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The Road to Recovery

A roadmap for the COVID-19 recovery of
Victorian automotive dealerships

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Executive summary

ShineWing Australia (SW Australia), advisors and accountants to the automotive industry, have partnered with the Victorian Automobile Chamber of Commerce (VACC) and members of VACC's Victorian Automobile Dealer Association (VADA) to discuss opportunities and impediments to the financial and social contribution of new car dealerships in the current Victorian environment.

Significant opportunities exist for the Victorian and Federal Governments to offer stimulus measures for a vital and iconic industry which will in turn benefit labour markets and the economy.

This paper puts forward 13 recommendations that we would like the Victorian and Federal Government to consider.

SW Australia and VADA acknowledge that the Federal Government has reacted swiftly in launching COVID-19 relief packages for community and small businesses and should be congratulated for their response.

However, as a result of their aggregated turnover or high staff levels, it is estimated that approximately **70 per cent** of Victorian dealers **will not qualify** for Payroll and Land Tax refunds and deferments, Small Business Grants and other protections mandated under the National Cabinet Mandatory Code of Conduct for SME Commercial Leasing Principles during COVID 19.

This report discusses the suitability and availability of current stimulus and relief packages offered by the Victorian and Federal Governments, in addition to the disadvantageous tax imposts on new car sales which have contributed to new car sales volumes declining over the past 26 months.

Potential impacts:

- Local and regional businesses closing down
- An increase in unemployment rates
- A loss of good community and business citizens
- A loss of revenue for State Governments
- A loss of revenue and income for Governments.

New car dealerships are unique businesses which require exemptions to access COVID-19 relief packages, specifically in regards to the current turnover and employment tests.

New car dealerships operate with significant tax imposts imposed on the consumer, and with taxes that are disadvantageous in comparison to independent competitors.

The opportunity should be taken by the Victorian and Federal Government to review the current situation and consider alternatives for a fair, competitive operating market.

Government stimulus measures, for example the removal of the vehicle depreciation cost limit should be viewed in the context of supporting new car dealerships, as businesses that contribute to local social and economic prosperity in their operating area. This should be supported and encouraged.

This industry sector was already experiencing recessionary like conditions prior to the COVID-19 pandemic. Victoria had a 15% sales downturn pre COVID-19, that has now escalated to 70% downturn from mid-March.

VFacts has shown a 26 consecutive month downturn in sales. The industry is suffering from disruptive manufacturer behaviour with Holden leaving Australia, Mercedes-Benz Australia/Pacific moving towards an agency model, and Honda Australia announcing a dealer rationalisation program.

Other manufacturers are sure to follow with business restructures. This may be fatal to this sector at a time where consolidation and government support is needed to employ Victorians and support a significant sub-section of industry that relies on the new car dealer network.

Exemption request

SW Australia and VADA request that an exemption be provided for automotive dealers from turnover and employment level thresholds.

This will allow for dealers to access the Victorian and Federal Governments relief packages so they will be able to continue to trade, employ Victorians, collect taxes and contribute to their local communities.

13 recommendations

Below we highlight 13 recommendations that we believe should be considered by the Victorian and Federal Government to help support the viability of the industry during this time.

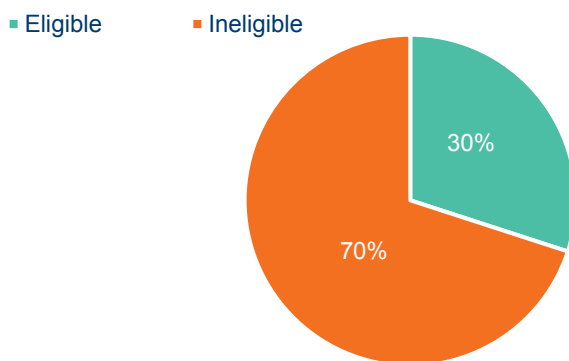
We request that the:

