



FINAL REPORT

Regulatory Impact Statement for the
implementation of the *Public Spaces
(Unattended Property) Act 2021* and regulations

*Prepared for
NSW Office of Local Government
6 July 2022*

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Summary

This draft Regulatory Impact Statement has been prepared to reflect the policy option encompassed by the Public Spaces (Unattended Property) Act 2021 and associated regulations. Together these replace the Impounding Act 1993 and Impounding Regulation 2013.

The new unattended property regulatory framework

The *Public Spaces (Unattended Property) Act 2021* (PSUP Act) was assented to in November 2021 following significant consultation and development of a Better Regulation Statement.

The Act will come into effect on a date appointed by proclamation, following this consultation process and the making of the regulations. The Act will also repeal the 29 year old *Impounding Act 1993* which was found to be no longer fit-for-purpose following comprehensive review conducted between late 2019-2021.

The new PSUP Act aims to help protect valuable public spaces across the State from unattended and abandoned items and animals.

Once commenced, the new PSUP regulatory framework will:

- make owners and others responsible for private property left unattended in public such as shopping trolleys, unregistered and abandoned cars, unattended trailers and stray stock face strong regulatory action if they do not remove them within risk-based timeframes
- improve the ability of councils and other authorities to track down owners of shopping trolleys and vehicles, reducing the need for regulatory action.
- provide councils, other public land managers and police with stronger powers and penalties to apply to irresponsible owners of property, such as on-the-spot fines, higher court penalties, rapid seizure action and enforcement orders
- make it easier for authorities to store and dispose of unattended property that they take into possession, reducing red tape and cost for local communities.

The regulatory arrangements that support this Act are the subject of this Regulatory Impact Statement (RIS), which by necessity also covers the changes made through the PSUP Act. Together these are referred to as the 'unattended property regulatory framework'. For the purposes of this RIS these are compared to the outdated 'impounding regulatory framework', which is to be repealed.

The outdated impounding regulatory framework (current situation)

The *Impounding Act 1993* (Impounding Act) provides for the impounding of animals and other items (termed 'articles') of property abandoned or left unattended in public places. It also provides for limited powers for occupiers of private land in relation to trespassing animals. The Impounding Act commenced over 29 years ago and had never been comprehensively reviewed until the review between late 2019-2021. Bespoke Act amendments had been made in prior years to try to improve powers to impound boat trailers (2015) and share bikes (2018) to address community concerns over these specific issues.

Recent consultation feedback during the Impounding Act review indicated that the Impounding Act and regulations were no longer fit for purpose and needed to be modernised to meet community need for safe access to, and shared enjoyment of, public spaces into the future, noting that pressure on public spaces will continue to grow due to rapid innovation and population increases.

The aim of the review of the impounding regulatory framework was to provide an impounding framework that helps to ensure communities can access, enjoy and satisfactorily utilise public places safely and easily, without impediment from abandoned or unattended items or unattended animals.

Identifying the magnitude of impacts related to items left on public land and impounded under the impounding framework is difficult, because data is not widely collected. Using the best available information, the overall costs to the NSW community related to the issues covered by the current impounding regulatory framework is approximately \$17 million per year. The majority of the costs that can be measured relate to shopping trolleys and vehicles (chart 1). The costs are likely to increase over time, and there has been an increase over the past ten years in incidents receiving penalties related to the Impounding Act, particularly for vehicles.

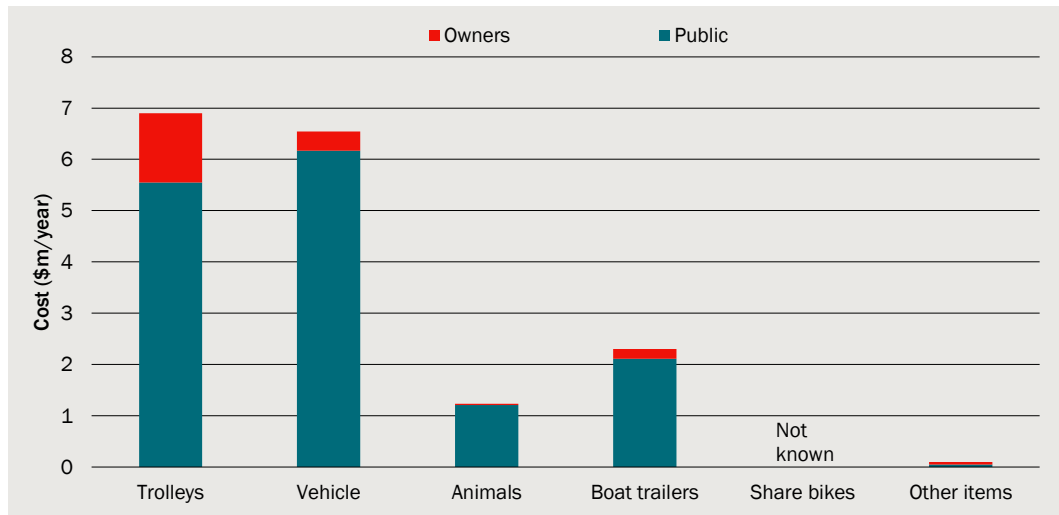
Under the current impounding regulatory framework, the impounding process imposes the majority of costs on the public, see chart 1. This is caused in part by councils, and other public land managers, which are impounding authorities for land under their care and control, lacking the means to identify and direct the owners of items and animals to remove them from public, or to collect them from the place of storage. This results in local government, and other impounding authorities, being responsible for:

- collecting items/animals from public and transporting them to a place of storage/care
- holding them in a place of storage/care for up to 28 days (7 days for animals), and
- disposing of the item/animal if uncollected, via either a saleyard or destruction.

According to stakeholder feedback, local government is the impounding authority dealing with the vast majority of complaints from the community about abandoned and unattended animals or items and they are generally unable to recover costs for these activities. Costs can be recovered either through issuing fees upon collection of the item/animal from the place of storage/care or, if not collected, the item/animal is sold to recover costs. However, seeking to levy costs at the point of collection discourages people from collecting items from the place of storage/care.

While the Impounding Act enabled some penalties and fines to be issued for the act of abandoning or leaving an item/animal unattended these generally rely on catching the person in the act of leaving the item/animal and maximum penalties are too low (\$550) to adequately discourage offences or make it cost effective for councils to take offenders to court.

1 Total incidence of costs for the public and owners of goods



Data source: The CIE.

The analysis of costs related to impounding also indicates that impounding is in many cases a very expensive solution for items and animals on public property. Regulations that reduce items/animals left on public land and maximise the return of items/animals to owners directly rather than impounding will reduce the costs for councils and other impounding authorities and the community, and result in more items and animals being returned to owners.

The analysis and consultation has identified that shopping trolleys, vehicles (including trailers) and animals impose the highest costs on the public. The proposed policy option seeks to address issues related to these items through:

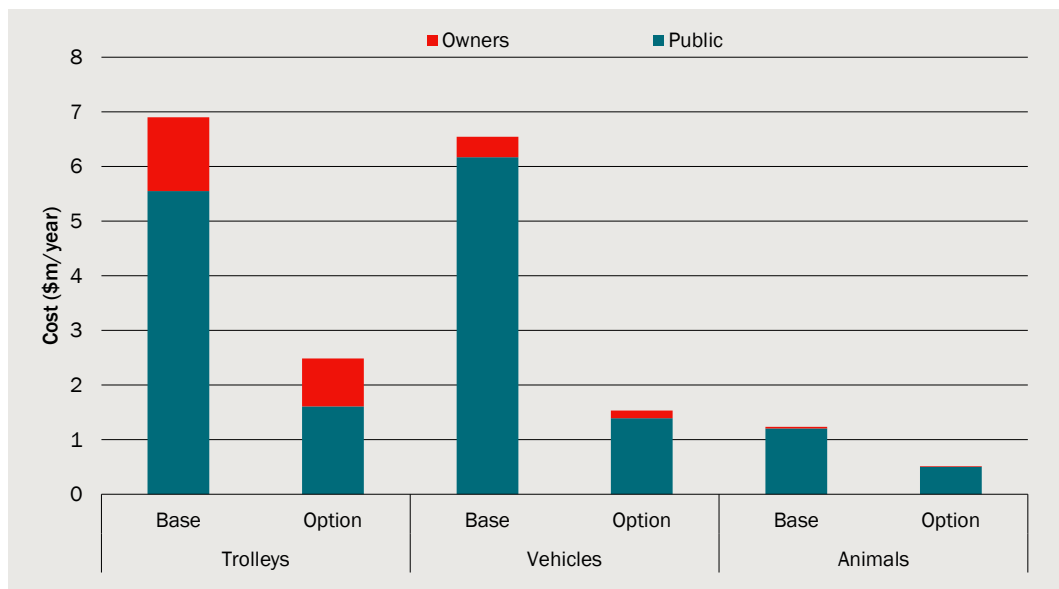
- transferring the responsibility of shopping trolleys from the public to the owner or operator of trolley collection services and incentivising more rapid collection
- introducing the ability for councils to levy penalty infringement notices (PINs) on owners at a level that will incentivise responsible behaviour
- improving the ability to identify owners of shopping trolleys and vehicles, which will reduce the need to take these items into possession
- allowing more items that are unlikely to be collected to be disposed of rather than impounded (including increasing the value threshold of vehicles to be impounded to instead being immediately disposed of from \$500 to \$1500), and reducing the timeframes for which impounded items must be held before they may be disposed
- creating risk-based timeframes for owners to collect items/animals from public places or face regulatory action including impounding and/or appropriate penalties

- categorising together the consistent treatment of all vehicles, including trailers, under the legislation, thus removing the need for separate boat trailer legislation, and
- enforcing preventative directives or orders, for example, to property owners to contain livestock, e.g. fixing fencing bordering public land.

The policy option has been developed through a consultation process beginning in late 2019.

The result of these policy changes is a decrease in total costs for each category and a more equal sharing of costs for abandoned or unattended shopping trolleys, vehicles and animals between owners and the public (chart 2). Cost reductions are achieved through minimising the number of items/animals that enter the costly impounding process and minimising the time that items/animals are left on public land.

2 Impact on costs imposed on owners and public per year



Data source: The CIE.

We estimate that for NSW the impact of the policy option is to generate a net benefit of \$10.1m per year or \$71 million over 10 years in present value terms (table 3), via:

- shopping trolleys — public costs will decrease by approximately \$3.9m per year and the costs borne by retailers will decrease by \$0.5m per year.
- vehicles — public costs will decrease by approximately \$4.8m and decrease owner costs by \$0.2m per year
- animals — public costs are expected to decrease by \$0.7m and decrease owner costs by \$0.01m per year.

This is a conservative estimate, as information on all items is not fully understood and we have assumed that impacts remain at current levels, rather than continuing to grow. See chapter 5 for further information on the estimation of these costs and benefits.

The impact for vehicles includes changes that will be made to the *Road Transport Act 2013* to allow for fines to be issued by councils, as well as by NSW Police and transport

authorities, for unregistered vehicles standing on public roads, as well as the ability for these authorities to affix fines directly to unregistered vehicles, rather than first identifying the registered operator.

3 Net benefit of policy option

Category	Net benefit over 10 years
	\$m
Trolleys	31
Vehicles	35
Animals	5
Total	71

Note: Discount rate of 7 per cent.

Source: The CIE.

The proposed policy option will also move many appropriate provisions that may need to change over time into regulations, rather than in legislation. This will allow greater flexibility to address issues with specific items, including potential new items, as they arise. The Minister for Local Government, the Minister responsible for the Impounding Act and now the PSUP Act, will be better able to review, evaluate and adjust regulations, as the PSUP Act is more focused on outcomes.

Compliance and enforcement powers for impounding authorities are important provisions in the Impounding Act. Local government have responsibility for most public land on which issues of abandoned or unattended items or unattended animals occur, particularly in more urbanised areas, and are key impounding authorities involved in compliance and enforcement activities. They have been heavily consulted in developing the proposed policy option, along with other public land managers which are authorities under the Act, such as Local Land Services and Transport for NSW. Changes that have been made aim to reduce the costs related to compliance and enforcement to both councils and other impounding authorities, such as through enabling easier identification of owners, allowing council and other impounding officers access to information to reduce the time to identify item/animal ownership, and increasing their powers relating to issuing of penalty notices for abandoned and unattended items or unattended animals.

1 *Background and introduction*

Public Spaces (Unattended Property) Act assented

The Government introduced the *Public Spaces (Unattended Property) Bill 2021* into Parliament, which passed unamended and was assented to on 29 November 2021. The new Act will repeal the *Impounding Act 1993* and will commence on a date appointed by proclamation. Prior to commencing the Public Spaces (Unattended Property) Act, or PSUP Act, supporting regulation and guidance on animals and key items will be prepared.

This RIS covers the overall implications of moving from the *Impounding Act 1993* and *Impounding Regulations 2013* to a new legislative and regulatory framework of the PSUP Act 2021 and its associated regulations.

Impounding Act

The *Impounding Act 1993* provided a legal framework for governments, State authorities managing public land, the NSW Police and others authorised by regulations to deal with safety and amenity issues caused by unattended animals and other items (termed ‘articles’ in the *Impounding Act*) left unattended or abandoned in public places, and special impounding powers for occupiers of private land to impound animals trespassing on their land.

The *Impounding Act* was first introduced as companion legislation to the *Local Government Act 1993* (LG Act). It consolidated and expanded on previous impounding laws in the *Impounding Act 1898* (repealed), which dealt only with impounding livestock and parts of the *Local Government Act 1919* (repealed), which, in the mid-1970s, had a new ordinance enacted to deal with ‘articles’ to target issues with abandoned shopping trolleys. The ordinance commenced in 1980 following council concerns about ongoing issues with shopping trolleys. The *Impounding Act* has been amended three times since it commenced:

- **Impounding Amendment Act (1996)** — clarifications were made to definitions and section 9 so that ‘unattended’ animals (including those straying) could be impounded and animals legitimately on public land could not be impounded (e.g. stock unattended in compliance with Local Land Services legislation).
- **Impounding Amendment (Unattended Boat Trailers) Act 2015** — introduced section 15A to address the issue of boat trailers being parked in public areas for extended periods of time. Authorised impounding officers can impound boat trailers if they have not been moved in 28 days, after reasonable efforts to notify the owners and a 15-day notification period.

- **Impounding Amendment (Shared Bicycles and Other Devices) Act 2018** — introduced Division 5 to require operators of shared device services (currently only share bikes) left in public places to move them within a prescribed period of time based on the risk they pose. Authorised impounding officers can fine operators who do not comply and move or impound abandoned or unattended shared devices.

In late 2019, the Office of Local Government (OLG) began the review process of the Impounding Act through releasing a Discussion Paper to stakeholders.¹

Regulatory Impact Statement

The NSW Government Guide to Better Regulation requires that new and amending regulatory proposals demonstrate compliance with the Better Regulation Principles (see box 1.1).²

1.1 Better Regulation Principles³

Principle 1: The need for government action should be established. Government action should only occur where it is in the public interest, that is, where the benefits outweigh the costs.

Principle 2: The objective of government action should be clear.

Principle 3: The impact of government action should be properly understood by considering the costs and benefits (using all available data) of a range of options, including non-regulatory options.

Principle 4: Government action should be effective and proportional.

Principle 5: Consultation with business and the community should inform regulatory development.

Principle 6: The simplification, repeal, reform or consolidation of existing regulation should be considered.

Principle 7: Regulation should be periodically reviewed, and if necessary reformed to ensure its continued efficiency and effectiveness.

¹ NSW OLG 2019, *Review of the Impounding Act 1993: Discussion Paper*, <https://www.olg.nsw.gov.au/wp-content/uploads/Boundary-Changes-Review-of-the-Impounding-Act-1993-Discussion-Paper-December-2019.pdf>.

² NSW Government, *NSW Government Guide to Better Regulation*, Policy and Guidelines Paper TPP 19-01, January 2019, p. 4.

³ NSW Government, *Guide to Better Regulation*, Policy and Guidelines Paper TPP 19-01, p. 5.

To demonstrate compliance with the Better Regulation Principles, a Regulatory Impact Statement (RIS) must be prepared for significant new and amending regulatory proposals and must be published online.⁴

This report continues as follows:

- Chapter 3 sets out the need for government action
- Chapter 4 sets out the objectives of government intervention and the options under consideration
- Chapter 5 evaluates the options
- Chapter 6 sets out the consultation process and views of relevant stakeholders
- Chapter 7 sets out the recommended process for periodic evaluation and review
- Chapter 8 sets out conclusions.

