

Review of the
Taxi and Luxury Hire Car Industries Act 1995

**Paper 11 – Discussion Paper: Draft
Policy Proposals**

Department of Infrastructure, Energy and Resources

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DRAFT

This is the eleventh and final in a series of papers to be produced by the Department of Infrastructure, Energy and Resources about the taxi industry.

These papers address issues that were identified during the work of the Taxi Industry Review Group established in 1999 to review Tasmania's taxi legislation, as well as issues of ongoing interest.

The preceding ten papers were intended to seek input on these issues from members of the taxi industry, through the Taxi Industry Reference Group, and other interested stakeholders.

*This paper is a **draft** discussion paper proposing policy responses to the issues raised in the earlier discussion papers. It does not represent Government policy.*

The work of the Reference Group and the input from stakeholders will contribute to a process of rewriting the Taxi and Luxury Hire Car Industries Act 1995 and making new regulations to replace the Taxi Industry Regulations 1996 and the Taxi Industry (Taxi Areas) Regulations 1996, proposed for 2007.

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Introduction

This paper is the eleventh and final in a series of papers addressing issues that were identified during the work of the Taxi Industry Review Group, which was established in 1999 to review Tasmania's taxi legislation, and other issues of ongoing interest.

Recommendations from the Review Group resulted in the development of the *Taxi and Luxury Hire Car Industries Amendment Act 2003*, which was enacted in December 2003. The major features of the legislation included the requirement for new taxi licences to be made available every year, and the introduction of wheelchair accessible taxis (WATs). During the review, several issues were identified that were outside the scope of the Review Group's Terms of Reference. These issues were to be addressed after the commencement of the new Act.

The Department of Infrastructure, Energy and Resources (DIER) established a Taxi Industry Reference Group to provide advice on a range of issues affecting the industry, including the issues identified by the Review Group. The Review Group recommended that a Working Party be established to consider the issues that required further work outside the Review¹. The Reference Group has undertaken this role.

The Reference Group has been asked to consider a range of issues to inform the process of rewriting the *Taxi and Luxury Hire Car Industries Act 1995* (the Act), the *Taxi Industry Regulations 1996* (the Taxi Regulations) and the *Taxi Industry (Taxi Areas) Regulations 1996* (the Taxi Areas Regulations) proposed to be completed in 2007. Further information on the Reference Group's work can be found in [Section 11](#).

This paper considers the range of issues which have been discussed in the previous ten papers related to the operation of the Act and the Regulations. Following discussion with the Reference Group and input of other interested stakeholders and given Government's objective to create a taxi industry which will provide a reliable and effective transport option, DIER has developed draft policy responses to all issues for further consideration.

This paper differs from other papers in this Review in that it seeks to adopt a position which, on balance, reflects the interests of the community, industry and Government rather than debate a range of options. Further, this paper does not include a 'background' section, as the background relevant to the subject has already been addressed in the relevant discussion paper.

¹ Taxi Industry Review Group: *Taxi Industry Act 1995 and luxury hire car legislation* Regulatory Impact Statement, April 2000, page 12.

Scope of the review

This review of the Act has considered a number of issues raised by the Taxi Industry Review Group in its 1999 review of the legislation, but which were not considered in that review as they were outside its scope. The project has also looked at issues that have emerged since the conclusion of the 1999 review. The major issues considered were:

Outside the scope of the review (identified by Review Group)	<ul style="list-style-type: none"> • Fare-setting mechanisms and driver pay and conditions • Industry code of conduct • Taxi areas • Role of radio rooms • Review of National Competition Policy changes to the Act
Identified by DIER	<ul style="list-style-type: none"> • Rural taxis (including community transport) • Wheelchair accessible taxis • Taxi and luxury hire car operator accreditation under the <i>Passenger Transport Act 1997</i>
Raised by the industry	<ul style="list-style-type: none"> • Interaction between taxis and luxury hire cars

A significant impetus for commencing this work was the *Subordinate Legislation Act 1992* (SLA), which regulates the making of regulations and other subordinate legislation. Subordinate legislation made under the SLA is repealed on the tenth anniversary of the date on which it was made. Under this provision, the *Taxi Industry Regulations 1996* (the Taxi Regulations) and the *Taxi Industry (Taxi Areas) Regulations 1996* (the Taxi Areas Regulations) was scheduled for repeal in December 2006. These instruments therefore need to be replaced before that date, or interim arrangements made.

Through an Act of Parliament, DIER has obtained a 12-month extension to the existing regulations. This will enable the new regulations to be made under the revised Taxi Act. The new legislation and regulations will be developed following the conclusion of the current consultation process. The 12-month extension to the regulations means that new regulations will be made under the new Act, and can be developed in conjunction with the Act to ensure that these instruments are complementary.

Project timing

The subjects covered by the review and the dates of release of the papers are outlined below:

Timing	Issue
December 2005	Taxi fare setting mechanisms and driver pay & conditions
March 2006	Rural taxis
March 2006	Wheelchair accessible taxis
April 2006	Operator accreditation
May 2006	Luxury hire cars
June 2006	Radio rooms
July 2006	Taxi areas
August 2006	Review of perpetual licensing
October 2006	Technical issues, administration and enforcement

Major Outcomes of the Review

As a result of the Review, DIER has formulated a set of proposals aimed at encouraging greater self-management of the industry by its participants which is consistent with the operator accreditation scheme introduced in 2005. A summary of the major proposals is set out below.

Objects of the Act

- DIER has proposed to alter the objects of the Act to reflect the safety focus of the regulatory scheme.
- References to regulation to ensure viability of the industry are to be removed.

Perpetual taxi licences

- DIER proposes that all new perpetual taxis licences (issued from 2008) should be required to be owner operated, under a model that is identical to the wheelchair-accessible taxi (WAT) licence scheme.
- Accordingly, the licence holder of this new type of licence must also be the accredited operator.
- A prohibition on leasing of these new perpetual licences is also proposed.
- All existing perpetual licences will continue to be leasable.
- Regarding the release of new perpetual taxi licences, DIER intends to abandon the assessed market value (AMV) as the reserve for tenders, as it is considered to artificially inflate the prices paid for licences.
- Additionally, for all perpetual taxi licences, new and existing, DIER proposes to require licence holders to demonstrate that the capacity to operate the licence exists.

Wheelchair-accessible taxis

- The current legislation only provides for the issue of licences up to and including 2006. DIER proposes that for the future, WAT licences in all taxi areas should be freely available on demand with no cap on licence numbers.
- In order to obtain a licence under this scheme it will be necessary to present a new, fully accessible vehicle. However, in remote taxi areas a relaxation of

vehicle requirements is proposed in order to encourage the establishment of WAT services.

- DIER proposes that the current 10-year life of WAT licences be changed to provide for licences of unlimited life. Under this proposal it would no longer be necessary to renew licences.
- To ensure the integrity of the WAT scheme, DIER proposes that where an operator loses accreditation, the Commission should have the power to cancel all licences owned by that operator.

Luxury hire cars

- DIER proposes a new method of identifying whether a vehicle is eligible to be a LHC and, if so what group the vehicle is to be classified as. The list in the Act is to be replaced by a set of characteristics which will determine eligibility without the need for frequent updating.
- A maximum entry age of five years will also apply for Group 2 vehicles.
- The existing groups for modified vehicles and Group 3 are to be abolished.

Accreditation

- DIER proposes few changes to the operator accreditation scheme, but one significant change is to give the Commission power to accredit an operator on a provisional basis for a specified period. This would apply in cases where the person is an associate of another person who has had their accreditation revoked or cancelled.

Radio rooms

- Contrary to a significant number of submissions from industry, DIER does not propose to introduce compulsory affiliation with radio rooms or networks. On balance, it is considered that compulsory affiliation would bring about increased costs, a much expanded regulatory scheme and would not deliver the safety or other benefits advocated for them without the addition of expensive global positioning system technology. To require this technology in addition to affiliation would dramatically increase costs for operators without a similar increase in benefits.

- DIER has also determined that it is not necessary to accredit radio rooms, but it is intended to introduce requirements for these to provide information to the Government.

Fares, driver pay and conditions

- DIER proposes that taxi fares should no longer be set by the Commission. Rather, fare setting should be undertaken by the Government Prices Oversight Commission (GPOC) or other specialist price setting body which is independent of the taxi industry and government.
- DIER proposes no change to the existing requirement for taxi operators to provide worker's compensation insurance for drivers.

Rural taxis

- DIER does not propose to introduce changes to the regulatory scheme which would see rural taxis treated differently to their metropolitan counterparts.
- In order to facilitate access to WATs in rural areas, DIER is proposing to consider relaxing the vehicle requirements for WATs in some rural taxi areas.
- Until such time as WATs become available in non-metropolitan areas, licence conditions may be introduced to allow WATs to undertake out-of-area work in non-metropolitan areas for wheelchair clients only.
- DIER is also proposing to allow WAT-style services to be provided by standard taxi licence operators (utilising compliant, accessible vehicles) in the most remote taxi areas.

Taxi areas

- DIER proposes no change, other than that the towns of Savage River and Waratah be incorporated into the Burnie taxi area. The two towns are part of the Waratah/Wynyard Local Government Area and so warrant inclusion with the remainder of that municipality.

Technical issues, administration and enforcement

- DIER proposes to change the requirements for forming accredited taxi groups to make it easier for operators to organise in order to provide a differentiated service or target a particular customer group.

- As part of the changes, DIER proposes to remove the provisions allowing accredited groups to set higher fares, as this is inconsistent with the concept of a regulated maximum tariff.
- DIER proposes that, to support the provision of additional enforcement resources, annual licence fees for taxis, WATs and LHCs should be substantially increased.
- DIER also proposes that the non-payment of annual licence fees should cause a licence to be invalid and unable to be operated. This step is considered necessary as at present, the Commission has little enforcement power regarding non-payment.

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1. Regulation of the industry

The objects of the Act have been considered in depth as it is on this very issue that the essence of the regulatory scheme turns. The objects of an Act summarise what that Act is seeking to achieve. The intent and objects of the Taxi and Luxury Hire Car Industries Act are set out in section 4 of the Act. A copy of section 4, as currently included in the Act, can be found at [Appendix 2](#).

1.1. Objects of the Act

DIER considers that the major purpose of regulating the industry should be related to safety, availability and affordability and thus that the current intent and objects of the Act, as outlined in clause 4, are generally appropriate. However, DIER proposes some changes such that the objects clause should read as follows:

- (1) The intent of this Act is, in respect of taxi services, to ensure the provision of a safe, demand-responsive, taxi transport system in Tasmania that adequately meets the needs of consumers.
- (2) The objects of this Act are as follows, in respect of each taxi area:
 - (a) to ensure safe operating conditions for passengers and drivers;
 - (b) to ensure the availability of adequate taxi services at reasonable prices;
 - (c) to enable flexibility in the provision of taxi services to meet community demands at prices determined by market forces;
 - (d) to encourage the taxi industry to undertake greater self-management and achieve greater financial self-sustainability; and
 - (e) to enable the taxi industry to respond to changes in technology and work practices.
- (3) The intent of this Act is, in respect of luxury hire car services, to ensure the provision of a safe, high-quality, personal hire transport system.
- (4) The objects of this Act are as follows, in respect of luxury hire car services:
 - (a) to ensure safe operating conditions for passengers and drivers;

- (b) to ensure appropriate minimum quality standards in the luxury hire car industry;
- (c) to clarify the respective roles of taxis and luxury hire cars.

1.1.1. Subclause 4(1)

In subclause 4(1) the phrase 'in an orderly and commercially viable manner' has been removed. While DIER recognises that the industry must be viable in order to continue to operate, it does not believe that it is the function of legislation to ensure that operators remain viable; nor is it possible for an Act to ensure viability. Rather, the Act should set a framework in which operators can operate taxis in a viable manner, but ultimately it is the responsibility of operators to work within that framework to ensure that they remain viable.

The term 'various groups within the community' has been replaced by the term 'consumers', as the previous term may have implied that only some community groups were included. By replacing that term with 'consumers' it is clear that the Act applies to all users of taxis.

1.1.2. Subclause 4(2)

The current subclause 4(2)(b) refers to 'appropriate minimum quality standards'. The issue of whether quality standards should be regulated was discussed a number of times during the review. It was noted that DIER does not have sufficient resources to adequately monitor quality standards in the taxi industry, and that its primary focus is on safety related issues. The discussion paper on Operator Accreditation observed that 'the role of Transport Inspectors is to ensure that vehicles are safe to be driven on public roads, not to ensure that vehicles look good. Unsafe vehicles can put road users' lives at risk, whereas a scratch on the side of a taxi is a far less serious issue that is unlikely to affect anyone's safety. Focusing on 'cosmetic' issues would have to be at the expense of safety issues, which are significantly more important. The consequences of allowing unsafe vehicles on the road are potentially much more serious than the consequences of vehicles being poorly presented².'

DIER believes that the responsibility for setting and maintaining quality standards should lie with the industry and that market forces should play a role in ensuring that standards are enforced. Thus the Act would not establish minimum quality standards per se, but would provide a framework within which suitable standards could be developed and enforced by the industry. Consequently this provision is proposed to be removed from the new objects of the Act.

² Department of Infrastructure, Energy and Resources, Review of the *Taxi and Luxury Hire Car Industries Act 1995*, Paper 5 – Operator Accreditation, Discussion Paper, March 2006, page 27.

Currently subclause 4(2)(c) refers to 'the availability of adequate standard taxi services at reasonable prices'. DIER proposes to remove the word 'standard', as this may imply that wheelchair accessible taxi services need not be available at reasonable prices.

Subclause 4(2)(d) refers to enabling 'variation in taxi services'. DIER proposes to replace this term with 'flexibility in the provision of taxi services' as this better encapsulates the type of industry that is desired; i.e. a flexible, demand-responsive industry.

DIER proposes the inclusion of two new subclauses, shown above as (2)(d) and (2)(e). These clauses are intended to promote the concept of the taxi industry becoming more self-managed and commercial in its undertakings, including adoption of new technologies and contemporary work practices.

1.1.3. Subclause 4(3)

DIER supports the retention of subclause 4(3) in its present form.

1.1.4. Subclause 4(4)

DIER supports the retention of subclause 4(4) in its present form, other than subclause 4(4)(b), which should have the words 'at a premium to standard taxis' removed. DIER considers that subclause 4(4)(c) already implies there is a difference between luxury hire cars and taxis and that there is thus no need to emphasise this further.

2. Perpetual Licensing

2.1. Licence values

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| 1. Should the timing of the perpetual licence valuations be adjusted to better align with the issue of new licences? At what date should the valuations be made? |
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DIER proposes to abandon the use of Assessed Market Value (AMV) in relation to the issue of perpetual licences. The AMV system was originally established as a means of preventing sharp falls in licence prices triggered by the release of new licences into the market.

The continuing rises in perpetual licence prices in the secondary market since the 2003 amendments to the Act commenced suggests that such a protection is unnecessary. The AMV is also considered to inhibit the tender process, in that the market is unable to reflect the true value of licences through the interaction of supply and demand. Furthermore, it was the introduction of the AMV in the 2003 reforms to the Act that caused the National Competition Council to express reservations about Tasmania's compliance with the National Competition Policy in regard to taxis³.

As a consequence of abandoning the AMV, the existing provisions in the Act which provide for a second round of licence releases will be eliminated. Under the current provisions of the Act, the Commission is to offer five percent of the existing number of licences for tender each year. Where the average tender bid is ten percent or more than the AMV, the Commission is required to offer an additional five percent in the same year. Without the concept of the AMV, there will be no trigger for an additional licence release.

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| 2. Given the reasons for three-yearly valuations, should this provision be changed? Why? |
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Abandoning the AMV removes the need for revaluations.

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| 3. Should licences in the Hobart and Launceston areas be re-valued more frequently than those in other areas? Why? |
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Abandoning the AMV removes the need for revaluations.

³National Competition Council, 2004 Assessment of governments' progress in implementing the National Competition Policy and related reforms: Volume One: Assessment, Melbourne, page 9.15.

4. How could licences be valued in areas where there have been few or no licence trades? What factors might be taken into account and why?

Abandoning the AMV removes the need for revaluations.

5. Should the licensing arrangements for licences in the more remote and/or lower valued areas be reviewed? Do licences in these areas effectively have a zero value?

Abandoning the AMV has consequences for the tender process. Without a reserve price, DIER will be free to accept the highest tender for a taxi licence in each taxi area. In some remote areas, this may mean accepting very low bids where competition for licences is low. It is conceivable that a one-dollar bid could be the successful bid for a perpetual taxi licence.

6. What would be the advantages and disadvantages of offering licences at no cost in the more remote and/or lower valued areas? Would it be appropriate to issue licences in these areas 'on demand' rather than through an annual release?

DIER does not recommend that the release of perpetual taxi licences move to an "on-demand" basis. The existing release process, which involves annual release of licences equivalent to five percent of the number of licences already in circulation, is not considered to be a disincentive to take-up of licences in small/remote taxi areas. Given the absence of a reserve price in the form of an AMV, potential market entrants in remote areas would have an opportunity to access a licence at a low rate on an annual basis.

7. In areas where there have been no trades, should the Commission accept the highest tender for a licence rather than require the AMV to be tendered before a licence can be issued?

Abandoning the AMV will mean that the Commission will accept the highest tender for a licence.

2.2. Ownership and leasing of perpetual licences

8. What would be the advantages and disadvantages of changing the provision for perpetual taxi licences to be the personal property of the licence holder? Would this have a negative effect on individual operators who owned their own licences?

DIER proposes that perpetual licences should remain personal property of the licence holder. The original justification for changing the status of licences was to enable the holder to use the licence as security to establish a taxi operation. By mortgaging the licence, the holder has access to funds to purchase vehicles and establish the necessary systems to operate a

business. Making licences personal property also allowed for leasing of licences and a register of responsible operators.

Nevertheless, DIER is of the view that to effectively regulate perpetual licences, the Commission requires wider powers. This issue is fully addressed in Paper 10. In particular, DIER is proposing to increase the power of the Commission to impose conditions on perpetual licences and greater powers to impose sanctions such as suspension. See [Section 10](#) at Questions 51-53.

9. What would be the benefits of requiring potential holders of perpetual taxi licences to be deemed 'fit and proper' before they can hold a licence? Would there be any costs?

DIER does not recommend that a "fit and proper person" test be applied to perpetual licence holders who will not be operators, and hence covered by the existing accreditation system.

While it is desirable that persons not hold licences (as investors) whose past and/or present conduct may reflect badly on the industry, in practice the administrative burden of ensuring this could not be justified. In particular, the sale of licences in the secondary market would need to be overseen by DIER in order to ensure that this requirement could be met.

DIER accepts the argument that regulating for the "fitness" of persons directly involved in the day-to-day running of the taxi and luxury hire car industries is of greater importance to the customers of these industries.

10. Does the industry see the AMV as the actual (or even maximum) sale price of a licence? Does the AMV affect the price at which an owner would be prepared to buy or sell a licence and does this differ between the larger areas and the smaller areas?

Abandoning the AMV will remove the reference point. In the absence of such a value, tenders for issue of new licences and secondary market trades will instead reflect only the price that the market will bear. However, it should be noted that the number of new licences made available each year will be limited, plus there will be no provision for triggering further licence releases.

11. Is the AMV a suitable instrument to determine a reserve price for the sale of new perpetual licences, or does it decrease the market's ability to set realistic licence prices?

DIER considers that the AMV definitely constrains the extent to which market forces can determine the sale price of new perpetual licences. Indeed this was precisely the reason why the AMV system was introduced with the 2003 amendments to the Act.

In an environment where licence values are declining, the AMV acts to benefit existing licence holders by artificially inflating the value of new licences, particularly towards the end of each triennial valuation period. Consequently, it serves to disadvantage potential new licence buyers who will have to pay more for a new licence than the prevailing “true” market price of existing licences.

However, the reverse situation does not hold in times when licence values are increasing. While the AMV may appear to depress the relative value of new licences and thus disadvantage existing licence holders, the true (ie. higher) market price will still prevail, as the AMV is a “reserve” price only.

Abandoning the AMV will ensure that the existing barriers to entry do not discriminate unduly between existing and potential market participants. This position represents a loosening of restrictions on competition under National Competition Policy.

12. Is the AMV the appropriate reserve price for the issue of new perpetual licences, or should they be issued at a price above or below the AMV? Why? Should this differ between areas (for example, in areas where there have been no trades could the highest tender be accepted, regardless of whether it is above the AMV)?

Abandoning the AMV removes the need for revaluations.

13. Alternatively, should the concept of the AMV be abandoned, with all future licences to be issued to the highest tenderer/s? How would this affect licence values in the market?

The decision to abandon the AMV has consequences for the issue of new licences in that there is no “reserve” price. Conceivably, in an environment of low demand or low perceived value of perpetual licences, a bid could be successful at a rate substantially below the level at which perpetual licences have traded in the past.

It is possible that potential licence purchasers may choose to refrain from buying a licence in the secondary market in the lead up to the annual tender process, in the hope of obtaining a licence at a lower price than can be negotiated with an existing licence holder.

The absence of the AMV removes any point of reference for trades on the secondary market. In areas where historically there have been few trades, it will mean that prices will truly reflect what the market is prepared to pay rather than relying on the AMV as a reference point.

14. Is a tender process the most effective way to allocate new perpetual licences or should new licences be made available through a ballot process at the AMV? What effect would this have on sale prices on the open market?

A tender process is more faithful to the market in that the price paid should reflect recent activity in the market including any upward or downward trend in the market. A tender is also less complicated and time-consuming to administer than a ballot, as the determining factor is usually only financial.

15. Should criteria other than the tendered price be used in allocating new licences? What criteria might be used and why?

While the determining factor in a tender is usually financial only, DIER has considered the possibility of adding conditions to the tender process. In particular, DIER has considered whether a bid would be eligible only if received from an accredited operator. That is, whether a bid from an investor not at all involved in the operation of the licence should be valid.

DIER considers that the addition of such a condition is a normal part of calling for tenders. For example, in calling tenders for construction of a building, bids would not be accepted from unaccredited contractors with no knowledge of building construction.

DIER has determined that for new perpetual taxi licences, only an accredited operator should be entitled to be the licence holder. Nevertheless, so as not to unfairly exclude an interested party from participating in the process, an unaccredited person would be entitled to bid in the tender process. The highest bidder, if unaccredited, would be provisionally allocated the licence, similar to the current situation with the WAT ballot process. Upon being advised of their success, the applicant would then have a specified period of time to establish accreditation. Only when presented with evidence of accreditation would the Commission issue the licence in return for payment of the bid amount.

Should a successful bidder fail to establish accreditation, the next highest bidder would be provisionally allocated the licence and afforded the same opportunity to establish accreditation, if not already accredited.

DIER intends to add a condition to new perpetual licences requiring the licence holder to be the operator of the licence. As is now the case with WAT licences, the licence holder will be the responsible operator and will not be able to discharge this responsibility by entering into a lease with a third party operator.

However, as licences can be freely sold in the secondary market, the successful bidder would be free to sell the licence at any time to another accredited operator who would become the responsible operator of that licence.

Effectively, all new perpetual licences will be a new class of licence in that only the holder will be eligible to operate the licence. Leasing of these licences will be prohibited in the same way that leasing of WAT licences is prohibited. While the licence holder may choose to illegally enter into an informal arrangement with another person regarding operation of the licence, the licence holder will remain responsible for any and every breach which may occur under that licence and will not be able to transfer that responsibility.

To ensure that it is quite clear which category of perpetual licence a person holds, new perpetual licences will be clearly marked to indicate that they are an owner/operator licence and, as such, cannot be leased.

16. What are the arguments in favour of the existing licensing arrangements, in which a substantial amount of the revenue that is earned from the operation of many licences goes directly to investor licence owners in the form of lease fees? Some licence owners play no active role in the industry and reside outside of Tasmania.

DIER considers that there is little benefit arising from the current structure, other than to the personal finances of licence holders. In effect, perpetual licences have become financial instruments. As a result of the pressure for returns on the financial investment in licences, a significant amount of revenue is diverted away from the people who actually provide the service.

One mechanism to prevent inactive licence holders from deriving returns from the industry would be to prohibit leasing of perpetual licences. This is the position DIER has chosen to pursue with WAT licences and it is also proposed for all new perpetual licences.

At this time, DIER is not proposing to prohibit leasing of existing perpetual licences. However, DIER will continue to monitor the prices of these licences and the rates at which leases are being struck, in particular to gauge the apparent impact of increased competition arising from the release of new licences.

17. Would prohibiting leasing for new licences be an appropriate means by which operators could be encouraged to take up new licences? Should new licences be leased from the Government rather than sold to further encourage operator take-up of licences?

DIER proposes to prohibit leasing of new perpetual licences.

This will require the holder of this new class of licence to be the operator of the licence. Therefore only accredited operators will be eligible to be licence holders. This will restrict the size of the potential secondary market for these licences and may lead to a two-tiered pricing arrangement for new and existing perpetual licences.

Given the decision to prohibit leasing of these new licences, it would be counter-intuitive for Government to enter into leasing. Furthermore, to conduct leasing on the required scale would significantly increase DIER's administrative burden.

New perpetual licences will continue to be sold, however only when a successful bidder establishes their accreditation will they be eligible to have the licence issued. See Question 15.

18. If leasing were prohibited, should this apply to existing licences as well as new licences, and if so, how could this be introduced without disrupting services?

DIER does not propose to prohibit leasing for existing licences. Nevertheless, DIER will continue to monitor the perpetual licence market to determine whether further changes may be necessary in the future to ensure the service to consumers is maintained.

19. How could 'informal' leasing be controlled or prevented? Would requiring the licence owner to be the responsible operator of the licence overcome some of the problems associated with leasing?

With regard to new perpetual licences, leasing will be prohibited. Only the registered licence holder will be eligible to operate that licence with substantial penalties being applied for any attempt to lease, similar to the provisions that are currently in place for WATs.

Further, the registered licence holder will remain the responsible operator of a licence unless the licence is sold, transferred and registered to another operator. The licence holder will be responsible for any breach associated with a licence regardless of any arrangements entered into with a third party.

For the avoidance of doubt, new perpetual licences will be clearly marked on the licence instrument to indicate that they cannot be leased.

In order to enforce the prohibition on leasing, it is proposed that entering into an illegal lease be subject to a fine of up to 50 penalty units (\$5,000) and also be a disqualifying offence for the purposes of operator accreditation. In addition, the Commission should have the power to seize the licence and sell it by tender to recover any outstanding fines, fees and other administrative costs before returning any remaining monies to the owner.

20. Would regulating maximum lease rates be successful in assisting operators to improve their returns? What would be the benefits to consumers? Are there alternatives to such regulation?

DIER does not propose to regulate leasing of existing perpetual licences beyond registering a person as the responsible operator. Maximum lease rates are impossible to enforce.

Nevertheless, DIER does intend to require existing perpetual licence holders to retain responsibility for any breaches involving the operation of a licence they hold, unless a responsible person has been nominated and registered with the Commission. Any informal or “handshake” arrangements between parties will not be recognised and in the absence of a registered responsible operator, the licence holder will be pursued for any prosecution or outstanding monies.