1. **Victorian Government** exempt automotive franchise dealers and all Licensed Motor Car Traders (LMCT) from the \$3 million annual wage threshold to enable those businesses to have their payroll tax for the 2019-2020 financial year waived, be eligible for future payroll tax deferrals and refund of payroll tax already remitted.
2. **Victorian Government** exempts all automotive dealers and LMCTs from the turnover threshold criteria associated with the Victorian Government Rent Assistance SME Commercial Leasing Principles during COVID-19.
3. **Victorian Government** extend the Land Tax deferral and 25 per cent Land Tax Refund for all automotive dealers and LMCTs.
4. **Federal Government** exempt automotive dealer franchises from staffing and turnover thresholds as currently mandated in Boosting Cash Flow for Employers relief, apprentice subsidy and commercial tenancy packages.
5. **Federal Government** exempt all automotive franchise dealers with an annual turnover of \$1 billion or more from the 50 per cent turnover downturn criteria mandated within the JobKeeper wage subsidy.
6. **Federal Government** extend the deadline to the enhanced instant asset write-off until 31 December 2020 and review the depreciation cost limit.
7. **Victorian Government** assist LMCTs in the sale of vehicles by introducing legislation that will allow for LMCTs to consign a vehicle from a member of the public.
8. **Victorian Government** abolish super luxury vehicle duty, and the Federal Government abolish luxury car tax.
9. **Victorian Government** mandates for metropolitan Councils to freeze council rate increases for businesses, in the coming year.
10. **Victorian Government** exempts stamp duty on the fitment of accessories and/or aftermarket parts from being calculated into a vehicles dutiable value.
11. **Federal Government:**
 - a) **Federal Government** retain employment flexibility following the conclusion of the JobKeeper program.
 - b) **VADA support the Federal Government** position on the simplification of Australia's industrial relations arrangements, and in particular the simplification of Industry Awards. Flexible and simplified enterprise bargaining rules also need to be created to support industry and community employment objectives and the boosting of Australia's workplace productivity.
12. **Federal Government and ASIC** clarify responsible lending guidelines for the improved interpretation of lenders.
13. **Federal Government** clarify the Hayne Recommendation of 1.7 and confirm approval of an authorised credit representative of a credit licence holder will suffice to continue arranging finance on behalf of customers.

Victorian & Federal Government COVID-19 relief package recommendations

Encompassing recommendations: 1 – 5

Victorian Dealerships Eligible for COVID-19 Government Stimulus



Helping 70% of VADA dealers that do not qualify for assistance

Whilst SW Australia and VADA are grateful to the Federal Government for delivering the COVID -19 relief packages, there is a strong view within the industry that more could be done to assist an estimated 70 per cent of VADA dealers who do not qualify for any of the following relief or stimulus measures:

Federal Government assistance packages

- Federal Government Boosting Cash Flow for Employers
- Federal Government Supporting Apprentices and Trainee Package Apprentice subsidy (more than 20 employees)
- Federal Government Rent Assistance SME Commercial Leasing Principles during COVID-19

Victorian State assistance packages

- Victorian Government Payroll Tax relief/exemption/deferment (Annual payroll over \$3m)
- Victorian Government Small Business Grant
- Victorian Government Rent Assistance SME Commercial Leasing Principles during COVID-19
- Victorian Government Land Tax Relief



Unemployment and the numbers

Information provided by new car dealerships to SW Australia and VADA show that in the 30 days from 16 March to 15 April 2020, **Victorian new car dealerships have decreased staff by 28.9%.**

Whilst the JobKeeper program is a welcomed initiative, when the program concludes on 27 September 2020 we expect further declines in new car dealership staffing numbers to reflect the current status of the market.



Victorian & Federal Government COVID-19 relief package recommendations

Encompassing recommendations: 1 – 5



Dealership Profitability

The above graph details the average high turnover and low profitability of new car dealerships, highlighting the issue these businesses face in accessing COVID-19 relief packages.

New car dealership threshold criteria

An eligibility requirement of many of the Federal Governments COVID-19 relief packages is a \$50 million threshold criteria – which SW Australia and VADA contest should not apply to new car dealerships.

Turnover does not equal profit

High turnover in the new car sector does not equate to profit in the same sense as it does with other industry sectors, given the unique structure of new car dealerships in the form of significant infrastructure investments and high labour costs.