⁴ NSW Government, *NSW Government Guide to Better Regulation*, Policy and Guidelines Paper TPP 19-01, January 2019, p. 4.

2 *Need for government action*

Rationale for regulation

Regulation about how local government, State authorities managing public land, NSW Police and others can deal with unattended and abandoned items and unattended animals aims to ensure:

- the amenity of public spaces is not reduced, because public spaces have unattended and abandoned items or unattended animals. The term ‘amenity’ encompasses the aesthetic value of a public area, the ease at which people can access and use a public area and the satisfaction or enjoyment people get from being in public spaces.
- the safety of public spaces is not reduced, because unattended and abandoned items or unattended animals are leading to safety concerns. ‘Safety’ is defined as being protected from or unlikely to cause danger, risk, or injury and includes the physical and mental well-being of the general public.
- access to and within public spaces is not reduced because of unattended and abandoned items leading to obstruction issues. This includes obstruction to vehicular and pedestrian access. This is an issue of concern to the whole community, and particularly people with disabilities, the frail and elderly members of the community.

Abandoned and unattended items create safety, access, environmental and amenity issues for public land managers and the community alike. They can prohibit access for vehicles and pedestrians and create environmental nuisance by clogging up waterways and public spaces. Abandoned shopping trolleys, cars, share bikes and other items are often dealt with under waste and/or local government laws in other jurisdictions of Australia.

In the absence of regulations, relevant authorities would not have the power to remove these items or animals.

Since the Impounding Act was first introduced, public spaces have been influenced by social, cultural, and technological change. More private and shared items are being used and parked in public areas and roads such as cars, trailers, boats, shared bicycles and mobility scooters. Overcrowding in our urban public spaces is becoming a bigger issue as our population grows and ages.

The NSW Government recognises that emerging technologies, such as share bikes, can provide convenient and environmentally friendly ways of completing part of our journey to work in cities, if managed appropriately.

To balance the competing needs and priorities of the community, in recent years, the Government has chosen to use the Impounding Act to create bespoke solutions for individual items such as boat trailers and share bikes. However, as use of public spaces

changes, and more innovative industries enter the share transport market and public spaces over time, the risk of further safety, access and amenity issues continues. For example, while the Government recently considered whether to introduce a share electronic scooter (e-scooter) trial in several council areas in Sydney, e-scooters remain illegal on public roads and spaces in NSW due to concerns about safety. Should e-scooters or other modes of shared transport not yet introduced become legal in NSW, this would further impact community use of public space and the scope of the role of public land management authorities.

In rural and regional areas, some issues with unattended property are different to those experienced in cities but are no less important. Abandoned and unregistered cars are an issue in many rural and regional communities. However, another key issue is the management of stray or unattended animals, trespassing onto both private and public land. Wandering stock create a major traffic hazard and safety risk on rural and regional roads requiring NSW Police, Local Land Services officers and local government councils to work together to protect public safety and contain stock as quickly as possible. A key issue identified through consultation is balancing the need for public safety with protecting the biosecurity of private land, which prevents stray stock being temporarily contained on private land.

Even with the existing provisions of the Impounding Act, there remain considerable costs related to abandoned and unattended items and unattended animals. This chapter sets out what these costs are and their magnitude.

Types of costs for unattended and abandoned items

Unattended and abandoned items and unattended animals lead to costs for the owner of the item and costs for others, which we term public costs. These costs fall into the following categories:

- public costs, which comprise:
 - costs for public authorities to deal with unattended and abandoned items, such as environmental clean-up and collection costs, administration costs, costs of taking items into possession and operating a facility or ‘pound’ (for storage) and costs of disposal
 - costs for the community, which includes amenity costs (which we define to include impacts on amenity, access and safety) and ‘cruising costs’, which reflect additional time and inconvenience when on-street parking is used by unattended or abandoned vehicles, trailers and boats
- owner costs, which comprise:
 - the loss of items/animals that are not recovered
 - costs of collecting items/animals from where they have been left unattended or abandoned
 - costs of any penalties for leaving items/animals abandoned or unattended in public
 - cost of fees for not collecting items/animals from places of storage/care.

There are fees related to taking items/animals into a place of storage and keeping them there, which shift some of the costs from the public back to the owner. However, in practice, a large part of the costs falls on the public including councils.

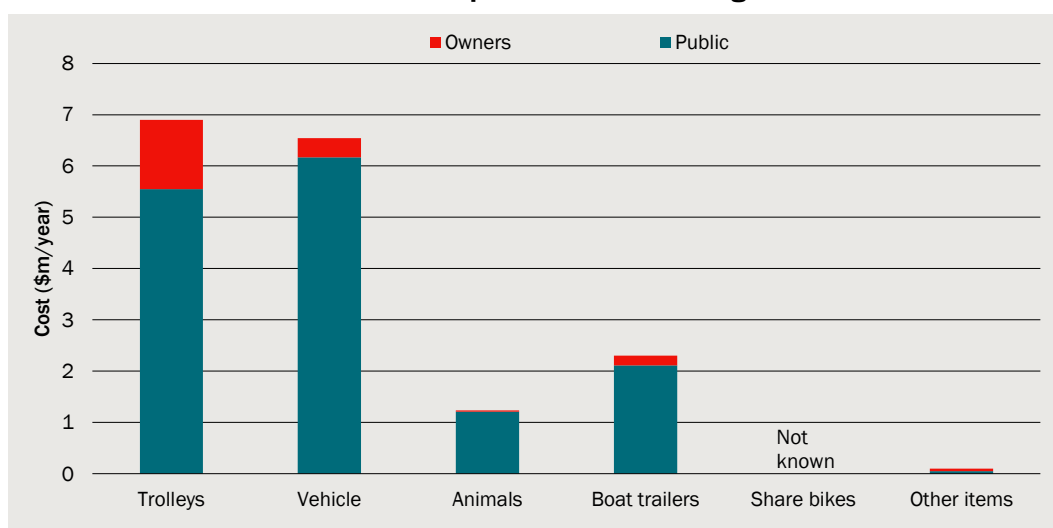
Estimated cost of items and animals left unattended in public

Identifying the magnitude of impacts related to items/animals left on public land and taken to a place of storage or care by an authority is difficult, because data is not widely collected. Using the best available information, the overall costs to the NSW community related to the issues covered by the Impounding Act is approximately \$17 million per year (chart 2.1). Trolleys and vehicles make up the most significant portion of costs, approximately 79 per cent, for both owners and the public. Costs are primarily absorbed by the public, approximately 88 per cent of the total. This is largely because when an item is abandoned, the owner can be difficult to identify which then leaves the responsibility of disposal to councils and other authorities which are funded by public money.

As taking possession of an animal or item represents a transfer of possession of a person's property, the council must follow due process, which involves multiple steps to notify owners and hold the item for collection before disposal. Items below the value threshold are considered of no or low value, or even litter, and are not bound to the same due process, and consequently they can be disposed of immediately under the *Protection of the Environment Operations Act 1997*.

There was insufficient data available regarding abandoned share bikes and therefore they have not been included in this analysis. However, it is noted that no significant issues were raised in relation to share bikes during the Impounding Act review process.

2.1 Total incidence of costs for the public and owners of goods



Data source: The CIE.

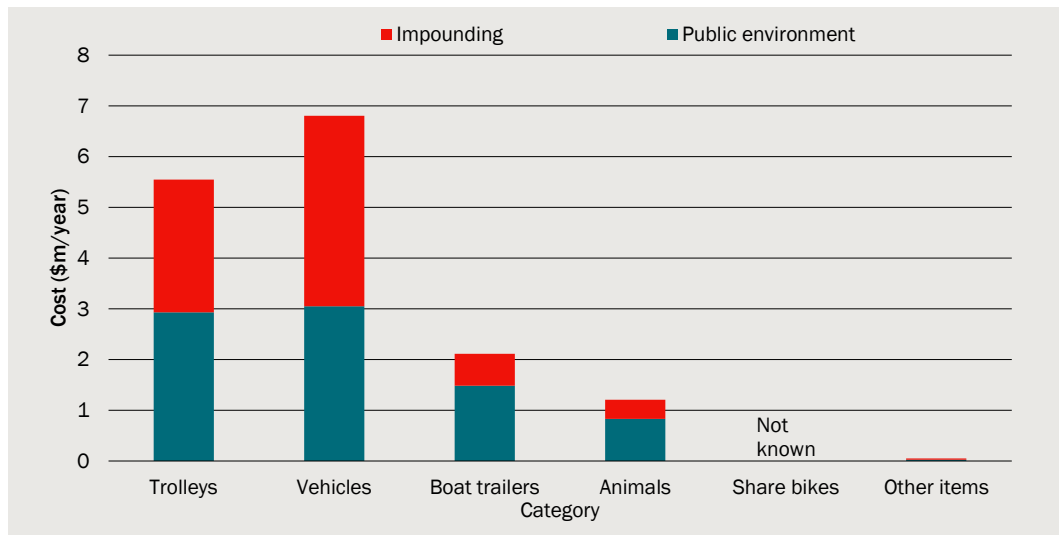
For the public, vehicles are the largest cost category followed by trolleys, see chart 2.2. Public environment costs represent costs borne by the general public and include

environmental damage, negative amenity and ‘cruising’ costs. Cruising costs are the additional costs imposed on other car users in seeking to find available parking in an area and are largest in metropolitan areas.

Total public environment costs for trolleys and vehicles are similar, however the costs of taking vehicles into possession are much greater. The costs of taking items into possession are costs borne directly by the council, or other authority, which include collection/towing of items, storage and disposal costs.

Administration and collection costs for vehicles are driven by towing expenses, which can vary depending on the location of the vehicle relative to the place of storage. This cost can be significantly higher in regional areas where towing distances are further. Towing expenses for trolleys generally will increase when trolleys are dispersed across various locations within an area, and if in harder to access locations such as parks, waterways and bushland.

2.2 Costs to the public of abandoned items

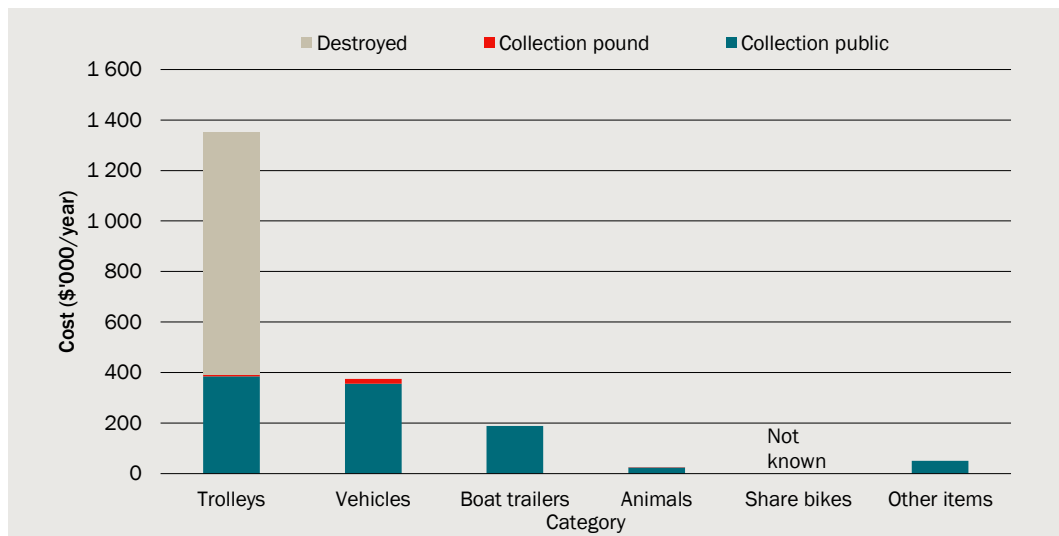


Data source: The CIE.

The highest cost to owners is for the retailer owner group who lose their trolleys to destruction (chart 2.3). Feedback from councils shows that the rate of collection at places of storage is very low, which means many impounded trolleys are eventually destroyed. Contributing to the low collection rate is the fact that trolleys are abandoned in public, where they may experience vandalism and damage (particularly to wheels). Repairing the collected trolleys can be uneconomical on top of other collection costs.

The other significant cost to owners is collecting the items from where they have been left abandoned in public. For trolleys larger collection/towing vehicles are required as the owner will need to transport multiple items per trip. This could be the same for vehicles, boat trailers and other items, where a tow truck may also be required due to the size of the item.

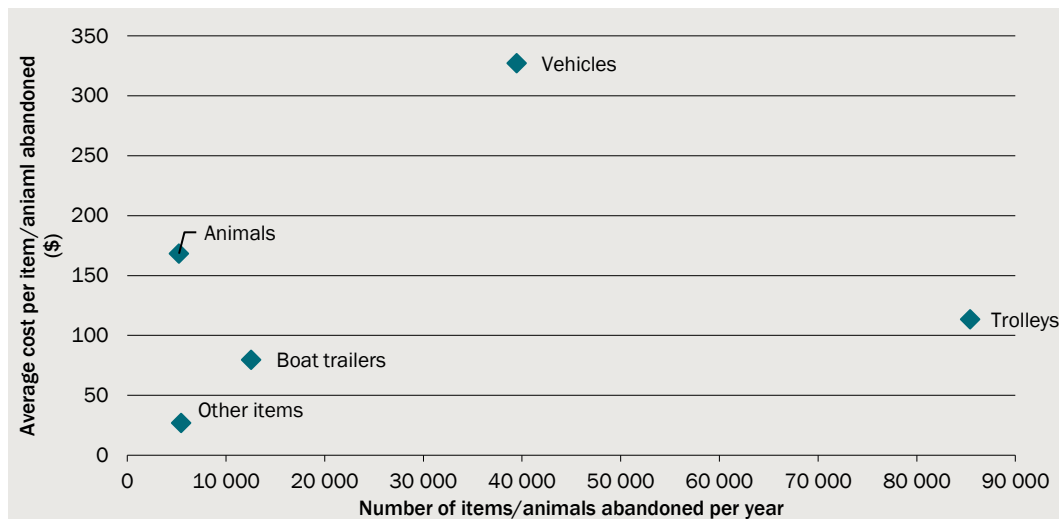
2.3 Costs to owners of abandoned items



Data source: The CIE.

Trolleys are the most abundant item abandoned or left unattended in public by a significant degree, see chart 2.4. However, they have a relatively low public cost per item, compared with vehicles and animals. Vehicles represent the largest cost share due to their high numbers of abandonment, as well as the highest cost per item.

2.4 Cost per item abandoned and number of items abandoned per year



Data source: The CIE.

Note that the above are estimates of the number of items and cost based on the best available information. The information available is subject to a wide margin of error, as there is no systematic collection of data on abandoned items. The specific assumptions are set out in **Attachment A**.

The evidence available suggest that costs related to items being left unattended on public land is likely increasing. Revenue NSW has provided data on penalty infringement notices issued under the Impounding Act. This shows substantial increases in penalties issued (chart 2.5). Penalties could increase for a variety of reasons, including increased

enforcement. However, given offences under the Impounding Act are currently hard to enforce, this is indicative that costs of unattended and abandoned items on public lands is a growing issue. This is supported by views expressed during stakeholder consultation.

Key directions for reducing the costs related to abandoned and unattended items and unattended animals include:

- for trolleys, implementing strategies that would reduce the number of trolleys abandoned, reduce their time in public and increase collection from places of storage and would lead to substantial reductions in the costs
- for vehicles, costs related to taking into possession each vehicle are high, and reducing the number of vehicles that enter the process would be beneficial
- animals will inherently have a higher cost due to the costs of meeting their welfare needs but, targeting the number of incidences will yield a beneficial outcome.
- abandoned and unattended boat trailers impose a relatively minor cost, which can be mitigated through mechanisms outside of the Impounding Act or PSUP Act, such as restricted parking signs. Issues related to boat trailers relate to both the abandonment of 'End of Life' vessels on trailers and to people disliking boat trailers being left unattended on their street.
- the level of incidences for other items are minor, as well as the cost per item, and therefore they do not impose a material cost on the public. This largely reflects the success of specific legislation put in place for these items.