2.3. Operation of perpetual taxi licences

21. Should all taxi licences be required to be operated or returned to the Transport Commission? Why or why not?
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DIER is concerned that consumers are being offered lesser services than they might reasonably expect to receive in some taxi areas where a substantial number of taxi licences on issue are not being operated. In an environment where licence numbers are capped, to the direct benefit of investors, there is no argument for investors to further benefit by restricting the number of operating licences. Therefore, DIER proposes to require all licences, new and existing, to be operated.

A requirement to operate necessitates a definition of what it is to “operate”.

DIER maintains a register of licences and licence holders. As licences can only be operated by an accredited operator, where the licence holder is not accredited and no responsible operator has been nominated, DIER will ask the licence holder to demonstrate that the licence is being operated. It will be necessary for the licence holder to either nominate a lessee (where this is permitted) or demonstrate that they are in the process of becoming accredited. Where the licence holder is the responsible operator, that person will be required to demonstrate to the Commission’s satisfaction that they have one vehicle for every licence for which they are the responsible operator.

In the event that the Commission is not satisfied that a licence is being operated and the outcome serves to limit or reduce competition, the licence holder will have a specified period of time to commence operation, lease the licence to a responsible operator (where this is permitted), transfer the licence to another person or surrender the licence to the Commission.

As the purpose of this provision is to ensure that the full number of licences which have been made available over time in a taxi area are operating, the Commission will also have the power to issue a number of licences equivalent to the number surrendered.

22. What would be the effect of requiring all taxis to be operated on a 24/7 basis? Would this be sustainable? Why or why not?

While DIER wishes to ensure that all taxi licences are operating, DIER does not propose to prescribe the hours of operation. It is considered that this is a business decision of individual operators.

23. What are the alternatives to requiring all taxis to be operated 24/7? How can a balance be struck between the need to provide services at times of peak demand and the work preferences of operators?

At present, DIER is not convinced that there is a sufficient shortage of taxis at a particular time of day which would warrant prescribed operating hours or implementation of other mechanisms (such as peak time taxis).

24. Should the requirements for hours of operation be the same for non-metropolitan taxis as for metropolitan taxis? How might they differ and why?

Taxis in non-metropolitan areas are no different to those in metropolitan areas and DIER does not propose to impose an hours of operation requirement on either group.

3. Wheelchair Accessible Taxis

3.1. Summary

DIER considers that the wheelchair-accessible taxi (WAT) scheme has, to date been very successful. Nevertheless, DIER is concerned that, over time the WAT scheme may begin to reflect some of the elements of the standard taxi licence scheme which puts a significant emphasis on personal investment returns rather than service provision.

DIER considers that the existing standard taxi licence scheme in urban areas has a number of significant deficiencies, particularly that the licences themselves have accumulated a very high value as an investment instrument. This is largely because they are in a strictly limited and static supply, and have been so for many years.

In DIER's view, it is critical that WAT licences should not accumulate any commercial value as a stand-alone asset. Various aspects of the WAT scheme have been designed specifically to reduce the likelihood of a value being gained. Despite this, under the current arrangements it is likely that WAT licences will gain a saleable value as a result of the small and strictly limited number that are available.

DIER recommends amending the Act to address the problem of WAT licences accruing a "scarcity value". Specifically, as is currently the case with luxury hire cars, it is proposed that WAT licences be made available on demand and in unlimited numbers. This is considered the reform most likely to prevent the licences accruing a market value. In order to receive a new licence, applicants will need to have accreditation and present a new and fully compliant WAT vehicle for inspection.

The life of WAT licences will be amended. Rather than limiting the life of licences to 10 years, DIER proposes that licences have an unlimited life.

The above represents a shift from the current policy and these particular reforms were not canvassed in Discussion Paper 4 – Wheelchair-Accessible Taxis. The risk of WAT licences accruing scarcity value has only recently been revealed due to a number of developments in the WAT industry since the release of that paper in February 2006. Rather than undertake a separate process to address these issues, DIER is seeking to raise the need for reform under the umbrella of the current review.

While the WAT scheme is considered to have commenced successfully, WATs currently operate only in the major metropolitan areas of Hobart, Launceston, Burnie and Devonport.

While an unlimited number of licences have always been available in all other taxi areas, no applications for these have been received.

DIER considers that this may be due to several factors, including:

- a lack of publicity regarding WAT licences in other taxi areas. By contrast, the Commission has advertised at least annually for the past three years when licences are being made available by ballot in each of the four metropolitan areas;
- the amount of the trip subsidy for WATs in non-metropolitan areas has not been specified;
- less competition for taxi licences generally in non-metropolitan taxi areas; and
- the requirement for a new vehicle.

There are some 400 registered users of the TAS scheme who are wheelchair-reliant living outside of the four metropolitan areas where WATs operate⁴. While these people are spread over 20 taxi areas which may indicate potential low demand for WAT services, DIER considers that it is not unreasonable to make more explicit provision for licences in these areas and specify a trip subsidy as this may provide operators with an incentive to apply. Further, as has been seen in the major metropolitan areas, once the service becomes available, previously unregistered persons are likely to become registered for the TAS, significantly increasing the number of potential passengers.

While making explicit provision for WAT licences and trip subsidies outside the major metropolitan areas will go some way to encouraging the introduction of WATs in other taxi areas, DIER considers that it will take time to introduce WATs in these areas.

To provide a more immediate solution, DIER proposes to allow WAT licence holders to approach the Commission seeking a licence condition, which would permit the holder to undertake wheelchair work wholly out-of-area. That is, the operator could legitimately undertake jobs that began and ended outside of the taxi area to which the WAT licence related. To prevent this arrangement from deterring potential new WAT operators in non-metropolitan areas, such a licence condition would only be available for taxi areas where no existing WATs were established and would be cancelled as soon as a WAT commenced operation in that area.

To ensure that the arrangement is appropriately managed, payment of TAS fare subsidies and the trip fee for wholly out-of-area work will be limited to those operators who have obtained the necessary licence condition for the taxi areas in which they undertake this type of work.

⁴ SGS Economics and Planning with Myriad Consulting, Evaluation of Wheelchair Accessible Taxi Services, December 2005, page 18.

No changes to the current legislation are required to allow this arrangement to occur. DIER proposes that the Commission consider applications for such licence conditions commencing immediately.

Nevertheless, DIER considers that these arrangements may still not be sufficient to encourage establishment of WATs in the most remote areas of Tasmania, especially those with small populations. The distance of these communities to major metropolitan centres would make it unlikely for an out-of-area licence condition to be a practical solution.

DIER also acknowledges that as some of these areas have a significant proportion of aged persons, the need for accessible transport is likely to grow at a faster rate than in some more central areas. In these taxi areas, there are often even very few standard taxis. The taxi areas considered to fall within this category are listed at [Appendix 3](#).

WAT licences will continue to be offered in these remote areas with a trip subsidy, which will be specified in the amended regulations. DIER also proposes to allow WATs in these most rural areas to operate second hand accessible vehicles. Vehicles will need to meet the ordinary requirements for a taxi. That is:

- must not be more than 7 years of age upon commencement as a taxi (consistent with requirements for standard taxis in non-metropolitan areas). Specifically, it should be noted that the vehicle does not need to be new;
- must not exceed 10 years of age; and
- must meet inspection requirements.

In addition, to qualify as a rural WAT the vehicle will also need to comply with the *Disability Standards for Accessible Public Transport 2002* but need not have been first registered as a WAT in Tasmania.

Under this proposal it will be possible for an operator to purchase a second hand vehicle and undertake the necessary modifications, or to purchase a second hand vehicle that is already modified and may previously have been privately operated or used for community transport or other purpose.

Despite the relaxation of vehicle standards for WATs in these most rural areas, it is acknowledged that uptake of WAT licences is likely to be slow. In an effort to bring accessible services to these areas sooner, DIER proposes to allow standard taxi operators to approach the Commission and apply for a licence condition on their standard taxi licence which would allow them to operate a WAT-style service. Operators of standard taxis are already entitled to use an accessible vehicle that meets the inspection requirements however, DIER is seeking to encourage this option.

To this end, DIER proposes that a standard taxi operator in these areas could operate an accessible vehicle that meets the requirements of the DDA, install a swipe card meter, which registers tariffs 3 and 4, and claim a trip subsidy for wheelchair work. Once again, the licence condition would be subject to cancellation if a true WAT licence became operational in the taxi area. A suitable vehicle will need to meet the ordinary requirements for a standard taxi in addition to being accessible by wheelchair passengers.

While operators of standard taxis in any taxi area may opt to use a vehicle which is accessible, DIER does not propose to extend access to swipe card meters and the trip subsidy except in the areas nominated.

For the sake of clarity, vehicles that operate as rural WATs or provide WAT-style services in any of the specified rural areas will not be eligible to enter service as WATs in other taxi areas (ie. vehicles that are neither new nor second-hand WATs).

3.2. Taxi industry issues

1. Would a centralised booking service provide a better service to WAT clients? How might such a service operate?

DIER acknowledges the potential benefits of a centralised booking service for WATs, including improved utilisation of the WAT fleet and greater capacity to monitor WAT response times.

However, DIER has several significant concerns with the proposal, including:

- (i) the importance that many wheelchair-bound people place on being transported by known and trusted drivers. While this could be catered for in a centralised system to some extent, it is likely that the restriction in choice would still be a problem;
- (ii) as in the case of the taxi industry more widely, compelling WAT operators to become affiliated with a single network represents a restriction on trade that would most likely be opposed by some operators. Further, it is probable that such a reform would be opposed by Treasury on the grounds of contravening National Competition Policy; and
- (iii) while centralised booking arrangements are applied in other jurisdictions, it is not at all clear that this ensures an adequate level of WAT services to people with disabilities. In fact, there is no evidence that the Tasmanian scheme is inferior to those in other jurisdictions in regard to response times.

In light of the above considerations, DIER is not requiring a centralised booking service for WATs.

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| 2. | How will radio networks and cooperatives that do not have WATs meet their obligations under the Disability Discrimination Act (DDA) in relation to providing equivalent services to wheelchair-reliant people? |
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In accordance with the DDA, strictly speaking, compliance is the legal responsibility of radio networks and co-operatives. It would not be appropriate for DIER to prescribe one method of compliance with the DDA over another. This is a decision for each radio network and co-operative. DIER is not responsible for imposing the requirement to comply with the Disability Standards, nor does DIER have a role in enforcement. To the extent that it is able, DIER has endeavored to assist network operators to understand the requirements that the Commonwealth intends to impose commencing on 1 December 2007⁵.

It is important to note that enforcement of the Transport Standards is a complaints-driven process only, and that “unjustifiable hardship” is valid grounds for an operator to defend a complaint⁶.

With new information gathering powers, the Commission would be in a position to provide comparative data on response times for WATs and standard taxis which may assist networks to establish how their performance rates.

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| 3. | Are WATs ‘taking work away’ from standard taxis to a significant degree or are WATs increasing the size of the taxi market? |
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DIER has no firm evidence of WATs taking work away from standard taxis. However, it is clear from use of the Transport Access Scheme (TAS) that use of taxis by TAS members has increased significantly since the introduction of WATs. The ultimate goal of the reform was to improve service to the customer and in this regard, the added competition and choice provided by WATs is considered to have been generally successful. Though subject to regulation, the taxi industry is fundamentally a commercial undertaking and therefore its participants need to respond to developments in the market, including changes to Government policy.

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| 4. | Is sufficient priority being given to wheelchair-reliant users by WAT drivers and operators? Should drivers be provided with additional incentives? |
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The WAT scheme was designed specifically to provide incentives for WATs to be used to transport people in wheelchairs, as reflected in the trip subsidy, flagfall and fare tariffs. DIER

⁵ Disability Standards for Accessible Public Transport 2002, Schedule 1, Part 1.2.

⁶ Disability Standards for Accessible Public Transport 2002, Part 33.7

acknowledges that such incentives may not be effective in all cases. It is inevitable that a new scheme will be found to have some deficiencies when it is fully tested in real commercial situations.

As described below at Question 17, DIER proposes to review the flagfall to better recognise the additional driver time required when transporting customers in wheelchairs.

The trip subsidy is not intended to be a payment to drivers, however it is the industry's own discretion and commercial risk to use it in this manner.

Through the establishment of the WAT scheme which appeals to wheelchair-reliant users and the provision of funding through the TAS to support that use, WAT operators have already received a significant benefit from the growth in demand that has been stimulated. This has been evidenced during the three years of operation by a very significant increase in TAS claims for wheelchair members over pre-WAT levels.

DIER will continue to monitor the proportions of wheelchair work undertaken by WAT operators through the TAS. It is anticipated that the use of in-taxi swipe cards by TAS claimants will improve the accuracy of this monitoring. This, in turn, should provide DIER with a stronger basis on which to impose quotas on WAT operators through licence conditions if necessary.

5. Are the perceptions of users (both wheelchair-reliant and non wheelchair-reliant) about WATs changing? Are users more comfortable with travelling in WATs now that they are more visible?
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While some concerns on these matters have been raised, DIER does not consider that any particular actions are required. The right of WATs to operate identically to standard taxis is indisputable in law, and there is no excuse for industry participants being ignorant of these rights, or acting in an obstructive or deceptive manner towards potential users of WATs.

In regard to the operation of the scheme, of greatest importance to DIER will be any complaints received about WAT availability from wheelchair-reliant passengers, as these are the primary customers of WATs.

To overcome alleged misinformation being fed to potential customers, a consumer education campaign to alert potential passengers that anyone is entitled to travel in a WAT may be appropriate.

6. Is there a need for conditions to be imposed on WAT licences in relation to improving WATs' availability to wheelchair-reliant clients?

DIER recommends that this power be retained, and be imposable on individual operators as and when required.

7. Should the trip subsidy be reviewed over time? If so, how?

Due to a lack of firm evidence at this early stage of the WAT scheme, DIER is not prepared to recommend changes to the trip subsidy. However, DIER will review the suitability of the subsidy as more evidence becomes available as to the true operational lifespan of WAT vehicles, together with changes in the cost of new WATs. DIER does intend to specify the trip subsidy which will be payable to WAT operators in taxi areas other than the four major metropolitan areas for which trip fees are already prescribed.

Without any change to the trip fees already specified, the trip subsidy is anticipated to cost almost half a million dollars in 2006/07 from the TAS budget. This amounts to an average of approximately \$15,000 per licence. Any increase in the level of the trip subsidy would have significant budgetary implications. For example, a 5% increase in the amount of the subsidy would amount to an additional \$25,000 per year in trip subsidies based on current usage patterns. This equates to an extra \$750 per year in subsidy for each WAT licence.

DIER will not recommend increases in the trip subsidy unless presented with compelling evidence that these are required to ensure an adequate level of service. At present, such evidence is not available. DIER will continue to monitor the suitability of the level of the trip subsidy, although budgetary constraints will always be an important consideration in the assessment of potential increases.

8. Are the current flagfalls, fares and tariff times appropriate to cover the additional time needed to complete a wheelchair hiring?

DIER is of the view that the current fare structure may not adequately recognise the typical additional time required. See Question 17.

9. Should additional payments be made to drivers when transporting more than one wheelchair? Should this be in the form of higher fares or an additional trip subsidy?

DIER does not support this. Firstly, there is no conceptual link between the purpose of the trip subsidy and the problem being referred to here. Secondly, the flagfall cannot be applied twice, as the taximeters cannot accommodate this practice.

DIER is also concerned that diversions to pick up other passengers disadvantages the original hirer, particularly as it may provide a financial incentive for drivers to take excessive and inefficient routes between points. Nevertheless, where a passenger orchestrates a journey that involves collecting a second passenger from another location, as they may choose to do, the meter will be running during the second loading time in which case, the driver is being compensated for the additional time and further charges are not necessary.

Notwithstanding this, where hirers are happy to "share" a taxi, they are free to do so. As with Tasmanians who do not have a disability, there is one flagfall and a single fare charged. The persons sharing the taxi determine their own arrangements in regard to sharing the total cost of the travel.

More fundamentally, DIER draws a clear distinction between a taxi-style service and a scheduled bus-style service (that is, where multiple passengers are being picked up and dropped off at different points on a chosen route). As a point of principle, DIER is not prepared to directly subsidise taxis undertaking work that is akin to that of a scheduled bus service.

10. How should the legislation deal with substitute WATs, either temporarily where the original vehicle is out of service, or permanently, if it is written off? How can substitute WATs be introduced at a minimal cost to operators without relaxing vehicle standards?

DIER proposes amending the Act to establish a substitute WAT scheme. Assuming that a WAT operator will be unable to acquire or utilise an additional vehicle that is a genuine WAT (ie. either a totally new vehicle or one that is second-hand, but was first registered as a WAT), the following arrangements are proposed:

1. A vehicle, other than a genuine WAT, capable of carrying wheelchairs and complying with all other specifications and regulations for WAT vehicles (including the maximum age), may be used as a WAT substitute.
2. The substitute WAT must be under current inspection as a substitute WAT and be registered as such with the Commission.
3. A substitute WAT can be used at any time to replace an existing WAT, provided the WAT being replaced is not being used for any other purpose (business/private) ie. it is being repaired, maintained etc. Operators will need to apply to the Transport Commission to transfer the original WAT licence to the substitute vehicle. They will also be required to present documentary evidence that the original licensed WAT cannot be operated and the period of time for

which it will be inoperable. Further, it must be proven that specific and direct action is being taken to repair or permanently replace that vehicle.

4. The length of time for which the vehicle referred to in (1) and (2) above, will be permitted to operate as a substitute WAT will be assessed by the Commission on a case-by-case basis, and determined from documentary evidence referred to in (3).
5. A vehicle used as a substitute WAT as per (1) to (4) above, cannot subsequently be designated as a WAT (including a second-hand WAT) for the purposes of the future assignment of a WAT licence, irrespective of whether or not that licence is new, or obtained by transfer.
6. In the event that the original WAT vehicle is unavailable for over one month (and the Commission having been satisfied that this is the case), and a wheelchair-capable vehicle suitable to be used as a WAT substitute (as per 1 and 2, above), cannot be obtained by the operator within 28 days, the operator may apply for a temporary standard taxi licence. This licence may then be assigned to an ordinary passenger vehicle that conforms to all the regulatory requirements of a standard taxi.
7. A vehicle assigned a temporary licence as per (6) above will be permitted to undertake all work available to a standard taxi, and applying the standard taxi fare structure. The trip subsidy will not be claimable, and the TAS subsidy for standard taxis will be applicable.
8. The length of time for which the vehicle assigned a temporary licence as per (6) above will be permitted to undertake standard taxi operations will be assessed by the Commission on a case-by-case basis, and determined from documentary evidence referred to in (3).
9. In order to receive the temporary licence referred to in (6) above, the operator will also need to provide the Commission the WAT licence and WAT licence plate relating to the original WAT vehicle. These will be returned when the repaired vehicle (or its permanent replacement) is presented for inspection.
10. Where the length of time that the original WAT will be unavailable is determined by the Commission under (4) to be in excess of 28 days, and the operator has satisfied the Commission that the vehicle is being maintained/repared as in (3), the licence will not be subject to cancellation as is provided for in recent amendments to the Regulations.

3.3. Adequacy of WAT services

11. How can response times for ASAP bookings for WATs be improved to bring these services into line with standard taxis?

The most obvious means by which WAT response times can be improved is by having a greater number of vehicles available. In order for this to work effectively, it will be necessary for the additional WAT vehicles to give appropriate priority to wheelchair customers.

Beginning in March 2007, additional perpetual taxi licences will be released in Burnie, Devonport, Hobart and Launceston. Take-up of these new licences would be expected to reduce response times for customers using standard taxis relative to WATs. Consequently, if the gap between response times is not to widen, new WAT licences will need to be made available. Hence DIER's proposal to make WAT licences available on demand should ensure a continuing increase in the number of WATs as the market responds to demand.

In regard to monitoring response times, DIER proposes that the Commission be given the legal power to obtain records of standard taxi response times from networks, and all standard taxi operators. This authority already exists in relation to WAT operators. While this will not necessarily achieve universal coverage of the industry, it should nevertheless provide the means for a reasonably accurate measurement to be made of comparative response times.

Aside from the requirement to have response time information available in regard to the *Disability Discrimination Act 1992*, these statistics will be very useful to DIER in its regulatory oversight of the industry.

A number of practical issues will need to be worked through before such a reporting system can be implemented, in particular how independent operators will be included.

12. How can the availability of WATs be increased at peak times and at other times when they are not readily available?

DIER considers it desirable that the availability of WATs on an "ASAP" basis is comparable to that of standard taxis. However, this is unlikely to be approached in the foreseeable future without the release of significantly more WAT licences, as proposed against Question 11.

It is readily acknowledged that the actual response time to an "ASAP" request will vary considerably at different times, irrespective of who makes the request or the type of taxi sought.

13. How can response times for WATs be monitored in the future to assist in determining whether further WAT licences should be issued?

See Question 11 and Supplementary Question 43.

It is proposed that response time information be made collectable from as many operators as is technically feasible. However, in accordance with the proposal to issue WAT licences on-demand, new licence releases will not be contingent on proving that a response time deficit exists.

14. Is there a need for changes to the current reporting system for WAT operators in relation to the number of wheelchair and/or total journeys undertaken in order to get more accurate information on the use of WATs?

DIER has some concerns that the current reporting system (through TAS) is not totally accurate due to possible under reporting by WAT operators of standard taxi work.

DIER is in the process of trialling an electronic swipe card system for WAT trips subsidised through the TAS. This should enhance the accuracy of information obtained about the use of WATs by TAS users.

3.4. Value for money

15. Should the maximum fare subsidy paid by the TAS per taxi journey be increased?

DIER intends to review the suitability of the maximum subsidy when more accurate WAT operational data is gathered through the TAS swipe card system.

An increase in the WAT flagfall (see Question 17) may necessitate some adjustment to the maximum subsidy.

16. Is there a need to promote to drivers and users the requirement of the Regulations that the meter can only be turned on once the journey begins and must be turned off at the end of the journey? Should this requirement be relaxed?

This issue was addressed in Discussion Paper 10 – Technical Issues, Administration and Enforcement. Refer to [Section 10](#), Question 63 for DIER's position regarding the definition of the hire period.

The proposed flagfall increase (see Question 17) acknowledges that greater waiting time is often a factor relevant to wheelchair work. The increase is intended to be accompanied by

clarification of the requirement that the meter not be started until the hire commences, that is when the taxi pulls out from the kerb.

DIER considers that this is an area which would benefit from an education campaign for both passengers and drivers.

17. How can drivers and operators be compensated for the additional time required to load and unload passengers in wheelchairs without disadvantaging users? When is it reasonable for the meter to be turned on and off so as to not result in excessive charges for the user but also to recognise the extra time taken for the journey? Are there other ways in which the additional time could be paid for?

DIER accepts that the existing difference between the WAT flagfalls for wheelchair and able-bodied clients may not adequately reflect the average additional time taken to service people in wheelchairs. While some evidence of this difference has been provided, DIER requests that industry submit further statistics so that a more informed judgement can be made on the appropriate difference between the flagfalls.

In addition, DIER will need to investigate the technicalities of adjusting the flagfall for Tariff 4, as this also applies to able-bodied customers in high-occupancy circumstances.

The budgetary implications of increasing the flagfall must also be considered. The current flagfall on the wheelchair/high occupancy tariff is \$4.50. This represents a waiting time of 7.5 minutes and is expected to cost DIER \$113,000 in 2006/07 (based on 60% TAS subsidy). Increases in the flagfall represent longer waiting times and additional costs to DIER, for example:

- \$6.00 equates to 10 minutes and an additional \$38,000 pa;
- \$7.50 or 12.5 minutes waiting and \$75,000 pa;
- \$12.00 or 20 minutes and \$189,000.

As a consequence of any increase, eligible passengers would also have to pay an increased amount under the 60% TAS subsidy arrangements.

DIER considers that an increase in the flagfall, for example, to \$6.00 equating to 10 minutes waiting time may more accurately reflect the time taken to load wheelchair passengers. In [Section 7](#) at Question 6 DIER proposes that the Government Prices Oversight Commission (GPOC) be given the role of developing a fare model. The balance of flagfall and a kilometre rate will be for GPOC to determine, nevertheless, DIER would consider it appropriate to provide terms of reference requiring consideration for matters such as this.

It should also be noted that DIER is proposing to define the hire period such that the meter will not be engaged during the loading and unloading of any passengers. See Section 10 at Question 63.

3.5. Driver training and attitudes

18. Is the current training course for WAT drivers adequate to enable them to provide a professional high quality service to users? In what ways could it be improved?

DIER now considers that the training provided to WAT drivers prior to 2006 may not have been adequate. See Question 19.

19. How could drivers of standard taxis be better informed about the needs of transporting people with disabilities? Should all taxi drivers be required to participate in the training module on transporting passengers with disabilities?

From August 2006, a new module, *Transporting People with Disabilities* has been added to the compulsory training for all new taxi drivers conducted by Road Transport Training. A large number of drivers have undertaken the new course and thus far it appears to be a definite improvement on the previous arrangements.

20. Should the merits of introducing first aid training be further investigated?

DIER does not recommend that this training be implemented, as it places too great a personal liability on the driver in the event that first aid is unsuccessful.

3.6. Vehicle specifications

21. Is the ten-year lifespan for a vehicle used as a WAT too long? Will WATs deteriorate to a state that they are no longer attractive to the public or comfortable to travel in if they are used for ten years? What is a reasonable expectation for the useful working life of a WAT?

DIER recommends that it is too early in the life of the WAT scheme to make major changes without sound evidence that the assumed vehicle lifespan is wrong. It is acknowledged that some in the industry are already arguing that the assumed lifespan is excessive.

The trip subsidy is calculated on the cost of a new vehicle. It is understood that this cost is trending downward with the release of less expensive vehicles by major manufacturers.

22. How can operators be encouraged to maintain a high standard WAT vehicle if they decide to retain the vehicle for the full ten years?

DIER takes the view that commercial pressures to present a quality vehicle, together with the large initial capital outlay required, should provide significant incentives to properly maintain the WAT for as long as possible. Only full testing through normal commercial use will establish whether or not the original expected lifespan of ten years for a WAT is accurate.

23. Is the current fleet of WAT vehicles adequate to transport the different types of wheelchairs in use? Is there a need for a greater variety in vehicles that can be used as WATs?

DIER takes the view that market forces will guide the particular types of vehicles that are used as WATs. There are no restrictions applied at the moment, other than that the vehicles must comply with the DDA Standards and be a small passenger vehicle.

WATs are intended to be just another form of taxi, and taxis must be small passenger vehicles.

There may be a continued need for vehicles of greater capacity than WATs for the transport of large groups of customers that include three or more people in wheelchairs. It is assumed that transport operators will provide such vehicles as appropriate to satisfy this niche in the market.

24. How can DIER work with operators and users to ensure that the vehicles permitted to be used as WATs are appropriate for the needs of wheelchair-reliant taxi users? Should DIER prescribe the makes and models of vehicles able to be used as WATs or should operators be able to choose a vehicle that they consider will best meet the needs of the market and best suit their business operations?

DIER does not recommend that the makes and models of vehicles suitable to be used as WATs should be prescribed in regulations. As demonstrated by the prescription of luxury hire car vehicles in the Act, this practice is problematic as the list quickly becomes out of date. The administrative burden imposed by needing to regularly update the list is not considered justified.

Within the constraints of the DDA Standards, market forces should be the primary means by which operators alter their vehicles to suit the needs of clients. The periodic vehicle inspection regime will continue to provide the opportunity for the Transport Commission to evaluate changes on a case-by-case basis.

