this clause to change?

Ms Dumont: Just because the provision is in the bill does not again categorically mean that somebody has committed this offence. It could be a matter of we have anticipated that this could be something that could have a detrimental effect and then we are regulating against it to ensure that it does not happen. Things such as the Optus breach and a heightened public interest for their information to be protected were a real focus when we were drafting this bill. We wanted to ensure that people had comfort with the fact that their personal and private information was being dealt with appropriately.

CHAIR: We understand. It is its 50th birthday so it is due for a bit of a celebration and an update. We get this with a lot of things that come through this committee because we are so close to New South Wales and we share the border—things go back and forward. If a towie from New South Wales came over the border and did something, they would not be subject to our regulations. Is there any move for a national overview—a national standardisation?

Mr Shaw: Chair, I probably have to defer to the team.

Ms Cummins: The simple answer to that is no. Unlike some of our other regulatory schemes where we have established mechanisms to work with our jurisdictional counterparts, for instance, driver licensing or vehicle registration—

CHAIR: National vehicle heavy law.

Ms Cummins: Exactly. There is no effort nationally to keep as aligned as possible. Unfortunately, for the tow truck sector, every jurisdiction regulates in quite a different way. Every jurisdiction bar Northern Territory and Tasmania have regulatory schemes for tow trucks, but very divergent schemes. For example, in New South Wales the entire state is regulated. It does not restrict the regulatory framework, and also has a number of different arrangements for tow truck licensing et cetera. Unfortunately, the requirements in Queensland are different to that in New South Wales.

CHAIR: I was just wondering if you broke down just over the border.

Mr MARTIN: That must happen.

Mr Shaw: It would appear that the requirements in New South Wales actually apply to all aspects whereas ours is only focused on those regulated services, crashes and private towing. They are probably going to get more an issue the other way.

CHAIR: Member for Gregory, did you have any further questions at this stage?

Mr MILLAR: No, not at this stage.

CHAIR: Member for Callide, did you have any more at this stage?

Mr HEAD: Thank you, Chair. I am still trying to piece things together. Because some of it was covered in the opening statement I was trying not to rehash things. I believe you clarified it in your opening statement, but a submitter has outlined potential concerns with the bill around the restriction

to hold a driver's licence certificate confines the operator or business owner to utilise a tow truck for regulated purposes only. In the department's understanding of this bill, is that correct or is a tow truck company and the driver who holds that certificate still well within their rights to conduct other business with that tow truck?

Ms Dumont: In essence, what this bill regulates are those particular regulated services. It does not prevent a person from participating in an unregulated service such as a crash tow. They absolutely can do both.

Mr HEAD: I am happy with that.

Mr Shaw: Essentially, the regulated service is not changing all the regulated areas. It is just strengthening the legislation around that and making it clearer for everyone.

Mr MARTIN: I have a question in relation to holding yards, which you mentioned in your opening statement. Clause 56 introduces an offence in relation to storing vehicles in unauthorised holding yards. Could you share with the committee the reasons this change has been put forward? What was happening out there?

Mr Shaw: The issue is really around the security of the vehicle and making sure that there is signage and that people know that it is a secured vehicle. I will let Nadine add to that.

Ms Dumont: In essence, the reason for having requirements around storage facilities is very much to protect your property. Sometimes these are very expensive vehicles and there could be a lot of property in the vehicle as well. It is really important that, when a vehicle is transported, the public have that security of knowing that their car is being put somewhere with a fence and a lock on it. It is not just sitting in the middle of a field, for example, where anybody can have access to it. If you value your vehicle and your possessions, it is about ensuring that people have the confidence that when they are taken away they will continue to be secure.

CHAIR: Member for Gregory, do you have anything further at this stage?

Mr MILLAR: Not really. I am interested in hearing about the bill. Were people out my way in Western Queensland consulted? Where you have one town operators or regional operators, have they been consulted?