Fees and penalties

Penalty infringement notices

Penalty infringement notices (PINs) are on the spot fines that can be issued by multiple government agencies. Council rangers, along with officers of other public land impounding authorities, have the authority to issue PINs for offences under the Impounding Act. There are four categories under the Impounding Act where authorised officers can issue PINs:

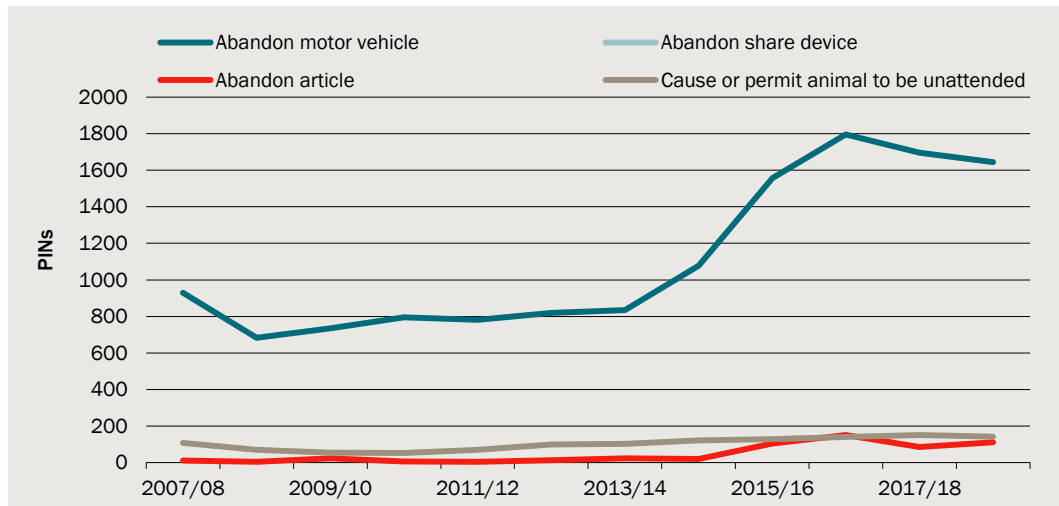
- 1 Abandon an article (not motor vehicle or shared device) in a public place
- 2 Cause or permit animal to be unattended in public place
- 3 Abandon a motor vehicle in a public place
- 4 Abandon a shared device in a public place

Chart 2.5 shows the number of PINs issued for each category from 2007 to 2018 across all NSW local government areas. The highest share of PINs has been issued for motor vehicle infringements, which experienced significant growth from 2013 onwards. This is likely to reflect the decrease in vehicle cost and increase in both ownership and turnover. PINs issued for unattended and abandoned articles (other than vehicles) and unattended animals has remained relatively low, experiencing a slight increase in the past 3 years.

PINs are only issued when there is a high likelihood of identifying the person who abandoned or left unattended the item or left an animal unattended. This can lead to a

significant understatement of the number of unattended and abandoned articles as, unless someone is caught in the process of leaving the item unattended or permitting an animal to be unattended, a PIN will not be issued. This is most prominent for shopping trolleys, which are categorised as general items and generally do not attract PINs as it is uncommon to catch the user abandoning the shopping trolley.

2.5 Penalty infringement notice issuance through time



Note: 2 PINs were recorded for shared devices in 2017/18.

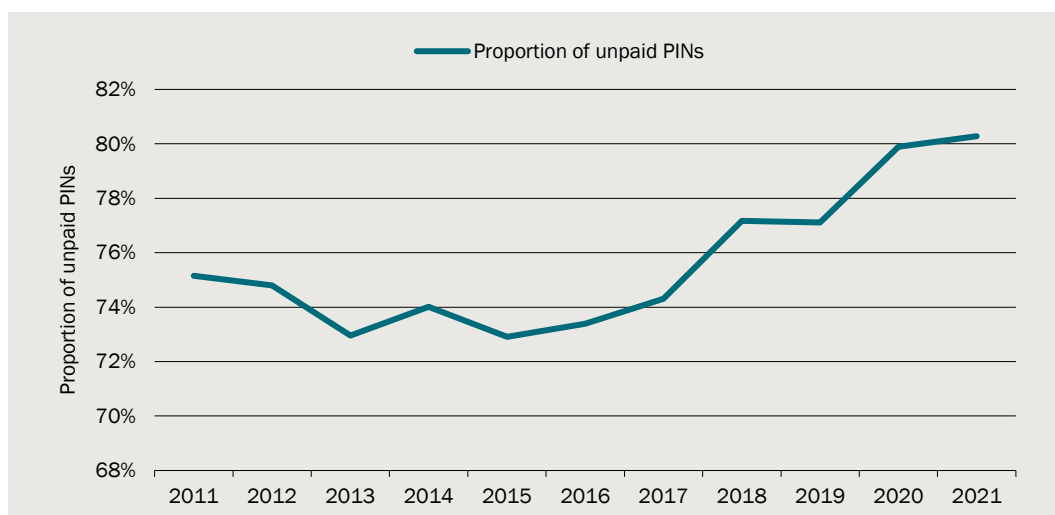
Data source: Revenue NSW, The CIE.

Under the Impounding Act, councils face a significant challenge in recovering both fines for offences and fees for the costs associated with the impounding process (transport, storage, care, administration etc) when administering the Impounding Act.

In most circumstances when an owner cannot be identified, the council cannot issue a PIN. When a PIN is issued, there is currently a lengthy process to recover the debt, which is generally administered by Revenue NSW. Chart 2.6 shows the proportion of PINs unpaid from 2011 to 2021.

Fees to cover impounding costs of property are only recoverable from the owner when the owner is known and/or the owner chooses to collect their property from a pound. In many cases, where property is not claimed from a pound, councils and other authorities do not receive fees and may only recover costs when the item retains some value after being sold post-impounding.

2.6 Proportion of unpaid PINs over time



Data source: The CIE, Revenue NSW.

The increase in the proportion of unpaid PINs is likely attributable to a decrease in the number of PINs issued. In the period 2015/16 to 2019/20, the total number of unpaid PINs remained relatively constant, slightly increasing from 1316 to 1364. The reduction in PINs issued in 2019 and 2020 may be related to the 2019 bushfire season and the onset of COVID-19, which may have resulted in a diversion of council enforcement activities due to responding to public health and safety issues as well as an increase in the cases of hardship for the public. Should councils increase enforcement activities to pre-2019 levels, we would expect the proportion of unpaid PINs to decrease.

Unpaid PINs generally fall into 4 categories; paid, overdue, on a payment plan or written off. The 5-year average of these categories as a proportion of total unpaid PINs is as follows:

- Paid - 43 per cent
- Overdue - 19 per cent
- On payment plan - 11 per cent
- Written off - 14 per cent

The data shows that a considerable portion of unpaid PINs are in the process of being recovered and will be expected to be paid in future periods. As a result, the number of unpaid PINS will always tend to be higher in recent years due to the lag in payment.

Pound related fees

Vehicles and other items

When councils and other authorities take items into possession, they are held at a designated storage facility, or 'pound' until the items are collected or sent for sale or destruction. Authorities can charge fees to recover costs for each step of this process, however they are generally contingent on identifying the owner or selling the item for a reasonable value, as shown in table 2.7.

2.7 Typical costs of taking items into possession and fee recovery

Activity incurring cost	Cost recovery
Tow item from incident location to nearest place of storage	Cost recovered on collection
Storage for up to 28 days	Cost recovered on collection
Disposal of item, via saleyard or scrapyard/disposal	Cost recovered from sale

Source: The CIE.

For vehicles and other large items, this can be particularly costly as the council or other authority bears costs in the transport and towing of the item, particularly for regional and rural pounds as distances to pounds can be large. Once at the place of storage, these items can take up considerable space, which is a greater issue for metropolitan pounds where space trades at a premium.

When the item is not collected, fee recovery will be dependent on the return from the sale of the item. Private saleyards are responsible for the majority of vehicle sales and it is reported that they keep approximately 70 per cent of the sale price as a fee. This generally leaves a significant shortfall for councils.

Councils advised that there is a substantial gap in recovering fees for taking items into possession due to not being able to identify and subsequently charge owners for collection, as well as the value of most items not being high enough to generate revenue from a sale. One regional council reported that they take into possession approximately 80 vehicles per year, of which the majority will be sent to the waste facility.

Animals

If an officer is not able to identify the owner of an unattended animal, the animal will be transported to a place of care and enter the process of taking possession. Table 2.8 outlines these activities.

2.8 Typical costs of the process of taking into possession and fee recovery for animals

Activity incurring cost	Fee
Transport animal to place of care	Cost recovered on collection
Providing sustenance for duration of holding time	Cost recovered on collection
Disposal costs via rehoming or if necessary, euthanasia	Cost recovered from sale

Source: The CIE.

For animals, the council generally will bear more costs as the animals require feeding, shelter and adequate care to meet animal welfare needs. The cost of sustenance varies per type of animal. Accordingly, most councils charge different fees per type of animal. Councils will either recover costs when the animal is collected, which is cited as generally rare, or more likely the animal will be sold at auction. Councils advised that this would not cover the costs of holding the animal, particularly if the animal is of low financial value and when the main objective may be simply to rehome the animal.

Regional and rural councils advised that there is a substantial gap in cost recovery, as the costs of taking animals into care are driven by large distances for transportation coupled with high holding costs to comply with animal welfare laws. Without being able to recover fees from owners due to limitations in identification, councils are only able to recover market values for the animals less sale fees.

3 *Objectives and options*

Objectives

The PSUP Act was introduced to provide an entirely new framework to deal with unattended property in public that helps to ensure communities can access, enjoy and satisfactorily utilise public places safely and easily, without impediment from unattended (including abandoned) items and animals.

The new framework ensures that items taken into possession may be stored at any appropriate place of storage, and animals (other than dogs and cats, which are generally regulated under the *Companion Animals Act 1998*) taken into possession are cared for in line with animal welfare laws, at any appropriate place of care, while at all times remaining the responsibility of the authority while in that authority's possession. It also provides adequate powers to private landholders to take possession of trespassing animals, to minimise safety and biosecurity risks in farming communities while also ensuring animal welfare laws are met. This report considers both the legislative and regulatory changes proposed under the new unattended property regulatory framework.

The proposed regulations will aim to meet the broad outcomes of ensuring that public spaces may continue to be used, shared and enjoyed by the community into the future and owners take responsibility for their items and animals.

The key objective to achieve this outcome is to require those responsible for animals and items in public, to act to minimise risks to safety, access and amenity that may arise by these being left unattended or abandoned or face strong regulatory action.

The new PSUP Act was named to reflect its key outcomes focus and objectives, as well as to modernise its objects to:

- require those responsible for property (including animals and items) in public places to appropriately attend to them
- empower authorities to take possession of and deal with unattended animals and items in public areas under their care and control, as well as to take regulatory and enforcement action for offences
- provide for the efficient and effective keeping of unattended or abandoned items and unattended animals in line with relevant standards, and to facilitate regulatory cost recovery from the responsible person for failing to attend to these
- help to manage animals dealt with under the legislation consistent with community expectations and contemporary animal welfare laws
- provide owners and occupiers of private land powers to take possession of animals trespassing on their land.

Options to reform the regulatory framework

OLG developed four options for change based on stakeholder feedback on the Discussion Paper and via key stakeholder workshops. This included broad options for reform of the regulatory framework, as well as supporting options to better manage specific items and animals. These are set out below.

Options to amend the impounding regulatory framework

Option 1 — Leave regulatory framework unchanged

- This option proposes to make no changes to the current regulatory framework

Option 2 — Minor change to ensure currency, clarity, and consistency with other laws

- Update definitions and processes (including monetary and timeframes for action to be taken), review existing offences and penalties and align the regulatory framework with other laws, including transport laws.

Option 3 — Introduce additional obligations for high-risk problem items such as vehicles and trailers

- Amend the regulatory framework to provide for risk-based definitions and obligations that may be tailored to the specific circumstances of impounding different items (such as shopping trolleys), vehicles (e.g. cars, boat trailers, box trailers, caravans etc) and animals in separate sections or divisions
- Plus make minor changes to ensure currency, clarity, and consistency with other laws (Option 2).

Option 4 — Change regulatory framework to focus on outcomes and create regulations and guidance about unattended property, as required. This is the preferred option

- Reframe the regulatory framework to focus on the outcomes the community expects, such as:
 - to better balance amenity and safety of public land for the benefit of the whole of the community with shared use and enjoyment of public land by a range of individuals within the community, and
 - place more responsibility on owners and/or others responsible for their property in public, including animals and different classes of items – personal items (Class 1), sharing items such as shopping trolleys (class 2), vehicles including cars and trailers (class 3) left unattended in public places.
- Give impounding authorities stronger regulatory powers to deal more swiftly and effectively with these items and animals in the public interest.

Option 4 facilitates the regulatory framework focussing on the outcomes the community expects, including placing the onus on those responsible for their items and animals in public by making sure they are collected or otherwise controlled within risk-based timeframes. Importantly, it enables the Government to develop standards of expected

behaviour for classes of items (or specific items) and animals in regulations and guidance that could be flexibly changed over time. This would allow for shopping trolley, animal, and vehicle-specific provisions, if necessary, on matters such as responding to complaints, offences, penalties and when regulatory action may be taken.

Stakeholder feedback considered Option 4 to be preferable, although subject to the specific details about what changes are made within this overall outcomes-based regulatory framework. The specific changes are detailed in the following sections.

Proposed amendments to the regulatory framework

Transferring specific items from legislation to regulation

The Impounding Act was identified as inflexible due to regulation of items in public requiring changes to the legislation itself. Once enacted, laws relating to items are not easily updated to reflect changes in how their use in public spaces is regulated over time. For example, legislation was passed to create regulatory frameworks for boat trailers through the *Impounding Amendment (Unattended Boat Trailers) Act 2015* and share bikes through the *Impounding Amendment (Shared Bicycles and Other Devices) Act 2018*. There is no flexibility to amend these easily or to take account of emerging markets, such as e-scooters. Therefore, in order to make the legislation more flexible, regulation of specific items has been devolved to regulations to enable a quicker regulatory response to changes in the public space. A summary of these changes is provided in table 3.1.

3.1 Summary of items that could be devolved to regulations

Category	Description
Specific classes (or subclasses) of items	Mandatory risk-based standards for specific classes or sub-classes of items, such as for vehicles over a certain size, or boat trailers, if required in future
Offences and penalties for specific items	Offences and penalties for breaching standards for specific items
Definitions	Definitions subject to change over time, such as individual authorities, may be changed over time. Key definitions, such as 'animal' may be qualified over time to clarify what is in scope and out of scope.
Sharing service items	Minimum standards for shopping trolleys and shared bicycles, or a mandatory code of practice
Risk-based timeframes for property in public	Timeframes after which particular classes of items may be deemed to be 'unattended' in different risk-based circumstances, and notice periods prior to regulatory action commencing
Timeframes and monetary thresholds for property in storage/care	Circumstances in which property in possession may be more quickly disposed of, such as below a low value threshold.

Source: The CIE.

Changes to structure, principles and definitions within the legislation

Further mandatory standards for animals and classes of items will be enabled

The new unattended property regulatory framework enables elements currently restricted to the (Impounding) Act to be devolved to the regulations through its outcome's focus and broad regulation making power.

The changes to the regulatory framework would also enable standards and offences for specific classes of items to be prescribed by regulations or mandatory Codes of Practice established under regulations.

A Class 1 item means a small or medium-sized thing capable of ownership, except a living creature, that can ordinarily be collected by 1 or 2 persons without the need for machinery to lift, tow or otherwise move the thing. This includes items such as baggage, personal recreation equipment that is not available for hire or other personal items.

A Class 2 item currently includes shopping trolleys and share bikes as set out in the PSUP Act. Class 2 sharing service items means items made for use by the public at large, whether paid for or not, including as part of a sharing service. Other items, such as shared e-scooters may be included in this class if they become legal in NSW.

Class 3 Items are vehicles including cars, trailers, caravans etc as defined in the Road Transport Act 2013. Hire-cars are also classified as Class 3 Items under the PSUP Act. The regulations are to enable items within a car at the time that it is taken into possession of an authority to be treated separately to the vehicle (as class 1 items).

Other Larger Items

While the Government received some requests for the PSUP regulations to deal with large items of property on public land - such as skip bins, shipping containers and abandoned vessels (other than small recreational boats which are Class 1 items), - it is currently not proposed to try to create a class of larger items under the PSUP framework. It is proposed that these larger items are better dealt with under more appropriate laws, such as the Protection of the Environmental Operations Act and the Environmental Planning and Assessment Act, which have a broader suite of regulatory responses and higher penalties more commensurate to the nature of offences arising from these larger items.

Key definitions and concepts will be modernised to enable effective regulation

The changes to the unattended property regulatory framework introduce a new definition of 'responsible person' to include any person that may be responsible for an item or animal in public or private. The term 'responsible person' would replace narrower, outdated terms such as owner, occupier, operator and user, where appropriate.