25. In considering vehicle standards, specifications and models, how can appropriate standards of appearance and amenity be maintained in order to ensure that the service offered by WATs remains appealing to both wheelchair-reliant users and able-

bodied users? Is it important to retain the requirements for a new vehicle without significant external modification?

DIER proposes to retain the policy that only new vehicles can be first registered as a WAT, although relaxation of this standard in remote areas of Tasmania is proposed. This policy was designed specifically to ensure high standards of vehicle quality as a means to promote financial viability through the broadest customer appeal.

As the WAT scheme continues, it is likely that a larger number of genuine second-hand WATs will become available for trading within the industry. DIER proposes to monitor this development and adjust the regulatory framework as required to maintain adequate vehicle standards.

26. Is ramp entry adequate to enable all types of wheelchair to be loaded into WATs? Is there a need for some vehicles to be equipped with a traditional 'hoist'?

DIER has responded to changes in the operating conditions for WATs and will now allow ramps or hoists to be used.

27. Is there a need for more WATs with the capacity to carry more than one wheelchair?

At this stage, DIER is not aware that customers perceive a lack of such vehicles in the WAT fleet.

It is most appropriate for market forces to shape the nature of the WAT fleet in this regard.

Nevertheless, the current requirement in Schedule 6 of the Act for wheelchairs to be located centrally in the vehicle may restrict transport of multiple wheelchair-reliant passengers at one time. DIER proposes to change this requirement to permit more flexible travel arrangements.

28. What incentives could be introduced to encourage drivers and operators to undertake more multiple wheelchair journeys?

Refer to Question 9.

While WAT customers in wheelchairs are free to make their own arrangements for trips with multiple pick up points and destinations (as are all taxi customers), DIER does not support the concept of multiple hiring and does not intend to subsidise this practice.

3.7. Licences

29. Is the ten-year life of a WAT licence appropriate? Should it continue to be aligned with the expected working life of a WAT, or should it cover the working life of two WATs? What would be the advantages and disadvantages of this?

DIER proposes to remove the ten-year licence life in conjunction with the proposal to make licences available on demand..

Under the proposal that new WAT licences be made available on demand from 2008, the ten-year licence is redundant.

Removal of the 10-year lifespan will provide greater certainty for existing and future operators. It will also reduce the administrative burden on both operators and the Transport Commission as there will be no need for renewal applications to be made as the 10 year period draws to a close.

30. Should operators be able to transfer their WAT licence to another operator? Is the restriction preventing operators from transferring a WAT licence until they have held and operated the licence for twelve months reasonable? Should this apply to reissued licences?

DIER recommends that WAT licences should continue to be transferable, but only by the formal approval of the Commission.

DIER proposes to abandon the business rule preventing WAT licences from being transferred within the first 12 months of operation. This is now considered to be an unjustifiable restriction on business operations.

Note that Paper 10 proposes that accreditation should be a precondition for transfer such that the Commission would only approve transfer to another accredited operator as WAT licences are required to be owner-operated. See [Section 10](#) Question 30.

31. Should the application fee for a WAT licence be increased?

The existing fee is equivalent to that for standard taxi licences and DIER does not propose to alter it.

On-demand issue of WAT licences would actually achieve better cost-recovery by DIER at the same level of fee than under the existing licence release arrangements. Currently, DIER does not require payment of the fee in order to undertake the time-consuming EOI process and ballot.

32. Should WAT licence holders be entitled to automatic reissue of their licence after ten years if they are the original licence holder?

This business rule will become superfluous if the unlimited WAT licence life is implemented.

33. Under what circumstances, if any, should licence holders other than the original licence holder be entitled to automatic reissue of a WAT licence?

Renewal will no longer be relevant if the unlimited WAT licence life is implemented

34. If this is permitted, how can the integrity of the ten-year lifespan of a WAT licence be preserved and the licence not gain a tradeable value?

See Question 33.

35. How can the transfer of WAT licences be managed to ensure that operators are not disadvantaged if they purchase a WAT licence that is close to expiry and that services to users are not disrupted if an existing operator leaves the industry?

DIER assumes that the sale price for a business would reflect the remaining useful life of the WAT vehicle/s and the licence/s attached to them.

Under the proposed "on-demand" WAT licence scheme, the purchaser of the existing business and assets will be able to obtain additional or replacement WAT licences from the Commission once the existing licences expire (or at any point prior to then), provided they also obtain a new vehicle for each new licence.

On-demand licence issue will mean that a potential new entrant to the industry would need to carefully consider the financial merits of buying an existing business including the WAT vehicle(s) and licence(s), and applying for new, free WAT licences and purchasing a new vehicle for each licence.

36. Are there reasons other than breaches of licence conditions and a vehicle ceasing to be registered or failing to meet the specifications of a WAT that should be grounds for suspension or cancellation of an operator's WAT licence?

In response to developments in the WAT industry, DIER has put in place regulatory amendments that allow a WAT licence to be cancelled in the following additional circumstances:

- (i) operator bankruptcy or insolvency; and
- (ii) operator fails, without adequate justification, to provide a service under a WAT licence for a period of more than 28 days.

DIER proposes that additional cancellation provisions be provided for under the umbrella of the current review. It is proposed that the Commission should have power to cancel a WAT licence where the operator loses effective control of the vehicle to which the licence relates. This would include situations such as repossession of a vehicle by a financier or lessor, where the vehicle may be sold and registered other than as a WAT, therefore becoming separated from its licence.

In addition, to remove any doubts regarding the importance of accreditation, DIER proposes that all WAT licences owned by an operator may be cancelled should that person have their operator accreditation cancelled. Nevertheless, this is a last resort and it would be preferable if the relevant vehicles could be sold with their licences to another operator, so as to maintain service levels. It is proposed that notice of cancellation would provide a specified period of time in which the operator could reach agreement on sale or make other necessary transfer arrangements.

37. What licence conditions might be considered 'fundamental' to the extent that a breach of them should result in the cancellation of an operator's WAT licence? Should the Transport Commission have discretion in making such decisions or should guidance on this issue be provided?

DIER recommends that the Transport Commission should have the discretion to consider a breach of any licence condition as grounds for licence cancellation. Such situations should be assessed on a case-by-case basis and it is not appropriate to prescribe the relative importance of each condition in a generic manner.

38. Are there other conditions that the Commission could impose on WAT licences in addition to conditions relating to the areas of operation, vehicle standards and conditions, and the availability of the vehicle to wheelchair-reliant users that should be specified in the legislation?

DIER has not identified any further licence conditions which it considers should be imposed as a matter of course. Nevertheless, the Transport Commission will retain the power to alter the existing conditions and impose new licence conditions, having first sought the views of affected licence holders.

3.8. Supplementary questions

39. Should WATs be permitted to stand for hire?

DIER recommends that the existing arrangements be maintained. This provision is entirely consistent with the policy that WATs are first and foremost taxis; they do not provide a parallel service in the manner of the former "SPC" vehicles.

40. Should WAT operators be entitled to use WATs as private vehicles?

DIER recommends that the existing arrangements be maintained.

It should be noted that, even when being used as a private vehicle, WATs can only be driven by persons with a zero blood alcohol level. This regulation applies to all vehicles registered as public passenger vehicles at all times, as per subsection 6(2) of the *Road Safety (Alcohol and Drugs) Act 1970*.

41. Should a WAT licence holder have the option of leasing a WAT licence to an operator?

DIER recommends that the existing arrangements be maintained which prohibit the leasing of WAT licences.

During 2006 DIER sought to strengthen the disincentive for illegal leasing of WAT licences by imposing a new licence condition. This requires that the licence holder must also be the accredited operator for any service provided under the authority of the relevant licence. This means that the licence holder will be legally responsible for any relevant offences that may be committed in the provision of services under that licence.

42. Should the Commission have the power to vary conditions on WAT licences?

DIER recommends that this power be maintained. See Section 10, Questions 26 and 28 for a discussion of retention of this power and extension to also cover perpetual licences.

43. How should new WAT licences be issued in the metropolitan areas once the initial issue is completed?

DIER recommends that WAT licences be made available on demand to accredited operators with new, compliant vehicles. See Summary at the beginning of this section.

4. Luxury Hire Cars

4.1. Purpose of regulating luxury hire cars

1. Is there a separate luxury hire car market distinct from taxis? What is that market (i.e. who uses luxury hire cars and for what purpose do they use them)? What features of luxury hire car services would prevent these services from being provided by taxis?

In response to Discussion Paper 6 - Luxury Hire Cars, the Reference Group and LHC operators agreed that there is and always will be a customer segment seeking a very high quality service for which they are prepared to pay a substantial premium. DIER agrees that there is a “true” LHC market of this nature, however it is probably far smaller than the customer base serviced by the existing 46 LHC licences in Tasmania.

The Productivity Commission has stated that there is only an artificial distinction between the LHC and taxi services which should be abolished in the long term⁷.

Instead, DIER is of the view that there is a small group of customers who value the higher level of service and are not deterred by, in fact may prefer, the premium prices as it ensures them access to a service when they require it, with no need to be “queued” for the next available provider, and who desire the exclusivity and anonymity of such a service.

The original intent of the *Taxi and Luxury Hire Car Industries Reform Bill 1999* was to create two distinct, separately regulated industries. However, it was also recognised that there would be overlap between the two industries in relation to the pre-booked market and this was considered to be desirable in regard to competition⁸. What has evolved has been, in effect, a premium taxi industry served by some taxi operators (primarily independents) and by some LHC operators.

The distinction between the LHC and taxi industries is valid to the extent that there is a clearly defined market for “true” LHCs. However, it is not clear that there is any meaningful distinction between some better taxis and some LHCs, the latter of which often have taximeters and in some cases are even dispatched by networks. In regard to these two subgroups, the Productivity Commission’s view is valid and continuing to distinguish between these services by quite different regulatory arrangements is unsustainable.

⁷ Productivity Commission, Regulation of the Taxi Industry, Commission Research Paper, 1999, p23 (<http://www.pc.gov.au/research/commres/taxiregulation/taxiregulation.pdf>, accessed 13 October 2006).

⁸ Parliament of Tasmania, Hansard, Tuesday 30 November 1999, Part 3, pages 108-177 (Minister Lennon, Second Reading Speech of the Taxi and Luxury Hire Car Industries Reform Bill 1999, sourced from <http://www.hansard.parliament.tas.gov.au/isysquery/irl42e2//1/doc#hit2>, accessed 18 October 2006.)

Indeed, operators in this market segment routinely make complaints to DIER with regard to the behaviour of others. Given that DIER necessarily focuses its limited enforcement resources on safety rather than conduct, these allegations are rarely investigated and it is considered that some operators in both industries take advantage of that fact.

To ensure that the distinction between the true LHC market and taxi market is not undermined in the future, regulation of the two industries should reflect the nature of the two separate industries.

2. For what reasons should luxury hire cars be regulated?

Regulation of LHCs should largely be limited to ensuring vehicle, driver and passenger safety and distinction from the taxi industry. In this regard, only two additional regulations are proposed:

- driver identification should be visible within the vehicle. This contributes to passenger safety; and
- a requirement that LHC vehicles have no external distinguishing markings or advertisements.

3. Are the current reasons for regulation, (i.e. to ensure safety and 'premium quality' and to clarify the distinction between luxury hire cars and taxis) appropriate? Should there be other reasons in addition to these reasons?

The current reasons for regulation, that is safety, quality and to clarify the distinction between LHCs and taxis, could reasonably be reduced by removing quality regulation. Quality is not the focus of enforcement activity and furthermore it is acknowledged that in the true luxury sector, it is in the business interests of operators to ensure issues such as vehicle standards and driver conduct are appropriate.

4.2. Licensing arrangements

4. Would increasing the cost of luxury hire car licences be effective in clarifying the distinction between taxis and luxury hire cars?

It is not proposed to change the cost of LHC licences, as entry to the industry already involves significant establishment costs. In order to serve the "true" luxury market sector, operators will need to consider the need for substantial reinvestment to upgrade vehicles. Revisions to the schedule of suitable luxury vehicles may require some operators to increase their investment.

Furthermore, investment in the vehicle is the significant factor that determines value for the customer, rather than investment in the licence.

5. Should the number of luxury hire car licences be restricted? For what reason, and what advantage would this have?

It is not proposed to introduce a limit on the number of LHC licences available. Licences should continue to be available on application to DIER subject to minimum criteria. It will be for the individual applicant to determine whether the LHC industry can support another entrant.

6. Should luxury hire car licences be leased rather than sold? Why?

Licences would be sold, as is the current practice, rather than leased. There is no suggestion that LHC licences attract any scarcity value that should be returned to government, which might otherwise justify a switch to leasing of these licences.

7. Should there be an annual administration fee for luxury hire car licences? Should this be equivalent to that paid by taxi operators?

It is proposed that annual renewal fees for licences should increase from the current level of 30 fee units to the same level as for perpetual taxi licences. Administration of the industries currently exceeds the proceeds of licence fees and this outcome is not supported by the Department of Treasury and Finance, which requires full cost recovery from fees. LHCs operators receive the same administrative services as taxi operators and hence the same fees are justified. See [Section 10](#) at Question 44 for a further discussion of fees.

8. Is the penalty of \$2 000 for failure to comply with a luxury hire car licence condition sufficient to deter non-compliance? If not, what would be an appropriate penalty?

It is proposed that penalties for similar offences across the taxi, WAT and LHC industries should be equivalent. See [Section 10](#) at Question 50. Note that the quantum of penalties is proposed to be equalised by increasing lesser penalties for one industry to match any higher penalty for the same offence.

9. Should the condition currently imposed on all luxury hire car licences in relation to agreeing to the fare prior to the hiring commencing be included in the Act or LHC Regulations rather than imposed as a licence condition?

Licence conditions imposed on all participants in an industry should be included in regulations rather than as licence conditions to ensure equal application and transparency. For further discussion of this issue see Paper 10 – Technical issues, administration and enforcement in section 4.4.1. It is not proposed to tighten the current requirement to require agreement of the

total fare in advance. It will still be possible for operator and customer to agree to a method of calculation of the fare, as is preferred by some operators.

10. Should the legislative provisions and penalties be the same for luxury hire cars and taxis in relation to issues such as making oneself out to be the holder of a licence that one doesn't hold; describing a vehicle as something it is not; or operating a vehicle in a manner that it is not licensed for?

See the position developed in response to Paper 10 in [Section 10](#) at Questions 49 and 50.

11. Are the penalties for licensing offences (such as operating a vehicle as a luxury hire car without a licence) of up to \$2 000 sufficient? If not, what would be an appropriate penalty?

Penalties relating to LHCs are in the range of \$500 to \$2,000. While greater amounts could be included in the regulations, it should be noted that such amounts are maximum penalties only. It is at the discretion of a magistrate or justice to impose a penalty up to the maximum. To provide for greater maximums would not guarantee that higher penalties would be imposed, as courts are required to take account of various factors when imposing penalties. For example:

- the gravity of the offence;
- the financial circumstances of the offender and capacity to pay the fine;
- proportionality; and
- whether the offender is a natural person or a body corporate.

4.3. Vehicle standards

12. How should vehicles that are suitable for use as luxury hire cars be determined? Should suitable makes and models be listed, and if so, what would be the reasons for choosing particular vehicles and ruling out others? How can this list be maintained (e.g. should it be in the Act or the Regulations)?

The critical determining factor of a "true" LHC business is the calibre of the car. The current method of listing vehicle models has been shown to be unwieldy and quickly becomes outdated.

Instead, the list of vehicles in Schedule 5 of the Act should be abandoned in favour of a set of minimum characteristics. Such characteristics would not need to be updated on a regular basis. Therefore the Act would be an appropriate location for specifying the requirements.

13. What issues should be taken into account when determining the types of vehicles able to be used as luxury hire cars? Is a standard based on a minimum wheelbase and/or the luxury tax threshold appropriate? Are there other measures that could be used?

The minimum specifications for a LHC vehicle are probably the most significant reform being proposed by DIER. The standard of vehicle is the mechanism by which the LHC and taxi industries are primarily distinguished. To be a Group 1 luxury vehicle the following minimum characteristics are proposed:

- a minimum wheelbase of 2800 millimetres (without an extended wheelbase); and
- when new, the vehicle must have been subject to luxury car tax. That is, the vehicle, with no optional extras, must cost an amount equivalent to or greater than the threshold figure at which luxury car tax applies, based on the manufacturer's recommended retail price excluding dealer delivery and statutory charges.

For 2005-06 the luxury car tax threshold was \$57,009.

For Group 2, specifications should also be used, rather than nominated makes and models, as proposed below.

- 2800mm minimum wheelbase; and
- the vehicle, when new was subject to luxury car tax and cost at least a multiple of 2.5 times the luxury tax threshold (\$142,522).

The existing discretion for the Commission to approve vehicles of types not listed in the Act would no longer be necessary.

14. Should sedans and stretched sedans be the only types of vehicles able to be used as luxury hire cars, or should vehicles such as four wheel drives, people movers, wagons, convertibles and other vehicles also be able to be used?

It is not considered necessary to regulate the type of vehicle that an operator may seek to use. If an operator wishes to provide a luxury service using a four-wheel drive or other type of passenger vehicle that meets the standard specifications, then this should be a business decision for the operator.

15. Should the seating capacity of a luxury hire car be limited? To what?

The definition of a small passenger vehicle is already established as “a motor vehicle with a seating capacity of less than 13 adults including the driver”. It is unlikely that an operator would seek to use a vehicle with greater seating capacity. Therefore it is reasonable to retain this requirement.

16. What age limits should apply to luxury hire cars? Are the current age limits too high to ensure that vehicles used as luxury hire cars are genuinely luxury vehicles?

The provision of maximum age limits across the vehicle groups should be retained. The age limits are shown below:

- Group 1 – 7 years
- Group 2 – 15 years

It is noted that each group has a subgroup for ‘stretched and modified versions’ of vehicles which can be operated for a longer period. It is proposed that these subgroups be removed. Therefore the operating life of a stretched or modified vehicle will be the same as if it were unaltered.

It would be necessary to allow a period of transition for existing operators in the LHC industry before imposing these slightly altered groups. It is proposed that the new requirements be imposed upon enactment of the legislative changes for any new LHC licences issued or any transfer of licences to other vehicles, with a one-year transition for all other vehicles.

In conjunction with the above, it is also proposed to remove the current power of the Commission to permit a vehicle which has exceeded the nominated age limit to operate as a LHC in a non-metropolitan area. Such areas are prescribed in the LHC Regulations so as to exclude the central areas of Burnie, Devonport, Hobart, Launceston and the two major airports. DIER does not consider it appropriate to suggest that a lower standard of vehicle could continue to represent luxury standard in different geographic areas of Tasmania.

This proposal will be of some concern to existing operators as it would not allow a vehicle older than 15 years to operate as a LHC in any area. The average age of the LHC fleet at May 2006 was in excess of 11 years.

For those LHC operators currently using vehicles in Group 3, it is proposed that they have the opportunity to transition to providing a limited passenger service. It is understood that these operators currently use those vehicles largely for weddings and other special occasion work.

These operators would be entitled to continue to provide a limited passenger service with these vehicles.

17. Should there be a minimum age on entry for luxury hire cars?

To require a new vehicle is considered too restrictive and it is a business decision for the operator to choose between vehicles that might be available new or second-hand at the time of investing. However, given that DIER is attempting to more clearly distinguish between taxis and the true LHC industry, it is proposed that a maximum age of five years be imposed for any Group 2 vehicle entering service as a LHC. See attached table at [Appendix 4](#) for a comparison of eligible vehicles under the current legislation and the proposed arrangements.

No maximum entry age is proposed in Group 1. In the table below, the prices of various models of vehicle which meet the proposed characteristics for this group are set out, indicating why any attempt to adopt one entry age over another would be arbitrary and prevent a LHC operator from making an objective business decision. Clearly, there are well presented vehicles in this group that continue to be presented in a manner appropriate to a luxury standard.

Year	Holden Statesman 6.0L	Ford Fairlane Ghia 5.4L	Holden Caprice 6.0L	Ford LTD 5.4L
2007 rrp	62,990	63,625	69,990	75,525
2006	42,100 – 47,900	41,000 – 46,600	49,700 – 56,300	51,100 – 57,700
2005	5.7L 34,400 – 39,400	36,600 – 41,900	5.7L 44,300 – 50,400	47,800 – 54,000
2004	5.7L 31,500 – 36,200	25,100 – 29,200	5.7L 41,100 – 46,900	33,200 – 38,000
2003	5.7L 24,600 – 28,700	21,400 – 25,100	5.7L 33,500 – 38,500	30,200 – 34,700
2002	5.7L 16,100 – 19,200	5.0L 15,600 – 18,700	5.7L 18,800 – 22,200	5.0L 17,100 – 20,400

All second hand car prices sourced from <http://www.redbook.com.au>, 22 January 2007.

18. Which vehicles, if any, should be exempt from age limits?

It is considered that for a “true” LHC service, no vehicles should be exempt from a maximum age limit.

19. What is meant by a ‘standard that is commensurate with luxury vehicle status’?

It is proposed that the Commission abolish the requirement for quality standards relating to vehicles. As the proposed vehicle requirements will necessarily require LHC operators to pursue a true luxury market, it will be in the business interests of operators to ensure that quality standards are met. Those who do not do so will not be in a position to command fares which would recoup the initial capital investment.

20. What role should the Government have in setting and enforcing such a standard? What role should the industry have?

DIER necessarily focuses enforcement activity on safety matters and therefore it would not be appropriate to continue to keep standards-based regulation in relation to the “true” LHC industry, which has largely demonstrated its ability to self-regulate in this regard.

21. Could independent auditors be used to assess vehicle standards? How should such audits be funded?

For the reasons set out at Question 20, an audit scheme is unnecessary.

22. Should prescriptive standards for vehicle quality and maintenance be introduced for luxury hire cars? Who should develop and enforce these standards?

Should the LHC industry desire a quality standard, the industry would be free to pursue that end.

23. Is the accreditation scheme the means by which enforcement of luxury vehicle quality standards could best be enforced?

The accreditation scheme under the Passenger Transport Act is not an appropriate mechanism for addressing vehicle quality standards. The accreditation scheme is generic for all public passenger vehicles hence it would not be appropriate to include specific standards requirements for one industry in the scheme. This is a matter for the industry should it so choose.

24. Should requirements for taxi exteriors (e.g. the colour or signage) be introduced to better distinguish taxis from luxury hire cars? What should these requirements be?

DIER considers that advertising on the exterior of vehicles is an accepted means by which any business promotes its services. To deny LHC operators that opportunity is to impose a significant restriction on business. Accordingly, DIER does not recommend requiring LHC operators to ensure that their vehicles are unmarked. Nevertheless, it is considered that in the true LHC market, most customers would desire a reasonable level of anonymity and LHC operators will need to determine whether vehicle signage is consistent with their customers' requirements of their service. Additionally, any signage used on LHCs should clearly denote that the vehicle is a luxury hire car. Operators using signage must be alert to the offence in the Passenger Transport Act prohibiting a public passenger vehicle being described as a taxi.

4.4. Fares

25. Do luxury hire cars compete with taxis on the basis of fares?

It is clear that some LHC operators compete with taxis on the basis of fares, including the use of a meter. While a LHC operator may still choose to charge fares commensurate with those for taxis, it is unlikely that the operator could cover the costs associated with the higher standards proposed for vehicles.

26. Should a minimum fare or minimum booking time be reintroduced? If so, what would be the advantages of doing so? How could such requirements be enforced?

On the basis that it is a decision for each individual operator to meet their market in the way they choose, it is not proposed to introduce a minimum fare. It is considered unlikely that an operator would wish to compete on the basis of low fares.

27. Should the current condition applied to all luxury hire car licences regarding the agreement of fares in advance be included in the LHC Regulations?

Inclusion of the requirement to agree fares in advance is discussed at Question 9.

4.5. Hiring arrangements

28. Can the term 'booked in advance' be defined? Should this be regulated?

The requirement for hire cars to be booked in advance has proved artificial in practice and is largely unenforceable. It is proposed that the requirement be removed, which provides a benefit to customers who may not be in a position to plan in advance and require flexibility. As it is already prohibited to solicit business in a public place, it is unlikely that "true" LHC operators would have to deal with walk up customers.

29. Should there be a cut-off point beyond which time a booking is not considered to be pre-booked? Is a phone request for an immediate pickup still an advance booking?

Any attempt to specify a minimum "in advance" period would be arbitrary and meaningless.

30. How can the use of taxi ranks be better monitored, and use by vehicles other than taxis be deterred, detected and/or prosecuted?

The suggestion that LHCs operate from, or adjacent to taxi ranks has been an ongoing contentious issue for the taxi industry and has resulted in numerous complaints to DIER. Short

of stationing transport inspectors at every taxi rank, it is not feasible to completely enforce the current prohibition. DIER considers that those LHC operators in the “true” LHC market would have little interest in attempting to garner business from taxi ranks.

31. Should luxury hire cars be prohibited from parking in public streets if they are not waiting for a pre-booking, unless they are clearly advertised as not being for hire?

DIER does not support the proposal that LHCs should not be permitted to park on public streets unless waiting for a pre-booked job. This is considered to be an unnecessary restriction on the conduct of business and there are few reasonable alternatives available for LHCs. As LHCs will continue to be prohibited from soliciting business in a public place, drivers should not be restricted from a convenience available to any other vehicle operator.

Nevertheless, it is proposed to clarify the offence of soliciting hire of a LHC in a public place as provided for in the LHC Regulations. For the purposes of enforcing the regulation it is proposed to provide that it is soliciting if the person (driver/operator) bears or places in the vicinity of the vehicle any signage to indicate that the car is available for hire.

32. Would the introduction of stronger record-keeping arrangements in relation to customers and hirings, in a logbook issued by DIER, assist in ensuring that luxury hire cars only undertake pre-booked work? How could these records be effectively monitored?

A record-keeping obligation has been proposed as a means of supporting the prohibition on soliciting custom. In particular, each vehicle will be required to carry a logbook containing minimum information in a prescribed format. It is anticipated that the logbook will contain details of daily bookings including the pick up point and time, customer details and destination.

The Commission would be vested with the power to demand on-the-spot inspection of the logbook by a Transport Inspector. The Commission would also have the power to call upon a LHC operator to present its logbooks for inspection and explain why a vehicle was in a particular place at a time if the operator did not have work booked in that vicinity.

33. How many luxury hire cars operate out of radio rooms that are shared with taxis? Should this be allowed? Is there adequate protection for customers in allowing such arrangements, in particular where a luxury hire car is dispatched when no taxis are available?

Some LHC operators have elected to operate out of taxi networks to obtain bookings. Further, the networks permit this practice. It is understood that LHCs are usually only supplied via a network when a taxi is not available and customers are offered a LHC as an immediately

available alternative. Where LHCs charge equivalent to taxi fares this is likely to be a suitable outcome for most customers, although there is a concern about unmarked vehicles undertaking taxi work.

Where a LHC is dispatched when a customer has requested a taxi, DIER considers that it is essential that customers should first be asked whether this is a suitable option and any difference in fare must be disclosed at this time.

Nevertheless, it is not proposed to prohibit LHCs operating from networks operated by taxi networks and/or companies (LHC operators could have their own networks). It is a business decision for the LHC operator as to whether sufficient fares could be commanded in this environment to recoup the necessary capital investment.

