

Agreement in Principle

Mr PHILIP KOPERBERG (Blue Mountains—Minister for Climate Change, Environment and Water) [8.17 p.m.]: I move:

That this bill be now agreed to in principle.

The main purpose of the Tow Truck Industry Amendment Bill is to amend the Tow Truck Industry Act to improve the management and regulation of the tow truck industry. The key measure within the bill will dissolve the Tow Truck Authority and establish the Roads and Traffic Authority [RTA] as the tow truck industry regulator. This will result in the provision of better services to the tow truck industry and will give industry a stronger voice in shaping its future direction. It will allow the New South Wales Government to take the next steps to enhance regulation of tow truck activities and it will provide further protection to road users and those who use tow truck services.

The matters addressed in this bill have arisen primarily from a statutory review of the Tow Truck Act that was completed in 2005 by the Ministry of Transport. The review was required under section 109 of the Act to determine whether the policy objectives of the Act remain valid. The review found that the Act's objectives are valid and its terms generally appropriate. It found that while de-regulation of the industry is an ideal future goal, government regulation is still required to prevent unacceptable and, at times, unlawful industry behaviour. The review proposed several recommendations to further strengthen tow truck industry arrangements. I am pleased to inform the House that the New South Wales Government has already implemented most of these recommendations.

In particular, some of the proposed amendments to the Tow Truck Industry Regulation have been implemented to strengthen the regulatory regime; joint compliance operations have been successfully conducted between the New South Wales Police Force and the Tow Truck Authority on a regular basis; the authority has developed a driver training program in consultation with Training and Logistics Industry Skills Council Limited and national accreditation of this program has recently been approved; and a new towing authority form has been introduced to improve customers awareness of their rights and to better enable them to make an informed decision when negotiating for towing services.

The statutory review also recommended that the Tow Truck Authority and the board of the Tow Truck Authority be dissolved and that the Roads and Traffic Authority be established as the tow truck industry regulator, that the Tow Truck Industry Advisory Council be abolished and that the Job Allocation Scheme provisions within the Act be repealed. The bill implements these remaining recommendations. Extensive consultation has been undertaken on the proposals in the bill. I understand the bill has the support of the Tow Truck Authority, the Tow Truck Authority Board, the NSW Police Force, the Roads and Traffic Authority and the Ministry of Transport. In addition, consultation with industry and stakeholders, including the Motor Traders Association, the NRMA, the Insurance Council of Australia and other insurance groups was undertaken during the course of the statutory review.

I wish to speak first on the proposal to dissolve the Tow Truck Authority and to establish the Roads and Traffic Authority as the tow truck industry regulator. Since the Tow Truck Authority was established in 1998, it has implemented a range of reforms to deliver a more effective regulatory system for the tow truck industry and to improve the industry's professional standards as well as the standard of services provided to the tow truck industry. However, the statutory review identified several shortcomings with the current governance arrangements. In particular, it found the authority is not financially sustainable and, importantly, this is impeding its ability to implement further necessary industry reforms.

The authority currently has a very limited revenue base derived largely from tow truck operator and driver licensing fees. Over the last several years, the number of operators and drivers has steadily declined, leading to a corresponding decrease in revenue. The authority has never become financially independent, as was the original intention, and has consistently relied on supplementary funding from the Government. As a result, the authority's ability to deliver better services to industry—and the people who rely on the tow truck industry's services—is severely limited. Accordingly, the review proposed that the authority be dissolved and that its functions be carried out by a larger and better-resourced government agency, such as the Roads and Traffic Authority.

The New South Wales Government has examined this recommendation and believes that it is sensible for a number of reasons. Firstly, the functions of the Tow Truck Authority are closely aligned with those of the Roads and Traffic Authority, and already the two authorities work collaboratively in several areas. The Tow Truck Authority licenses tow truck operators, certifies drivers and regulates an industry that plays a significant role in maintaining the efficiency of the roads and traffic system in New South Wales. This is similar to the role of the Roads and Traffic Authority, which manages the licensing of around 4.5 million drivers throughout the State. The Tow Truck Authority's role in improving professional standards in the tow truck industry complements the Roads and Traffic Authority's priority in promoting responsible road use and road user safety. The Tow Truck Authority and Roads and Traffic Authority currently work collaboratively in several areas. For example, the Roads and Traffic Authority distributes tow truck plates and various industry forms on behalf of the authority.

Secondly, the capacity, support and knowledge base of the Roads and Traffic Authority will improve services to

industry and strengthen the way the industry is governed. This is particularly the case with compliance and enforcement. Members may be aware that while many tow truck operators and drivers are law-abiding, there are some who undermine the credibility of lawful and legitimate operators. A finding of the review was that whilst industry standards and conduct have improved since the introduction of the stricter licensing and regulatory regimes under the Act, industry behaviour still needs to improve further. Establishing the Roads and Traffic Authority as the industry regulator will strengthen compliance and enforcement activities and, in turn, weed out these unscrupulous operators.