The responsible persons for property are:

- the person who owns or is otherwise responsible for the property, and
- a person engaged to collect or manage the property on behalf of the property's owner, and
- another person who is in control or possession, or entitled to possession, of the property, and

- a person who caused or engaged in conduct that was reasonably likely to result in, the property being unattended.
 - For example
 - ... a person who opens a gate that releases an animal
 - ... a person who leaves a shopping trolley unattended

A responsible person is defined for class 1, 2 and 3 items as follows:

- Class 1: the person who owns or is otherwise responsible for the property, which includes a hirer or lessor of the property
- Class 2: A person using the property, a hirer or lessor of the property, or a scheme operator
- Class 3: The registered operator of the vehicle⁵, a person who hires or leases the vehicle, or a scheme operator

The changes to the unattended property regulatory framework clarify the concept and hierarchy of physical things or ‘property’ capable of being left unattended or abandoned, with broad categories of items (currently ‘articles’) (non-living things) and ‘animals’ (living things).

Importantly, the definition of ‘animal’ has been broadened and draws from definitions in more modern related laws, so that it includes stock animals but excludes feral, and non-farmed native animals which are more appropriately dealt with under other laws.

Other definitions have been modernised and made consistent with more up-to-date legislation, as appropriate. Definitions that are no longer needed in the legislation would be removed. A regulation making power enabled key definitions subject to change over time, such as ‘animal’, to be modified in terms of scope, as needed. Definitions and names subject to frequent change would be provided for in the regulations, such as ‘impounding authority’ and ‘area of operations’.

The unattended property regulatory framework no longer includes the concept of a public ‘pound’ for the keeping of animals and items. Instead, the Act enables a broad range of temporary and shared arrangements for the storage of items and care of animals at any public place under the care or control of the authority in its area of operations, or on other land, with the permission or agreement entered into with the land owner or occupier.

Times after which property may be deemed unattended will be specified

Authorities will continue to be able to act if they believe on reasonable grounds that an animal or item is unattended.

To give certainty to the community and regulators alike, it is proposed to specify times after which an authorised officer may take possession of an item that is unattended in given circumstances.

⁵ If it is no longer registered, it is the responsibility of the last known registered operator to prove otherwise, e.g., that ownership was transferred to someone else and to identify that person

Triggers for regulatory action may include whether an unattended item causes an obstruction to access (for vehicles or pedestrians), a health or safety risk (to a person, animal or the environment) or an amenity issue requiring removal, or is simply left in one place for too long requiring it to be attended to, with reasonable notice to do so. It is noted that, in general, abandoned animals (as opposed to those simply unattended or straying in public) are more appropriately dealt with under animal welfare laws.

It is proposed that minimum standards for as class 2 sharing service items (such as shopping trolleys) are to be provided for in regulations. The framework enables mandatory risk-based standards for specific classes or types of property to be provided by regulations or Codes of Practice, if required, to meet future need.

Boat trailer provisions are removed and powers for all vehicles improved

Based on consistent feedback from councils, boating and recreational fishing groups and other stakeholders, the special arrangements under the Impounding Act for taking into possession boat trailers, including for councils to ‘opt-in’ to these arrangements, were considered by stakeholders to be largely ineffective, onerous and costly, as they simply require the owner of the boat trailer to move the boat through an intersection every 43 days.

The unattended property regulatory framework removes specific arrangements for boat trailers and instead significantly improve powers, offences and penalties for authorities to apply to all classes of unattended, abandoned and/or unregistered standing/parked vehicles, including through proposed consequential amendments to road transport laws.

Importantly, the regulatory framework would also include the ability to add special standards via regulations that particular classes must meet, if needed in future, such as boat trailers, or vehicles over a certain size, to help deal with social issues caused by increasingly limited public parking, if and as these occur over time.

Clarified relationship with animal welfare laws

The PSUP Act includes as a key objective that animals dealt with under the Act “*are cared for in a way that is consistent with community expectations and animal welfare laws*”. Authorised officers and property owners choosing to take possession of animals that trespass on their land under the Act must care for animals in accordance with animal welfare laws. Further, animals may only be destroyed in strictly limited circumstances where there is no viable alternative, this must be done in line with animal welfare standards and by a vet wherever possible. Minimum notice periods and other requirements will be refined and clarified.

The changes to the regulatory framework specify, where appropriate, minimum timeframes by which a responsible person must respond to a request to attend to or claim an animal or item from public, or once taken into possession, from the place it is being kept. See table 3.2 for proposed updated risk-based timeframes. While the PSUP Act provides minimum timeframes, other timeframes may be detailed in the regulation and subject to change, as needed.

3.2 Proposed update to risk-based timeframes

Item	Notice Timeframe
Timeframe before property can be taken into possession	
Class 1 - Personal item that obstructs access or poses a safety risk	Immediate – no notice
Class 2 - Sharing service item that obstructs access or poses a safety risk	3 hours (from 7am if deemed unattended after 11pm)
Class 1 or 2 – Personal or sharing service item left safely but causing amenity issues or left in same place for 7 days or more	4 days
Class 3 item – Vehicle (includes trailer) that obstructs access or poses a safety risk	Immediate - no notice
Class 3 item – Registered left safely in one place for 28 days or more or causing an amenity issue	15 days
Class 3 item –Registered but inoperable vehicle (e.g. due to damage or missing parts) left safely in one place for 15 days	15 days
Class 3 item – Unregistered vehicle left safely in one place for 15 days or more or causing an amenity issue	15 days
Any animal in public	Immediate – no notice
Deadline for return - Timeframe to hold property for owner before disposal or sale	
Animal	7 days
Class 1, 2 and 3 items (including personal items, shopping trolleys, share bikes and vehicles)	28 days
Relevant period - timeframe to try to sell or give away property (other than shopping trolleys) before otherwise disposing of it*	14 days
Relevant period in the Act as- timeframe to try to sell or give way a shopping trolley before otherwise disposing of it	1 day

Note: Animals may only be destroyed following all reasonable attempts to sell, give away or rehome them.

Source: The CIE, Office of Local Government.

This will help to streamline processes for authorities to keep and sell, give away, rehome or otherwise dispose of animals and items taken into possession, including minimum timeframes to keep these and make inquiries to find the owner, as well as monetary value thresholds under which items may be immediately disposed of, and minimum timeframes after which animals may be rehomed.

Authorities must make all reasonable attempts to rehome animals rather than destroy them, unless for animal welfare reasons.

Threshold values for when the authorised officers may immediately destroy or dispose of the item without the requirement to sell or give these away during the mandatory 'relevant period' for sale. Classified as:

- Class 1 and Class 2 items \$200
- Class 3 vehicles \$1 500

The relevant period during which authorities must attempt to sell or give away property other than shopping trolleys before otherwise disposing of it is 14 days. For Class 2 Shopping trolleys, it is 1 day.

There is no requirement for an authority to try to give away or sell a shopping trolley before making appropriate arrangements to dispose of it given its lack of value as an item to own for most in the community.

The Authority is entitled to recover from the proceeds of the sale of an item the actual costs incurred in connection with the sale of the item. The remainder of the proceeds are to be dealt with as follows:

- In relation to a class 1 or 2 item – the money may be claimed by the owner at any time in the 3-months after the sale of the item.
- In relation to a class 3 item – the money may be claimed by the owner at any time in the 6 months after the sale of the item.
- In relation to an animal – the money may be claimed by the owner at any time in the 6 months after the sale of the item.

If the money is not claimed within the period referred to above, the remainder of the proceeds may be retained by the Authority.

Consequential amendments to road transport regulations are required to support the effectiveness of the unattended property regulatory framework

The changes to regulatory framework will make consequential and other amendments to other legislation, including to strengthen authorised officer powers and to deal with inconsistencies with other laws.

Consequential amendments were made to the Road Transport Act and will be made to the Road Transport (General) Regulation (to commence concurrently with the PSUP Act) in relation to standing an unregistered vehicle on a road. These amendments will:

- make the fine amount under road transport laws for standing an unregistered Class A motor vehicle on a road for more than 15 days after registration lapses - \$283 (increases annually in line with CPI; and
- enable a fine to be attached directly to such vehicles without the need to find the registered operator first (usually the owner); and
- enable councils to issue these fines in addition to NSW Police and road transport authorities;
- clarify that a notice can apply to a Class A motor vehicle, which includes vehicles in combination with a trailer.

Specific proposals to improve the regulation of items and animals

Shopping trolleys and other shared devices

Table 3.3 summarises the key improvements regarding shopping trolleys, including categorising these as Class 3 sharing items.

3.3 Proposed improvements to sharing service items (including shopping trolleys) under the PSUP Act

	Current	Shared devices legislation
Fines can be levied on the owner or operator as the responsible person for the trolley / trolley service	Can only fine user for abandoning	Fines may be levied on users and other responsible persons
Risk based timeframes for owners to remove trolley	No timeframes	3 hours – access or safety risk ^a 4 days – amenity issue or left too long in one place ^a
Issue fine on owner/operator for not collecting trolley in public	No	Deemed unattended and can fine owner
Compounding fines for multiple trolleys	No	Yes
Branding of class 2 items	Voluntary	Mandatory
Higher penalties for corporations	No	Yes
Code of practice	Voluntary	Mandatory

^a It is proposed that small retailers be subject to a 4-day timeframe for all shopping trolleys noting the fewer risks to access and safety trolleys cause in smaller rural and less urban environments.

Source: The CIE.

Due to long term and ongoing community concerns with safety, access and environmental issues caused by shopping trolleys left in public, it is proposed to regulate shopping trolleys as ‘Class 2 - Sharing service items’ under the PSUP Act. This will require owners/operators to attend to them, if left in public, within risk-based timeframes, or face regulatory action, as successfully done for share bikes in 2018.

Specifically, it is proposed that retailers operating shopping trolley services, such as supermarkets, may continue to enable users to loan their shopping trolleys for use on public land so long as they are clearly branded with the operators contact details and, if a complaint is made that a shopping trolley is unattended, the operator is to remove the shopping trolley within risk-based timeframes specified by regulations.

Proposed removal timeframes have been negotiated with operators and regulators and align with those currently in place for share bikes, i.e. 3 hours for removal of a shopping trolley that poses a safety risk or obstruction (vehicular or pedestrian), or 4 days where it is causing an amenity issue or has been left safely in the same place for 7 or more days. If a retailer does not meet the timeframe, the shopping trolley would then be deemed ‘unattended’ and regulatory action could commence, noting that it is proposed that the timeframe would commence at 7am for shopping trolleys deemed unattended at night after 11pm the evening before.

Regulatory action that may be taken in relation to shopping trolleys may include taking into possession the shopping trolley and applying a maximum penalty of 25 units (\$2,750), or a PIN of \$660. Regulators may move a shopping trolley causing a safety risk or obstruction to a safer place nearby, rather than or in addition to, the regulator contacting the operator to arrange collection. It is also proposed to ensure that higher penalties apply if multiple sharing service items are left together, through a ‘compounding’ penalty arrangement whereby each additional trolley results in a 10% higher PIN, or \$66 more per item up to 11 items.

It is proposed that, in addition to meeting risk-based timeframes for attending to sharing service items, the regulations require operators of sharing services to clearly brand sharing service items with the operator's name and contact details. If a Class 2 item does not display the required branding that contains the contact details, then the item may be seized immediately without the need for notice and held for the required period before being disposed of.

It is proposed that operators with fewer than 25 shopping trolleys, share bikes or other Class 2 (sharing service) items be exempt from the requirement to collect their shopping trolleys within the 3-hour timeframe that applies in some circumstances to operators of larger services, noting the fewer risks to the access and safety issues trolleys tend to cause in smaller rural and less urban environments.

Specific performance-based standards for shopping trolleys as a type of sharing service item could be included in a mandatory Code of Practice that may be established under the regulations, if required.

Specific requirements on authorities may also apply, such as to identify individual shopping trolleys deemed to be unattended with unique tags to determine whether or not a breach has occurred.

The relevant provisions for these reforms may not commence until an appropriate transition time has passed to enable operators to prepare for implementation. This may result in commencement with a 'grace' period of up to 6 months before penalties for offences could commence. This will not limit the exercise of other functions by authorities when the Act commences.

Notice

Consultation feedback has indicated that it is critical to make sure that authorised officers give appropriate notice to owners and others responsible for unattended items prior to commencing regulatory action (unless an immediate risk requires an immediate response). Under the PSUP Act a notice must be served in writing by the following methods:

- to an individual delivery to the person or by post; and
- to a corporation by post or by email.

In addition, other methods can be specified by the regulations. It is proposed that the regulations will additionally specify different types of written notice available to different classes of items:

- Class 1 (personal items) and Class 3 (vehicles) – written notice will be able to be affixed to the unattended item;
- Class 2 – written notice will be required to be sent to the responsible person's designated written electronic contact address.

Animals

Table 3.4 summarises the key improvements regarding animals.

3.4 Proposed improvements to animals under the PSUP Act Impounding Act

	Current	New
Definition of animal	Act specific definition	Will exclude feral and non-farmed native animals
Issue orders to prevent animals trespassing in public including on public roads e.g. repair/fix fencing	No	Yes
Animals disposed if monetary value below threshold	Yes	No
Deadline for return - holding days for animals in care during which owners can claim	7 days	7 days
Relevant period – timeframe during which authority must try to sell or give away an animal before disposing of in other ways*	14 days	14 days
Requirements for keeping & welfare of animals	Described in Act	Removed, clearer need to comply with <i>Prevention of Cruelty to Animals Act 1979</i>
Deeming an area to be a place of care	Restricted to area of operations or under authority's control or place of care shared with another authority	More flexibly deem broader category of property/facility to be a place of care for the purposes of the Act, including through arrangements with other land holders, whether or not public land in LGA
Power to seek cost orders from owners for the cost of care of animals, pending a decision on prosecution in court incidents	No	Yes

Note: Animals may only be destroyed following all reasonable attempts to sell, giveaway or rehome them.

Source: The CIE.

Feedback raised during this review in relation to animals has supported placing greater onus on people with responsibility for animals to ensure they are not left unattended in public places or permitted to trespass on private properties owned by other landholders. It has also supported modernising the provisions by extending and clarifying the scope of animals that may be impounded, providing more useful compliance tools to prevent future incidents, and enabling a more flexible approach to securing animals in a range of different circumstances.

The changes proposed to the regulatory framework would extend the definition of animal to incorporate a wider range of species, including farmed native animals, but to limit application of the powers and duties in the PSUP Act to those animals kept by people, or 'property'.

It also proposed to place clear duties and appropriate penalties on those responsible for animals to prevent their animals trespassing on private property, or becoming unattended on public land. These obligations will be placed on persons who own, or are in charge of animals, including the occupier or agent holder of property. Importantly, however, an animal is not to be considered unattended in circumstances in which a person with responsibility for an animal is permitted to leave an animal in public –including, for example, on a Travelling Stock Reserve.

The new unattended property regulatory framework enables authorities to be able to act immediately on the basis that an animal has been deemed to be unattended. It is proposed that an authorised officer, in forming a reasonable belief that an animal is unattended, may additionally consider whether the responsible person for the animal in a public place has become temporarily or permanently unable to control or appropriately supervise the animal.

To facilitate prompt and coordinated action by authorities in emergency situations, there are new provisions for stock in emergencies in the PSUP Act to enable authorised officers to temporarily place the animal(s) on any practicable premises in the vicinity of the place at which the animal was left unattended, which may include on private land.

Importantly, in recognition of important biosecurity laws, the PSUP Act requires authorised officers to:

- make reasonable attempts to obtain consent of the owner/occupier of the private land to place animal/s on their land temporarily, and
- comply with reasonable requests of the owner/occupier in relation to the keeping of the animal/s on their land, and
- arrange to remove the animal/s as soon as practicable after the emergency, unless agreement reached with the landowner for the animal to stay.

A Biosecurity Act emergency order prevails in the case of any inconsistency.

Arrangements for keeping and care for animals in the possession of an authority would also be clarified. Ensuring animal welfare in line with contemporary community expectations and laws is a key object of the Act. Authorities must attempt to find the owner for minimum of seven days before being able to sell the animal or give it away, which they must do for a minimum of 14 days. The Act also makes it clear that authorities must not destroy an animal unless on animal welfare grounds or unless all reasonable attempts have been made to sell, give away or rehome the animal.