4.6. Use of taxi equipment in luxury hire cars

34. Should taximeters and electronic dispatch systems be allowed in luxury hire cars? Why or why not?

The use of electronic dispatch systems in LHCs is a business decision for the individual operator. Nevertheless, the presence of a taximeter may wrongly give customers the impression that they will be charged a government-regulated fare. This is not the case as meters in LHCs are currently not inspected and may be set to any fare the operator desires. For this reason DIER does not support the use of taximeters in LHCs.

35. Is there any reason for prohibiting taximeters and electronic dispatch systems in luxury hire cars other than to distinguish between hire cars and taxis? Would their absence assist customers in identifying that a vehicle was not a taxi?

The installation of taxi equipment in LHCs may cause a person to confuse a LHC vehicle with a taxi. Accordingly, it is proposed that LHCs should not use taximeters.

36. Should booking by mobile phone made directly to the driver be prohibited? Why or why not?

A prohibition on LHC drivers receiving bookings by mobile phone contact is not practical. The primary reason for regulation of the industry is safety and in this regard, use of a hand-held mobile telephone while driving is already prohibited for all drivers. It is a matter for the operator to determine how to best run their business and if their customers consider it acceptable to have telephone contact direct to the car, the industry should be able to accommodate that wish.

37. Should restrictions be placed on the use of mobile phones by luxury hire car drivers to increase the comfort of the passengers?

It is not a matter for DIER to determine whether individual operators allow drivers to receive calls while a passenger is in the car. In the true LHC business, it is unlikely that operators would wish to disturb one passenger with a call from another. However, operators should be in a position to meet their market.

38. Should operators/drivers specifically be required to agree with the customer on the total fare in advance, rather than 'the hiring charge'?

It is not proposed to require LHC operators to agree to the total amount of the fare in advance. DIER considers that such a requirement would be too restrictive, may conflict with established practice and would be difficult to enforce. DIER does not propose to introduce a requirement for operators and passengers to strike arrangements for total fares in advance.

39. Should security cameras be mandatory in luxury hire cars in the metropolitan areas? Why or why not?

Security cameras are required in taxis operating in metropolitan areas. The characteristics of the "true" LHC industry should determine whether cameras are needed, rather than on the fact that some LHCs operate as defacto taxis. Considering the nature of this industry and its customers, it is not apparent that there is a security issue and so cameras should not be required.

40. If cameras are not made mandatory, are there any precautions operators and drivers can take to improve driver safety in relation to hirings where the identity of the hirer cannot readily be ascertained?

Given the lack of security issues in the true LHC industry, any steps to improve security of passengers and drivers can reasonably be left to individual operators.

41. Should operators be required to keep records of customers to assist in improving the security of their business and drivers?

As above.

42. Should distinctive registration plates be issued in place of licence plates for luxury hire cars and/or taxis?

There are a number of practical issues to resolve in order to introduce distinctive vehicle registration plates in the place of separate LHC licence plates.

Nevertheless, DIER has proposed a scheme of specific vehicle registration plates for taxis which would be additional to the existing licence plate scheme that could be adapted for LHCs. See Section 10 at Question 65 for further discussion.

4.7. Driver code of conduct

43. Which, if any, of the provisions that apply to taxi drivers through the Taxi Industry Regulations should also apply to luxury hire car drivers?

There is nothing to suggest that the provisions relating to taxi drivers should be applied to LHC drivers. These provisions relate only to fares, taxi areas and taking the most direct route to a destination.

44. Which, if any, of these provisions should these be regulated?

These provisions are not relevant to the LHC industry. Provisions regarding soliciting in a public place and lost property already apply in relation to LHCs.

45. Are there any other matters relating to the conduct of luxury hire car drivers that are currently not regulated that should be regulated?

There is some argument for requiring LHC drivers to display identification in the vehicle as a matter of passenger safety. It is not necessary for identification to include personal information about a driver. Rather it should include a photograph and a number or other code that easily allows identification by the operator or the Registration and Licensing Branch.

46. Would a generic industry code of conduct for luxury hire car drivers be useful to assist operators in meeting the requirements of the accreditation guidelines in relation to a driver code of behaviour?

The true LHC industry is capable of introducing a code of conduct for drivers should the industry consider that necessary.

47. Which matters should be included in such a code?

It is not necessary for DIER to address the code of conduct for LHC drivers.

48. How should the development of the code be progressed? Who should be responsible for coordinating it? How could it be funded?

If industry requires a code, it is up to industry to progress its development. Should industry advocate involvement in the process by DIER this would contribute to administrative costs.

Necessarily this would have consequences for licence administration fees in order to maintain compliance with Treasury's directive that fees should achieve full cost recovery.

Also, unlike the taxi industry with bailee drivers, LHC drivers are largely employees. If LHC operators seek to impose standards on drivers, this can be achieved through the employment relationship without the need to resort to regulation which may be considered to restrict competition.

4.8. Supplementary question

49. How can LHCs be distinguished from taxis generally?

Clear identification of taxis will be required through the proposed use of specific vehicle registration plates. See [Section 10](#) at Question 65. This will aid in the distinction between taxis and LHCs.

DRAFT

5. Operator Accreditation

5.1. Focus of accreditation

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| 1. Does the Government have a role in regulating, monitoring and enforcing vehicle quality standards in the same way as it regulates vehicle safety standards? |
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With regard to enforcement, DIER rightly focuses resources on safety-related matters, as this is the necessary priority given the broader obligations of government to the community.

Furthermore, primary responsibility for the standard of the taxi industry should lie with industry participants. The Accreditation Scheme provides for industry self-management of quality matters such as driver conduct and customer complaint handling. Quality standards such as vehicle and driver presentation are business decisions for an operator and, as such, are not captured in regulation or accreditation. DIER is of the view that operators should determine how they wish to compete to provide taxi services.

DIER recommends that Government not have a role in regulating quality standards. The limited enforcement and inspection resources of Government are better prioritised towards safety issues rather than vehicle quality standards. The onus should be on the taxi and luxury hire car industries to set and enforce quality standards.

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| 2. If so, how could this be done in a resource effective manner? |
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Not applicable. See [Question 1](#).

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| 3. What role, if any, does the Government have in ensuring that potential operators are financially viable before they enter the industry? |
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Refer to Question 16 in this section. See also [Section 10](#), Questions 21 and 22.

DIER does not have sufficient information on the financial situation of the industry to advise potential industry entrants, nor does DIER have adequate administrative resources to be able to maintain up-to-date information of the financial status of the industry across each of the taxi areas.

Ultimately entry to the industry is a business decision of an individual, and therefore DIER does not recommend undertaking additional tasks to assist with this decision.

5.2. Provisions in the Taxi Regulations relating to accreditation

4. Are the provisions adequate? (See Appendix 5 for a list of the relevant provisions)
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Licence Plates

DIER can see some merits in the proposal to have specific registration plates for taxis instead of standard registration plates and separate taxi plates. However, there are some significant practical impediments to be addressed before such a system could be implemented. Given the close link between the details of each vehicle and its registration identifier, there are some difficulties in assigning a specific taxi registration plate to a vehicle that may be substituted for another vehicle on a regular basis. DIER instead proposes to introduce distinct vehicle registration plates for taxis in addition to the existing taxi plate scheme. See [Section 10](#) at Question 65 for further discussion.

DIER concedes that the process for advising the industry of cancelled plates could be improved. Options for doing so will be investigated further.

Security Cameras

DIER considers that the keeping of spare cameras by networks for loan to operators while their own cameras are being repaired is a private management matter for individual networks and operators.

5. Are the provisions (in the Regulations relating to safety and vehicle standards) appropriate – i.e. should these issues be regulated, or can the same outcome be achieved through the accreditation scheme?
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6. Are they able to be enforced effectively?
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Regulations and Accreditation

It has been suggested that there is some overlap between provisions in the Regulations and the requirements of accreditation. Each provision is considered below to determine where the requirement should sit and what enforcement rights the Commission reasonably requires.

Temporary taxi licences (in relation to the displaying of labels) Regulation 9(1) & (4)

Temporary taxi licences are issued at the discretion of the Commission as a means of providing adequate services during peak periods. For this scheme to work in an orderly way, the Commission requires enforcement powers to ensure that temporary licences do not continue after their expiry. This provision should remain in the Regulations.

Permits of substitution (in relation to the displaying of labels) Regulation 13A(9)

Note that in Section 10, DIER proposes to de-link perpetual taxi licences from a particular vehicle, therefore, the concept of permits of substitution will no longer be relevant to standard taxis. See [Section 10](#), Question 23 for a fuller discussion of this issue.

Nevertheless, Paper 4 canvasses the need for a substitute WAT scheme. Details of the proposal can be found in [Section 3](#) at Question 10. To underpin this scheme, it is proposed to adapt these provisions regarding display of labels for substitute WAT vehicles.

Issue of number-plates and labels Regulation 17

The issue of plates and labels is a decision for the Commission. A plate system is used as the primary means of identifying vehicles operating as taxis. The provision includes a penalty for failure to return any plate or label at the request of the Commission. This is considered appropriate, as it is a serious matter to hold out a vehicle to be a legally operating taxi.

It is not considered appropriate to provide for return of plate via the accreditation scheme, as this would not enable the Commission to pursue a prosecution for failure. Also, return of plates may be sought as a result of a licence cancellation following revocation of accreditation, in which case the Commission would have no power to use the accreditation scheme to impose a sanction.

Obligation to display number-plates Regulation 17A

Display of appropriate plates indicates to Transport Inspectors, other industry participants and informed customers that a vehicle is licensed to operate as a taxi. As DIER intends to de-link perpetual taxi licences from a specific vehicle, the display of plates will be the only means for determining that an operator is operating an appropriate number of vehicles relative to the number of licences held. The ability to prosecute an operator for attempting to operate multiple vehicles under the one licence is an important control in an environment of capped licence numbers with significant licence values.

Obligation to display labels Regulation 17B

As above.

Obligation to display inspection labels Regulation 17C

DIER does not propose to transfer this obligation to the accreditation scheme, as it is considered to be sufficiently important to safety regulation as to warrant a penalty for a breach.

Duties of responsible operators and drivers (in relation to the displaying of labels) Regulation 22(1) & (2)

DIER recommends no change to the existing positions. In an environment where customers have little means of determining how much they are likely to be charged for transport in a taxi,

display of appropriate fare information is one small assurance for customers that they will be charged a fare that has been approved by the Commission. A failure to provide this reasonable information to a customer should be the subject of penalty provisions.

Taximeters and taxi signs Regulation 23(1)

Checking of taxi equipment will no longer be part of the six-monthly inspections under the new outsourced inspections system. The only scope to enforce taxi equipment requirements will be via penalties in the Act if caught. If included in the Accreditation Scheme the limited responses available are to add conditions, probation, suspension and cancellation. Therefore, DIER recommends no change to the existing penalty provisions.

Discount fares (in relation to the displaying of labels) Regulation 24A

In an environment where customers have little means of determining how much they are likely to be charged for transport in a taxi, display of appropriate fare information is one small assurance for customers that they will be charged a fare that has been approved by the Commission. Where an operator has advertised a discount fare it is important that customers are not being misled. Further, a failure to provide this reasonable information to a customer should be the subject of penalty provisions. DIER notes that a failure to provide an advertised discount would be contrary to the *Trade Practices Act 1975* and subject to enforcement action by the Australian Competition and Consumer Commission (ACCC).

Approval, testing and setting of taximeters Regulation 25

It is considered that correct operation of the meter is a fundamental means for the protection of passenger rights. Consequently, the Commission requires powers of enforcement that involve monetary penalties so as to provide appropriate disincentive against improper behaviour.

Evidence of testing Regulation 26

It is considered that correct operation of the meter is a fundamental means for the protection of passenger rights. Consequently, the Commission requires powers of enforcement that involve monetary penalties so as to provide appropriate disincentive against improper behaviour.

Testing and sealing of taximeters Regulation 27

The provision of meter services is not subject to extensive regulation. While the Commission does authorise taximeter sealers, there is effectively no regulation of their role. Rather, enforcement is achieved by requiring the responsible operator to ensure that a meter operates correctly.

It is considered that correct operation of the meter is a fundamental means for the protection of passenger rights. Consequently, the Commission requires powers of enforcement that involve monetary penalties so as to provide appropriate disincentive against improper behaviour.

Interference with taximeters Regulation 28

It is considered that correct operation of the meter is a fundamental means for the protection of passenger rights. Consequently, the Commission requires powers of enforcement that involve monetary penalties so as to provide appropriate disincentive against improper behaviour.

Security Camera systems Regulation 28A-28K

It is DIER's position that security camera provisions should remain in the regulations. In the event of an incident, police may need to rely on security camera images to pursue a prosecution. Such images should be gathered, downloaded and stored in accordance with regulatory requirements to ensure they can be reliably introduced as evidence in a court.

Distinguishing number-plates and labels (WATs) Regulation 28N

As above.

Inspection requirements Regulation 29

Failure to present a taxi for inspection is sufficiently serious to require prosecution. If the only means to address this issue is via action against accreditation the potential loss of livelihood may be too serious a penalty to enable action. Prosecution is an appropriate response.

Advertising material in or on taxis Regulation 32

This provision is to be removed from the Regulations as it is already effectively dealt with under the *Vehicle and Traffic (Driver Licensing and Vehicle Registration) Regulations 2000*. See [Section 10](#), Question 13.

Requirements for taxis (taxi equipment) Regulations Schedule 2

Checking of taxi equipment will no longer be part of the six-monthly inspections under the new outsourced inspections regime. The only scope to enforce taxi equipment requirements will be via penalties in the legislation if caught. If included in the Accreditation Scheme the limited responses available are to add conditions, probation, suspension and cancellation. Therefore, DIER proposes to retain the current regulation.

Installation of security cameras Regulations Schedule 5

Checking of taxi equipment will no longer be part of the six-monthly inspections under the new outsourced inspections regime. The only scope to enforce taxi equipment requirements will be via penalties in the legislation if caught. If included in the Accreditation Scheme the limited responses available are to add conditions, probation, suspension and cancellation. It is proposed to retain the current penalty in the Regulations.

7. Are they (provisions in the Regulations relating to safety and vehicle standards) unnecessarily restrictive or are they too lenient?
8. Are they too prescriptive and detailed? Could they be simplified without reducing their effectiveness?
9. Are the penalties appropriate? Where there are provisions that do not currently attract penalties, should breaches of these provisions attract penalties? (In this case, a breach of Regulation 25 (Approval, testing and setting of taximeters) does not in itself attract a penalty, but there is a penalty for failure to produce the most recent test certificate for the meter. This may be sufficient to cover a breach of Regulation 25.)

DIER does not propose to increase the level of penalty applying to these offences. Any amount included in the Regulations is a maximum penalty only. Courts have a discretion to apply as much or as little of that amount to a particular offence, and may elect to impose no penalty, instead recording only a conviction. In order to determine how much penalty to impose, a court will consider the following factors:

- the maximum fine specified in the Regulations;
- gravity of the offence, often determined in the light of the loss suffered by any person affected or the benefit gained by the offender;
- financial circumstances of offender and capacity to pay the fine. For example a court would usually not consider imposing a fine so large as to be likely to encourage an offender to commit further offences in order to pay it;
- proportionality, given the gravity of the offence;
- whether offender is natural person or body corporate.

Given the significant discretion vested in a court, it would not be fruitful for DIER to seek to develop punitively large fines for these types of offences.

10. Should lost or damaged licence number-plates be cancelled and the operator issued with a new number, rather than a duplicate of the old plate?

DIER is of the view that it is preferable for a new plate to be issued. However, there are various practical issues with this proposal that need to be addressed first, including the method of recording taxi licences and plates on the Motor Registry System. DIER proposes to examine this matter in greater detail.

11. Should the requirements for licence-number places and labels be the same for WATs as for other taxis? [Regulation 28N and Regulation 17, 17A, 17B and 17C]

DIER is of the view that WATs are primarily taxis and as such should be subject to the same requirements as standard taxis.

12. Should the penalties for incorrect display of licence-number places and labels be the same for WATs as for other taxis? [Regulation 28N and Regulation 17, 17A, 17B and 17C]

See [Section 10](#) at Questions 49 and 50.

13. Should there be a penalty for affixing a WAT licence-plate to a vehicle that is not a WAT in the same way as for standard taxis? [Regulation 17A(5)]

See [Section 10](#) at Question 49.

14. Are the references to 'positions' on the meter appropriate for electronic taximeters? [Regulation 25(3)] What should be required to be displayed on the meter (e.g. tariff, standard fares, approved fares etc)?

The issue of new technologies and types of meters was raised in Paper 10. Passengers should be able to clearly determine from looking at the meter which tariff is being charged in order to check this information against the fares information displayed within the taxi.

15. What types of advertising material should be prohibited because they are unsafe, distracting to other drivers or detracts from the comfort and convenience of passengers? [Regulation 32]

Note that this issue was raised in Paper 10. It is proposed that advertising in or on a taxi is a business decision for operators. Any safety-related issues which may arise from the presence of such advertising will be adequately provided for by the *Vehicle and Traffic (Driver Licensing and Vehicle Registration) Regulations 2000*. See [Section 10](#) at Question 13.

5.3. Operator training

16. Should prospective taxi operators be required to complete a training course that covers the basic elements of managing a taxi business and of operator accreditation?

Section 26 of the Act requires the Commission to make available information on the viability, operations and requirements of the taxi industry and Section 20 requires the Commission to provide a person with this information prior to issuing them with a taxi licence.

These requirements are discussed in Paper 10 as the requirement involves a commitment of resources that may be better directed to administering the industry for passengers and existing industry participants. See Section 10 at Questions 21 and 22.

At present DIER makes relevant information available on its website. DIER proposes to remove the requirement to provide this information, as it does not have access to sufficient information regarding viability of the industry to fully inform a potential entrant. Furthermore, DIER is not responsible for undertaking due diligence on behalf of a person interested in taking up a licence.

In a similar vein, it is not the purpose of the accreditation scheme to create additional hurdles for industry entrants beyond that which is necessary to ensure that safety standards and industry requirements can be met and that operators are fit and proper.

It is not a matter for DIER to determine that a potential industry entrant should have business management skills. It will be for the individual to determine whether they are capable of running a business.

17. How could such a course be introduced in a way that it could be undertaken as required rather than only when there were sufficient participants?

Not applicable. See Question 16.

18. Would an information pack be a suitable alternative to a course?

Not applicable. See Question 16.

5.4. Perpetual taxi licences

19. Should there be restrictions on people who are able to purchase taxi licences, either new licences or existing licences, in Tasmania? For example, should there be a requirement for licence holders to be deemed 'fit and proper'.

DIER does not recommend that a "fit and proper person" test be applied to perpetual licence holders who will not be operators, and hence are not covered by the existing accreditation system.

While it is desirable that persons not hold licences (as investors) whose past and/or present conduct may reflect badly on the industry, in practice the administrative burden of ensuring this could not be justified. In particular, the sale of licences in the secondary market would need to be overseen by DIER in order to ensure that this requirement could be met.

DIER accepts the argument that regulating for the “fitness” of persons directly involved in the day-to-day running of the taxi and luxury hire car industries is of greater importance to the customers of these industries.

20. Should price be the basis on which new perpetual licences are issued or should other criteria be considered?

In response to Paper 9, DIER has proposed that new perpetual licences only be issued to operators, with a complementary prohibition on leasing. All new perpetual licences will be issued to the highest tenderer with no effective reserve price.

For more detail, see [Section 2](#), Questions 12 and 17.

21. Should licence owners only be permitted to lease their licences to people who are accredited operators?

DIER considers that to permit leasing of licences from an owner to a person who is unaccredited merely serves to create a “chain of leasing” which diverts a greater amount of the revenue away from the people involved in the service provision. An unaccredited lessee will seek to sublease a licence to a person who is capable of operating a licence, covering the original lease charges of the licence owner with a margin for the first lessee. This “chain of leasing” allows another opportunity for speculation on licence values which DIER considers to be undesirable.

In regard to all perpetual licences issued up to and including 2007, DIER recommends that the Act be amended to require that a person must produce evidence that they are accredited before they can be recorded as the responsible operator. If this requirement cannot be met, the licence owner will be taken to be the responsible operator, irrespective of their accreditation status.

In the event that the licence owner also lacks operator accreditation, and does not lease their licence to an accredited operator, then that licence cannot be operated legally.

For new perpetual licences issued after 2007, it will be mandatory for the licence owner to be the responsible operator and have accreditation.

22. Should licence owners be obliged to ensure that potential lessees are aware of the accreditation requirements and other responsibilities associated with leasing a taxi licence?

Refer to Question 21. Under that proposal, the lessee will have to be accredited before they can be recorded as the responsible operator.

23. How should the legislation deal with instances where a licence owner seeks to terminate a lease but the lessee is unwilling or unable to do so? Is it the role of the Government to intervene in such matters?

DIER considers that lease disputes are a private matter between the parties and Government does not have a role to intervene and is not in a position to do so. See [Section 10](#), Questions 39 and 40 for further discussion of DIER's position.

24. Are the current arrangements for notifying DIER of lease arrangements (i.e. both parties to notify DIER at the commencement of a lease and the lessee to notify DIER at the termination of a lease) adequate? Should both parties be required to notify DIER of the termination of a lease?

This issue has been addressed in [Section 10](#) at Question 40.

It has been suggested that an "agent" mechanism should be adopted to enable a licence holder to authorise a third party to undertake the necessary notification processes with regard to registering a lessee as a responsible operator and updating the register at the end of a lease. Industry expressed the view that this would facilitate the administration of licences held by interstate investors.

DIER considers that such a mechanism is not desirable for a number of reasons. Firstly, the process of authorising an agent would need to be rigorous to prevent a party from asserting that they had authority to provide information to the Commission on behalf of a licence holder regarding the identity of the responsible operator. Secondly, the information management system would need significant modification in order to hold details of an authorised agent. DIER does not consider it appropriate to incur additional costs in the administration of the licensing system to the benefit of a few investors who prefer to be removed from the management of their investment, when currently all licence holders must share the cost of administering the system through annual licence fees.

Further, DIER is of the view that such an agency is likely to give rise to a "chain of leasing", whereby the agent is in fact the lessee of the licence who then sublets the licence to another party, pushing up the amount paid by responsible operators. See Question 21.

25. Should the Government regulate leasing arrangements? If so, what aspects of leases could be regulated that would not unreasonably infringe on an owner's rights as owner of an asset?

DIER considers that there is no justification for it to take on this additional responsibility. Leases are a private arrangement between the parties and it would be a severe restriction on business for DIER to regulate leasing arrangements.

26. Would a list of essential clauses for a lease, or a standard minimum lease, assist in overcoming some of the difficulties associated with the administration of leasing arrangements? Who should be responsible for developing such a document?

It has been suggested that in some cases, operators and owners have struck verbal agreements for the lease of taxi licences, which potentially leave both parties exposed in the event of a dispute. In other cases, documented leases are inadequate and do not contemplate the types of issues which may arise in the course of operating a taxi business. Nevertheless, it is not the business of a regulator to require parties to contract on particular terms. Furthermore, as both licence owners and operators are investors and business owners, arguably they should not require government advice regarding business dealings.

Should the industry consider it relevant and useful to develop standard terms of agreement, this is an activity which might reasonably be undertaken by the Taxi Industry Reference Group. However, DIER does not consider it appropriate for the Commission to have any role in development of a matter which pertains to private agreements between parties.

27. How can the legislation deal with leasing arrangements that are more complex than a single operator permanently leasing a licence from a single owner (e.g. more flexible operation of a taxi licence)? Should such arrangements be permitted?

It is recommended that the onus be placed on the licence owner to ensure that the Commission knows who is the responsible operator at all times. In the event that a licence holder cannot demonstrate who is the responsible operator, the owner will be held responsible for any breaches. See [Section 10, Question 39](#) for a fuller discussion of this issue.

5.5. Code of behaviour/code of conduct

28. Are the provisions (in the Regulations relating to duties of drivers) adequate?
29. Are the provisions appropriate – i.e. should these issues be regulated, or can the same outcome be achieved through the accreditation scheme?

Charging of fares Regulation 21A

Charging of fares is a matter for a driver. A driver will not necessarily be an accredited operator, hence the accreditation scheme is not the appropriate means of dealing with breaches of this nature. Furthermore, many drivers are commission agents rather than employees in the strict sense, in spite of the obligation on a responsible operator to pay workers' compensation insurance premiums in favour of drivers. On this basis it would be difficult for an operator to require a driver to adhere to the legislative requirements.

Duties of responsible operators and drivers Regulation 22(3)

A responsible operator is required to cause a prominent notice of fares and charges to be displayed in a taxi whether standard fares, or discount fares if they apply. In an environment where customers have little means of determining how much they are likely to be charged for transport in a taxi, display of appropriate fare information is one small assurance for customers that they will be charged a fare that has been approved by the Commission. A failure to provide this reasonable information to a customer should be the subject of penalty provisions. Therefore, this provision should remain in regulations.

Travel by the shortest route or the route nominated by the passenger is a matter for a driver. As indicated above, the driver may not be accredited and may not be under the effective control of the operator.

Taximeters and taxi signs Regulation 23(3) & (4)

Charging of fares is a matter for a driver. As stated above, accreditation is not the appropriate enforcement means for these matters.

Use of taxis (areas of operation) Regulation 24(1) & (1A)

Where the taxi operates is within the control of the driver. As stated above, accreditation is not the appropriate enforcement means for issues relating to driver conduct.

Use of taxis (operation of the taximeter) Regulation 24(2)

Operation of the meter is a matter for the driver. As stated above, accreditation is not the appropriate enforcement means for these matters. Nevertheless, DIER has proposed to amend this regulation to clarify the meaning of the hire period. See [Section 10](#) at Question 63.

Use of taxis (standing in a public street) Regulation 24(5)

Taxi drivers are prohibited from soliciting taxi work and as such must not stand in a public street unless on a taxi rank or having first displayed a "not for hire" sign. DIER considers that standing in a public street does not amount to soliciting, as it does not involve any active attempt to recruit passengers. Therefore DIER recommends that this regulation be rescinded. Nevertheless, the prohibition on soliciting is to be retained. See below.

Use of taxis (refusal to accept a hiring) Regulation 24(6)(a) & (7)

Under the current regulations, a driver does not have a right to refuse a hiring. Rather, should a driver be charged with this offence, it is a defence to show that he or she had reasonable grounds to believe that the hirer:

- would not have been able to pay; or

- represented a real or potential threat to the driver's safety or safe operation of the taxi.

Such a construction puts the onus firmly on a driver to accept hirings or to carefully assess the potential consequences of refusal given the risk of prosecution.

Nevertheless, DIER considers that the level of responsibility is not too high. Further, if a driver were granted the right to refuse passengers in certain specific circumstances, this then means that a driver would have to defend how they reached that decision. For example, if a driver had the right to refuse a passenger who was drunk, it would be difficult for a driver to establish that they were able to adequately determine the state of a person.

Therefore, DIER considers that the current provisions are appropriate. Also, as the provision pertains to drivers it should not be part of the accreditation scheme.

Use of taxis (permitting persons to ride in the taxi) Regulation 24(6)(b)

DIER considers that the fundamental nature of a taxi is a means of private transport between two points. To permit another person to ride in a taxi without the hirer's consent is more akin to a bus service and is not consistent with the concept of a taxi service. As this is a provision pertaining to a driver, it is not appropriate to include it in the accreditation scheme.