Ms Dumont: As I understand it, Gregory is largely an unregulated area. Given the rural and regional nature of the electorate, it is not actually defined in the regulated areas at the moment. The people we consulted with were the members of the towing industry who are currently part of the regulated towing area. That did not mean that people who were not part of the regulated towing area were not able to write in and provide feedback, but who we directly targeted were those who would be directly affected by the regulation.

Mr MILLAR: So it is mainly South-East Queensland and along the coast?

Ms Dumont: That is correct. It is where the population so where there is a large number of crashes or a high density of towing operators so there may be multiple operators available to go to a scene.

Mr Shaw: For the member's benefit, the regulated services have not changed and there was not any feedback or response that we received that it needed to change. If we were to look at that and had changed regulated services then there is a balance between protecting the community and also, if you have to be a regulated service, you have to pay a fee and you have to go through an assessment process. This is a targeted continuation of what is working currently. There may be consideration to look at regulated areas in the future and the regulation will allow us to look at that. There would have to be a lot of work not just to understand the impacts on the tow truck industry and the community but also to look at the data to say whether there are issues in the tow truck industry in those areas. Through the process that we undertook, looking at complaints and issues raised by the community over the past few years, it was not something that came to a head.

Mr MILLAR: For most people in the seat of Gregory, tow trucking is done by an RACQ approved person and I think they are very compliant.

Mr Shaw: Yes. It is those tow trucking services that are for crash sites or private property. For those tow truck services where the police get them to move cars from regulated services, like Mary Street, that is not covered in the act. Even if you have a breakdown or whatever, they are also not included because the consumer has a choice and often it will be provided by RACQ or some other provider. It is more around getting the balance right between the regulation and the cost to industry.

CHAIR: Before I go to the member for Mundingburra, I was wondering: with the policing, for want of a better term, of all this, is it departmental officers or police that do it? If there are rogue elements out there or people doing the wrong thing, what is the enforcement body?

Ms Dumont: It is both. Transport and Main Roads have authorised officers, our inspectors, who are able to conduct investigations and look into complaints and issues, and also conduct audits and things like that. Matters can be referred to the Queensland Police Service as well.

CHAIR: Member for Mundingburra, do you have anything at this stage? No. The member for Callide does.

Mr HEAD: To follow up on the question of the member for Gregory, under the existing laws is it currently an offence to store vehicles in Australian unauthorised yards within the regulated area?

Ms Dumont: Yes, it is. The strengthening is related to ensuring that the holding yard is secured, so lockable, and things like that. However, you do currently need to store vehicles in a holding yard that is approved. Really, it is about ensuring that the holding yard meets certain requirements so it is strengthening those provisions as opposed to it being completely brand new.

Mr HEAD: So it is not as though this bill is going to, all of a sudden, mean tow truck companies are scrambling to authorise yards or anything like that?

Ms Dumont: That is correct. It may be something as simple as ensuring there is a really good lock on the fence or something like that.

Mr HEAD: Clause 63 makes it an offence for a tow truck operator or employee to disclose sensitive information that they have obtained in the course of their business, including personal information about the owner or driver of a motor vehicle involved in an incident or vehicle seizure. What has led to this? What type of sensitive information has a tow truck industry employee released about a person whose vehicle they have towed?

CHAIR: Can you expand on that at all?

Ms Dumont: In essence, there is not really any particular surge in personal information being provided to the public. This is more about ensuring that we are preventing or providing a suitable deterrent so there is impetus to not disclose that information. Things like the Optus breach have really heightened public sentiment around ensuring information is protected and that information is not shared willy-nilly. Really, this is just addressing that need and ensuring that information is as confidential as it can be.

Mr MARTIN: In relation to suspending or cancelling accreditation—I think we have touched on this a few times—is the department aware of any current licence holders who would fail to comply with the standards that are proposed under this legislation? Would this knock anyone out?