More flexible options for taking animals to a place of care while in an authority's possession are enabled under the PSUP Act. This could be an appropriate place on public or private land. Authorities would be able to enter into arrangements for the care of animals before and after they are taken into possession (including during an emergency) so long as animal welfare requirements are met. For example, arrangements could be entered into with a vet or rehoming organisation to care for the animal while in the possession of the authority. The authority still retains responsible for all animals while they are in the authority's possession.

Compliance and enforcement tools and fines will provide greater incentives to prevent future incidents. Authorities may issue orders to require action to be taken to prevent animals trespassing or becoming unattended in future, including improvements to fencing between private properties.

Penalty and fines for strict liability offences and higher order penalties are available for offences due to negligence or recklessness. Higher order offences are not subject to fines.

Additionally, while fees for costs (eg. for feeding and sheltering animals) are available under the Act, authorities are additionally enabled to seek a cost order pending a decision

on a prosecution in the courts, due to the high costs of caring for animals and the length of time it can take for such matters to be heard. This may reduce the costs for authorities while matters are decided through court processes.

Animal identification checking

It is proposed that the regulations will provide for actions that must be taken by the authorised officer to establish who the owner of the animal is (e.g. checking any form of identity worn by / marked on the animal, checking if the animal is microchipped and / or registered, searching the relevant stock register/s for owner detail).

Vehicles including boat trailers

3.5 Improvements for vehicles under the PSUP Act

	Current	New
Boat trailer technically required to move through an intersection every 28 days	Yes	No, boat trailers treated the same as all other vehicles, with increased powers for unregistered and inoperable vehicles
Immediately take into possession a vehicle causing safety or obstruction vehicular or pedestrian) e.g. parked across a driveway	Yes (not clear to some authorities)	Yes
Issue fines for unregistered vehicle standing on public road over 15 days	No	Yes (consistent with new powers for councils to issue fines for standing an unregistered vehicle on a road under road transport law and regulation amendments))
Timeframe for police to provide vehicle ownership details	Within 3 days	Within 24 hours
Timeframe to take into possession a vehicle		
Class 3 item – Vehicle (includes trailer) that obstructs access or poses a safety risk	Not specified	Immediate - no notice
Class 3 item –Registered left safely in one place for 28 days or more or causing an amenity issue	Not specified	15 days
Class 3 item –Registered but inoperable vehicle (e.g. due to damage or missing parts) left safety in one place for 15 days	Not specified	15 days
Class 3 item – Unregistered vehicle left safety in one place for 15 days or more or causing an amenity issue	Not specified	15 days
Value threshold over which vehicle is required to be kept for 28 days after it is taken into possession	\$500	\$1 500

Source: The CIE.

Feedback received during this review strongly supports reform to ensure that the owner and registered operator of vehicles take greater responsibility for ensuring these vehicles are not left unattended, including abandoned at the end of their useful life. This outcome is key to efforts to better balance amenity and safety of public land for the benefit of the whole community.

The improvements through the PSUP regulatory framework provide a new framework for requiring responsible persons to manage vehicles by enabling authorised officers to act when a standing vehicle may be deemed ‘unattended’ (including unregistered as per the *Road Transport Act 2013*) based on risk-based timeframes.

Specific timeframes set out in the PSUP Act – and the and regulations as proposed in table 3.5 above - determine when an authorised officer of an authority may act, including to move or take possession of a vehicle, and, in some cases, when an offence has been committed. It is proposed that action may be taken:

- Immediately — when a vehicle is:
 - clearly causing an obstruction to vehicular or pedestrian traffic, or
 - a risk to the safety of a person, animal or the environment.
- After 15 days — for unregistered vehicles that have been left in the same place for 15 days
- After 15 days for registered vehicles that are damaged or in such a condition that the vehicle could not be legally driven from the place, and the vehicle has been left in the same place for 15 days
- After 15 days — for registered vehicles that have been left in substantially the same place for 28 days.

Notices for vehicles

The unattended property framework also makes vehicle offences ‘operator onus’ and ‘designated’ offences. This would enable an authorised officer to issue a notice directly to the registered operator of a vehicle that the vehicle may be deemed unattended, including by affixing the notice to the vehicle (e.g. for the offence of standing an unregistered vehicle for more than 15 days after its registration lapses on a road). Due process enables the registered operator 21 days to declare whether they were responsible for the vehicle at the time of the offence.

Notices under the PSUP Act must be in writing and must be provided to the responsible person for the item, including via the option of attaching it to the vehicle. Notices must also specify the day on which an authorised officer may take possession of the vehicle after the timeframe lapses as set out above.

Offences for leaving a vehicle unattended in a public place under the PSUP Act take into account not just safety issues, but also broader social amenity and access related to parking, already highly contested in some urban areas and likely to become more contested in future.

Amending the framework for the management of all vehicles in public places – and introducing clear time-based deeming provisions – have enabled boat-trailer specific arrangements to be removed from the legislation. This acknowledges feedback from the industry and authorities that a more holistic solution to all vehicles was warranted and that boat trailers are more appropriately dealt with as for all other vehicles and trailer types.

However, regulation making powers are sufficient to enable further, or different, standards to apply to particular classes or sizes of vehicles, such as boat trailers or heavy vehicles, if the community ever requires bespoke rules again in the future.

Authorities have also been given stronger regulatory powers in the PSUP Act to deal more swiftly and effectively with vehicles left in public places, including powers of entry to vehicles for the express purpose of identifying owner details, for example, via the VIN number. To ensure that authorities work more effectively together in relation to vehicles, NSW Police will provide, if needed, information about a vehicle's ownership to other impounding authorities within 24 hours, when requested. The need for this should be minimised due to the additional powers of entry for the purposes of identification and easier access for councils to appropriate vehicle databases.

In relation to taking into possession and disposal processes, it is proposed to increase the current value below which a vehicle may be destroyed after 3 days if an owner is unable to be contacted (rather than being required to store it for 28 days) from the current value of \$500 to \$1 500. This better reflects the current value of vehicles and had not previously been updated since the legislation commenced 29 years ago.

There are also stronger penalties for offences under the PSUP Act in relation to unattended vehicles, with much higher maximum penalties commensurate with the nature of the offences than under the Impounding Act, new including higher order offences for negligent or reckless behaviour, and the capacity to issue penalty notices commensurate with the nature and seriousness of the offence for strict liability offences.

Consequential amendments have also been made to the *Road Transport Act 2013*, and will now also be made to the regulations, to enable councils in addition to Police and transport authorities to issue fines that directly attach to unregistered vehicles standing on a road for over 15 days.

Moving vehicles and other items

The PSUP Act includes the power for authorised officers to arrange for vehicles and other items to be moved rather than taken into possession. The regulations are to propose that a vehicle must be moved to a nearby place where it is easily located from the place that it is moved from.

This section applies if an authorised officer reasonably believes an item is unattended, but it is not necessary to take possession of the item (e.g. moving a vehicle from a temporary 'no parking' space ahead of a large community event). While the need is likely to be rare, it can be an option taken to avoid regulatory costs.

PPS Register

It is proposed that the regulations ensure that authorities, prior to disposing of vehicles in their possession, conduct a search determine if vehicles have a security interest or registered financing statement (within the meaning of the Personal Property Securities Act 2009 of the Commonwealth).

Informing NSW Police

It is proposed that authorities taking a vehicle into possession inform the NSW Police about the vehicle in certain circumstances, such as when the authority has reason to believe that the vehicle may have been involved in a crime.

*Fines and penalties**Offences and penalties plus enforcement frameworks updated*

Most councils and others key stakeholders argued strongly for higher penalties in the PSUP Act than in the Impounding Act, noting they have not increased in close to 30 years. Justifications include the deterrent effect of higher penalties, that penalties should cover the cost to councils and the community of regulatory action, and that penalties should better reflect the risk to the community and environment of the offence, in line with community expectations and other commensurate offences.

Maximum penalties for offences are higher in the PSUP Act, including for key offences of leaving unattended an item or animal in public, and to create a broader range of (Tier 1) strict liability offences, including a new offence of permitting an animal to trespass on private property, for which penalty infringement notices (PINs) may be issued.

An increased use of penalty notice for a broader range of strict liability offences will divert offenders from the Courts and allow for the swift finalisation of an offence, reducing burden on the justice system and placing regulatory costs on those responsible rather than councils and communities. Higher (Tier 2) offences were also enacted, with higher penalties aligned to the level of risk and obstruction caused, as well as the mental element (e.g. recklessness, negligence) the person responsible. Penalties for these higher-level offences need to be determined by the Courts.

More flexible, outcomes-focused powers additionally enable impounding authorities to issue 'directions', or orders, requiring owners to act to stop something becoming unattended, such as to repair fences to contain stock animals or to implement a shopping trolley management plan. A higher order penalty is in place for failure to comply with a direction.

New penalties for key offences

New penalties are:

- leaving items or animals unattended in public
- permitting an animal to trespass on private land
- failing to collect property from a place of storage or care
- failing to comply with an order relating to ensuring property is attended to and does not become unattended again.

In addition to the above, matters heard by a Local Court may result in continuing daily penalties for offences involving vehicles for up to a maximum of 3 days. Offences involving groups of animals and clusters of sharing service items (such as shopping trolleys) may compound by 10% per animal or item up to 11 animals or items in total.

For animals and sharing service items, based on feedback, it is proposed that the compounding penalties flow through to the PINs so that they may increase if the nature of the access issue or risk increases up to a maximum of 11 animals or items, so as not to exceed a reasonable proportion of the maximum penalty⁶. It is noted that feedback did not support PINS for vehicle offences to continue over 3 days, so a continuing fine for vehicles is not proposed at this time.

3.6 Penalty infringement notices

Item	Fine
Class 1 item unattended	\$330
Class 1 item failure to recover from storage	\$330
Class 1 failure to comply with direction given to remove unattended property or prevent property becoming unattended again	\$660
Class 2 item unattended	\$660 for an individual and \$1 320 for a corporation
Class 2 compounding fine – not collected within regulatory timeframes	10 per cent of the base PIN (\$66) for each additional item left unattended together capped at 11 items = \$1 320 max
Class 2 item failure to recover property from storage	\$330 for individual and \$660 for a corporation
Class 2 failure to comply with direction	\$1 320 for an individual and \$2 640 for a corporation
Class 3 item unattended	\$660
Class 3 failure to recover property from storage	\$660
Class 3 failure to comply with direction given to remove unattended property or prevent property becoming unattended again	\$1 320
Animal unattended	\$660
Animal compounding fine	10 per cent of the base PIN (\$66) for each additional animal left unattended together capped at 11 animals = \$1 320 max
Animal failure to recover animals from place of care	\$660
Animal fine for trespassing on private land	\$660
Animal fine for failing to comply with a direction to remove an unattended animal or prevent an animal becoming unattended again	\$1 320 for an individual or \$2 640 for a corporation.

Source: The CIE

Protocol for Homeless People in Public Places

It is proposed that the regulations require that authorised officers consider the specific needs and circumstances of homeless people in undertaking their functions in line with

⁶ For example, with items that attract a PIN of \$660, the first item will receive a PIN for \$660, followed by PINs of \$66 for the next 10 items. The total value of PINs for 11 or more items will be \$2 320.

the principles underlying the Protocol for Homeless People in Public Places (the Protocol).

The NSW Government recently updated the Protocol to help ensure that homeless people are treated respectfully and appropriately and are not discriminated against on the basis of their homeless status. The Protocol also aims to assist homeless people to receive services if they need or request them.

The Government has committed to ensuring that this policy is considered by regulators of relevant legislation, including those regulating the new PSUP Act to ensure the possessions and companion animals of homeless people are dealt with appropriately.

Transition timeframe

It is proposed that owners and regulators are given a 6-month transition period after the PSUP Act has commenced and in which notices in relation to taking possession of property, will apply but during which penalties and fines may not be applied.

Delay of the relevant penalty and fine provisions for these reforms would enable an appropriate transition time to prepare for implementation of the new laws without concern of penalty.

4 Estimating the impact of proposed changes

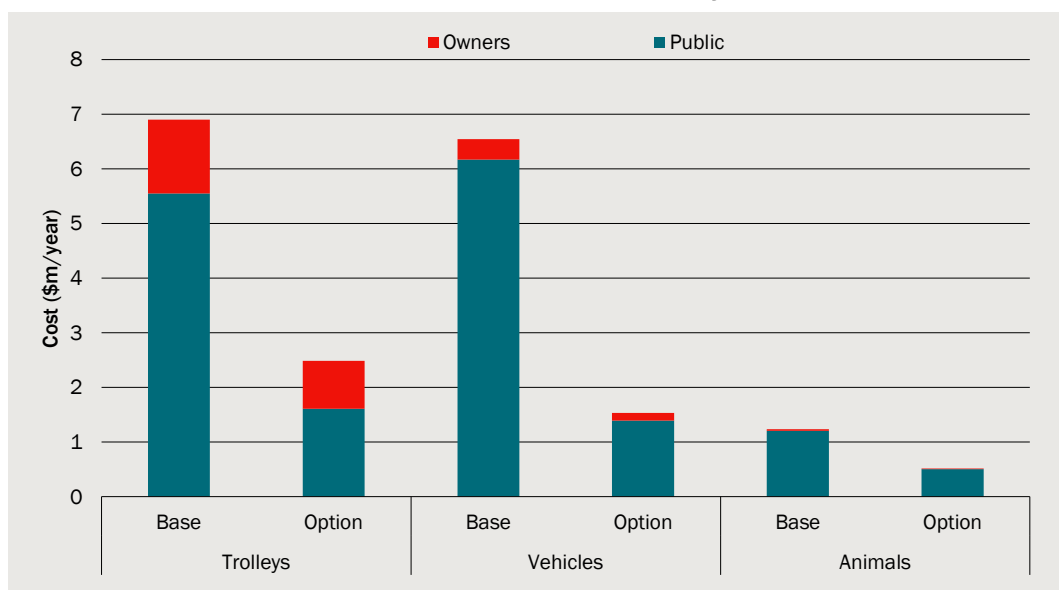
Summary of impact on costs imposed on owners and public

Implementing the preferred option will lower net costs on the public and owners by:

- encouraging faster collection of items in public reducing amenity costs, and
- reducing the number of items/animals taken into possession, and therefore the cost of transferring and holding goods in places of care or storage.

Chart 4.1 shows the reduction in costs for owners and public from the base case scenario to the option scenario. All cost categories experience a decrease in costs.

4.1 Impact on costs imposed on owners and public per year

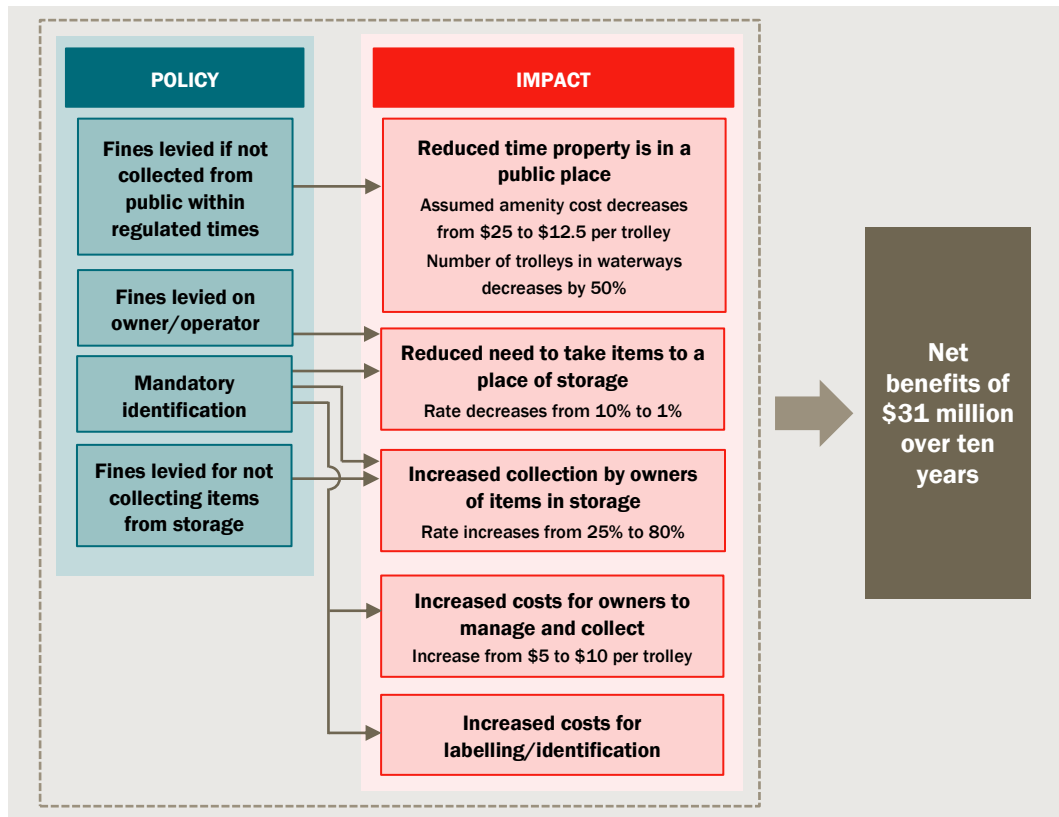


Data source: The CIE.