Use of taxis (use of taxi zones) Regulation 24(6)(c) & (d)

Orderly operation of taxi ranks is fundamental to providing good taxi services. DIER considers that driver behaviour has a significant impact on the management of passengers at a rank and, as such, it is appropriate to regulate these minimum requirements.

As this is a provision pertaining to a driver, it is not appropriate to include it in the accreditation scheme.

Use of taxis (soliciting for business) Regulation 24(8), (9) & (10)

DIER considers that soliciting for business has the potential to lead to unseemly behaviour between drivers and confusion for passengers. Hence, it is considered appropriate to continue the prohibition on soliciting and to apply a penalty.

Lost property Regulation 31

The Regulations provide that if lost property remains unclaimed for seven days, the driver or responsible operator must deliver the property as soon as possible to the nearest police station.

Additional matters on this issue are considered at [Section 10](#) at Question 11.

DIER considers that dividing responsibility for lost property between the responsible operator and the driver is likely to make it impossible to impose a penalty on either party. Also the

requirement for delivery “as soon as possible” further creates difficult in enforcing such a requirement.

DIER proposes that the responsible operator should be required to hold lost property for seven days and if unclaimed, should be required to turn that property over to a police station within a further five days. This would remove the obligation from the driver. Management of lost property is an appropriate matter for the accreditation scheme.

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| 30. | Are they (provisions in the Regulations relating to duties of drivers) unnecessarily restrictive or are they too lenient? |
| 31. | Are they too prescriptive and detailed? Could they be simplified without reducing their effectiveness? |
| 32. | Are they able to be enforced effectively? |

DIER considers that, with the minor changes proposed above, the provisions are appropriate.

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| 33. | Are the penalties for breaches of these (provisions in the Regulations relating to duties of drivers) appropriate? |
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See Question 9.

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| 34. | Are there reasons other than those in Regulation 21A(4) where passengers should not be charged? |
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See [Section 10](#), Question 62.

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| 35. | Are there reasons other than those outlined in Regulation 24(7) for which it would be acceptable for a driver to refuse a hiring from a rank? |
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See Question 29 at Use of taxis (refusal to accept a hiring).

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| 36. | Would a generic industry code of conduct be useful to assist operators in meeting the requirements of the accreditation guidelines in relation to a driver code of behaviour? |
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DIER considers that this is a matter for industry. Operators should have the opportunity to provide their own code of conduct for drivers. Should industry prefer a uniform code, it would be up to the industry to pursue this. If desired, this may be an activity for the Reference Group, although it would be undertaken independently of DIER.

37. What should be included in such a code? Are the components in Section 3.6.2 appropriate? What other components, if any, should be included?

DIER considers that the components (listed below) might be appropriate for a driver code of conduct, but considers that this is a matter for industry to determine. This may be a future role for the Taxi Industry Reference Group (TIRG).

- correct charging of fares;
- travelling by the most direct route, or the route nominated by the passenger;
- operation of the taxi in the area for which it is licensed;
- use of a taximeter (i.e. when it is started and stopped and tariff settings);
- requirement to not stand a taxi in a public street when it is not being used to carry passengers unless it is in a taxi zone, or is clearly not for hire;
- refusal to accept a hiring;
- permitting a person to ride in the taxi without consent of the hirer;
- requirement to stand the taxi at the foremost vacant space in a taxi zone, and not to leave a taxi unattended in a taxi zone;
- soliciting for business; and
- management of lost property.

38. Should the code of conduct include a statement of customer rights and responsibilities? If so, what would be included in such a statement? How could a customer 'code' be enforced?

In DIER's view a statement on customer rights and responsibilities is essential. However, it is yet to be determined whether a driver code of conduct is the appropriate place for such a statement.

39. How should the development of the code be progressed? Who should be responsible for coordinating it? How could it be funded?

DIER considers that, ideally, the industry itself would develop such a code and it would be consistently enforced by all networks and operators. Some may already have developed their

own code of conduct for drivers, which would be a logical starting point for the development of an industry-wide code.

40. Could a publication on the operation of the Tasmanian taxi industry be produced to inform members of the public about the structure and work of the industry? Who should be responsible for developing such a publication?

DIER has not developed a definite view on how public education on the taxi industry should be progressed, although it does not consider a specific publication to be the first preference.

Creating an informed consumer is an important aspect of industry self-regulation. The higher the expectations of the travelling public, the better the industry will need to perform.

The challenge of informing intending passengers is reaching them at an appropriate point in time, preferably prior to their journey. Signposts at major transport hubs such as airports and bus depots regarding fares and extra charges allows passengers from interstate and intrastate to be informed.

A customer information campaign should be undertaken either jointly or by DIER but not by industry alone. DIER considers that, as a regulator, it would be inappropriate for the Commission to burden industry with responsibility for representing the regulatory controls and the protections that are afforded to customers.

41. How else could the public be informed about the operation of taxis?

DIER recommends that there is a cooperative effort between the industry, the Government and other parties such as hotels and the police to better educate the public. This task is one for which a formal industry representative body would have a significant role to play.

Fare evasion

DIER has noted that there may be an opportunity for a prosecutor to seek recovery of the Department's costs from a person convicted of fare evasion in accordance with subsection 137(2) of the *Justices Act 1959*.

Further, DIER recommends that networks become more actively involved in providing downloading services. If funded by member subscriptions, the unit cost of downloads should fall and drivers may have greater incentive to undertake downloads to identify fare evaders. This in turn, may reduce the incidence of fare evasion if it becomes known that this crime is likely to be investigated.

Nevertheless, the decision to prosecute rests with drivers and operators in conjunction with police. DIER can only provide the necessary framework within which appropriate action can be initiated.

5.6. Accreditation of groups of taxi operators

42. What term could be used in place of 'accredited taxi group' to avoid confusion between accreditation of taxi groups under the Taxi Act and operator accreditation under the PT Act?

See [Section 10](#) at Question 6.

43. Are the existing provisions for accredited taxi groups adequate? How can they be better promoted to the industry to encourage their use?

See [Section 10](#) at Questions 6-9.

44. Are there reasons other than those in the Taxi Regulations for the Commission to either not approve, to vary or to cancel an accreditation agreement?

See [Section 10](#) at Question 9.

45. Is the requirement for an agreement with an accredited taxi group to be for the benefit of all persons using taxis too restrictive in terms of what the agreement could include, especially in the larger taxi areas?

See [Section 10](#) at Question 8.

46. How can taxis operating as part of an accredited group be identified?

The Commission will continue to assess applications to form accredited groups on a case—by-case basis. Unless it were relevant to the service a group sought to provide, DIER does not see the need to impose a requirement for vehicles operating under a grouping arrangement to be visually distinct from any other taxis.

47. Should the provisions for accredited taxi groups be reviewed in the context of the operator accreditation scheme? Are the overlaps sufficiently significant to warrant changes to the accredited groups provisions?

The accredited groups provision does encompass a number of issues provided for in operator accreditation. The provisions are parallel and do not overlap as one is mandatory and the other is optional. It will be necessary to ensure that where operators agree to form an accredited group, their accreditation as operators is aligned.

5.7. Supplementary questions

48. Should the 'fit and proper person' test in the accreditation scheme be extended to apply to known associates of a person seeking/holding accreditation?

Such a change would require amendment to s16F(4)(c) of the Passenger Transport Act. Rather than simply assessing whether the nominated responsible officer is fit and proper, the Commission would be required to consider:

- in the case of a partnership, all partners;
- in the case of an unincorporated association, all the members; and
- in the case of an incorporated association, all officers and directors of the company.

Subsections 16P(1)(a) & (b) of the Passenger Transport Act would also require amendment to achieve this.

The test could also include spouses, adult children, parents and siblings as well as former business associates. Arguably, this goes beyond what is reasonable and necessary and the test should be limited to persons actively involved in the business. Regardless of the extent to which a known associates test were to apply, there would be consequences for the administrative burden on the Department.

Further, should business membership change, such as a new partner entering the partnership or a person newly appointed as a director of a company, the test would require that person to be subject to scrutiny to determine whether they are fit and proper.

It is noted that in the case of partnerships, Section 16C(2) already provides that partners are joint and severally liable in relation to accreditation. Arguably, this should be extended to the other business arrangements.

DIER is of the view that extending the fit and proper person test more broadly to known associates is not necessary at this time. It is not clear that the additional administrative burden on the Commission and the additional burden of proof on intending licence applicants would outweigh the potential benefit to passengers. Nevertheless, DIER is contemplating the extension of section 16C(2) to other types of business arrangements.

49. Where a person seeking accreditation is a member or employee of a partnership or company or is the spouse, parent, adult child or employee of a person who has had

their accreditation revoked/cancelled, should accreditation be awarded in a probationary capacity only, for an initial period, for example 3 years?

In a situation where a responsible officer has their accreditation revoked, it is possible that another person would seek to become accredited to enable the business to continue. This is especially the case for a sole trader, where a spouse or relative may seek to become accredited and have licences transferred into their name. Alternatively, a business entity may seek to have another member or employee become accredited.

To refuse a person accreditation on the basis that a person is a relative, spouse or business associate of a person who has had their accreditation cancelled is likely to cause unfair outcomes and prevent continued derivation of income and perhaps loss of employment. In this case, DIER proposes that the Commission have discretion to grant probationary accreditation that could be revoked immediately if there was any evidence of the original operator being involved in the running of the business.

Furthermore, it is proposed that the Commission should have the power to prevent transfer of licences into the name of a new accredited operator where there is evidence that the new licence holder would not genuinely be the operator of those licences.

50. Should the Commission have the power to cancel probationary accreditation without notice?

DIER is of the view that where accreditation has been made probationary, for whatever reason, that operator is on notice that there are serious concerns as to the operation of that taxi service. Where such concerns exist, the Commission should be entitled to cancel the accreditation for any further breaches of the provisions without giving additional notice.

6. Radio Rooms

6.1. Issues for consideration

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| 1. | Is the definition of a radio room as set out in the Act (i.e. a room or other area used for accepting bookings for taxis from members of the public and transmitting messages by telecommunication to taxis) appropriate? |
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DIER agrees that the existing definition could be improved and recommends that the definition be expanded to include mobile phone networks. Further, it is recommended that the term “radio room” be replaced with the term “Taxi dispatch service” as follows:

“**taxi dispatch service**” means a service that provides —

- (a) radio base, computer or telephone services for taxis or makes arrangements for taxis to be provided with such services; and
- (b) controlling, co-coordinating, administrative and other services to the taxi industry, for the purpose of arranging for a person who requests a taxi to be provided with one.

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| 2. | What kind of taxi dispatching arrangements are used in the Tasmanian taxi industry? Which of these should be considered as a ‘radio room’ for the purposes of this paper, and why? |
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It has been suggested to DIER that essentially three types of networks operate in Tasmania. These are:

- call centre facilities with electronic dispatch equipment in each vehicle for the communication of queued bookings;
- trunk networks which operate via informal links between drivers and two-way radio systems; and
- informal networks of drivers receiving requests direct from customers via mobile telephones.

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| 3. | For what reasons do operators choose to join a radio room? Why do some operators not join radio rooms? |
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See Question 5.

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| 4. What services should the public reasonably expect from a radio room? Should they be solely providers of dispatch services or should they have other responsibilities (e.g. in terms of providing a high standard of customer service, handling complaints and so on)? |
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DIER is firmly of the view that the public should expect a number of services from networks other than simply taxi dispatching. The most important of these is an appropriate degree of accountability through an effective complaints handling process.

6.2. Compulsory membership or affiliation

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| 5. Should all taxi operators (and their drivers) be required to become affiliated with a radio room? Why or why not? |
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The case for compulsory network affiliation

Through submissions from industry and research on the arrangements in other jurisdictions, DIER has identified a number of possible arguments in support of a compulsory affiliation system. The arguments advanced in favour of compulsory affiliation are listed below.

1. Only networks provide a service that is truly consistent with the primary purpose of the taxi industry, that is a transport service that acts as a support and complement to the public transport system.
2. Only networks can ensure a comprehensive spatial and temporal coverage of areas for maximum customer benefit, and this is reinforced through compulsory affiliation.
3. Networks are able to exert control over the conduct of drivers (and operators) and therefore can provide a higher quality of service to customers.
4. Networking arrangements allow a vehicle fleet to be utilised in the most efficient manner, thereby achieving the required service standards from the minimum use of resources. The larger a network, the more efficient will be the delivery of taxi services across a larger area.
5. When able to utilise the appropriate technology, networks can provide a highly reliable "audit trail" in regard to assisting police with investigating crimes against (or committed by) taxi drivers. Compulsory affiliation ensures that all taxis are subject to these controls.

6. As in (4), networks are far better placed to deal effectively with customer complaints and lost property, particularly in cases where the customer has an incomplete recollection of the particular taxi involved.
7. Networks are beneficial to drivers as they provide immediate access to work for new entrants without an established customer base, and may also provide a range of other services to drivers and operators.

Each of these arguments is evaluated below.

1. *The primary purpose of the taxi industry*

An argument made repeatedly by the industry during the Review (predominantly by representatives of networks) was that networks provide a service that is consistent with the primary purpose of the taxi industry, that is a system that acts as a support and complement to the public transport system. This is said to be in stark contrast to independent operators, who act in a manner that contradicts the customer-centred philosophy of the taxi industry. Specifically, independent operators are accused of choosing to take only the most lucrative and/or simplest jobs on offer and, in so doing, disadvantage taxi customers by not providing a “true” taxi service.

DIER regards this characterisation of the industry segments as overly simplistic and misleading. It does not accept that this view should dictate how it approaches the policy issues surrounding network membership.

While, in a sense, the taxi industry could be regarded as providing a “public” service (and is regulated to achieve certain outcomes beneficial to the public), all participants in the industry are unequivocally in the private sector. In fact, networks openly admit that their members are actually independent players; this status is not superseded by affiliation to a network. Given this situation, it is necessary for the regulator to control certain aspects of the operation of the industry without unduly impeding the rights of individuals to conduct their businesses as they see fit. Consideration of the proposal for compulsory membership of networks inevitably highlights this need for a balance in the policy settings.

Conclusion: DIER agrees with this description of what the taxi industry should be providing, but must strike a balance between this and the commercial nature of the industry. On its own, this argument is not sufficient grounds for introducing compulsory affiliation.

2. *A comprehensive and guaranteed transport service*

It is self-evident that a large taxi network should have a greater capacity to provide services simultaneously (or more rapidly) across a given area than a single operator or a loose collective

of a few independents. Similarly, the ability to roster many drivers to work at different times should mean that a taxi service can be more reliably provided on any given day or time of day. These attributes are acknowledged as a fundamental benefit of networking taxi services and, accordingly, DIER is not advocating reforms that would reduce the size of networks or undermine their capacity to attract members.

Notwithstanding the above, DIER is not convinced that, in practice, the advantages of networks to customers are so great that they should be the only means by which taxi services can be delivered. For example, the capacity of networks to deliver comprehensive spatial and temporal coverage in an area is known to be compromised by the inability of networks to compel their drivers to “log in” to the dispatch network for specific suburbs/areas, to work for a set minimum number of hours or even work at specific times. Further, it is understood that some network drivers may routinely exit their network so as to access jobs obtained via so-called “trunk” networks utilising mobile telephones and/or two-way radios. Presumably the formal networks would not approve of such practices, although it is unclear as to what extent they can prevent this occurring.

DIER has received numerous submissions that independent operators habitually refuse to take jobs that they see as unattractive. While this is not a practice that DIER would encourage, it is probably an inalienable right of all taxi drivers and it is not a behaviour peculiar only to independents. Provided such refusals are accompanied by a referral to a network or another operator, the customer will not be disadvantaged and the referral will be of benefit to the eventual service provider. In the interests of removing uncertainty for the customer as to the identity of this taxi service provider, DIER strongly encourages independents (or indeed any operator passing on a request) to advise the customer of the operator/company that is being sent to collect them.

Conclusion: DIER agrees that there are inherent advantages from large formal networks in providing for comprehensive spatial and temporal coverage of customers. However, the fundamentally independent status of all affiliated operators and drivers means that these advantages are somewhat diluted in reality, such that other models of taxi service delivery still have a valid role to play. On its own, this argument is not sufficient grounds for introducing compulsory network affiliation.

3. Quality of service

DIER remains unconvinced that the existence of independents is a significant disadvantage for taxi customers in regard to service quality. In this context “quality” is taken to encompass vehicle quality and presentation, together with driver conduct and attire. In fact, DIER takes the view that independents are more likely to provide a higher quality of service than the average network-affiliated operator. This would be logical, given that independents cannot rely on the

dispatch system to provide them with jobs and so are more reliant on repeat business from persons contacting them directly.

It is acknowledged that drivers affiliated with networks may also obtain substantial custom by repeat business outside of the dispatch system. DIER is not denying that some drivers in networks provide a service that is of an exceptional quality in every respect. However, in the experience of DIER officials it is also the case that historically, the drivers and operators causing the most concern regarding service and vehicle quality have tended to be affiliated with the main networks. This situation is not helped by the policy of networks to deny responsibility for the misconduct of drivers working under their banner, on the grounds that the network is acting only as a dispatching agent for drivers, not as the employer of these drivers.

DIER acknowledges that some networks do focus attention on driver performance and have implemented reward/sanction schemes in an effort to control driver conduct. This is to be encouraged and indeed seems to be logical business practice in a service industry. However, DIER has been frustrated by the evident unwillingness of networks to actually apply strict sanctions for misconduct by drivers, or to the member operators employing them. DIER speculates that generally, networks tend to place too high a priority on maintaining the income stream from member subscriptions over taking action to maintain appropriate service standards. DIER is sceptical that the willingness of networks to take action would change significantly under a compulsory affiliation regime.

Conclusion: DIER does not accept that network membership delivers a higher quality of service to taxi customers. On its own, this argument is not sufficient grounds for introducing compulsory network affiliation.

4. Efficiency of vehicle use

As in number (2), above, DIER considers that this argument is theoretically correct. It accepts that larger networks will be more efficient operations and therefore more profitable. This also arises from the ability of larger organisations to utilise expensive technology that delivers more effective business management. In fact, this attribute of networks appears to be producing a convergence of network operations across Australia and within Tasmania. It is understood that several of the smaller networks outsource their dispatch services to the larger providers. There is already a convergence of the physical facilities of networks in Tasmania, if not actual convergence of the business entities. While this trend is obviously a response to commercial realities and the need to maintain profitability, it is of substantial concern to DIER in contemplating a scenario in which membership of networks is compulsory. This issue is discussed further below under "Other Issues".

An issue associated with efficient allocation of vehicles to jobs is the problem experienced by the industry through “no-shows”, in which a customer requests pick-up, but does not present themselves at the stated time and location. Submissions have been received by industry that this is usually the result of a customer calling multiple companies to undertake the same job, and simply taking the first taxi that arrives without cancelling the other requests. Obviously this is a source of considerable annoyance to the drivers involved and causes a loss of income to the driver and operator.

The “no-show” problem would be prevented if all calls were filtered through a single contact point, as any duplicate requests would be readily detected and then dealt with as required. However, a system of compulsory affiliation *per se* would not solve the “no-show” problem, unless either (i) there were only a single network/company, or (ii) the networks/companies could collaborate to establish a single “radio room” for receiving all calls, which would then be diverted to the relevant company as requested. This type of arrangement is also relevant to WATs and is discussed in further detail in [Section 3](#) at Question 1.

DIER seeks objective evidence from the industry of the extent of the “no-show” problem. DIER also requests industry views as to whether it is likely that drivers would ever make a false report to a network that a “no-show” had occurred.

Conclusion: Large formal networks certainly do provide for more efficient use of the taxi fleet. However, ongoing convergence in the network market increases the likelihood of monopoly outcomes, which then create problems for the regulator. Being able to allocate vehicles to jobs more efficiently does not necessarily eliminate the problem of “no-shows”. On its own, this argument is not sufficient grounds for introducing compulsory network affiliation.

5. Driver and customer safety

DIER considers that the primary public benefit to compulsory affiliation is the more reliable “audit trail” that networks can provide in assisting police with investigating crimes against (or committed by) taxi drivers.

As argued by the networks, the movements of independent operators are not recorded and/or monitored and this is a significant safety concern.

Fully comprehensive tracking of vehicle movements requires use of the Global Positioning System (GPS), which in turn requires devices in every vehicle and suitable technology in a central location to monitor information from these vehicles. It is understood that only one network in Tasmania is currently equipped with these facilities, in which it is impossible to de-activate the GPS signal from within the vehicle without tampering with the equipment. Additionally, the signal will continue even when both the ignition and meter are switched off. The up-front costs associated with installing such technology are very substantial and most

likely beyond the means of all but the largest Tasmanian networks. The potential repercussions of this for regulation of the networks is discussed further below (“Other Issues”).

South Australia has recently introduced mandatory GPS tracking of every taxi (in Adelaide) in response to a spate of offences committed by taxi drivers. While Adelaide taxis already had GPS installed, tracking was by exception only. In order to have permanent tracking, new legislation is currently being implemented to require vehicle systems to produce a periodic pulse (approximately every minute) to enable accurate location of the vehicle within a small area.

From this, it is evident that it is not networks *per se* that provide the safety benefit, but rather the use of GPS with continuous, guaranteed vehicle tracking.

DIER acknowledges that, in not applying a policy requiring that every taxi be subject to continuous GPS monitoring, it is accepting that there is a small risk that this could result in a relatively poor outcome in regard to the investigation of a criminal act. However, it is considered unlikely that the existence of GPS monitoring would significantly alter the likelihood that a crime would be committed in the first place. All metropolitan taxis already have security cameras installed for the express purpose of enhancing driver and passenger safety and providing a deterrent to potential criminals. DIER is proposing reforms to the vehicle registration plates of taxis (and luxury hire cars) which should assist in the accurate identification of taxis, irrespective of their affiliation with a network. This is discussed in [Section 10](#) at Question 65.

Some networks offer enhanced driver protection through a facility where a driver can receive immediate attention from the network by activating an emergency signal through the radio system. This has obvious benefits when coupled with electronic facilities for pinpointing a vehicle's location. In some circumstances an independent taxi operator or driver could be seriously disadvantaged by not having access to this kind of service. It is assumed that operators would take issues of this nature into account when making a decision as to whether to join a network or become an independent.

Safety outcomes could be enhanced by a limited affiliation with networks. For example, a network could offer a “safety only” service which would enable an operator to access the benefits of GPS tracking and emergency signal system without accompanying services such as dispatch for a lesser fee. Nevertheless, it is not necessary to be affiliated with a taxi network in order to have access to satellite vehicle tracking. Specialist businesses are now providing these services to fleet managers of other types of commercial vehicles in order to track vehicle location and job attendance by employees. Some vehicle tracking systems are offered as options on new vehicle purchases.

Conclusion: DIER considers that there are potentially significant safety benefits to taxi drivers and customers from network affiliation, provided that this is accompanied by the use of

sophisticated vehicle tracking technology. However, this primarily results in an increased capacity to detect and solve the commission of a serious criminal act, rather than actually preventing the act occurring and therefore does not add substantially to the safety offered by on-board security cameras. In conjunction with the relatively low risks involved, and the ability of other service providers to deliver similar benefits, it is concluded that this argument is not sufficient grounds for introducing compulsory network affiliation.

6. Complaints handling and lost property retrieval

Another benefit of compulsory affiliation advanced by the industry is the greater ability of large network companies to track lost property and return it to the owner. As in (5), this arises from the vehicle monitoring capacity of networks which allow them to identify the relevant vehicle and driver in cases where the customer cannot do so. DIER acknowledges that this is beneficial to taxi customers, although of course, it does not necessarily guarantee that the lost property will be returned, as it may never have been retrieved by the driver.

It is not clear to DIER that a significant problem currently exists with lost property and unaffiliated operators – further advice is sought on this matter. As they rely on repeat business and advance bookings for a significant proportion of their work, it seems reasonable to assume that independents are likely to be diligent in returning property left behind by their regular customers. What is more doubtful is the success of non-regular customers of independents retrieving lost property, particularly in cases where they cannot recall or identify the taxi (and driver) involved.

Conclusion: In some circumstances, large formal networks are likely to provide a better service to customers than independent operators in regard to being able to track down and return lost property. In relative terms, DIER does not consider lost property to be a significant issue. On its own, this argument is not sufficient grounds for introducing compulsory network affiliation.

7. Direct benefits to drivers and operators

DIER acknowledges that networks do provide a range of benefits to drivers, most obviously through access to the dispatch system which, at most times, should provide access to a reasonably reliable stream of jobs. While this is helpful to all drivers, it is likely to be of most assistance to new drivers who lack an established client base of their own that can provide a base level of work to underpin jobs obtained from rank, hail and the network.

Networks generally also offer other services to member operators and their drivers, including meter sealing, discounted mechanical repairs, complaints management, security camera downloading and administrative support (for example, some operator accreditation requirements).

Naturally, the networks provide these services in exchange for a membership fee, which is believed to be in the range of \$500-\$600 per month per licence currently for operators in Hobart and Launceston. It is reported that some networks offer reduced membership fees for WAT operators, who tend to have less reliance on the network.

Conclusion: while the advantages of network affiliation are undeniable, the existence of independent operators demonstrates that, in the view of some, the benefits offered by network affiliation are not essential to operate a viable taxi business. On its own, this argument is not sufficient grounds for introducing compulsory network affiliation.

Other issues

Impact on Independents

It is understood that approximately 10 per cent of Tasmania's 400 perpetual taxi licences are operated outside of the existing network arrangements, the large majority of these in the Hobart taxi area. Consequently, reform to compel these operators to join a network would be far from trivial. In addition, a significant number of these operators and/or drivers have turned to independent operations due to dissatisfaction with the existing networks. It could be fairly argued that in so doing they have simply exercised their valid and legal rights as individual business people. Accordingly, the regulator and Government must consider most carefully the justification for forcing the independents to, in effect, reverse this decision.

Also, under a compulsory regime, the current independent operators would face increased costs of approximately \$6,500 per annum in membership fees. The case for compulsory affiliation would need to be very compelling in order for DIER to propose a policy that would have such a significant financial impact on individuals.

A further important consideration for DIER in this context is that State Treasury has advised that, in the absence of new evidence to the contrary, it would oppose a compulsory membership policy on the grounds that such a reform is anti-competitive and does not produce a net public benefit.

Operator Choice

DIER is concerned that to impose a regime of compulsory network affiliation would, especially in some areas, give operators very little choice (or no choice whatsoever) of service provider. At present, in both Devonport and Burnie there is only one formal network. Additionally, it is possible that an existing network would not wish to accept new entrants to a dispatch service and share an established customer base. It is important to recognise that to impose compulsory affiliation on taxi operators is also to impose compulsory acceptance of members by networks.

Furthermore, because the main public benefits of compulsory affiliation are largely safety-related, to justify the reform it would be necessary to require networks to implement guaranteed and continuous GPS tracking at substantial cost. As discussed above, it is understood that only one network in Tasmania is currently equipped with these facilities.

A universal requirement for such technology would impose a significant burden on networks and it is assumed that members would ultimately pay this cost, in addition to the capital cost of fitting equipment to their vehicles. Conceivably, this would cause the cost of network membership to rise above the existing \$500 - \$600 per month.