Recognition of different needs for the industry

Precedent has been recently set in the UK, with new car retailers being able to access loans of 200m GBP (\$373m AUD) in recently announced changes to the UK Governments Coronavirus Large Business Interruption Loan Scheme.

Consideration for high turnover and low margins

While recognising the stimulus and assistance measures cannot be designed for every industry and business, we believe there should be further consideration of industries that have high turnover low margins such as new car dealers.

We request the Federal Government implement a similar arrangement to that of the UK relief for new car retailers.



Stimulus recommendations

Encompassing recommendations: 6 – 7

6. The Federal Government extend the deadline to the enhanced instant asset write-off until 31 December 2020 and increase vehicle depreciation cost limits.

Many dealers have benefited from an announcement that the instant asset write-off has risen from \$30k to \$150k.

It would be prudent that the instant asset write-off be extended until 31 December 2020 to allow businesses to recover and take advantage of areas for investment.

Review of cost limit for vehicle depreciation

Further, SW Australia and VADA request the Federal Government review the current \$57,581 limit for depreciation for vehicles.

Safety aspects and technological advancements for the benefit of consumers often found in more expensive vehicles should be encouraged and not discouraged.

7. The Victorian Government assist LMCTs in the sale of vehicles by introducing legislation that will allow for LMCTs to consign a vehicle from the member of the public.

In order for the Victorian Government to stem the flow of vehicles being consigned to interstate LMCTs and maximise the opportunity for the legitimate collection of motor vehicle duty for vehicles that have been domiciled in Victoria, an exemption pertaining to a member of the public consigning a vehicle to a Victorian LMCT must be created.

Victorian remains the only state to prohibit consignment selling of a member of a member public's vehicle to a LMCT.

Stimulus recommendations

Encompassing recommendations: 8

8. Abolish Super Luxury Duty and Luxury Car Tax

The impact of the Super Luxury Vehicle Duty (SLD) in Victoria and Luxury Car Tax (LCT) imposed by the Federal Government are other major factors contributing to the decline in vehicle sales.

LCT was implemented on 1 July 2000 to ensure the price of luxury cars did not fall relative to the price of standard vehicles, with the abolition of the wholesale sales taxes. It remains an unnecessary tax given it was originally implemented to protect vehicles manufactured in Australia, which is no longer the case.

Why is it a unique tax?

Clearly the below listed Government fees and taxes are onerous from a consumer's perspective and unique to the motoring industry. For example, a luxury tax is not implemented on valuable jewellery or boat.

The interstate exodus

VACC commissioned analysis of the impact of the SLD of sale inquiries directed to Victorian dealerships from a leading Australian car sales data aggregator.

The aggregator advises that sales activity on cars valued over \$100k in Victoria, relative to the rest of Australia, historically trends with Victoria trading in a very similar pattern to the rest of the country. The dataset below shows from Q3 of 2019 the trading figure change quite significantly to show a 10 per cent decrease.