Shared items (including shopping trolleys)

We have estimated the impact of transferring responsibility of shopping trolleys from users to owners. This results in a significant decrease in costs for the public and a smaller decrease for retailers. Chart 4.2 illustrates the impact of the policy option for shopping trolleys, which translates to a projected benefit of \$31m over 10 years.

4.2 Summary of impacts – Shopping trolleys



Data source: The CIE.

Public costs

The costs borne by the public are projected to decrease through the implementation of the proposed policy option. The drivers of the cost reductions are:

- shopping trolleys being in public for a reduced time
- fewer shopping trolleys in places of storage, and
- higher likelihood of shopping trolleys being collected.

Shopping Trolleys being in public for a reduced time

Transferring the responsibility of shopping trolley management onto retailers and being able to issue them fines will incentivise retailers to respond to abandoned shopping trolleys more frequently in public. When a shopping trolley is abandoned in a public space, it reduces the amenity of the area and incurs a public cost. This cost increases as more shopping trolleys become left unattended and for each day they remain in public.

In the base case scenario, shopping trolleys left unattended in public will remain there until either a retailer collects them, or they are taken into possession by a council. There are no regulated requirements to collect shopping trolleys within a specific timeframe. This can lead to variations between LGAs in shopping trolley collection as it is dependent on negotiations between each council and retailer, which was confirmed

during the stakeholder consultation. Some councils reported that retailers would respond to shopping trolley incidents within the week, whereas other councils reported that shopping trolleys could remain in public for extended periods of time. In lieu of a standardised regulation for all councils and retailers, inconsistencies in shopping trolley management for public spaces are to be expected.

The policy option creates risk-based timeframes which allow councils to enforce the collection of shopping trolleys by retailers using PINs. This will incentivise retailers to collect shopping trolleys more frequently and reduce the time shopping trolleys are in public spaces, thus reducing the amenity cost. Furthermore, shopping trolleys will need to be branded, which then will allow the councils and public to identify the owner of the shopping trolleys and ensure they have been notified to collect it. It is estimated that due to shopping trolleys being collected sooner, the amenity cost will decrease from \$25 per trolley to \$12.5 per trolley. As trolleys are in public for a reduced period of time, this will decrease the opportunities for trolleys to be dumped in waterways. We assume a 50 per cent decrease in the number of trolleys in waterways.

Fewer shopping trolleys taken into possession

As a consequence of retailers collecting shopping trolleys more frequently, it is expected the rate of shopping trolleys being taken into possession will substantially decrease. This represents a significant cost saving as once a shopping trolley enters the unattended property regulatory process, it incurs costs from transporting, holding and disposal. By limiting the number of shopping trolleys taken into possession, councils will avoid the costly process. It is estimated the rate to decrease from 10 per cent to 1 per cent.

Higher likelihood of shopping trolleys being collected by owners

Councils are restricted in the disposal of shopping trolleys once taken into possession by the statutory length of holding these in storage. They are only able to release shopping trolleys prematurely if they are collected by the owner.

In the base case scenario, shopping trolleys that are not identifiable are often uncollected and must be kept in storage for 28 days before disposal. However, with the proposed policy option, shopping trolleys must have mandatory branding to identify the owner which will allow the owner to be contactable. Coupled with fining owners for not collecting shopping trolleys, councils should release shopping trolleys from the storage facility sooner, which will save space and reduce disposal costs. This will translate to an additional benefit as there will be fewer shopping trolleys that need to be disposed of, which is a loss-making activity for councils and has negative environmental impacts. We estimate that the rate of collection from storage facilities will increase from 25 per cent to 80 per cent.

Owners and operators of shopping trolley services

As the responsibility of shopping trolley management is shifted to owners, they will experience both increases and decreases in some costs, with a net decrease in total costs. The key factors driving the increase in costs to retailers are:

- scaling up of shopping trolley collections and management, and
- mandatory identification of shopping trolleys.

While retailers experience an increase in costs for trolley management, the overall decrease in cost will be driven by a larger number of shopping trolleys being collected in public and not taken into storage, leading to retailers losing fewer shopping trolleys to disposal in the unattended property regulatory process. Also, it is understood most trolleys are already branded, therefore branding is not anticipated to be a significant cost. Further, it is not proposed to mandate any specific shopping trolley containment strategy which enables retailers to choose the most appropriate means of containing shopping trolleys to suit their local circumstances.

Scaling up of shopping trolley collections and management

The obligation to collect shopping trolleys based on risk-based timeframes will result in retailers potentially needing to scale up their shopping trolley collection management systems. Retailers will be expected to respond to all incidents where a shopping trolley has been reported to be left unattended in a public place.

Given the impact on retailers of the proposed changes, it is proposed that many of the changes commence by proclamation, potentially 6 months after the PSUP Act is assented to. This will enable industry to have time to implement the changes.

Feedback from a large retailer stakeholder suggested that they have sufficient capacity in their shopping trolley collection systems to collect trolleys on a risk-based timeframe. As a result, they do not expect the cost per shopping trolley for collection to increase materially if they are required to respond to risk-based timeframes. However, we assume that smaller retailers may incur a larger cost per shopping trolley and have therefore increased the collection cost per shopping trolley in the policy option.

Exemptions for small retailers

It is also proposed that smaller retailers with fewer than 25 shopping trolleys would not be subject to same level of requirements as large retailers for risk-based timeframes. Small retailers will not be required to collect trolleys within a 3-hour window. They will have up to 4 days to do so.

Identification of shopping trolleys

The policy option requires shopping trolley owners to have branding on each shopping trolley. Feedback from a large retailer stakeholder indicated that their whole shopping trolley fleet, which is approximately 86,000 trolleys, is branded and as such they would not incur additional costs if this requirement was mandatory. In addition, they advised that a small portion of their fleet is individually branded with a sticker which indicates the trolley number and the phone number for trolley tracker. Should individual branding be required, they advised that it cost approximately \$2 per trolley to update. For our cost estimates, we have assumed the existing branding will be sufficient to comply with the regulations and have not included a cost to retailers for branding.

Reduced loss of shopping trolleys

As retailers collect shopping trolleys more frequently in public, it will reduce the time that shopping trolleys are subject to adverse weather conditions which may damage trolleys. Reducing the likelihood of shopping trolleys being damaged will decrease costs for repair by retailers. Furthermore, for shopping trolleys that are impounded and then subsequently collected, they will no longer be disposed of by councils which occurs more frequently in the current scenario. This will result in fewer shopping trolleys being destroyed and lower costs for retailers.

Cost benefit analysis – Sharing service items

Table 4.3 shows the cost benefit analysis of the policy option for shopping trolleys in metropolitan NSW⁷. The costs borne by the public will decrease by approximately \$3.9m per year and the costs borne by retailers will decrease by \$0.5m per year. This translates to a benefit of approximately \$31m over ten years with a 7 per cent discount rate.

4.3 Cost benefit analysis of shopping trolleys in metropolitan NSW

Impact	Base case	Option
Discount rate	7%	7%
Estimated trolleys abandoned per year	85 407	85 407
Estimated trolleys impounded per year	8 541	854
Estimated trolleys in waterways per year	5 694	2 847
Public costs	\$'000	\$'000
Total cost of trolley collection	641	64
Total cost of trolley storage	376	38
Total cost of trolley disposal	1 601	43
Total environmental cost of trolleys	797	399
Total negative amenity cost of trolleys	2 135	1 068
Total cost to public	5 550	1 610
Retailer costs	\$'000	\$'000
Total cost of collecting trolleys from public	384	846
Total cost of collecting from trolleys from place of storage	6	2
Total cost of trolleys destroyed	961	26
Total cost to retailers	1 352	873
Total costs to public and retailers	6 902	2 484
Net benefit over 10 years in present value terms		31 029

Source: The CIE.

⁷ Metropolitan NSW combines Greater Sydney, Newcastle and Wollongong

Potential risk from changing user behaviour

It is possible that as retailers scale up their shopping trolley collection activities, this may be perceived by the public as a service for users to collect shopping trolleys outside shopping centres.

In the current scenario, shopping trolleys that are removed from shopping centres and left in public will generally remain for a period of days to weeks, if not proactively collected, which incurs an amenity cost to the public. In addition, there is a cost to the user for dumping the shopping trolley in that it is illegal to leave a shopping trolley unattended, or 'abandon' it in public, and it will be viewed negatively by the public.

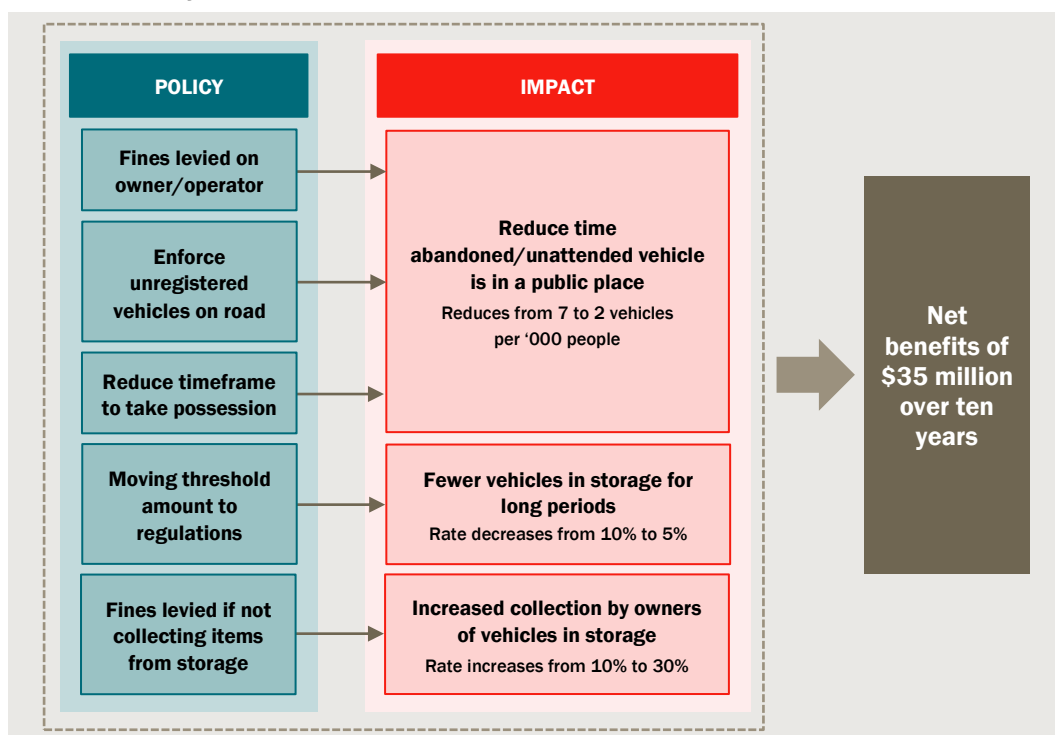
In the proposed scenario, if shopping trolleys are frequently collected by retailers, this may give the impression to the public that this is a service to collect trolleys and that they are not responsible for returning a trolley after use. As a result, the negative public sentiment around abandoning trolleys may reduce and consequently reduce the personal cost for a user abandoning a shopping trolley. This presents a risk and unintended consequence that may need to be managed by retailers should it eventuate.

Vehicles

We have estimated the impact of increasing powers to council for managing unattended vehicles in public (chart 4.4). Policy changes that affect vehicles are:

- increasing ability to levy fines on owners for vehicles left in public spaces and places of storage
- enforcing unregistered vehicles not being allowed to park on roads
- reducing timeframes to take possession, and
- increasing flexibility and value threshold once taken into possession and prior to disposal.

4.4 Summary of impacts – vehicles



Data source: The CIE.

Public

The factors driving a reduction in costs borne by the public are:

- reduced number of unregistered and unattended vehicles on public roads
- reduced timeframe to take possession of a vehicle
- reduced share of vehicles entering the unattended property process, and
- increased share of vehicles collected from place of storage.

Reduced number of unregistered and abandoned vehicles on public roads

In parallel to the policy changes in the PSUP Act, the *Roads Transport Act 2013* was amended to allow council rangers to issue fines for unregistered vehicles standing on public roads. Feedback from consultation stated that Road and Transport officers as well as Police, who have the authority to issue fines, can seldom prioritise resources to deal with these issues. By allowing council rangers authority under these laws, there will be more capacity to check vehicle registrations. This is expected to lead to a significant reduction in unregistered vehicles on roads, which we estimate to lead to a decrease from 7 to 2 abandoned vehicles per 1 000 people. This in turn will decrease the cruising costs borne by the public as more parking spaces become available.

Reduced timeframe to take possession of vehicles

The timeframes in which to take possession of a vehicle would also be reduced, which would result in few vehicles standing on public roads as they would either be collected or taken to a place of storage sooner. This would increase the availability of parking spaces and consequently decrease cruising costs borne by the public. Furthermore, it would lower the likelihood that vehicles would be vandalised once they appear abandoned.

Higher threshold value for vehicles to be kept in storage

Increasing the threshold value of a vehicle to \$1 500, below which it can be disposed of quickly (3 days), rather than being required to be kept for 28 days, is expected to decrease the number of vehicles needing to be kept in a place of storage. Feedback from consultations stated that in some LGAs the majority of vehicles would have no resale value and would be scrapped. The legislative process is very costly and therefore reducing the length of time vehicles remain in the process will correspond to a decrease in costs, particularly for vehicles with a low probability of recovering costs from a sale. We estimate that the proportion of vehicles needing to be kept long term (28 days) in a place of storage would decrease from 10 per cent to 5 per cent.

Furthermore, increasing the value threshold for vehicles consequently increases the average value of vehicles that are in storage. Higher value vehicles are expected to have a higher rate of collection as the value of the vehicle will exceed the towing, storage, and release fees. We estimate that the rate of vehicles collected from the place of storage would increase from 10 per cent to 30 per cent. This results in fewer vehicles stored at the place of storage for 28 days which reduces storage costs. Vehicles that are not collected would give authorities a higher likelihood of recovering fees from the sale process. The proposed option allows councils to avoid storing vehicles at a place of storage for 28 days which will not generate enough sales or scrap fees to cover costs.

Owners/Registered Operators

Costs for owners/registered operators are minimal at the per vehicle level as there are no additional monetary requirements for owners/registered operators as part of the legislation. However, all notices for regulation under the PSUP Act will be sent to the registered operator, who will be required to take action to rectify a breach of the Act, or if they were not responsible for the vehicle at the time of the breach, declare who was responsible for the vehicle at the relevant time ('operator onus provision').

Boat owners would experience a benefit as they would no longer be subject to requirements under special boat trailer provisions, which have been revoked. This was requested through the consultation process with boat owners and regulators.

Cost benefit analysis — vehicles

Table 4.4 summarises the cost benefit analysis for the policy options for vehicles. Public costs are expected to decrease by \$4.8m and owner costs by \$0.25m per year. This results in a net benefit of approximately \$35m over 10 years with a 7 per cent discount rate.