Treasury also argued that compulsory membership would ultimately impose greater costs on customers (through reduced choice, lower service quality and passed-through compliance and regulatory expenses), without delivering material benefits to them over the current system.

Regulatory Creep

In the event that network affiliation and GPS vehicle tracking were made compulsory, DIER could inadvertently create a monopoly or near monopoly of network services. DIER considers that this is not an unlikely outcome. As argued above, there is already a convergence of the physical facilities of networks in Tasmania.

As convergence continues, inevitably the remaining network(s) have an increasingly powerful market position. In order to prevent exploitation of this position, DIER would be obliged to accompany the compulsory affiliation requirements with regulated maximum charges. A failure to do so would see even greater revenues diverted out of the taxi industry and away from the people who provide the actual transport service.

Recent evidence of the potential market power a monopoly network may have over operators has come to light interstate in a jurisdiction where there is only one network. This network charges a joining fee of approximately \$20,000⁹. At present, another network is seeking to become established in that jurisdiction. In an effort to prevent operators from transferring to the new network, it is alleged that the existing network has advised operators that if they leave and subsequently seek to rejoin, a fee of \$10,000 will apply for set up of equipment and new administration services to support the plate.

As with maximum taxi fare regulation, a method of determining what is a reasonable charge for affiliation and dispatch services would require specialist investigation and may prove to be

⁹ Van Putten, Ingrid, Research Report: Regulation of Taxi Dispatch Services in Australia and Compulsory Taxi Operator Affiliation or Membership, for the Department of Infrastructure, Energy and Resources, January 2005 (unpublished), p10.

expensive. It would also require networks to reveal a significant amount of commercially sensitive information about their revenues and costs.

The corollary to maximum price regulation is regulation of minimum service standards. In a situation where a business is unable to increase its revenue, the only way to improve margin is to reduce costs. This would not necessarily be to the advantage of operators paying significant fees premised on a particular level of service. DIER would therefore be required to impose minimum service standard requirements on networks to ensure that operators were receiving reasonable services.

To ensure service standards, the Commission would require powers to demand information from networks, audit performance and would need a mechanism for handling complaints by operators of substandard service, such as a failure to dispatch. This expands the regulatory scheme considerably and would contribute significantly to the costs of administering the taxi industry. Accordingly, DIER would have to consider imposing significant administration fees for networks. Again, these fees would likely be passed through to member operators.

A further issue with a monopoly (or near monopoly) provider situation where affiliation is compulsory is that a network may wish to discontinue provision of service to a particular taxi operator. This could arise due to any number of reasons, such as refusal to accept jobs or failure to pay fees.

Where there are few (or no) other providers, an operator could ultimately be unable to operate their licence. DIER would have to consider a "network of last resort" scheme or alternatively, prohibit a monopoly network from excluding a taxi operator. This outcome is directly at odds with industry's assertion that networks need to be given greater powers to deal with bad operators and that this would be achieved by compulsory affiliation.

From DIER's perspective, compulsory network affiliation has been one of the most difficult questions to resolve in the Review process. As shown by the foregoing discussion, many competing arguments have been taken into account in arriving at a recommendation.

DIER's stance is that a compulsory affiliation system must be clearly shown to be superior to the current arrangements before such a major reform can be applied. While it is true that Tasmania is one of only two jurisdictions where affiliation with networks is not compulsory, this fact alone does not compel Tasmania to adopt the compulsory arrangements. The pros and cons of implementing such a significant reform in Tasmania at the present time are the key considerations.

Conclusion: As the benefits have not been shown to clearly outweigh the costs, DIER does not recommend that affiliation with networks be made compulsory.

6.	How could this be controlled to ensure that operators were not unfairly excluded from radio rooms and hence from operating their taxi licence/s?
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As DIER is not recommending compulsory affiliation, this question is not applicable.

7.	Are there alternatives to full membership of a radio room, for operators that choose to operate largely on an independent basis, without taking work from the dispatch system? Should this approach continue to be permitted?
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DIER considers that if networks and operators have come to an arrangement for services other than dispatch (such as complaints handling and lost property), this is a matter for the parties. The Commission would only be concerned with such an arrangement if it became apparent that the obligations of an accredited operator were not being met.

DIER considers that there may be a market for partial affiliation that would deliver safety benefits to drivers via GPS monitoring and emergency response facilities. Nevertheless, in the absence of compulsory affiliation it is necessary for the market to respond to any need for affiliation services.

6.3. Regulation of radio rooms – accreditation

8.	For what reasons could radio rooms be regulated? Should they be regulated?
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DIER is not recommending that affiliation to a network be compulsory for operators and drivers. Given this, DIER considers that the case for regulating networks is substantially weakened.

Leaving aside the consequences of compulsory affiliation, DIER has not been persuaded by any of the arguments made to date that the existing networks should be regulated. In particular, it is not convinced that material benefits would be obtained through imposing another layer of regulation over the existing operator accreditation system.

The operator accreditation scheme has the joint purposes of:

- encouraging improved passenger transport industry standards;
- raising awareness of safety and other related issues; and
- ensuring accountability for meeting those standards.

DIER considers that the requirement to meet these outcomes are already addressed through operator accreditation and that it is more appropriate for standards and safety requirements to be met via this mechanism.

Furthermore, regulation of networks is not considered to be able to deliver greater benefits to customers than are already being achieved. For example commercial pressures have led

networks to provide services other than dispatch such as managing lost property. The same pressures also serve to ensure equitable allocation of dispatch services. In addition, requiring networks to regulate driver behaviour is unlikely to be effective in practice as drivers are independent and need not take direction from the network, as it is the taxi operator who is the network member.

If the current networks are to continue without regulation, there is no reasonable basis on which DIER should regulate a new entrant to the network market.

It would be inconsistent to require particular standards for a new entrant in the absence of regulation for existing players. Additional network services in taxi areas with no or few existing services would provide options for taxi operators.

9. What standards should an applicant seeking to establish and operate a radio room be required to meet? Should there be standards above and beyond ensuring that the applicant is 'fit and proper' to operate a radio room, to ensure that the radio room can provide the services it should provide?

DIER is not proposing to accredit networks.

10. Which, if any, of the responsibilities of operators under operator accreditation could effectively be managed by radio rooms? How could this be achieved while ensuring that the operator retains responsibility for their own operation?

Networks and operators are free to contract for the provision of services which may assist operators to discharge their duties under the accreditation scheme.

Nevertheless, the Commission considers that these obligations are solely the responsibility of taxi operators and any failure of the network under the contract will not relieve a taxi operator of their duty to comply.

11. What services do radio rooms currently provide to affiliated operators?

DIER considers that it is a matter for network operators to determine which services they wish to offer the market.

12. Should radio rooms be required under legislation to provide particular services to drivers and operators? If so, what services should be mandatory and which should be left to the discretion of the individual radio rooms?

DIER considers that networks should compete for members based on the services they are able to offer to operators.

13. Should radio rooms be obliged to accept all phone bookings? Why or why not? If so, how could radio rooms be given the authority to require drivers to undertake jobs allocated to them?

DIER does not consider it appropriate to require taxi operators or networks to accept all jobs. In any industry there will be situations that present a degree of perceived threat and it should be a matter for the network and operator/driver to determine whether to accept a passenger. Safety can only be assessed at the time by those in direct contact with the intending hirer.

14. Is it reasonable for radio rooms to take no responsibility for the service provided by their members?

Networks have a duty to accurately represent the services they offer to customers in accordance with the Trade Practices Act.

Where a network chooses not to accept responsibility for the services being delivered by operators, this should be clearly indicated to intending passengers to ensure that customers have appropriate expectations and can make alternative arrangements if the service level being offered does not meet their needs.

15. If so, how can the operator of a taxi be made identifiable to the public to ensure that any problems are directed to the person responsible?

DIER is currently considering uniform driver identification for LHCs and taxis. See [Section 4](#) at Question 45.

To enable complaints to be appropriately directed to the responsible operator, DIER is considering the use of a notice contained within the taxi.

16. What issues should radio rooms be required to report to the Government on and why?

As a regulator, the Commission places a high value on timely, accurate information regarding performance of the industry as a key measure of the effectiveness of the regulatory regime in ensuring appropriate levels of customer service.

Such information is essential when considering whether there are periods of unmet demand or particular customer groups are unable to access adequate services.

While DIER is not convinced of the need to regulate radio rooms, these networks are the repository of a significant amount of the performance and demand information of the Tasmanian taxi market. Access to this information would greatly assist the Commission in its oversight of the industry.

DIER proposes that some minimum reporting obligations be placed on networks such that the Commission is able to discern the number of booked taxi jobs in a particular taxi area for a specified period for WATs and standard taxis. If available, response times for “asap bookings”, and the volume of rank and hail work for both standard taxis and WATs would also be sought.

It is anticipated that networks may be reluctant to divulge information about bookings to the Commission. Nevertheless, DIER is of the view that the Commission is well placed to assist networks to assemble the type of information that may be required in order to respond to a complaint under the Disability Discrimination Act. It is proposed that the Commission should have powers to require information, but the type of information sought would be information already gathered by networks, in a form which they are already required to keep.

As a regulator, the Commission is interested in continuing to monitor emerging issues in the industry and reliable data regarding a variety of aspects of the operation of taxis is important in maintaining a contemporary regulatory scheme. One issue on which the Commission intends to seek information is the number of consecutive hours being worked by drivers.

17. How should radio rooms be audited for compliance with the conditions of their accreditation? Who should conduct the audits?

DIER does not propose to accredit networks.

18. How often should the audits be carried out? Should this be on a regular basis or only in response to complaints?

DIER does not propose to accredit networks.

19. What sanctions should apply to radio rooms that fail to meet the conditions of their accreditation?

DIER does not propose to accredit networks.

6.4. Wheelchair accessible taxis

20. Would better response times be achieved by centralising WAT booking services?

See [Section 3](#) at Question 1.

21. Would a centralised booking service result in lower standards of customer service for WAT users (e.g. through a reduction in choice of operator)?

See [Section 3](#) at Question 1.

22. If there was no centralised booking service introduced, should all WAT operators be required to affiliate with a radio room to assist the industry meet its DDA obligations?

See [Section 3](#) at Question 2.

6.5. Promotion of competition for taxi services within areas

23. In what ways could radio rooms promote competition in the taxi industry?

Promotion of competition between taxi operators is not a valid role for networks in DIER's view. Instead the network forms the public face of the taxi transport provider. Nevertheless, DIER considers that it would be undesirable for a network to attempt to stifle competition between operators. For example, if an operator sought to implement a discount fare scheme, DIER would not like to see a network exclude that the operator on the grounds of discounting.

If a radio room took on dispatch for a group offering discount fares, it would be appropriate for the radio room to ask intending passengers at the time of booking whether they preferred a discount service and whether waiting times differed between these services and standard price taxis.

DIER does consider competition between networks to be valid. Where networks can offer more attractive services to the public, they should be free to do so. This may include faster call response or shorter waiting times for taxis.

DIER also considers it appropriate for networks to compete for operator affiliation in the range and price of services they offer to taxi operators. Competition of these types is a matter for networks.

24. Is there a need for differentiation of standard taxi services on the basis of price and/or service?

DIER believes that the accredited group provisions in the legislation offer the ability for a number of operators to collectively target a specific market or provide a particular service standard. Discount fare provisions are also included in the legislation. This flexibility is provided to allow the industry to respond to their market as they see fit.

25. How can the legislation ensure that radio rooms are able to differentiate themselves if they so choose, without necessarily forcing them to do so?

As DIER is not proposing to regulate networks, it is not necessary to contemplate how networks might differentiate themselves. It is a matter for those businesses to target both operators, based on the price and services they can offer and potential travellers using whatever particular market advantage they wish to emphasise such as fleet coverage and response times.

6.6. Uptake of new technology

26. What types of technologies are currently used in radio rooms (e.g. in relation to dispatching, communication etc)?

DIER does not have detailed information as to the particular technologies currently in use by networks. It is understood that systems vary from mobile phone communication between vehicles and the central customer contact to sophisticated electronic dispatch systems using GPS.

27. What is the scope for new and innovative systems and services to be introduced in the Tasmanian taxi industry to improve taxi services to customers and safety?

DIER considers that this is a matter for the industry. It is up to network operators to determine their uptake of new technology.

6.7. Radio rooms in non-metropolitan areas

28. Is there a need for radio rooms to be established in rural areas? Why or why not?

DIER considers that the main benefits of central dispatch are not likely to lead to improvements in taxi areas which have few taxis. For example, safety is not likely to be significantly improved in small communities where most customers will be known to the operator. This is particularly the case if the network does not use GPS technology, which would be a significant cost burden for a small network serving very few taxi operators.

29. If there is a need, how could these radio rooms be set up to benefit operators in rural areas?

DIER does not have information to suggest that there is an unmet need for networks covering rural areas. If central dispatch is desired in smaller areas, taxi operators are free to approach a network and propose a service to that area or establish their own network.

30. Should membership of radio rooms in rural areas be compulsory in rural areas?

DIER does not propose to make affiliation with networks compulsory for operators in any taxi area. See Question 5.

31. Should radio rooms in rural areas have to be accredited in the same way that radio rooms in Hobart and Launceston might be accredited? What differences would there be in accrediting these radio rooms?

DIER intends to treat all networks equally in that it does not propose to introduce regulation of their activities.

32. Should the radio rooms in Burnie and Devonport be treated in the same way as radio rooms in Hobart and Launceston? What differences, if any, should there be in terms of accreditation and affiliation requirements?

DIER intends to treat all networks equally in that it does not propose to introduce regulation of their activities. Instead, DIER only proposes to introduce information-gathering powers for the Commission in line with data already collected by the networks.

DRAFT

7. Taxi Fares and Driver Pay and Conditions

7.1. Role of Government

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| 1. In which ways can taxis effectively compete and differentiate themselves in relation to price and service? |
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DIER considers that this is a matter for the industry to determine, using any provisions in the legislation for this purpose.

In Paper 10, DIER has proposed some changes to the Accredited Taxi Group scheme to encourage responsible operators to form Groups. See [Section 10](#) at Question 6-8.

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| 2. Why is this not happening at present? |
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All available evidence suggests to DIER that there seems to be a general reluctance for any industry players to innovate in this manner. It is understood that this is also generally true of the taxi industry in other jurisdictions.

The industry has stated that there is no scope to reduce fares and still maintain margins at acceptable levels, as the maximum fare is in fact the minimum fare in terms of covering costs.

Aside from the case of independent owner-drivers, it is likely that drivers themselves have little or no discretion to offer discount fares on a formal basis. Drivers often face significant costs and are the least well placed person in the chain (licence owner, operator, network) to offer discounting.

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| 3. How can this be achieved while ensuring sufficient protection for operators/driver and customers? |
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DIER does not consider that it is responsible for protecting industry participants from making poor business decisions, for example fare discounting that does not allow sufficient cost recovery. Nor is DIER responsible for the terms under which a driver is employed.

In regard to protection of customers, both the ACCC and DIER would have a role to play in a situation where advertised discounts were not being delivered by drivers/operators.

7.2. Taxi Industry Regulations 1996

4. Should taxi fares be mandated in regulation?

At present, taxi fares are specified in Schedule 4 of the Taxi Industry Regulations. Alternatives canvassed in Paper 2 – Taxi Fare Setting Mechanisms and Driver Pay and Conditions included making fares as an order by the Governor, which only requires gazettal to become effective.

Under a proposed annual fare update, the annual change to regulations would require a full regulation-making process and, were a price increase to exceed the change in the Consumer Price Index (CPI), would require a Regulatory Impact Statement to be prepared in accordance with the Subordinate Legislation Act.

The Subordinate Legislation Act applies to Rules, Regulations and By-laws. However, if fares were made by order, this would be outside the current requirements of that Act, although note that the Treasurer has a power to declare an instrument to be subordinate legislation and therefore capture it within the process. Nevertheless, further investigation has revealed that the Subordinate Legislation Act is currently under review and it is anticipated that orders will be included in the list of instruments that are subject to the Act. A move to use orders to speed up fare setting is therefore unlikely to be effective.

5. What are the alternatives?

See Question 4. No other practical alternatives have been identified.

7.3. Responsibility for setting fares

6. Which body should determine taxi fares and why?
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DIER recommends that the determination of the means for setting fares be made by an independent third party. DIER is not the 'expert' on prices and may be seen as 'too close' to make an objective assessment.

DIER proposes that an independent consultant body, such as GPOC be asked to develop a new fares model, rather than determining actual fares. It is recommended that the taxi fares model then be reviewed every five years by the external party. This proposal would provide a similar result to the current process of fares setting for Metro Tasmania. The process is undertaken by a party independent of Government and provides for public and industry submissions as one means of information gathering.

For GPOC to undertake this activity, an amendment to the *Government Prices Oversight Act 1995* would be required in order to provide a power for this type of pricing inquiry. Also, a specific information gathering power would be required.

In addition to developing the model, the independent body should also be asked to determine a method for indexing fares on an annual basis until the review of the model after five years.

7. How often should taxi fares be reviewed? Should it be done on an annual basis or on an ad hoc basis? Why?

DIER recommends that fares be reviewed annually, using the indexing method to be developed by GPOC or such other external consultant body as may be appointed to this task. An automatic annual review cycle provides some level of certainty for operators and customers. Further, such an arrangement means there is no need for formal submissions from industry on an annual basis, although these could still be provided if the industry considered this necessary.

It is proposed that DIER would undertake the application of the annual indexing, as this would not require independent expertise. Rather, this would be a simple application of the mechanics of the model and indexing method.

8. If GPOC were to undertake investigations into taxi fares, should it make its recommendations about fares to the Minister or to the Transport Commission?

DIER proposes that the fares model and indexing method be provided to the Transport Commission. The Commission would then be responsible for application of the model and development of the necessary regulations to effect fare changes. The draft regulations would then be sent to the Minister for endorsement as per the usual regulation making process, before proceeding to Executive Council for signature by the Governor.

9. If GPOC were to undertake investigations into taxi fares, how would the investigations be funded? Should the taxi industry contribute to funding GPOC investigations?

DIER recommends that it would fund initial development of the fares model, with industry to fund its review every five years thereafter.

In order to facilitate funding of the five yearly review, DIER proposes to levy a small charge in addition to the annual licence administration fee every year for five years for all perpetual taxis and WATs. These funds would then be applied to the cost of the review. An annual levy of approximately \$20.00 would be required to accommodate an investigation cost totalling \$40 000. Note that this is in addition to the proposed fees in [Section 10](#) at Question 44.

10. If the Transport Commission were to set fares, should this be done through formal requests from industry, a scheduled annual submission from the industry, or through an annual review by the Commission itself with input from the industry?

See Question 7.

11. If the taxi industry is required or invited to make a submission in relation to reviewing fares, which body or bodies should be responsible for coordinating and making the industry's submission?

It is proposed that the taxi industry, as well as stakeholders and all other interested parties should have the opportunity to contribute submissions to the initial development and five yearly review of the fare setting model and indexation process.

In many cases, GPOC accepts input from multiple individuals on behalf of users of services as often there is no one body that represents all consumers of a particular service type, for example Metro bus services. Nevertheless, GPOC usually only receives one industry submission as the investigation will usually relate to a Government Business Enterprise (GBE) or monopoly provider.

In the case of the taxi industry there are multiple industry associations and while these represent many in the industry, even collectively they do not represent all of those involved in provision of the service from licence owners, taxi operators, drivers and network operators.

To prevent the five yearly review from being overwhelmed by industry submissions, it will be necessary for a coordinated approach to input from industry. Multiple individual submissions would substantially increase the time to undertake the investigation and respond to all issues raised. Any increase in time will increase the cost to industry as the annual levy will need to be adjusted accordingly.

The annual use of the fare setting model and indexation method to produce a fare variation would not usually require input from any parties as this will be a simple application of the model.

7.4. Options for fare setting

12. Should fares be adjusted according to changes in operating costs? If so should this be by reference to one or more indices, changes in industry costs, or a combination of the two?

DIER recommends that the indexation method also be determined by the external body selected to undertake development of the model.

13. Is CPI an appropriate index by which fares should be increased? Does it adequately balance consumers' need for a reasonably priced service with the costs to taxi operators of providing the service?

See Question 12.

14. Would an index, such as the Transportation Index or Private Motoring Index, be more appropriate than CPI to determine fares? Why?

See Question 12.

15. Would a CPI-X approach be appropriate? Why? How would the 'X' factor be determined?

See Question 12.

16. Should average weekly earnings be taken into consideration when adjusting taxi fares?

See Question 12.

17. How can productivity improvements and changes in revenue in the industry be factored in to future fare increases without discouraging the industry from pursuing such improvements?

See Question 12 and Question 31.

18. If a cost model or a cost index were to be used, how could it be designed to better reflect the costs of operating taxis, given the wide variation across operators and taxi areas?

See Question 12.

7.5. Options for more flexible fares

19. Should Tasmania continue to have different fares for different zones (i.e. metropolitan, non-metropolitan and islands)?

DIER considers that the existing fare differentials for metropolitan, non-metropolitan and the islands should be maintained in recognition of the different cost structures which exist. See [Section 8](#) at Question 8.

20. Should there be more or fewer fare zones?

See Question 19. DIER has not received any evidence to suggest that fare zones should be altered.

21. Are the current zones appropriate (metropolitan security camera areas, non-metropolitan and islands)? Which taxi areas should belong in which zones? (Note that there is likely to be further discussion on this issue in relation to taxi areas and regional transport.)

See Sections 8 and 9 of this Paper.

22. Should there be a different fare structure for the different zones (e.g. metropolitan and non-metropolitan)?

Discussed in Sections 8 and 9.

23. Is the night tariff (and higher workload on weekend evenings) sufficient to attract drivers to work night shifts? Are there peak times when the demand for taxis is not being met that could be eased by introducing surcharges to encourage more drivers to work at those times?

DIER recommends no change to Tariff 2, which would unnecessarily penalise taxi customers. In the event that owners and operators feel it necessary, they are free to offer drivers more attractive terms for these hours as required to retain sufficient night drivers.

24. Should the use of surcharges or levies be considered as a way to compensate the industry for unexpected cost increases that occur before a scheduled fare review?

DIER considers that, if a suitable taxi fares model with automatic indexation process is implemented, there should be no need for ad hoc measures to increase fares. An annual fare increase offers certainty for industry and it also offers certainty for customers.

25. Should a minimum fare be introduced to compensate operators for undertaking very short trips?

DIER does not recommend the introduction of a minimum fare, as it is not convinced that the flagfall is insufficient to compensate for very short trips.

Should operators consider it necessary to their business model to have a minimum charge, the legislation provides a mechanism for alternative fares to be developed by accredited taxi

groups. An accredited group could seek to have an alternative fare structure approved by the Commission in accordance with the Act including a minimum fare component.

26. Should increases be applied proportionately across all fare components, or should there be a heavier emphasis on the distance rate or flagfall? If so, why?

See Question 12.

7.6. Customer perspectives

27. To what extent should taxi users' circumstances be taken into account when setting fares?

While, DIER proposes to hand the process of developing a fare setting mechanism over to GPOC or other investigating body, it is considered appropriate for the Commission to provide Terms of Reference for the investigation process. In particular, in developing a suitable model, regard should be given to issues such as developing fares which would provide a commercial return to an efficient operator.

While this does not directly take account of outcomes for users, such a return would not see taxi users unduly burdened by paying rates which would reward inefficient practices. To the extent that some taxi users are reliant on taxis for transport, the impact of any fare increase would be partially offset by the availability of the Transport Assistance Scheme.

28. How can the users who are heavily reliant on taxis be protected from the effects of fare increases?

DIER considers that the Transport Access Scheme (TAS) will automatically provide a significant insulation from the impact of fare increases for average journeys of between 50% and 60%. For example, in a standard taxi a 10% increase in a \$15.00 fare would cost a non-TAS member an additional \$1.50, but a TAS member only \$0.75. In a WAT, the same 10% increase on a \$15.00 fare would cost a wheelchair-reliant member just \$0.60.

Arguments for greater protection from fare increases (including a rise in the maximum subsidy payable) would need to be assessed on a case-by-case basis, with TAS budgetary limitations the primary consideration.

7.7. Taxi industry perspectives

29. Do fare increases result in a loss of patronage? If so, is this sufficient to reduce overall industry revenue?

DIER suggests that minor fare increases are unlikely to effect patronage enough to reduce absolute revenue levels.

Ultimately, applying fare increases is at the discretion of the operator and it is assumed that operators will carefully consider the impact on total fare revenues of each increase.

30. To what degree could operating costs be reduced to an extent that would increase returns to operators?

DIER is not in a position to make a judgement on this question. The precise details of the cost structure of the industry are known only to the industry.

31. If the industry were able to reduce its operating costs, would it be reasonable to pass on these reductions to consumers in the form of reduced fares?

DIER considers that where an operator is successful in reducing operating costs, this is to the benefit of that operator who will enjoy greater margins. It is a business decision for that operator to determine whether these savings could underpin a discount fare arrangement (as permitted under the Act) in order to compete on the basis of fares. Note that this is not the same as cost reductions which occur from time to time such as usual fluctuations in fuel price. Where costs fall, DIER would not consider it appropriate for industry to continue to benefit from higher fares at the expense of passengers.

Nevertheless, DIER would consider it appropriate if a fare investigation were to factor industry-wide cost savings into a fare setting model such that these savings were shared between industry and passengers. DIER does not advocate a complete transfer of cost savings to passengers where they have been achieved by industry. Otherwise industry will have no incentive to achieve these outcomes. It would be appropriate for DIER to include a requirement for GPOC to consider such matters in Terms of Reference for the fare model development exercise.

32. Are there particular issues in relation to the operation of taxis in smaller and more remote regional areas that need to be considered in setting fares? Are the operations of taxis in non-metropolitan areas different to that in metropolitan areas to the extent that there should be a different fare structure in regional areas?

DIER recommends that this issue be addressed by GPOC or other fare investigating body in its development of a taxi fares model. However, DIER is not aware of any evidence suggesting that the fare structures should be different.

33. How could the provisions for the accreditation of taxi groups be simplified to enable more groups to become accredited and to set their own fares?

In Section 10, DIER has made a number of proposals to simplify the accredited taxi group provisions and promote their use. In particular DIER proposes to:

- avoid the words 'accredited' given the potential for confusion with accreditation under the Passenger Transport Act. An acceptable alternative might be 'authorised' or 'approved';
- clarify the Act to provide that the Commission may require any one or a combination of such evidence to the extent that it is necessary to verify that the proposed service that the group intends to deliver is being provided to the benefit of its customers;
- to allow WAT licence holders to participate in groups; and
- remove the requirement that a grouping agreement must be in the public interest for the benefit of all persons using taxis in the area to which it relates.

See [Section 10](#) at Questions 6-9 for a fuller discussion.

7.8. Supplementary questions on fares

34. Should provisions allowing charging of higher fares by means of a fare agreement or other agreement approved by the Commission be retained?

Current provisions in the Regulations allow an accredited taxi group to set higher fares under a fare agreement approved by the Commission. To date, the provisions have not been used by the industry to develop alternative fare structures. Given that the tariffs are intended to represent maximum regulated fares, and in future, fare setting is to be undertaken by an independent body (see Question 6), it is counter-intuitive for the Commission to then approve higher charges. DIER recommends that the provision be abolished.