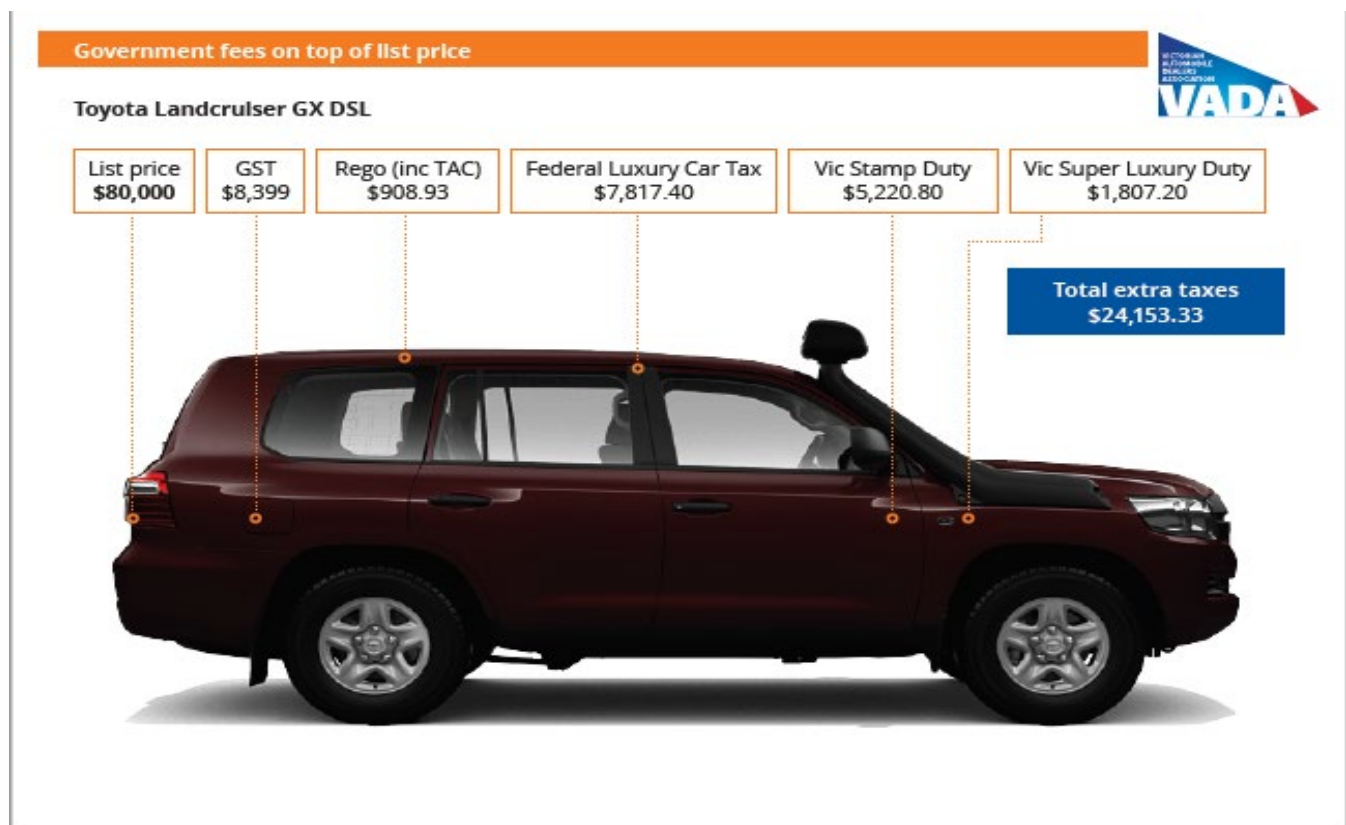
| | Mar Qtr | Jun Qtr | Sep Qtr | Dec Qtr |
|------------|---------|---------|---------|---------|
| VIC | (3%) | 3% | (13%) | (0%) |
| Rest of AU | (2%) | 3% | (2%) | 10% |
| Variance | (1%) | (1%) | (10%) | (10%) |

| | Jun half | Dec half |
|-------------|----------|----------|
| VIC | (0%) | (7%) |
| AU excl VIC | 1% | 3% |
| Variance | (1%) | (10%) |

VFACTS data for Victoria since the introduction of the SLD shows a significant decline in sales volumes for segments where SLD is applicable.

Higher levels of taxation in Victoria

Victorian traders suffer from an extraordinary level of taxation that is applied to the sale of a motor vehicle. Below is an example of taxes payable on the sale of a Toyota Landcruiser with a list price of approximately \$80,000.



Stimulus recommendations

Encompassing recommendations: 9 – 11

9. Council Rates

New car dealerships have always supported local communities, provided careers for local residents and invested in metropolitan and regional areas of Victoria. These endeavors are similar to local councils, and SW Australia and VADA request Victorian councils support their local business in this time of need.

There is a role for all levels of government to assist businesses, and as council rates are a large expense for many business, councils can show their support with no rate increases over the coming year.

Melbourne City Council leading the way

Recently Melbourne City Council announced Melbourne residents and businesses will be given a rates freeze over the coming year, which we believe should be implemented in all councils in recognition and reciprocation of the support new car dealerships have shown local communities.