For example, the Tow Truck Authority has only four dedicated compliance officers and has not had sufficient resources to adequately enforce tow truck legislation statewide. This is particularly the case outside the Sydney metropolitan area. In contrast, the Roads and Traffic Authority has a statewide enforcement network and opportunities will be pursued to better utilise these resources to enhance the enforcement of tow truck legislation. The Roads and Traffic Authority will draw on the expertise of Tow Truck Authority staff to examine and refine several of its enforcement programs to improve compliance within the industry. The integration of intelligence will also enable the Roads and Traffic Authority to better pursue opportunities to tighten the net on illicit activities involving vehicle theft and vehicle rebirthing rings.

The Tow Truck Authority has identified vehicle theft and rebirthing activities as a problem within the tow truck industry and provides criminal intelligence in this regard to the NSW Police Force. The Roads and Traffic Authority has a dedicated Vehicle Identification Inspection Unit, which has been established to combat fraudulent activities attempting to use the Roads and Traffic Authority's registration system to launder stolen and rebirthed vehicles. Inspections are conducted by the Roads and Traffic Authority on high-risk vehicles in the Sydney, Newcastle and Wollongong areas, and programs are in place to detect vehicle rebirthing outside these areas. This unit also manages the Written-off Vehicle Register and the allocation of Vehicle Identification Numbers. There will be an important opportunity to combine the intelligence resources from both agencies to monitor and carry out enforcement activities on vehicles of interest.

The Roads and Traffic Authority also has a highly advanced specialist proof of identity unit working to reduce the risk of fraudulent driver licences. The Tow Truck Authority has detected several applicants who have attempted to use false or misleading documents as part of their applications. Easier access to resources, such as those provided by the proof of identity unit, will enhance the integrity of current tow truck licensing processes. The Roads and Traffic Authority has highly effective document verification and robust licensing processes and procedures, which will produce more efficient, streamlined customer identification and enrolment procedures for the tow truck industry. In addition, the Roads and Traffic Authority has strong relationships that it has built with other government agencies, such as the NSW Police Force, with respect to road enforcement activities. This is beneficial, because the review identified a need to conduct joint compliance operations with Police in tow truck hot-spot areas.

These joint compliance operations have been successful so far and will be even more effective under the new arrangements. The other key benefit of the new arrangements is that the Roads and Traffic Authority has a statewide reach through its network of motor registries, which will provide benefits to both industry and road users. Currently, 167 locations across New South Wales provide licensing and registration services and in 2006-07 alone the Roads and Traffic Authority conducted more than 16 million licensing and registration transactions. The motor registry network will eventually allow services to industry to be delivered in locations throughout the State, as opposed to the current situation where most tow truck industry services are delivered through the Tow Truck Authority's Parramatta office.

This registry network and other Roads and Traffic Authority resources will also be used to educate road users on their rights as users of tow truck services and on the responsibilities and obligations of tow truck drivers. This is an important point because a key finding of the review was that consumers need to be made more aware of their rights when using tow truck services. In particular, there are still unscrupulous tow truck drivers who will prey on vulnerable and uninformed motorists by imposing unjustified or exorbitant charges and, on occasions, fraudulent charges for towing services. To give effect to the new administrative arrangements, all staff currently working for the Tow Truck Authority have been transferred to the Roads and Traffic Authority and will form a distinct unit within that authority. The Roads and Traffic Authority will maintain a focus on tow truck regulation.

These new management arrangements are similar to those in other jurisdictions. For example, Queensland and Victoria do not have a standalone authority to regulate their tow truck industry and have integrated these regulatory functions with other comparable activities. New South Wales is the only State that has an autonomous Tow Truck Authority. As a result of this change in administration, the bill will dissolve also the Tow Truck Authority board, and the Roads and Traffic Authority will assume several of its functions. This implements another key recommendation of the statutory review.

The board currently is comprised of five members and it is the peak body responsible for decisions affecting the tow truck industry. The board's functions, as prescribed by the Act, include determining the policies of the Tow Truck Authority, providing strategic planning, and giving directions in relation to Tow Truck Authority functions. The statutory review recommended that the board be disbanded in light of the new administrative arrangements.

Accordingly, the bill will provide for the functions of the board now to be performed by the Roads and Traffic Authority, and I am pleased to advise that the board supports this approach. I commend the board on its progress and achievements to date in reform of the towing industry.

Another key finding of the statutory review was that the Tow Truck Industry Advisory Council should be dissolved and that the industry should determine the nature and make-up of its own representative body. Under the Act the advisory council comprises members from various industry bodies and government agencies. Its principal role is to advise the authority on the regulatory environment, developments in the industry and proposed regulatory improvements. However, the statutory review concluded that the advisory council, which has not met since June 2002, was not effective in communicating with industry and also not representative of the various industry segments.