DIER sees it as highly unlikely that a passenger may wish to negotiate a higher fare under a special agreement. This is because it is rare for a passenger to seek to pay higher fares and further, as prior approval is required from the Commission, such negotiations, if they were to occur would not deliver a timely result for a potential passenger.

While there may be circumstances in which a passenger may seek a higher level of service and in order to have that service supplied, offer to pay an additional sum, it is considered that the additional service sought would probably be ancillary to the provision of taxi transport. Additional services may involve carer-type support for a frail, elderly passenger prior to and after the journey. It would be necessary for the Commission to give due consideration as to whether it is appropriate for a taxi driver to deliver such additional services instead of a carer with training suitable to the assistance required. Given the limited likely use of the provisions and the possible complexities requests for additional services may cause, DIER considers it appropriate to remove the provision from the legislation.

35. Should additional circumstances be prescribed in which fares must not be charged?

This issue is addressed in [Section 10](#) at Question 62.

36. Should the requirements of carrying notices of fares inside the taxi be retained in their present form?

This issue is addressed in [Section 5](#) at Questions 6 and 29.

37. Is the requirement for a driver to travel by the most direct route unless otherwise instructed appropriate?

DIER considers that in an environment where passengers may have little means to determine whether they are receiving an appropriate service, such as visitors to the State, it is appropriate to apply consumer protections. As there is no other means by which protection of passengers' interests can be achieved, it is proposed to retain the provision.

38. Are the current provisions regarding the starting and stopping of the taximeter appropriate?

This issue is addressed in [Section 10](#) at Question 63.

7.9. Driver Pay and Conditions

39. Should agreements between operators and drivers be regulated?

Operators and drivers are free to strike an agreement between them as to the terms and conditions under which the driver is retained. The only requirement in the Act is that a driver is considered to be an employee for the purposes of the *Workplace Health and Safety Act 1995*. This provision makes the operator responsible for worker's compensation insurance premiums with respect to drivers.

DIER sees little justification for interfering with this commercial arrangement.

40. How could drivers negotiate more favourable agreements with operators?

It has been suggested to DIER by industry that owners and operators should be freed from the "rigid system" of 50 percent commission for bailee drivers. DIER does not impose a requirement for operators to pay commission to drivers at the rate of 50% and nor does the Taxi Act or Regulations. Rather, it is for operators to negotiate the best deal they can strike with drivers.

DIER considers that this is a matter that the industry itself must address.

7.10. Driver income

41. What is a reasonable level of income for a taxi driver?

DIER is limited in its capacity to comment on this issue, due to the absence of validated data on driver earnings from the industry.

However, DIER is of the view that, based on anecdotal evidence, taxi driver pay is probably lower than is desirable and that this is partly a consequence of the ownership structure of the industry. In recognition of this, DIER is proposing to make fundamental changes to the nature of perpetual taxi licences (see Questions 16 and 17 in [Section 2](#)).

Aside from this proposal, DIER considers that this is a matter that the industry itself must address.

42. What is the relationship between assignment fees and driver income?

DIER endorses the position of the Essential Services Commission (ESC) that licence lease charges have a detrimental impact on driver income. Further, the way in which revenue is

distributed means that returns on licences by way of assignment fees means that the share distributed to drivers is low¹⁰.

43. Would an increase in fares lead to an increase in driver income?

Providing that the fare increase does not exert a significant downward pressure on patronage, the standard bailee driver pay arrangements would automatically deliver an increase in driver income. Nevertheless, the ESC found that the level of increase required to deliver significantly improved returns to operators or drivers would be so large as to be unsustainable¹¹.

The key question from a government policy perspective is the degree to which taxi customers must be required to fund this increase in driver income. It should be noted that between 2000 and 2005, the maximum taxi fare in Tasmania rose by 45 percent, whereas CPI grew by only 19.4 percent over the same period.

This indicates that taxi customers have already made a relatively high contribution to the increase in fare revenues to the industry.

7.11. Driver conditions

44. Are long hours a significant issue for Tasmanian taxi drivers? How might the issue of long driver hours be addressed?

In general terms, driver fatigue is a matter of concern to DIER from a safety perspective. Anecdotal evidence suggests that some taxi drivers work shifts that are far longer than is desirable. Nevertheless, based on the magnitude of the administration and enforcement task facing DIER in regard to heavy vehicle driver hours, applying a similar regime to the taxi industry is not practical at this time.

DIER recommends that responsible operators consider their responsibility for managing driver hours under the Accreditation Scheme and address this issue closely.

The *Passenger Transport Regulations 2000* make it an offence for an accredited operator to place a passenger or driver at unreasonable risk¹². This would include scheduling unrealistically long shifts or subsequent shifts without an adequate rest period.

Furthermore, the Accreditation Scheme provides that a responsible officer must do whatever is reasonably practicable to make sure that all employees are safe from injury and risks to their

¹⁰ Essential Services Commission, Victoria: Final Report of the Taxi Fare Review 2005, June 2005, page 92.

¹¹ *ibid.* page 94.

¹² Subregulation 13(1).

health while they are at work¹³ (note that a workplace includes vehicles). The guidelines refer to an operator's responsibility under the *Workplace Health and Safety Act 1995*. Subsection 9(4) of that Act provides "Any employer who exercises, or is in a position to exercise, management or control over a workplace must ensure that, so far as is reasonably practicable any person at that workplace is safe from injury and risks to health".

The Act does not specifically refer to long shifts, but Workplace Standards takes the view that scheduling falls within the provision. Therefore, it is clear that operators have a duty with regard to the hours being worked by drivers and the possibility of fatigue-related error.

In the event of a safety incident caused by fatigue, DIER and Workplace Standards would have to investigate whether an operator was guilty of an offence and refer the matter to the Director of Public Prosecutions.

45. What are some ways in which the professionalism of taxi drivers could be enhanced?
How could taxi driving as a career be promoted?

DIER considers that this is a matter for industry and operators need to consider how to make arrangements which are attractive to drivers.

46. How can members of the public be better informed about the roles and responsibilities of taxi drivers and the work of the taxi industry?

DIER agrees that standard signage on all taxi ranks is the most practical (and affordable) means of addressing some of these issues. Signs should address common problem issues and ensure that customers are informed ahead of time of any extra charges, for example airport fees.

DIER also recommends that taxi networks and operators be required to supply details of their complaints and the management of these, which should improve the existing de-centralised arrangements. A power for the Commission to require such information should be included in the revisions to the Act.

7.12. Supplementary questions on driver conditions

47. Is the application of the Workers Rehabilitation and Compensation Act to drivers appropriate?

For the purposes of the *Worker's Rehabilitation and Compensation Act 1988*, taxi drivers are taken to be employees of the responsible operator. DIER acknowledges that drivers are usually

¹³ Accreditation Module 2 – Driver Certification and Monitoring, standard 2.1.

commission agents and, as such, are free to strike an agreement on terms with operators which should not be unreasonably restricted by regulation.

While some operators have expressed the view that drivers should be free to contract on all terms and conditions and seek their own insurances, DIER considers that the above Act provides a necessary protection in an environment where historically, drivers have lacked bargaining power. Further, without this as a minimum condition, operators may have greater difficulty attracting drivers.

48. What arrangements, if any, should be regulated for superannuation for drivers?

In response to *Paper 2 – Taxi Fare Setting Mechanisms and Driver Pay and Conditions*, it has been suggested by some industry members that the ability to negotiate a shift fee (in effect a mini lease for the duration of a shift with a fixed, up-front payment by the driver to the operator) would result in “savings” which could be set aside towards driver superannuation.

It is not clear to DIER where such savings arise and why operators would seek to contribute the savings to drivers. DIER considers that superannuation arrangements, as with pay and most other working conditions, must be the responsibility of the industry.

8. Rural Taxis

8.1. Structure of the rural taxi industry

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| 1. Should the Burnie and Devonport taxi areas be considered 'rural' taxi areas for the purposes of this paper? |
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DIER does not consider there to be any evidence to warrant a change of classification of those taxi areas.

8.2. Operating costs & returns

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|---|
| 2. What are the major differences in operating costs between taxis in non-metropolitan areas and those in metropolitan areas? |
|---|

DIER accepts that there are some differences in cost structures between rural and metropolitan areas. Nevertheless, those aspects of operating a business which are more expensive outside of a metropolitan areas (repairs and maintenance) are likely to be offset to a degree by those costs which are lower or not incurred (network fees).

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| 3. Is it relatively more expensive to operate a taxi in a non-metropolitan area (i.e. is income as a proportion of expenditure lower)? If so, what are the reasons for this? |
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See Question 2.

8.3. Use of taxis in rural areas

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| 4. What are the major features of the rural taxi market in Tasmania? |
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DIER does not have sufficient detail regarding the operation of the industry in the various non-metropolitan areas to provide a definitive view.

- | |
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| 5. Who are the main users of taxis and for what purposes do they use taxis? Do people use taxis in rural areas for different purposes than people that use taxis in urban areas? |
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See Question 4.

8.4. Regulation of rural taxis

6. Do operators in rural areas provide a 24 hours a day, 7 days a week taxi service? Should minimum hours for the operation of a taxi be prescribed? If so, why? What should be the 'core' hours? Would this have implications for licences that are not currently operated?

See [Section 2](#) at Questions 21 – 24.

7. Should drivers be obliged to accept phone bookings? Under what circumstances might this be appropriate?

DIER would strongly encourage operators to respond to demand. However, DIER does not consider it appropriate to require networks or drivers in metropolitan areas to accept jobs and has no intention of imposing different requirements on taxi operators in rural areas. See [Section 6](#) at Question 13.

8. Should non-metropolitan taxi fares continue to be less than fares in metropolitan areas?

At present, the cost model used by DIER contains a small differential to cover the cost of security cameras resulting in slightly different fares for rural taxi areas. DIER considers that this differential should be maintained.

This is one of the matters that DIER considers should be included in terms of reference for GPOC or other independent pricing body.

9. Is there a need to introduce a different method of determining taxi fares in the non-metropolitan areas?

DIER considers that the independently developed pricing methodology and indexation method should be applied to formulate fares for both metropolitan and regional areas. See [Section 7](#) at Question 6.

10. Should fares be increased for longer journeys in rural areas?

DIER has noted the view of operators in regional areas and accepts the view that regulated fare rates should be equivalent for journeys regardless of length. The apportionment of the tariff between the flagfall and kilometre rate is the means for balancing short journeys with longer trips.

11. Is dead running a major issue in rural areas? Should drivers have the ability to apply a charge that will compensate them for significant amounts of dead running (e.g.

minimum fare, return to area charge etc)? What effect would this have on demand of taxis? How could these charges be introduced in a way that does not disadvantage people that rely on taxis for transport? Would such charges be equally applicable to urban areas?

DIER does not support the introduction of additional charges to cover the cost of dead running as part of the regulated fare structure.

12. Is the current method of valuing licences in rural areas appropriate? How could licences be accurately valued in areas where few or no transfers have occurred in the three years since the previous valuation?

DIER has proposed the abandonment of the Assessed Market Value (AMV) to remove the artificial floor on the market price of licences, especially in regional areas. See [Section 2](#) at Question 1 for further discussion of this issue.

13. Should non-metropolitan taxi licences be made available only to people who will actively operate the licence? What regulatory changes would be required to permit this?

DIER proposes to require licence holders to demonstrate the capacity to operate their licences. See [Section 2](#) at Question 21.

14. Should there be a requirement that all taxi licences on issue be operated? What would be deemed an acceptable level of operation?

DIER has proposed to introduce a requirement to operate taxi licences. This includes new and existing perpetual licences. Note that DIER has not proposed specific hours of operation as this is considered a business decision for the responsible operator. However, it is proposed that the Commission have the power to require an operator to demonstrate that they have the capacity to operate all their licences. See [Section 2](#) at Question 21.

15. What is the average age of a taxi entering service in a rural area? How many kilometres would a vehicle normally have driven prior to being used as a taxi? How many kilometres would a country taxi normally travel in its lifetime? Would it be more appropriate to replace the existing age restrictions with mileage restrictions? What should the mileage restrictions be? Should both age and mileage restrictions be available?

DIER does not have specific information as to the distance a vehicle might have travelled prior to being used as a taxi. Clearly, distances will vary greatly both prior to service as a taxi and

during operating life. The current method of age-based limits is considered to be a sound practice and DIER has not been presented with evidence to warrant changing this system.

Nevertheless, DIER considers that consistency of the regulatory scheme is desirable as far as can be reasonably achieved. Hence, the discretion for the Commission to allow the age limit to be extended on a case-by-case basis should be removed from the legislation.

16. Should security cameras be mandatory in some or all non-metropolitan taxi areas? If so, on what basis?
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DIER considers that there is an argument for the introduction of security cameras in the spill over areas of Perth and West Tamar around Launceston. Given that taxis from these non-metropolitan zones have the ability to work entirely within the Launceston area, the same safety issues apply. Therefore, DIER proposes to require security cameras in these taxi areas and allow operators from these zones to access the higher, metropolitan fare, which includes an allowance for the cost of installation.

Aside from the above cases, DIER does not believe there is a need for security cameras in rural areas at this time. Nevertheless, operators in rural areas have the choice to install cameras at any point should they wish.

8.5. WATS in rural areas

17. What would be the costs and benefits of introducing WATs into the non-metropolitan taxi areas?
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DIER considers that the introduction of WATs in rural areas would be extremely beneficial to passengers, however DIER also recognises that operators need to carefully assess viability before committing to such a venture. DIER does not have sufficient information regarding the rural taxi environment to assess the costs and benefits for businesses across the variety of rural taxi areas.

To facilitate the introduction of WATs beyond the four major metropolitan areas, DIER has identified a set of proposals including the establishment of trip subsidies for these areas. As it may take some time for WATs to become established, DIER has also proposed some alternative measures which could be adopted in the short term. See [Section 3.1](#).

18. Is there a need for WATs in all non-metropolitan areas? If not, what would be the implications of not providing an equivalent service in compliance with the Disability Discrimination Act?

In accordance with the DDA, compliance is the legal responsibility of radio networks and co-operatives. It is important to note that enforcement of the Transport Standards is a complaints-driven process only, and that “unjustifiable hardship” is valid grounds for an operator to defend a complaint. See [Section 3](#) at Question 2 for further discussion.

19. Would WATs be commercially viable in non-metropolitan areas? If not, how could WATs be introduced as a viable service?

While DIER has little specific information regarding the potential viability of WATs in non-metropolitan areas, it is considered unlikely that an operator from a rural area would approach the Commission seeking a WAT licence given the current requirement to purchase a new, expensive, DDA compliant vehicle. This is especially the case when new perpetual licences are offered every year and in some non-metropolitan areas the cost of these licences is very low. Under the new proposals, which would see the AMV concept abandoned, these rural perpetual licences could become even less expensive making the introduction of rural WATs very unlikely under current conditions.

Accordingly, in the most remote areas, DIER proposes a relaxation of the new vehicle requirement. Vehicles for which a new licence can be obtained will need to meet the ordinary requirements for a taxi. That is:

- must not be more than 7 years of age upon commencement as a taxi (consistent with requirements for standard taxis in non-metropolitan areas). Specifically, it should be noted that the vehicle does not need to be new;
- must not exceed 10 years of age; and
- must meet inspection requirements.

In addition, to qualify as a rural WAT, the vehicle will also need to comply with the *Disability Standards for Accessible Public Transport 2002*, but need not have been first registered as a WAT in Tasmania.

Under this proposal it will be possible for an operator to purchase a second hand vehicle and undertake the necessary modifications, or to purchase a second hand vehicle that is already modified and may previously have been privately operated or used for community transport or other purpose.

In the short-term, in order to enable services to be provided to wheelchair-reliant passengers in non-metropolitan areas, DIER proposes to introduce a licence condition for existing WATs which would permit the undertaking of out-of-area work in specified taxi areas. The condition would be strictly limited to wheelchair jobs. Further, in the event that a WAT licence was issued for the relevant taxi area, the licence condition for the out-of-area work would be revoked.

For the most rural areas, DIER is also proposing to allow standard taxi licences to be operated with accessible vehicles where there are no established WATs. See [Section 3.1](#) for a further discussion.

20. What incentives could be introduced to encourage operators to take up WATs in non-metropolitan areas?

To date, no WAT licences have been sought for non-metropolitan areas. This is considered to be due to the high prices of new vehicles and the lack of availability to date of previously registered WATs in the used vehicle market. Under the new arrangements proposed for WATs, a new vehicle will be required for each new licence issued. This would likely limit the uptake of WAT licences in non-metropolitan areas in the future.

To try to overcome this, DIER is proposing to vary the new vehicle requirement in the most remote areas (see [Appendix 3](#) for a list of the areas concerned) while in all other taxi areas, the new vehicle requirement would be retained. DIER also intends to specify trip subsidies for all taxi areas.

The likelihood of rural WATs becoming established under these conditions will remain limited in the short term, however this should be offset to some degree by the ability of metropolitan WATs to undertake out-of-area work in the meantime and the proposal to permit standard taxis in rural areas to operate WAT-style services using accessible vehicles (see [Section 3.1](#)).

DIER will also consider the need to include licence conditions for rural WATs in accordance with section 23P of the Act to ensure availability of the vehicle to wheelchair-reliant persons.

8.6. Relationship between rural taxis and community transport

21. How could taxis be used in delivering some community transport services?

DIER considers that discount fare arrangements and grouping provisions in the legislation allows taxi operators flexibility to target customer groups who might otherwise use community transport. Approaches could be made to either the individual passengers or the umbrella community transport organisation which might usually provide transport. To some extent taxi

operators already provide this type of transport, as the Department of Veterans Affairs has contracted with operators in many taxi areas to provide transport services to elderly veterans.

22. How could this be achieved without reducing returns to operators or imposing unreasonable expenses on clients?

In contracting arrangements or establishing a discount fare scheme, operators would need to consider how best to protect their interests while at the same time expanding their business.

23. Do any of the existing legislative provisions restrict the ability of taxis to provide innovative and flexible services to different sectors of the community?

DIER considers that the accredited groups provisions and discount fare arrangements go some way to facilitating flexible provision of taxi services. Nevertheless, some refinement is necessary. See [Section 10](#) at Questions 6-9 for a discussion of accredited groups.

24. Are the needs of Transport Access Scheme members in rural areas different to members in metropolitan areas, and if so, should the scheme operate differently in rural areas?

DIER believes that the reasons TAS members travel are essentially the same regardless of geographic location. However, the type of journey differs in that it will usually be longer in rural areas. This may be because there is no local taxi service to enable travel to local facilities such as pharmacies, or because of a lack of local facilities. Ultimately, rural members of TAS require longer journeys and so pay a greater proportion of the fare themselves due to the cap on the amount of subsidy per trip.

25. Could any of the schemes described in Section 5.3 be applied to areas where there is a need for more flexible transport in Tasmania?

The schemes reviewed in Paper 3 – Rural Taxis include:

- Dial-a-ride taxi service;
- Discount taxi days; and
- Seniors taxi club.

DIER considers that the accredited group provisions and discount fare arrangements provided for in the legislation would accommodate most of the schemes reviewed in Paper 3 – Rural Taxis.

9. Taxi Areas

9.1. Overlapping taxi areas

1. Is there a need for 'spill over' zones to be introduced in some taxi areas so that taxis in adjoining areas can assist in meeting unmet demand (e.g. smaller townships that are closer to an adjoining area than to the centre of their area)? Where might these zones need to be established?

DIER has not been presented with any evidence to suggest that there is an issue with unmet demand at the fringes of taxi areas which could be best addressed by the introduction of further spill over zones.

2. Are there any areas where there are surplus taxis that could be used as 'spill over' taxis?

See Question 1.

3. How could 'spill over' zones be introduced so as to ensure that demand was still met in the 'spill over' taxi's home area? For example, should the use of 'spill over' zones be restricted to specific times?

See Question 1.

4. How could the use of 'spill over' zones be enforced?

See Question 1.

5. Should the boundaries of the Perth, Launceston, West Tamar and Meander Valley taxi areas be redefined? If so how? (For instance, is there a continued need for an overlap between the Launceston and West Tamar taxi areas? Should the Launceston Airport continue to be part of the Perth taxi area? Should the Launceston Casino continue to be serviced by Perth and Launceston taxis? Would Meander Valley taxis be in a position to service this market?)

DIER considers that making minor adjustments to the Perth boundary is likely to lead to serious practical problems for operators, drivers and intending passengers. In particular, tourists arriving at the Launceston airport may be confused as to which taxis are able to offer service to the major resort complex in the region. It would be undesirable for a taxi at the front of the airport rank to be presented with the temptation of accepting a fare out-of-area, or for a driver to

ask a passenger to disembark after having loaded their luggage as their destination was not within the taxi area to which the licence related.

To avoid this, it would be necessary to completely redraw the boundaries and buy back taxi licences for the Perth area. Such a plan would also likely hand a windfall gain to Launceston operators. DIER is not satisfied that the current system is unsatisfactory to such an extent that this is a necessary response.

There is no evidence of any problems occurring in relation to the spill over area of West Tamar. Consequently DIER recommends no change.

6. Are the current 'spill over' arrangements between Launceston and Perth appropriate –
- Is there unmet demand in the towns in the Perth area (e.g. Perth, Evandale and Longford) as a result of Perth area taxis being able to operate in Launceston?
- How many licences would be viable in the Perth area if there was no access to the Launceston area?
- Is there sufficient demand at Launceston Airport to justify allowing both Perth taxis and Launceston taxis to operate from there?
- Would there be an unmet demand for taxis in Launceston if the 'spill over' arrangements were ceased?

DIER recommends no change to the existing arrangements. In relation to the above questions, there is no unambiguous evidence available on which DIER can make a judgement.

9.2. Amalgamating taxi areas

7. Is the number of taxi areas in Tasmania appropriate? Are there too many or not enough non-metropolitan taxi areas?

Excluding the spill over zone issue, DIER has not been presented with any suggestion or evidence that there are significant problems with the current number of taxi areas, or their boundaries.

8. Should some taxi areas be amalgamated? If so, which areas and why?

See Question 7.

9. Is there a need to refine some of the taxi area boundaries (e.g. are there any anomalies at a micro-level)?

See Question 7.

10. Is there a need for taxi operators to be able to move between areas to service areas of higher demand, e.g. on a seasonal basis? If so, what would be the impact of this demand on the operators in these areas?

DIER does not consider that there is a sufficient issue with seasonal demand in any taxi area that would warrant permanent or seasonal spill over areas. Nevertheless, DIER is aware that for certain short periods in some areas, such as Christmas – New Year in Hobart, there is unmet demand.

DIER considers it more appropriate to allow taxi operators to approach the Commission and seek temporary taxi licences for spare vehicles (from either the relevant taxi area, or other taxi areas) to address this issue. This provides a targeted, efficient response. See [Section 10](#) at Question 24.

11. If rural taxi areas were amalgamated, would operators move, either permanently or temporarily, to areas of higher demand? If so, what would be the effect on customers in the original areas?

DIER has not been presented with any evidence to suggest that there is a need to amalgamate any particular rural taxi areas, or rural taxi areas generally.

12. If rural taxi areas were amalgamated, how could this be done fairly to ensure that operators who had paid low licence prices did not have an unfair commercial advantage over those who had paid higher licence prices?

See Question 11.

13. If there is a need for increased flexibility for taxis to move between areas, could this be achieved other than by amalgamating taxi areas? How else could it be achieved?

See Question 10.

With regard to WATs, DIER is proposing to allow working in multiple areas through a licence condition to facilitate travel for wheelchair-reliant passengers in areas where WATs are not yet operating. See [Section 8](#) at Question 19.

9.3. Other taxi area issues

14. Should some of the larger non-metropolitan taxi areas be further divided? If so, which areas and why?

In the absence of any submissions on this issue, DIER sees no justification for any modification to such taxi areas.

15. Are the metropolitan taxi areas sufficiently well defined to provide service to all customers in these areas? Do they need to be subdivided?

While metropolitan taxi areas are large, both geographically and in terms of the population, the primary purpose of taxis is to transport passengers. It would be impossible to divide a city and surrounding suburbs into a number of taxi areas in a way that would adequately recognise the travelling public's need for individual point-to-point journeys. To do so would increase dead running, out-of-area starts or finishes and add other complexities which would contribute to unnecessary inefficiencies in the provision of a transport service.

16. Are some taxis failing to provide services to outlying parts of the metropolitan areas in favour of more profitable work? To what extent is this a problem? How can the industry be encouraged to provide better service to these areas? For instance, would it be reasonable to introduce requirements for phone booked work to be accepted?

DIER would strongly encourage operators to respond to demand. However, DIER does not consider it appropriate to require networks or drivers in metropolitan areas to accept jobs and has no intention of imposing different requirements on taxi operators in rural areas. See [Section 6](#) at Question 13.

17. Should the airport ranks be restricted to taxis specifically licensed to operate from these ranks? Why or why not?

DIER considers that airport specific licences would limit access to taxi services by arriving air passengers. Given that air passengers arrive periodically in large numbers it would be difficult to determine how many licences might be necessary to adequately handle the peaks in travel. This is further complicated by the seasonal increase in flights.

Should the number of licences be underestimated, passengers may face long waiting times for taxis while each vehicle made multiple journeys to and from the city. Such an arrangement is considered undesirable and would likely lead to passengers attempting to undertake multi-hiring which is not consistent with DIER's view of the purpose of a taxi service. The other likely outcome would be an increase in the need for bus services to the airports.

18. Is Ulverstone a metropolitan or non-metropolitan area?

DIER considers that Ulverstone should continue to be classified as non-metropolitan. However, this does not alter the requirement for Ulverstone taxis to have security cameras installed.

19. Should the towns of Savage River and Waratah be included in the Burnie taxi area?

DIER recommends that the towns of Savage River and Waratah be absorbed into the Burnie taxi area. The two towns were originally excluded from the Burnie taxi area to reduce complexities associated with conversion of cab licences to perpetual taxi licences. As there are no taxis currently operating in either of these towns, it would now be appropriate to adjust the Burnie taxi area to include them.

Burnie is considered the more logical taxi area to incorporate Savage River and Waratah as they are in the same municipality and further, passengers are more likely to be travelling to Burnie than to the West Coast. A separate taxi area is not warranted, as it is unlikely that a taxi business would establish in either town.

20. Should the outlying Hobart areas that are currently not in any taxi area be included in the Hobart taxi area?

DIER does not propose to expand the Hobart taxi area to incorporate areas on the fringe as it is considered unlikely to improve the service in these zones.

21. How does the taxi industry currently service people in the Midlands region, if at all?

DIER does not have any direct evidence as to how service is provided in these areas, if at all. On balance, arguments for gazetting a new taxi area are not persuasive. Instead, DIER proposes to consider the need for a new area on the basis of requests for licences in those areas.

22. Should the Midlands region be included in a taxi area or areas? If so, should there be a new taxi area or areas for the Midlands, or should they be incorporated into existing areas? How would these options impact on the Perth taxi area?

See Question 21.

9.4. Wheelchair accessible taxis

23. Would some form of amalgamation of taxi areas assist in the introduction of WATs in non-metropolitan areas?

See [Section 8](#) at Questions 19 and 20.

24. If so, how could this be achieved most effectively? Some examples are: amalgamating rural areas for WATs, or expanding metropolitan WAT areas, together with geographical targeting of metropolitan WAT licences. Which, if any, of these options might work? What other options are there?