We acknowledge small and/or regional councils may need funding support of the Victorian Government to achieve this initiative.

10. Stamp Duty on Accessories

SW Australia and VADA acknowledge new car dealers are operating in an unjust environment. Accessories added to a vehicle at the point of sale attract duty as they become part of the dutiable value of the vehicle, which is in contrast to independent aftermarket sellers that do not attract duty on these aftermarket products.

Consumers often bypass dealerships for independent aftermarket sellers that do not attract stamp duty on aftermarket products, which is clearly disadvantageous to new car retailers.

SW Australia and VADA recommend the Victorian Government reform the duty act to correct this irregularity, to ensure all businesses are acting in an equal trading environment.

11. Employment Flexibility

Many businesses, including new car retailers have enjoyed the employment flexibility associated with the JobKeeper program initiated under the COVID-19 Relief Package.

The amendments provide powers that, when enacted, give employers eligible for JobKeeper payments the right to make directions to, request or to reach agreement with, their JobKeeper payment eligible employees.

These new provisions enhance flexibility in the employment relationship, subject to an overarching reasonableness criteria, which means that an employee is not required to comply with the direction if it is “unreasonable in all the circumstances”.

SW Australia and VADA also support the Federal Government position on the simplification of Australia’s industrial relations arrangements, and in particular the simplification of Industry Awards.

The current new found ability and flexibility for businesses to work with employees for the benefit of both parties has seen increased retention and morale of employees which should be encouraged.

SW Australia and VADA recommend retaining this newly enabled employment flexibility upon the finalisation of the JobKeeper program and will support the Federal Government simplification of Australia’s industrial relations arrangements, and in particular the simplification of Industry Awards.





Stimulus recommendations

Encompassing recommendations: 12 – 13

12. Clarify responsible lending guidelines

SW Australia and VADA recommend the Federal Government in conjunction with ASIC, provide clarification on the responsible lending obligations.

The *National Consumer Credit Protection Act 2009* (NCCP Act) contains two separate, but interlinked “responsible lending” obligations for lenders assessing consumer credit applications:

- make reasonable inquiries about the applicant’s requirements and objectives, and reasonable inquiries and verifications about their financial situation; and
- not enter into a credit contract that is unsuitable for the applicant.

New car dealerships are finding lenders requirements onerous and detrimental to their business.

We contend this is because of misinterpretation of the NCCP requirements, in particular undertaking “reasonable enquiries” about the consumers financial situation, treatment of living expenses and lifestyle choices/discretionary spending.

We request ASIC provide new guidance and clarity to credit providers as to what exact requirements are required to satisfy their NCCP obligations.

13. Authorised Credit Representative

The current point of sale (POS) exemption contained in the NCCP means a new car dealership does not need to hold a credit licence. In this current scenario, legal responsibilities fall back on the bank or lender assessing and issuing the loan. SW Australia and VADA understand the POS exemption will not be removed until 31 December 2020.

Confirmation is requested that upon the removal of the POS exemption, an individual within a new car dealership can be appointed as an Individual Credit Representative (i.e. a Dealership Business Manager) of a Licensed Credit Holder (i.e. the Lender who is already required to hold an ACL or AFSL).

In this capacity the Individual Credit Representative will be directly responsible to the Licensed Credit Holder and the Dealer (as the Authorised Credit Representative) of the Licensed Credit Holder.

This structure would rightly impose incremental personal accountability on the Individual Credit Representative which, amongst other things, would require the Individual Credit Representative to obtain and pay for their own professional indemnity insurance with a reputable insurer.

This will allow the Individual Credit Representative to arrange finance on behalf of the customers, rather than a requirement of the new car dealership to hold an Australian Credit Licence (ACL) that brings with it significant and very costly compliance and governance obligations when that function is already being satisfied by the Lender as the Licensed Credit Holder.

The Individual Credit Representative nomination scenario (rather than the ACL requirement) would see significantly heightened levels of Business Manager accountability directly with the Licensed Credit Holder, without the onerous incremental administrative cost and complexity for a car dealership.

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