4.5 Cost benefit analysis of unattended/abandoned vehicles in metropolitan NSW

Impact	Base case	Option
Discount rate	7%	7%
Estimated vehicles unattended/abandoned per year	39 457	13 152
Estimated vehicles taken possession of per year	3 946	658
Estimated vehicles torched per year	14	7
Public costs	\$'000	\$'000
Total cost of vehicle inspection/collection	1 278	213
Total cost of vehicle storage	2 478	369
Total cost of vehicle disposal (recovered from sales)	-639	-207
Total environmental cost of vehicles	14	7
Total negative amenity cost of vehicles	592	197
Total cruising costs of vehicles	2 446	815
Total cost to public	6 169	1 395
Owner costs	\$'000	\$'000
Total cost of collecting vehicles from public	355	125
Total cost of collecting from vehicles from place of storage	20	10
Total cost to owners	375	135
Total costs to public and owners	6 544	1 530
Net benefit over 10 years in present value terms		35 214

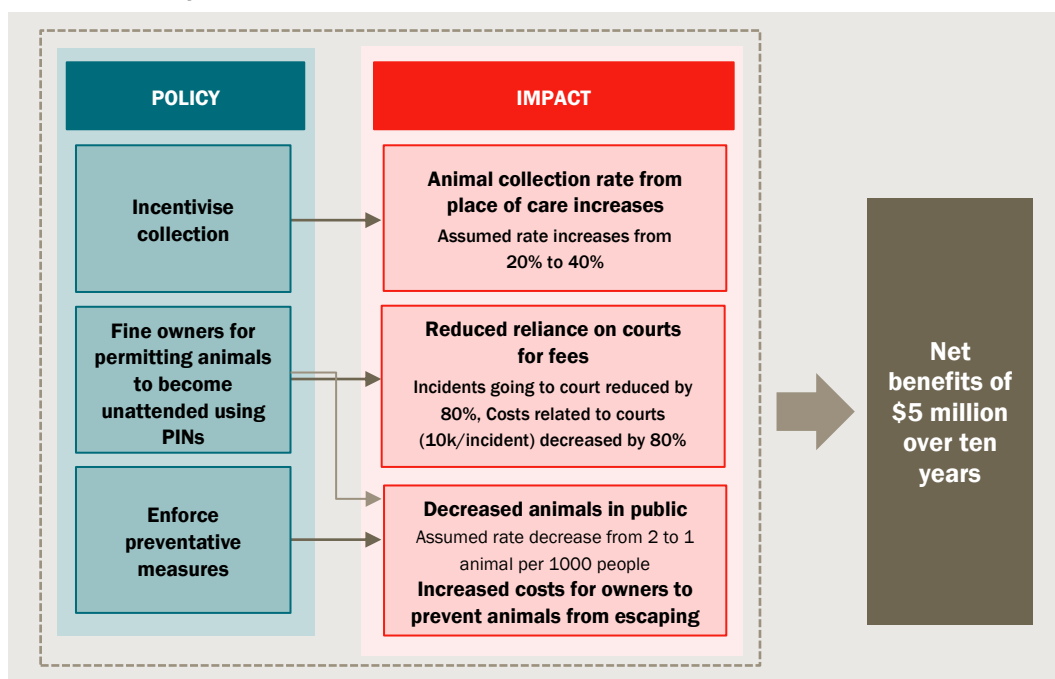
Source: The CIE.

Animals

We have estimated the impact of changes to taking animals into care under the PSUP Act, see chart 4.6. The policy changes which drive the reduction in costs are:

- ability to fine owners using PINs
- increasing the ability of council rangers to issue orders as prevention measures
- enabling authorities to seek a cost order pending a decision on a prosecution in the courts, due to the high costs of caring for animals and length of time for such matters to be heard, and
- incentivise collection through issuing PINs to owners for failing to collect animals from a place of care.

4.6 Summary of impacts - Animals



Data source: The CIE.

Public

The policy option is expected to reduce the costs borne by the public through:

- lower amenity impacts
- reduced animals in a place of care, and
- reduced reliance on courts for fee recovery.

Lower amenity impacts

When animals are left unattended in public, they reduce public amenity and present a danger for users of public spaces, such as passing motorists when animals are near roads. There have been reported incidences where livestock have escaped from a paddock and caused a fatal crash with the motorist⁸. While relatively infrequent, the cost of these incidents is significant, particularly when they cause death or serious harm to humans and animals. Through the policy options of enabling councils to enforce stronger preventative measures such as orders to fix fencing and allowing councils more flexibility in designating a place of care which will contain animals taken into possession, we estimate that the number of animals left unattended in public will decrease by half, from 2 to 1 animal per 1000 people.

⁸ See the Inquest into the death of Scott Bowden <https://coroners.nsw.gov.au/coroners-court/download.html/documents/findings/2018/Findings%20Scott%20Bowden.pdf>

Increased public safety

New provisions for dealing with stock in emergencies, will allow better coordination between authorities including NSW Police, councils, Local Land Services (LLS) and land holders. The provisions will enable animals following an emergency to be temporarily placed on private land (e.g. adjacent to a traffic accident involving stock). This will minimise safety risks to the public. Authorities will be required to make all reasonable attempts to contact the landowner/occupier and comply with their reasonable requests, if possible. This will assist in minimising any potential biosecurity risks caused by temporarily storing animals on private property. Animals will need to be moved as soon as practicable to a place of care.

Reduced animals taken into possession

A flow on effect of enforcing preventative measures and more flexibility in designating a place of care will result in fewer animals being taken into care. This is a costly process for animals, as they need to be monitored and appropriately cared for during containment. Reducing the number of animals in a place of care will reduce the overall costs which are borne by the public. Increasing flexibility for where an animal may be kept in care will reduce transport and care costs. This will also increase collection rates as there will be lower transport costs for owners if animals are held closer to their area making it easier to collect an animal that has been cared for nearby.

Reduced reliance on courts for fee recovery

Feedback from the stakeholder consultation stated that court costs can rapidly build up when a matter reaches Civil and Administrative Tribunal and lawyers are engaged. These proceedings were noted as taking up to a few months to over a year, the costs of holding the animal will be borne by the council or other authority in the meantime as they are unable to seek cost orders. In the cases where incidents enter court proceedings, councils will have the power to seek cost orders to recover the costs of care of the animal. We estimate that the court fees of \$10 000 per incident will reduce to \$2 000 per incident and the share of cases going to court will reduce by 80 per cent.

Higher collection rate from a place of care

Under the Impounding Act, councils are unable to issue PINs for when an animal is not collected by its owner from a place of care. Under the PSUP Act, the council will be able to issue PINs to the owner during this stage, which will incentivise owners to collect the animal sooner. We estimate the collection rate from the place of care will increase from 20 per cent to 40 per cent.

Owners

The costs for owners per animal remain largely unchanged for the PSUP Act. Overall owners should experience a decrease in costs due to fewer animals in public. Owners

may be instructed to repair fencing as part of the preventative directions; however, these costs are incurred in both the base and policy scenarios.

Cost benefit analysis — animals

Table 4.6 summarises the cost benefit analysis of the policy option for animals. Public costs are expected to decrease by \$0.7m and owner cost by \$0.01m per year, resulting in a net benefit over 10 years of \$5m with a 7 per cent discount rate.

4.7 Cost benefit analysis of unattended animals in outer-metropolitan NSW

Impact	Base case	Option
Discount rate	7%	7%
Estimated animals left unattended per year	5 234	2 617
Estimated animals taken to a place of care	595	297
Public costs	\$'000	\$'000
Total cost of responding to incidents	119	59
Total cost of holding animals during care	104	54
Total cost of euthanising animals (when no other alternative)	95	36
Total legal costs of court proceedings	59	5
Total negative amenity cost of animals	831	350
Total cost to public	1 208	504
Owner costs	\$'000	\$'000
Total cost of collecting animals from public	23	13
Total cost of collecting animals from place of care	1	1
Total cost to owners	23	14
Total costs to public and owners	1 231	518
Net benefit over 10 years in present value terms		5 024

Source: The CIE.

Impact on costs to councils and communities

The PSUP Act will enable councils to recover more fees to cover a higher percentage of costs. Authorities will also be able to issue more PIN's for offences to cover their compliance and enforcement activities under PSUP. The key areas of impact are:

- PIN or fine recovery for enforcement in relation to items/animals in public, and for failure to collect from a place of storage or care.
- Fees for to cover the costs of the unattended property process, including taking items/animals into possession, storing/caring for items/animals, and returning to owners, selling, giving away, rehoming, or otherwise disposing of.

PIN recovery for enforcement costs in public

The greatest impact on PINS will be for issuing fines to owners of shopping trolleys in public. Previously these powers were restricted to share-bikes, but now would extend to shopping trolley owners and in future other sharing services items (e.g. shared e-scooters if they become legalised in NSW). Issuing PINs to shopping trolley owners who neglect to collect trolleys in public will incentivise them to collect shopping trolleys sooner and consequently lower the public amenity cost borne by the public. Prior to these changes, councils could only issue a fine if they caught a shopping trolley user abandoning the trolley, which is very difficult as it requires council rangers to be constantly monitoring public areas for offences. As shopping trolleys will also be required to be branded under the PSUP Act, this allows councils to issue PINs to all abandoned shopping trolleys with a high likelihood compliance.

Fee for cost recovery in place or storage/care

Under the Impounding Act recovering fees for costs once an item is taken into possession has been generally difficult as either the owner of the item could not be identified to on-charge the penalty, or the item carried little value for resale at an auction or scrapyard. Mandatory identification for shopping trolleys would allow authorities to identify the owners and charge fees (e.g. transport, storage etc) with a high chance of recovery. As the threshold value for vehicles increases, there will be higher likelihood of recovering fees through the sale process.

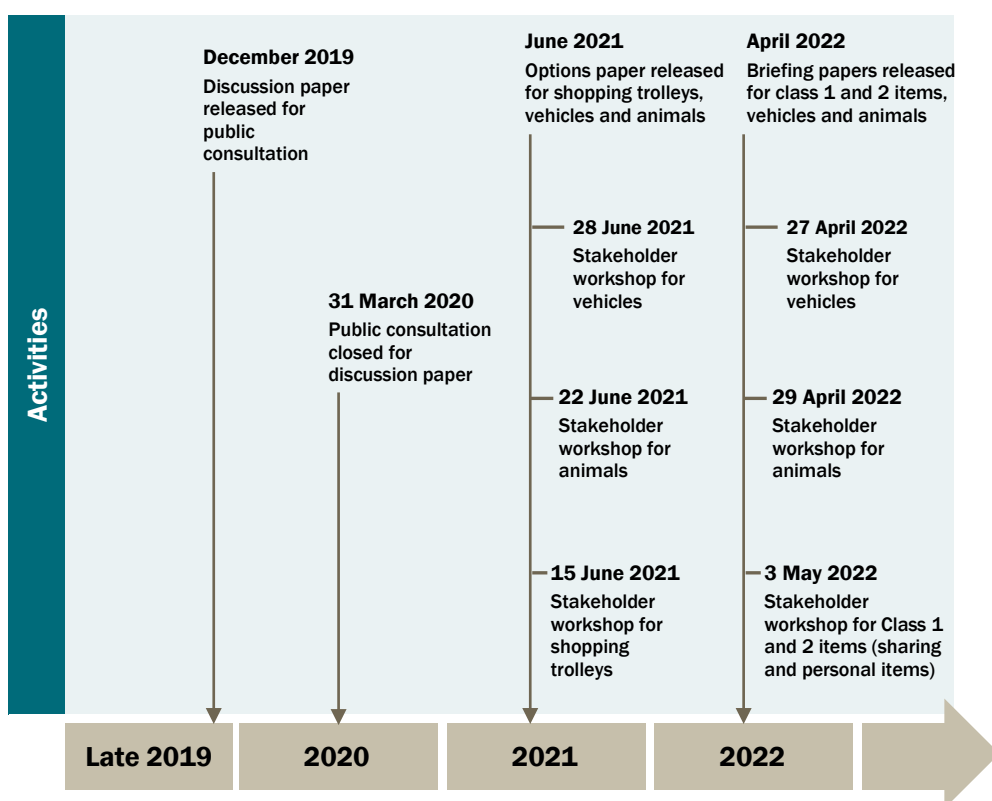
Fines for not collecting items or animals

The ability to issue PINs or fines to owners for not collecting animals/items from places or storage/care would act as a greater incentive to take responsibility for items/animals that owners otherwise would prefer councils to dispose of for them.

5 *The consultation process*

The review process for the Impounding Act commenced in late 2019 and involved multiple rounds of public consultation, as illustrated in the below timeline of activities.

5.1 Timeline of consultation



External stakeholders

A Discussion Paper requesting feedback on key issues was released for public consultation between late 2019 and 31 March 2020. In total, 85 submissions were received from 38 councils, 29 community members, 8 industry organisations, 7 peak organisations and 3 NSW Government entities from local government, community, business and advocacy stakeholders, including the Disability Council of NSW, Woolworths, Coles, Australian Veterinary Association, RSPCA, Pedestrian Council of Australia, the Recreational Fishing Alliance of NSW and the Boat Owners Association.

Options Papers were released, and targeted stakeholder workshops held, in June 2021 on shopping trolleys, vehicles (including boat trailers) and animals.

Trolleys workshop round 1 2021

The workshop was attended by 32 representatives of organisations to discuss the options, including representatives of the retail industry, local governments, and a disability advocacy organisation. Seven written submissions were also received from local governments, a retailer, a State agency, and a GPS technology retailer. OLG also subsequently met, at their request, with a national retailer and a trolley collecting organisation to discuss the options in more detail. Overall, 30 different stakeholder organisations provided feedback.

Animals workshop round 1 2021

The workshop was attended by 26 representatives from local government, advocacy and peak organisations and State government agencies. Two written submissions in response to the Options Paper were also received from a State agency and an industry organisation. Overall, 19 organisations provided feedback. OLG also met and consulted with representatives of the Department of Primary Industries, NSW Police Force, NSW National Parks & Wildlife Service and Local Land Services (LLS).

Vehicles workshop round 1 2021

The workshop was attended by representatives of 27 local governments, 8 State agencies, 6 boating user groups and one disability advocacy peak group. 7 written submissions were also received from a council, a State agency, 3 boating interest groups, 1 advocacy group and a community member. Overall, 33 organisations provided feedback.

Summary from stakeholder consultation in round 1 2021

In total, 58 organisations were represented, including councils, State agencies, industry and peak groups representing disability, boating, fishing, and pedestrian advocacy groups.

There was overwhelming support for the Government's preferred option, including from Local Government NSW, local governments, State agencies as well as organisations advocating on behalf of people with disabilities, pedestrians, and animal welfare.

While retailers raised concerns about stronger regulation due to cost, in the face of the Government's intention to regulate shopping trolleys, they supported the preferred option, noting it was outcomes based and did not require them to implement a particular containment scheme, and noting that standards in any mandatory Code of Practice may be negotiated between retailers and regulators. It is proposed that there will be exemptions for small retailers.

Boating stakeholders raised concerns that boat owners were unfairly targeted by specific boat trailer laws. Based on feedback from all stakeholders that the boat trailer laws are onerous and ineffective, it is proposed to treat all vehicles consistently, with the ability to regulate specific classes of vehicles by regulation in future, if needed.

Stakeholder consultation round 2 2022 – Developing a regulatory framework for unattended items and animals.

Stakeholder workshops were held in April and May 2022 covering Class 1 items (personal items), Class 2 items (sharing service items), Class 3 items (including vehicles, boat trailers and other trailers) and Animals (not including cats and dogs, except dogs in national parks) to provide an opportunity for stakeholders to help shape key matters for regulation. Participants included representatives from local government, state agencies, supermarket retailers and other industry, disability advocacy groups, peak bodies, animal welfare organisations, veterinary association, farmers and others.

Briefing papers on the proposed regulatory changes were shared with participants prior, and the workshops provided context and explanation on topics to be considered for proposed regulations under the *Public Spaces Unattended Property Act 2021*.

The workshops were very collaborative and overall, there was a high level of satisfaction with the proposed regulations to support the Act. A number of participants had suggestions to improve the regulations. These were taken into account which has further informed the regulatory proposals in this RIS.

NSW Government agencies

Submissions were received from some agencies and interagency meetings were held throughout the review. Feedback has taken into account this feedback and that from meetings with the Department of Premier and Cabinet, NSW Treasury, Transport for NSW, the Department of Customer Service, the Department of Communities and Justice, the Department of Primary Industries, Local Land Services, NSW Small Business Commissioner, as well as groups within the Department of Planning and Environment cluster including the Environmental Protection Authority and NSW National Parks and Wildlife Service as well as Place, Design and Public Spaces. OLG is continuing discussions with areas responsible for laws that closely relate to the operation of the PSUP Act.

6 *Evaluation and review*

Implementation

The provisions of the *PSUP Act 2021* would come into effect on assent or by proclamation. The vast majority of provisions would come into effect by proclamation, at a time determined by the Minister for Local Government, once regulations and guidance were prepared.

In relation to a number of these provisions, it is intended that supporting regulations would be made under the *Public Spaces (Unattended Property) Regulation 2013* to add further detail to key provisions, as provided for in the *PSUP Act*, before the provisions would come into effect.