Ms Dumont: We certainly hope not. The requirements that are proposed for amending, suspending or cancelling largely remain unchanged with the exception of the public interest information. However, if operators are compliant with the current act and regulation then they will no doubt continue to be compliant with the new act and regulation. However, if they do breach requirements in the new act and subsequently the regulation then they can be subject to amending, suspending or cancelling action. There is nothing in this that would put them out of step and cause Transport and Main Roads to take immediate action. We continue to monitor and receive complaints and investigate those complaints. If a person is found to have breached requirements, we do take action against their licence.

CHAIR: Clause 52 has a new offence prohibiting operation without the necessary operator accreditation. You mentioned earlier directing a person to contravene requirements around driving a tow truck.

Ms Dumont: Yes.

CHAIR: This is for my own interest: what sort of practices or incidents would have necessitated that?

Ms Dumont: It is the kind of behaviour by a business owner who is generally in a position of power. They may have a more junior person in their employ or a brand new tow truck licence holder. They themselves are not committing the offence but, through the pressure of their position, they go out and say, 'I want you to go and get that particular crash tow,' knowing that that person is not licensed to do that. They are an unaccredited person but they say, 'Go out and do it anyway.' That unaccredited person is really caught between a rock and a hard place. They either potentially risk losing their job or breaching legislation. It puts them in a really difficult position. This is about ensuring that the business owner has accountability as well.

CHAIR: Like Workplace Health and Safety directing someone to do something? It is a lot simpler than I thought. Member for Mundingburra or member for Callide, do you have any questions?

Mr HEAD: All good thanks.

CHAIR: Member for Gregory?

Mr MILLAR: All good, mate.

CHAIR: I will go back to sharing arrangements between the Police Commissioner and the chief executive regarding criminal intelligence and criminal history information about people in the tow truck industry. That is mentioned in clauses 138 and 145. Clause 15 states that criminal intelligence information provided by the Police Commissioner cannot be used or considered by the chief executive when deciding on tow truck accreditations. Why would that information about persons in the tow truck industry not be used but certain things can be?

Ms Dumont: That is a good question and quite a technical one. In essence, clause 15 refers to criminal intelligence so it is not proven information. It has not even got to the point of a charge or a conviction so it could be some sort of intel or tip-off that police are getting from a person undercover or something along those lines. Because that information is untested and is just intel at that stage it was not deemed suitable to get natural justice principles, in essence.

CHAIR: That makes absolute sense. I appreciate that, thank you. Are there any further questions from those online? No.

Mr MARTIN: I have a quick question. I notice you have changed the terms. It used to be 'tow truck operator' and 'driver' and now it is 'tow truck business'. Why was that change made? Is it clause 10?

Mr Shaw: It is carrying on the business versus the operator.

Mr MARTIN: I guess an operator could work for a bigger business.

Mr Shaw: I think that is in keeping with more modern drafting principles. Rather than being named as an individual you are actually a business that might have a number of individuals. I think the act also talks about the notification of incidents within that business. I sound like I am doing Nadine's job.

CHAIR: What a team.

Mr Shaw: I know too much now. It is about that collective responsibility. If someone knows that something is happening across that business then they need to be accountable for it. It is about clarifying those two bits; is that correct?

Ms Dumont: Yes. The accreditation will be operator accreditation. That will be the name of the document or the accreditation that you will hold. But the bill does refer to tow truck businesses. Clause 10 is really just defining what we mean when we say 'tow truck business'; that we mean a business or trade that is involved in the operation of regulated towing.

Mr MARTIN: Within the industry, are there many businesses that for instance operate tow trucks but also cranes or other equipment, or is it more standalone tow truck businesses?

Ms Dumont: Again, I cannot categorically say that yes or no they do or do not. Generally speaking, the regulated towing businesses that are under this bill tend to be towing specialists; however, that is not to say that they may branch out into other business opportunities.

CHAIR: Thank you all very much for your time. As I said earlier, if there is anything else that we come up with during the course of our inquiries, we would appreciate your assistance. That concludes this briefing. A transcript of these proceedings will be available on the committee's webpage in due course. At this stage we have no questions on notice so I declare this public briefing closed.

The committee adjourned at 11.46 am.