The statutory review recommended that the advisory council be abolished and that the industry should determine the nature and composition of its own representative body. The bill gives effect to the recommendation to abolish the advisory council. The New South Wales Government recognises the need to assist industry in driving the establishment of a more effective industry body. In the place of the advisory council an interim Tow Truck Industry Consultative Committee will be established. The committee will comprise current Tow Truck Authority board members and various stakeholder and government agency representatives. The principal role of this interim committee will be to consult widely with industry members and stakeholders to recommend the composition and role of a new, more effective and more representative industry advisory council.

These new arrangements will give industry and other stakeholders a much stronger voice in influencing and shaping the future direction of the tow truck industry. The bill gives effect also to another key recommendation in the statutory review report, that being the repeal of the provisions in the Act relating to the job allocation scheme. This scheme was originally proposed as a means to improve the safety of the public and tow truck drivers at accident scenes by putting in place a centralised call centre through which accident towing jobs were to be allocated. The scheme was intended to eliminate unscrupulous practices within the industry such as tow truck drivers racing to an accident scene, the harassment of drivers of damaged vehicles by tow truck drivers and corrupt payment practices.

The scheme currently is not, and never has been, in operation. A six-month trial of three models of the scheme was conducted in 2003. An evaluation of the trial found that it did not deliver all the expected outcomes, it did not improve service levels and response times were slower than anticipated. If implemented across the State, the scheme would have caused a major redistribution of towing work in many locations, which may have had longer-term detrimental affects on the industry and consumers. It would also have raised potential national competition policy concerns. Furthermore, the review found that reforms introduced since the Act's commencement have significantly improved the operating environment that first prompted the development of the scheme and have essentially mitigated the need for it.

These reforms included the introduction of a stricter licensing and regulatory regime, which has been successful in denying undesirable persons entry into the towing industry and in prohibiting from operation certain types of tow trucks that previously were used to speed to accident scenes in an attempt to secure a tow. As an indicator of the success of these reforms the Tow Truck Authority has reported a significant decline in the number of complaints it receives in relation to driver behaviour at accident scenes since the Act's introduction. I must emphasise that the removal of the scheme from the Act will not change the existing requirements of tow truck drivers and operators.

In particular, the current requirement to obtain a towing authorisation for accident towing will remain. Towing authorisations are an important tool in reducing illegal accident towing and provide a high level of consumer protection. They will, therefore, continue to be required for accident towing work. In fact, a new and improved towing authorisation has been introduced. This new towing authorisation provides an enhanced level of information for consumers, particularly with respect to their rights and responsibilities associated with the towing of their vehicle after an accident and the fees and charges associated with the towing of their vehicle. The new towing authorisation also provides a clearer audit trail of fees and charges imposed by towing operators. This will assist the regulator to investigate and stamp out unconscionable activities undertaken by some towing operators.

There are other amendments in the bill of a consequential nature. For example, the Act will be amended to clarify that all moneys payable under the Act and regulation that are received by the Roads and Traffic Authority are to be paid into the Tow Truck Industry Fund. Similarly, all money to be paid out of the fund is to be limited to expenditure related to the function, execution and administration of the Act and regulation. This is a temporary measure and will provide a transparent mechanism to account for income and expenditure on tow truck matters.

Before concluding, I would like to point out that the New South Wales Government will not at this stage adopt several recommendations of the review. For example, the Government at this stage will not remove maximum accident towing fees. Currently, maximum fees are not set for trade towing. Consumers seeking a trade tow generally have more time and opportunity to obtain information and quotes in relation to the towing services they require. This opportunity provides for a more competitive market, in contrast to when they are involved in an accident and need to arrange the towing of their vehicle immediately, often when they are in a state of shock or

injured.

In the case of accident towing, the industry is not yet mature enough to set its own fees. There are still a significant number of unconscionable towing operators who endeavour to take advantage of a motorist's limited awareness of their consumer rights and the driver's responsibilities when arranging to have their vehicle towed following an accident. The New South Wales Government will, therefore, continue to set maximum accident towing fees and will review this situation once industry training has been established and consumer awareness of the industry has been sufficiently raised.

In relation to the demerit points system proposed for towing operators and drivers, this matter is still under consideration and the Government will advise of its intentions on this recommendation in due course. The bill will build on the success of the wide-ranging reforms already implemented by the Tow Truck Authority and will provide the foundations to drive further tow truck industry reforms. It will enhance the regulatory environment in which the tow truck industry operates, and it will improve the efficiency of the delivery of services to both the tow truck industry and those who rely on tow truck services. I commend the bill to the House.