In anticipation of the changes, OLG is planning and preparing a comprehensive implementation strategy that sets out how the local government sector and other regulators would be informed about the provisions and provided with support, training and advice. It is intended that relevant training and materials would be provided to key stakeholders including councils, other impounding authorities as well as sectors affected by these changes, including the retail sector and other relevant industry sectors. This would supplement public communication materials provided once the final regulations are made.

Monitoring, compliance and enforcement

As local government are largely autonomous bodies, they hold principal responsibility for ensuring compliance with the *PSUP Act 2021* and all other relevant laws. As the agency responsible for administering the *PSUP Act 2021*, including providing advice to Government, OLG would monitor whether the reforms to the unattended property system are achieving the stated objectives of the legislation as well as implementation of the reforms by councils and other authorities.

This would be undertaken with a view to ensuring any necessary refinements may be proposed to Government over time. Key monitoring activities undertaken by OLG that are relevant to this task include receipt of submissions and correspondence from the public, stakeholders and councils and issues raised each year. This may also lead to additional capacity building and support activities for councils and other authorities, as well as other key stakeholders, as required.

Evaluation and review

As the majority of the reforms in the PSUP Act are to commence by proclamation, it is difficult to establish in advance an appropriate review term. However, as it is proposed to move to an outcomes based PSUP Act, it is anticipated the *Public Spaces (Unattended Property) Regulation 2013* would include the majority of the provisions and would be reviewed regularly in accordance with the *Subordinate Legislation Act 1989* (NSW) and established government frameworks already established to ensure compliance with this law by all agencies.

7 Conclusion

The *Impounding Act 1993* was in need of revision as it was no longer fit for purpose nor flexible enough to respond to changes in the use of public spaces. By redefining the purpose of the legislation to provide increased responsibility on owners, and by transferring more provisions to the regulations, the PSUP Act will be more capable at responding to future impacts on the access to, safe use and enjoyment of public spaces. The legislation for enabling these changes has been assented to through the PSUP Act and the regulations are now to be determined following feedback on this RIS.

As a result of the current impounding regulatory framework, the public bear the majority of costs related to abandoned and unattended items, directly through public environment costs and indirectly through costs of taking into possession borne by local government.

The changes via a new unattended property regulatory framework would:

- reduce the costs to the NSW community from \$17 million per year to \$7 million per year — more than halving of the costs related to abandoned items
- improve the ability to recover public costs from owners of unattended items animals; and
- provide for simpler processes to adjust regulations in the future, with details moved to regulations rather than being in the legislation.

A Appendix A — Assumptions

Shopping trolleys

Number of trolleys

A.1 Number of trolleys abandoned in metropolitan NSW per year

Assumption	Result	Source
Abandoned trolleys per '000 people per year (#)	15	Stakeholder consultation
Rate of taking into possession (%)	10%	Stakeholder consultation
Trolleys dumped in waterways per '000 people per year (#)	1	Stakeholder consultation

Source: The CIE.

We define abandoned trolleys as trolleys that have been taken outside of the shopping centre complex and are left in public spaces, such as parks, sidewalks, parking lots (not belonging to the shopping centre) among other areas. We define metropolitan NSW as Greater Sydney, Wollongong and Newcastle and aggregate the population figures reported by the ABS in the Estimated Regional Population by LGA data⁹. The metropolitan population is 70 per cent of the total NSW population, therefore this is a conservative assessment. If we assume the impacts were uniform across the whole population, we would expect an increased cost saving, however we expect the impact to be reduced in regional and rural areas.

When a shopping trolley is abandoned in public for extended number of days and it has not been collected by a retailer, the trolley will be taken into possession, which involves the authority collecting the shopping trolleys and delivering them to a place of storage where they wait 28 days to be collected. Should a shopping trolley not be collected after 28 days, the shopping trolley will be disposed of by the authority and scrapped. Stakeholder consultation with NSW councils revealed that approximately 10 per cent of abandoned trolleys are impounded by the council.

Infrequently, shopping trolleys are dumped illegally in bushland, creeks, drains and waterways which can cause a build-up of debris. This restricts water flow and creates an environmental hazard during heavy rainfall¹⁰. Based on reports from stakeholder consultation, we estimate that 1 trolley is dumped in waterways per 1 000 people.

⁹ ABS (2021), Estimated Regional Population by LGA, Age and Sex, 2001 to 2019

¹⁰ Cairns Regional Council, Shopping trolleys, accessed 4 August 2021, <https://www.cairns.qld.gov.au/community-environment/neighbourhood-issues/trolleys>

Costs to public

A.2 Public cost per shopping trolley taken into possession incident

Variable	Result	Source
	\$	
Estimated collection & administration cost per trolley	75	Stakeholder consultation
Storage cost per 28 days per trolley	44	Aggregated council fee structures
Disposal cost per trolley	60	Aggregated council fee structures
Cost per trolley to retrieve from waterways	140	ABC news article
Negative amenity cost per trolley	25	CIE estimate

Source: The CIE.

To estimate the costs incurred by councils for collection and administration during the process of taking an item into possession, we aggregated reported costs provided during stakeholder consultation from multiple metropolitan councils.

To estimate the storage cost and disposal cost, we used metropolitan councils fee structures and assumed they are cost reflective. We aggregated the fees to generate an average cost per shopping trolley.

The cost of retrieving shopping trolleys from waterways was based on a reported clean-up of 500 trolleys by Port Augusta council in 2018 which were found in waterways¹¹. The total project cost was \$15 000 which we used as a base to calculate the cost per trolley. This clean-up operation would have benefited from collecting trolleys in bulk which would decrease the total cost, as such we scaled up our cost per trolley to reflect ad-hoc clean-ups of less trolleys.

To estimate the negative amenity cost, a review of litter and dumping studies was undertaken to find a proxy value for the cost of a shopping trolley abandoned in a public space. The most relevant study was released by the NSW EPA, which valued the willingness to pay for the removal of 1 tonne of litter at \$17 584¹² for metropolitan regions. However, it is not possible to translate this value to shopping trolleys as:

- shopping trolleys are significantly larger than general litter and likely have a much lower amenity impact per tonne, and
- shopping trolleys have public safety impacts and can obstruct pathways.

¹¹ ABC 2018, Removal of 500 dumped shopping trolleys begins at regional SA wharf, accessed 4 August 2021, <https://www.abc.net.au/news/2018-11-17/500-dumped-shopping-trolleys-removed-from-waters-near-wharf/10506244>

¹² NSW EPA 2017, Consultation Regulation Impact Statement - New South Wales Container Deposit Scheme (NSW CDS), pp. 28, <https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/waste/container-deposit/container-deposit-scheme-consultation-regulation-impact-statement-170224.pdf>

Considering this, we have ascribed a proxy value for the negative impact of a shopping trolley at \$25. We use this value as baseline for determining the negative amenity impacts of other items as described in the following sections.

Costs to retailers

A.3 Retailer costs of abandoned trolleys

Variable	Result	Source
	\$	
Cost of a trolley	160	Stakeholder consultation
Cost of retrieval of a trolley from public land	5	Retailer consultation
Cost of collecting a trolley from place of storage	3	Retailer consultation

Source: The CIE.

The cost of a shopping trolley is not publicly available, but a guide was given during the shopping trolley stakeholder workshop. The costs for retailers are expected to fluctuate based on the model of trolley and the number ordered for the fleet.

Our estimate for the cost of retrieving a trolley from public was based on feedback from consultation with a major retailer group. The retailer estimated that they collect approximately 32 000 trolleys per week during 1 393 trolley collection runs in NSW, at a cost of \$9.7 million per year.

The retailer group advised that their whole trolley fleet is branded, and that a portion of their fleet is individually branded with stickers that identify the trolley and the trolley tracker phone number. Expanding these stickers to the whole fleet is estimated to cost \$2 per trolley. These costs are not included in the CBA as individually branding is not required under the proposed option.

Vehicles

Number of vehicles

A.4 Number of vehicles abandoned in metropolitan NSW per year

Variable	Result	Source
	\$	
Abandoned vehicles per '000 people per year (#)	7	Stakeholder consultation
Rate of taking into possession (%)	10	Stakeholder consultation
Vehicles torched in public '000 people per year (#)	0.0025	CIE estimate
Average value of a vehicle	600	CIE estimate

Source: The CIE.

The number of abandoned vehicles was estimated based on feedback from consultation with multiple metropolitan NSW councils. We aggregated the responses and derived

figure for expected vehicles per 1 000 people, which we applied to the metropolitan NSW population.

Similar to the number of abandoned vehicles, the rate of taking vehicles into possession was based on council feedback from stakeholder consultation.

The number of torched vehicles was based on council feedback that it is a highly infrequent occurrence, limited to a few incidences per year. As such, we derived a figure that when applied to the metropolitan population would result in a limited number of incidences per year.

The average value of a vehicle was based on council feedback that the majority of vehicles are not collected from the place of storage and that it is highly unlikely to recover fees from a sale. Other councils noted that most vehicles will be sent directly to a scrapyard after being taken into storage. As the value threshold is \$500 to take into storage, we assumed a conservative figure of \$600 to reflect that most cars do not carry sufficient value to sell at an auction.

Costs to public

A.5 Public cost per vehicle taken into possession incident

Variable	Result	Source
	\$	
Estimated collection & administration cost per vehicle	324	Aggregated council fee structures
Storage cost per 28 days per vehicle	661	Aggregated council fee structures
Average sale return per vehicle	180	Stakeholder consultation
Cruising cost per vehicle	62	CIE estimate
Negative amenity cost per vehicle	15	CIE estimate

Source: The CIE.

We estimated the costs of collection and administration of taking vehicles into storage based on stakeholder feedback during consultation. The reported figures were aggregated and averaged to a cost per vehicles.

As per shopping trolleys, the storage and disposal costs were calculated using council impounding fee structures assuming they are cost reflective.

The sale return per vehicle was calculated as the average value of the vehicle minus a 70 per cent sale fee which councils advised was common across NSW.

The cruising cost per vehicle was calculated based parking a car 2 times per day near an abandoned vehicle. The abandoned vehicle was assumed to be standing for 35 days. We then estimate this to result in a 3 minute increase in time spent looking for a park. We

assume the value of time is \$17.72 per hour¹³. This results in a cruising cost of \$62 per abandoned vehicle.

The negative amenity cost is based on the amenity cost of a trolley. Vehicles will generally be parked on the road and only when vandalised will appear different to other cars. This figure is expected to vary dependent on the location of the vehicle.

Costs to owners

A.6 Owner costs of abandoned vehicles

Variable	Result	Source
	\$	
Cost of retrieval of a vehicle from public land	10	CIE estimate
Cost of collecting a vehicle from place of storage	50	CIE estimate

Source: The CIE.

The cost for owners is based on the time taken for a person to collect the car from public. We use a higher cost for collecting the vehicle from a place of storage as in general places of storage are located away from residential areas and it is expected to be a further journey.

Boat trailers

Number of boat trailers

A.7 Number of boat trailers abandoned in Greater Sydney per year

Variable	Result	Source
Abandoned boat trailers per number of boats (#)	0.1	Stakeholder consultation
Rate of taking into possession (%)	0	Stakeholder consultation

Source: The CIE.

The number of abandoned boat trailers and rate taking them into possession by an authority are estimated based on feedback from councils during the stakeholder consultation period. We calculated the number abandoned boats relative to the expected number of boats in Sydney. The expected number of boats was calculated using boat registrations per LGA in Sydney. Councils reported that there were no impounding incidents and that all boats responded to the 28-day moving directive.

¹³ Transport for NSW 2020, *Economic Parameter Values*, pp.10, <https://www.transport.nsw.gov.au/news-and-events/reports-and-publications/tfnsw-economic-parameter-values>

*Costs to public***A.8 Public cost per boat trailer taking into possession incident**

Variable	Result	Source
	\$	
Estimated collection & administration cost per boat trailer	50	Stakeholder consultation
Negative amenity cost per boat trailer	15	CIE estimate
Cruising cost per boat trailer	103	CIE estimate

Source: The CIE.

The cost for collection and administration of taking into possession incidents was based on feedback from councils during the stakeholder consultation period.

The negative amenity was estimated using the same figures as that for abandoned vehicles. For the cruising costs, we scaled up the vehicle figures, to reflect the larger size of a boat trailer. This was calculated by increasing the extra time to park from 3 minutes to 5 minutes.

*Costs to owners***A.9 Owner costs of abandoned boat trailers**

Variable	Result	Source
	\$	
Cost of retrieval of a boat trailer from public land	15	CIE estimate

Source: The CIE.

The cost of retrieving a boat trailer in public was calculated the same as for vehicles and is based on the time to move the boat trailer to another location.

*Animals**Number of animals***A.10 Number of animals left unattended in regional NSW per year**

Variable	Result	Source
Unattended animals per '000 people per year (#)	2	Stakeholder consultation
Rate of taking into place of care (%)	11	Stakeholder consultation

Source: The CIE.

The number of animals left unattended and the rate of taking into care are estimated based on feedback from rural and regional councils during the stakeholder consultation period.

It was noted that the number of animals left unattended is expected to vary across years based on rainfall, as when there is little rainfall there may be insufficient feed for livestock

which may lead to them breaking fences into adjoining areas. In contrast, years with good rainfall lead to less animals being left unattended.

Costs to public

A.11 Public cost per animal taken into care incident

Variable	Result	Source
	\$	
Estimated collection & administration cost per animal	200	Stakeholder consultation
Storage cost per 5 days per animal	44	Aggregated council fee structures
Cost of incident reaching court per animal taken into care (\$10 000 per incident, 1% of incidents go to court)	100	Stakeholder consultation
Disposal cost per animal	200	Aggregated council fee structures
Negative amenity cost per animal	159	CIE estimate

Source: The CIE.

The cost for collection and administration of taking into possession incidents as well as court costs were based on feedback from councils during the stakeholder consultation period. Councils advised that while relatively infrequent, court cases become significantly expensive as lawyers are engaged and the continual maintenance of the animal/s are required.

The negative amenity cost per animal reflects the disruption and inconvenience a stray animal causes, similar to the negative amenity of shopping trolleys and vehicles. In addition, it accounts for the severe impact of an animal causing a severe accident, such as a collision with a vehicle on a road. We found evidence of a recent incident, where a stray animal collided with a motorcyclist in a fatal accident on a rural road¹⁴. We estimated the cost of this scenario by using the value of a statistical life \$4.9m¹⁵ and assuming a frequency of incident of once per 7 years. This results in a cost per animal of \$134. We then add \$25 based on the negative amenity assumption used for shopping trolleys.

¹⁴ See the Inquest into the death of Scott Bowden <https://coroners.nsw.gov.au/coroners-court/download.html/documents/findings/2018/Findings%20Scott%20Bowden.pdf>

¹⁵ Department of the Prime Minister and Cabinet (2019). Best Practice Regulation Guidance Note Value of Statistical Life, https://www.pmc.gov.au/sites/default/files/publications/value-of-statistical-life-guidance-note_0_0.pdf

Costs to owners

A.12 Owner costs of animals left unattended

Variable	Result	Source
	\$	
Cost of retrieval of an animal from public land	5	CIE estimate
Cost of collecting an animal from place of care	10	CIE estimate

Source: The CIE.

We estimate the cost of retrieving an animal from the public and place of care based on the time cost of travelling to the destination, as per the vehicle's assumptions. We estimate a higher cost for travelling to a place of care as responding to incidents in public will generally border the owner's property whereas a place of care will be located further away.

Other items

Number of abandoned other items

A.13 Number of other items abandoned in metropolitan NSW per year

Variable	Result	Source
Abandoned other items per '000 people per year (#)	1	Stakeholder consultation
Rate of taking into possession (%)	8	CIE estimate

Source: The CIE.

We estimated the number of abandoned items and rate of taking into possession based on feedback from councils during the stakeholder consultation. A wide range of items can be included in this definition, therefore we expect a wide range of abandoned items per year. The Northern Beaches council advises that these items were typically small watercraft.

Costs to public

A.14 Public cost per other items taken into possession incident

Variable	Result	Source
	\$	
Estimated collection & administration cost per other item	52	Stakeholder consultation
Negative amenity cost per other item	5	CIE estimate

Source: The CIE.

We estimated the cost of collection and administration based on feedback from stakeholder consultation. The negative amenity cost was based on the figure used for shopping trolleys and scaled down to reflect some items will be smaller and less obstructive in the natural environment than a trolley.

Costs to owners

A.15 Owner costs of abandoned other items

Variable	Result	Source
	\$	
Cost of retrieval of another item from public land	10	CIE estimate

Source: The CIE.

The cost of retrieval is based on the time cost to collect an item from public.



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