See [Section 8](#) at Questions 19 and 20.

25. Would the large distances between rural towns impede the ability of WATs to operate viably across multiple taxi areas?

DIER assumes that in some instances this would be the case, but the actual outcome is dependent on the cost/revenue mix for different service configurations and the location of wheelchair-reliant passengers. Wheelchair-reliant residents are likely to locate closer to centres where they are able to access services. This tendency may make WATs services viable.

26. Is there a demand for longer WAT journeys outside the metropolitan areas?

DIER assumes this would be the case.

9.5. Security camera areas

27. Should security cameras be made mandatory in non-metropolitan areas? For what reasons?

See [Section 8](#) at Question 16.

28. How can the issue of costs and time associated with the maintenance and downloading be resolved in these areas?

See [Section 8](#) at Question 16.

29. If not in all non-metropolitan areas, should cameras be mandatory in the Perth area? Why or why not?

See [Section 8](#) at Question 16.

9.6. Taxi Industry Regulations

30. How can the requirements for taxis operating within taxi areas be better enforced?

Due to the significant resources which would be required to conduct regular checks on where taxis work, DIER takes a desktop audit approach and monitors claims on TAS vouchers to determine whether operators are undertaking out-of-area work.

31. Are the penalties for operating outside the licensed taxi area adequate, and are they relevant if they cannot be effectively enforced?

A maximum penalty of \$2 000 may be applied to a driver undertaking a journey wholly outside the taxi area to which their taxi licence relates. A higher penalty is not considered appropriate for the reasons outlined at [Section 4, Question 11](#).

There are limitations on the extent to which this provision may be enforced. It would be difficult for the Commission to gather direct evidence as to the origin and destination of a journey from a person other than the driver or the passenger. Nevertheless, DIER has some capacity to detect these offences where there is other evidence, such as the presentation of TAS vouchers. To this extent, enforcement is possible.

9.7. Metropolitan and non-metropolitan areas

32. Is the distinction of 'metropolitan' and 'non-metropolitan' areas appropriate?

DIER does not consider there to be any evidence to warrant a change of classification of taxi areas.

33. How could taxi areas be more effectively grouped for the purposes of regulations? On what basis would they be grouped – number of licences, population, location, market value of licences, or other factors?

DIER considers that the major reason for creation of separate taxi areas is to define the areas in which operators can undertake their work. Grouping for the purposes of regulation suggests that different arrangements would apply in different taxi areas. DIER considers that to the largest extent possible, it is desirable to have consistent regulation of taxi services across the State both to reduce administration costs and to avoid confusion for taxi passengers.

34. In which ways might regulations vary across different groups of areas?

DIER does not advocate different regulatory schemes for different taxi areas unless a strong case is made to treat areas separately.

35. Should the very remote areas be exempt from some regulations to make it easier to establish taxi services in these areas?

DIER does not consider it likely that the creation of exempt areas would increase the number of taxi licences in more remote areas. Furthermore, while the regulation in these areas might be less, the administration of the scheme would likely be complicated by the creation of different zones.

36. If different regulations were introduced for different zones, would there need to be a mechanism to review the zoning of areas if there was a significant change in the market? How might this be done?

See Question 35.

9.8. Radio rooms in non-metropolitan areas

37. Is there a need for radio rooms to be established in rural areas? Why or why not?

DIER considers that if there were a market for network services in rural areas, a service would have developed to fill that niche. In the absence of a requirement for compulsory affiliation with networks, DIER considers that this issue should be left to the market to determine whether a need reasonably exists.

Refer to [Section 6](#) at Question 5 for a discussion of compulsory affiliation with networks.

38. If there is a need, how could these radio rooms be set up to benefit operators in rural areas?

See Question 37.

39. Should membership of radio rooms in rural areas be compulsory in rural areas?

Refer to [Section 6](#) at Question 5 for a discussion of compulsory affiliation with networks.

40. Should radio rooms in rural areas have to be accredited in the same way that radio rooms in Hobart and Launceston might be accredited? What differences would there be in accrediting these radio rooms?

See [Section 6](#) at Question 8.

41. Should the radio rooms in Burnie and Devonport be treated in the same way as radio rooms in Hobart and Launceston? What differences, if any, should there be in terms of accreditation and affiliation requirements?

DIER does not propose to accredit networks (see [Section 6](#) at Question 8) and networks in particular locations will not be subject to any different requirements.

9.9. Taxi area funds and general administration fund

42. Is there a need for some funding to be used for the purposes of promotion and development of the taxi industry, as per the original intention of the taxi area funds?

DIER does not propose to contribute funding to the promotion and development of the taxi industry. See [Section 10](#) at Question 3.

43. Should such promotion and development be Statewide, regionally focused or area-specific?

DIER considers that creating an informed customer base is a necessary step in promoting and developing the industry. Any endeavours to communicate with potential taxi customers should be undertaken on a state-wide basis.

44. What should be the source of this funding?

DIER does not propose to contribute funding to the promotion and development of the taxi industry. See [Section 10](#) at Question 3.

45. Would it be more effective to have a number of taxi area funds, or one general fund?

DIER proposes that the existing taxi area funds be abolished, as there is no longer scope for monies to be contributed. See [Section 10](#) at Question 3.

46. Should the funds for promotion and development of the industry be administered by DIER or by the industry?

DIER considers that the fund should be abolished. See [Section 10](#) at Question 3.

47. If the industry is to administer the funds, how would this be managed?

See Question 46.

10. Technical Issues, Administration and Enforcement

10.1. Application of the Act

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| 1. | Should coverage of the Act in relation to taxis be extended to include the whole of the State by defining the remaining areas of the State to be taxi areas? |
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DIER proposes to include the towns of Savage River and Waratah in the Burnie taxi area (see [Section 9](#) at Question 20). However, no other changes to existing taxi areas are proposed.

10.2. Control of the Minister

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| 2. | Should the power of the Minister to direct the Commission be limited in relation to the issuing of all types of licences, rather than just perpetual taxi licences and temporary taxi licences? |
|----|---|

DIER considers that to enable the Minister to direct the Commission regarding licence issue would undermine the process established in the Act for issue of new licences. In the case of perpetual licences a tender process is adopted under which all parties who make a valid application should have equal standing. In the case of temporary licences, the Commission is required to assess whether an applicant meets the criteria, such as holding appropriate accreditation in order to ensure the public interest.

Given this, it is considered that the Minister should be precluded from directing the Commission regarding the issue of any licence, as the issue of WAT and LHC licences also involves a formal process and requires the Commission to determine whether applicants meet minimum criteria.

10.3. Funds for taxi areas

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| 3. | Should the taxi area funds be consolidated into a single fund with accounting separation only to record the amounts relating to each area? |
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Taxi area funds were established under the Act with monies to be provided from various sources including from payment of conversion fees. These sources will no longer provide funds. Therefore it is proposed that the area funds be abolished. Any remaining monies should be transferred to the general administration fund.

4. Should the Commission, with the support of industry, be given authority to expend funds for taxi areas rather than requiring approval from the Minister?

See Question 3. As it is proposed to abolish the funds, no authority for expenditure is required.

5. Should annual licence fees for all licence categories be directed to the administration of the Act, rather than only fees for perpetual taxi licences?

Annual fees payable in respect of all licences should be directed to the administration fund so as to ensure that all licence holders contribute to the cost of administering legislation which governs all the service types.

10.4. Accredited Taxi Groups

6. Should the term 'accredited taxi groups' be changed to 'authorised taxi groups' or 'approved taxi groups' or some other term which avoids the use of the word 'accredited'?

DIER is of the view that there may be some confusion in calling such groups 'accredited taxi groups', given the separate introduction of operator accreditation under the Passenger Transport Act. To overcome this, it is proposed to avoid the words 'accredited' or 'accreditation' to describe groups established under sections 24 and 25 of the Act. An acceptable alternative might be 'authorised' or 'approved'.

Currently, the Commission has the power to strike an agreement with an accredited group under which the group may be required to present annual business plans, maintain records regarding matters such as response times, keep records of membership or to provide particular services. An agreement may also authorise a group to set its own fares, use different tariff hours and specify standards for drivers and vehicles. While the record keeping and information provision requirements may appear onerous, it should be noted that the Commission would only require such information as would be necessary to demonstrate that the group is providing the service it has nominated. DIER will investigate whether the tailoring of information requirements according to the service innovation can be conveyed more effectively in the legislation so as not to unreasonably discourage operators from seeking to form groups in order to provide service innovations.

7. Should WAT operators be permitted to participate in and form taxi groups rather than only perpetual taxi operators?

DIER considers that WATs are first and foremost taxis and as such should be entitled to undertake any work that a standard taxi would do. If this is to include participation in an

accredited group in order to provide a particular type of service, then to the extent that this does not undermine the provision of service to wheelchair-reliant persons, DIER considers it appropriate to enable this participation.

8. Should taxi groups be required to provide services that benefit all taxi users in a taxi area in order to be permitted to form a group, or should it be sufficient to show a benefit to a target group of customers?

Given that the intent of the grouping provision is to allow operators to seek to provide a particular service or standard of service, this will be undermined if it must be to the benefit of all users. Such a requirement would not allow operators to target a specific user group, for example, those on low incomes requiring discount services. DIER proposes that this limitation on grouping be removed.

9. Should the Commission have an additional power to revoke or cancel an agreement with a taxi group in the event that the outcomes are unsatisfactory for passengers?

To ensure that the Commission is well placed to oversee grouping arrangements and ensure that the interests of the travelling public are upheld, DIER proposes an amendment to regulation 20 to enable the Commission to revoke an agreement where the outcomes are unsatisfactory for passengers. A power to revoke or cancel an agreement should require the same notice provisions with opportunity for representations from the group as are currently afforded under the existing provisions.

10.5. Trip Subsidy

10. Should a definition of the term 'wheelchair passenger' be developed?

DIER proposes to develop a definition of the term 'wheelchair passenger' for the purposes of determining the trip subsidy. For administrative ease and to more effectively control growth in the cost of the trip subsidy scheme, DIER proposes to adopt a definition which integrates with the TAS subsidy scheme. A draft definition is included below:

A wheelchair passenger is a passenger who presents in a wheelchair and

- is a member of the Transport Access Scheme (TAS) administered by the Department of Infrastructure, Energy and Resources evidenced by means of presenting to the driver a valid TAS membership card issued by the Department at the completion of the journey; OR

- their wheelchair-reliant status is verified by the third party responsible for payment of the account on which the passenger travelled.

DIER acknowledges that such a definition will preclude the claiming of the trip subsidy by persons who are not members of the TAS scheme or persons whose wheelchair-reliant status cannot be verified. This includes persons who are wheelchair-reliant for a short period and any visitors to Tasmania who use a wheelchair. Nevertheless, DIER considers that wheelchair-reliant persons eligible to be members of TAS form the majority of the wheelchair transport activities undertaken by WATs and hence, only a small proportion of wheelchair jobs will be outside of the trip subsidy scheme.

10.6. Lost property

11. Should the requirement to deliver lost property to the 'nearest' police station be retained or should delivery to any police station be adequate?

DIER considers that to avoid confusion, lost property need only be delivered to 'a' police station, allowing the driver to elect to use a police station of his or her own convenience.

12. Is seven days an appropriate period of time to wait before delivering lost items to a police station? Should a shorter or longer period be allowed?

After discussion with industry, DIER proposes no change to this provision.

10.7. Advertising material in or on taxis

13. Should advertising on taxis be regulated under the Taxi Regulations?

DIER considers that advertising in or on taxis which may have implications for safety of road users generally is adequately regulated through the *Vehicle and Traffic (Driver Licensing and Vehicle Registration) Regulations 2000*¹⁴.

14. If advertising provisions are retained in the Taxi Regulations, should the term 'contains' be changed in order make it clear that any advertising material whether in, or on a taxi must not interfere with safety of drivers and passenger comfort?

See Question 13.

¹⁴ Regulation 46.

15. Should there be a prohibition on use of a taxi where advertising material in or on that taxi interferes with passenger safety?

See Question 13.

10.8. Redundant provisions

16. Is it necessary to retain the provisions related to conversion and buy back of licences in the table above (see Appendix 6)?

The identified provisions which are considered redundant are contained in [Appendix 6](#). DIER considers all of these provisions to be unnecessary and intends to oversee their removal.

17. Does the definition of the term 'market price' need to be retained?

See Question 16.

18. Is it necessary to retain the provisions related to the initial issue of WAT licences (other than those relating to the North West)?

See Question 16.

Should outstanding WAT licences for the North Western regions of Tasmania be released prior to the development of the revised Act, DIER intends to remove those provisions as well.

19. Is it necessary to retain the provisions relating to refunds from the special fund for the Hobart taxi area?

See Question 16.

20. Should the provision providing preferential WAT licence issue to SPC vehicle operators be retained?

See Question 16.

10.9. Issue of perpetual taxi licences

21. Should the Commission continue to be required to provide information on the taxi industry to applicants for perpetual taxi licences?

DIER does not recommend retaining this requirement. The cost of producing documentation and other materials for distribution could be substantial, especially prior to a ballot.

It is suggested that as accreditation is a precondition to licensing, potential purchasers are already in possession of sufficient information to make an informed decision regarding entry to the industry. Furthermore, where a potential entrant has obtained third party finance, they will have undertaken sufficient research as to satisfy lending requirements. The Commission is no better placed to assess the viability of the industry than is a financier.

22. Should the Commission continue to be required to provide information on viability, operations and requirements of the industry to any person who so requests?

DIER proposes that this provision be removed. In order to fully discharge this duty, the Commission would be required to investigate viability issues in each taxi area, as viability will vary between areas due to the different costs of a perpetual licence and availability of services such as network affiliation and meter and camera services. Additionally, this information would require frequent updating as operating costs affecting viability are subject to rapid change, such as fuel prices.

10.10. Effect of perpetual taxi licences

23. Should perpetual taxi licences continue to be linked to the use of a specific vehicle with inclusion of details of the vehicle on the register of licences?

DIER proposes that perpetual taxi licences not be linked to a specific vehicle. This requirement creates an administrative burden for both the Commission and operators, as whenever a vehicle is unavailable, in order to continue to operate the licence, substitution must be sought in accordance with section 22 of the Act. It is considered that, where an alternative vehicle that meets the required standard (including a current certificate of inspection and is registered as a taxi), is available to an operator, it should be a business decision for that operator to make a substitution.

10.11. Temporary taxi licences

24. Should only accredited taxi groups be entitled to apply for temporary taxi licences?

DIER considers that limiting availability of temporary licences to accredited taxi groups may be too restricting. To overcome this, DIER proposes to allow any existing industry member who meets the criteria to hold a standard taxi or WAT licence and has a suitable vehicle, to apply for a temporary licence. Accreditation as a taxi operator under the Passenger Transport Act is considered to be a better determinant of who is suitable to hold a temporary taxi licence than is accredited taxi group status.

In addition to allowing accredited operators to apply for temporary taxi licence, DIER proposes to allow any accredited operator to apply for a temporary taxi licence in any taxi area. It will be a matter for an applicant to specify the area in which they seek to operate on a temporary basis.

DIER proposes that the Commission have broad powers to consider an application rather than prescribe the factors which should be taken into account. The Commission would consider each application on a case-by-case basis considering factors such as likely demand for taxis during the nominated period and whether services in another taxi area may be reduced if the application were to succeed.

25. Should temporary WAT licences be made available?

To the extent that there are spare WAT vehicles, DIER proposes that WAT operators be equally entitled to apply for temporary licences.

10.12. Licence conditions

10.12.1. Imposing licence conditions

26. Should the Commission have consistent powers to impose licence conditions for all types of licences?

DIER proposes that the Commission should have equivalent powers to impose licence conditions on all licence holders. Licences are fundamental to the regulatory scheme and to the extent possible, WATs, LHCs and standard taxis should be subject to the same basic provisions.

While it may be argued that this is a significant extension of the Commission's powers in relation to perpetual licences, the Commission already has some power to impose conditions on this category of licence via the specification of a taxi area. Nevertheless, it is proposed to increase the Commission's power to impose conditions by enabling this to be done directly rather than via regulation as is currently required. This will provide for consistency with LHC and WAT licences.

27. Should licence conditions be specified in the licence instrument?

Where the Commission has a power to impose or vary licence conditions, DIER considers it only reasonable that such conditions should be specified in the licence instrument. This will give potential licence purchasers notice that the licence is subject to conditions and will enable them to determine whether such conditions will affect the amount they are prepared to pay.

Should licence conditions be changed, it would be necessary for the Commission to issue a new, updated copy of that licence. This is consistent with subregulation 28L(e) for WAT licences and subregulation 4(e) of the Luxury Hire Car Industry Regulations.

28. Should a licence holder be entitled to individual notification by the Commission of intent to vary a licence condition and have the opportunity to make representations?

Where a power to vary licence conditions exists, DIER considers it appropriate that each licence holder is entitled to individual notification and has the opportunity to make representations to the Commission before that change is made.

10.12.2. Compliance with conditions

29. Should all categories of licence have the same requirements for compliance with licence conditions?

Subsection 23J(1) requires a person to comply with a LHC licence condition or be subject to a fine. The same requirement is made of the holder of a WAT licence at subsection 23V(1). There is no equivalent provision for perpetual taxi licences, which makes the imposition of conditions on these licences ineffective.

DIER proposes that an equivalent provision be inserted for both temporary and perpetual taxi licences.

10.13. Transfer of licences

30. Should accreditation be a precondition for transfer of LHC and WAT licences?

The Act imposes an obligation on the Commission to approve an application for transfer of a WAT licence or a LHC licence if it is satisfied that the relevant vehicle meets certain requirements. The Act does not provide for the Commission to consider whether the transferee holds appropriate accreditation or any other issues. In effect, no discretion regarding transfer is vested in the Commission.

DIER proposes that the Commission should also be required to determine whether the person to whom the licence is to be transferred holds appropriate accreditation under the Passenger Transport Act. In the case of both LHC and WAT licences, only an appropriately accredited operator is entitled to operate the licence. By imposing this precondition on transfer, a potential transferee of a licence will be advised before taking responsibility for the licence whether they are eligible to operate the licence.

Furthermore, DIER proposes to give the Commission greater powers in relation to transfer of licences. That is, the Commission should have discretion to approve a transfer rather than an obligation to do so provided minimum conditions are met.

31. Should the Commission have the power to refuse transfer of a licence if fees are outstanding in relation to that licence?

Consistent with the concept of the Commission having discretion to transfer a licence, it is proposed that the Commission have the right to refuse transfer in particular circumstances. At present there is no power in the Act for the Commission to refuse transfer where there are outstanding fees owing in relation to that licence. DIER considers that where fees are unpaid, transfer of that licence should not be available as of right.

Further to this, DIER also proposes that the Commission should have power to refuse transfer of a licence:

- while that licence is suspended; and
- which is subject to a notice of intention to cancel.

These powers are considered necessary in order to prevent one licence holder from shifting the prospect of a significant licence penalty onto a purchaser who does not have information material to the status of the licence.

10.14. Register of licences

10.14.1. Obligation to keep a register

32. Should the Commission be required to include details of any licence conditions that apply to perpetual licences on the register?

The Commission requires a power to record licence conditions on the register for each licence type. DIER considers that the absence of a power to do so in relation to perpetual licences to be an oversight as this power is provided for WAT and temporary taxi licences.

33. Should the register contain information in regard to transfer, suspension or cancellation of perpetual licences?

In order to effectively regulate licences, the Commission requires a power to include information on the register in relation to all types of licences. Without an efficient central information source, the Commission will not be able to effectively handle the volume of information necessary for

the number of licences which are on issue. Therefore, DIER proposes to give the Commission a power to include this information on the register to the extent that the Commission requires.

34. Should the Commission have the power to include other matters which it thinks fit on the perpetual and temporary taxi licence register?

DIER considers that allowing the Commission to add information to the register will enable the licensing scheme to keep pace with contemporary regulatory practice without the need for specific legislation changes in the future regarding registration of information. Such a power does not unreasonably infringe the privacy of licence holders and operators as it would still be necessary for the Commission to gather that information in the future.

10.14.2. Registration of interests

35. Should the Commission be required to continue to include information regarding contingent or security interests on the register of licences?

At present, inclusion of contingent and security interests on the register do not enable a person interested in purchasing a licence to determine whether it is unencumbered, as there is no obligation to register a security interest. Checking of the register would only reveal an interest if the holder of that interest had chosen to have it included. Furthermore, there is no provision to protect the holder of a security interest, as the Commission is not entitled to take such a matter into account when considering an application for transfer of a licence. Nor is there a power for the Commission to notify the holder of a security interest in a licence, that the licence is subject to a penalty or additional licence condition.

The industry has called on DIER to continue to allow registration of interests and to strengthen the scheme such that perpetual licence holders would have title to their licences verified by a system equivalent to the Register of Titles for land. This goes beyond the current arrangement whereby perpetual licences are personal property.

Industry considers this to be necessary to enable the licences to be used for financing at a higher (ninety percent) proportion of their value than is currently possible (in the vicinity of forty percent). Industry has argued to DIER that enabling this higher level of financing would facilitate operators who are otherwise financially limited to own their own licences. Industry has also stated that should title be granted in this way, licence values would substantially increase. In fact, Tasmania's much lower licence values that in other states have been attributed to the lack of title.

DIER considers that to build an information management system capable of delivering the level of certainty required by financiers would be prohibitively expensive and would require a substantial increase in licence fees to fund the administration of the system for a small number

of transactions. Furthermore, DIER does not accept that financial institutions would necessarily lend higher amounts based on the industry view of licence values. Rather, lending will always be bound by the financiers' view of what is a reasonable valuation for a licence.

With regard to facilitating operators to purchase licences, DIER always prefers active industry participants as licence holders rather than disinterested investors. However, DIER considers the industry's claims that financing would be easier, to be internally inconsistent with the statement that licence values would increase significantly if licence holders had title to their licences. DIER can see no advantage for operators should taxi licences increase in cost. The only benefit to flow would be to existing licence holders.

As a consequence, DIER proposes to discontinue the existing security and contingent interest registration arrangements and will not seek to establish a system of title to taxi licences.

10.14.3. Public access to the register

36. Should the perpetual and temporary taxi licence register be a public register?

As it is proposed to discontinue the registration of interests in perpetual taxi licences, for the sake of consistency with the WAT and LHC licence registers, DIER proposes that the perpetual and temporary registers also be private.

DIER considers that there is no additional information of interest to the general public on these registers that would not be available under the operator accreditation scheme. That scheme is the appropriate mechanism for searching for information on taxi operators if this is necessary.

37. Should the WAT licence and LHC licence registers be public registers?

DIER considers that the private status of these registers is appropriate and should remain unchanged. See Question 36.

10.14.4. The register as evidence

38. Should provision be made for an extract of the various registers held by the Commission to be presented as an evidentiary certificate in Court?

DIER proposes that a change be made to the Act to allow the Commission to make an extract from the register and present it as an evidentiary certificate as proof of a fact in the absence of evidence to the contrary. Such a mechanism is a common tool available to regulators and courts. It will not prevent a defendant from challenging the information from the register, but unless challenged, the information will be taken to be proven. Such a provision would also be in

the interests of a defendant to a prosecution as, where no challenge is made, it will speed up prosecutions, reducing legal fees and court costs whether or not a conviction is obtained.

10.14.5. Taxi leasing arrangements

39. Should all obligations rest with the licence holder unless a lessee has been identified in the register?

DIER proposes that where the Act or the Regulations attributes responsibility for an action to a responsible operator, the legislation should be amended to place the burden on the licence holder. This burden would remain with the licence holder subject to the register indicating that the obligation has been transferred to a third party operator in accordance with a private lease agreement (where permitted) between them.

The Commission maintains the register as best as it is able, however there are multiple instances of disputes between parties, failure to correctly register a responsible operator and situations where a responsible operator is included on the register in the absence of a binding agreement between the parties.

The Commission, as regulator, is not in the business of requiring parties to enter into a legally enforceable agreement. However, where a breach occurs, the Commission has a duty to pursue enforcement. Licence owners and operators should not be entitled to rely on their failure to update the register correctly to escape liability. In the absence of evidence that a third party operator is clearly responsible for a breach, the Commission will have power to pursue the licence holder in every case.

From an administrative perspective, DIER proposes that the Commission limit its management of the register to recording of correctly notified information. In the past, the Commission has engaged in a significant amount of administrative work, confirming notifications where lodged by only one party or to seek a corrected notification where an incomplete or incorrect notice has been received. For the future, DIER proposes that the onus should be on the licence holder and responsible operator to ensure that information is correctly notified and recorded.

The information management system used by the Commission does not make it possible to record more than one responsible operator. DIER understands that some licence owners engage in the practice of multiple leasing. That is, a lease will be entered into for a certain part of the week, for example weekdays with one responsible operator and a separate agreement will be struck with another operator for the weekend.

As the licence owner is not able to register both lessees as the responsible operator this creates difficulty for the Commission when trying to establish which party is responsible for a breach and investigations become more time consuming. DIER also considers that to permit the

registration of multiple leases will have a detrimental effect on drivers. It is considered likely that drivers would be pressured to become taxi operators in their own right and enter into leases in order for the licence holder (or a primary lessee) to escape liability for worker's compensation premiums which are payable in respect of taxi drivers. Worker's compensation is the only employment benefit available to drivers. Drivers are not eligible for sick leave, annual leave, superannuation or other standard employment entitlements. To create the opportunity for multiple leasing would likely deprive drivers of the only benefit they currently receive.

40. Should notification of termination of a lease by either party be permitted, in order to allow updating of the register?

At present, Regulation 15 requires the owner of the licence to notify the Commission of a lease and provide details of the lessee who becomes the responsible operator of the licence. This information is then to be entered onto the register of licences. While the responsibility for notification of a lease is with the owner, the notification is to be signed by both parties.

With regard to termination of a lease, the Regulations require the "lessee and the assignee" to notify the Commission. This is considered to be an error in the legislation as the lessee and assignee are the same person. To date, the Commission has handled this situation by accepting notification from licence owners on the advice of the Solicitor General.

DIER proposes that the legislation be changed to allow notification of termination of a lease to be provided by either the licence holder or the lessee.

10.15. Fees

41. Should new fees be introduced to create an equitable situation for each category of licence?

DIER has noted that there are discrepancies in the current fee structure. Certain categories of licence are subject to some fee types which are not imposed on other licences, or are imposed at different levels. DIER proposes to address this by introducing a small number of new fees. These are:

- an application fee for LHCs;
- an annual administration fee for WATs;
- an application fee for a temporary WAT licence (if adopted); and
- a fee for transfer of a LHC licence to another vehicle.

DIER notes that the fee for issue of licences is different for each of perpetual licences, WATs and LHCs, however these fees go to the very nature of the type of licence and DIER does not propose any changes to these fee types. For example, the fee for issue of a WAT licence is zero and this will remain unchanged.

42. Should all categories of licence be subject to the same level of annual licence renewal fee?

It is also noted that the level of these fees is not consistent across the various categories of licence. The most significant discrepancy in the current schedule of fees is the annual licence renewal fee payable by each of standard taxis, WATs and LHCs. At present the fees are 100 fee units, nil and 30 fee units, respectively. As all licence holders receive the same services from DIER in return for this fee, it is proposed that all licence holders be subject to the same annual licence renewal fee.

10.16. Fee units

43. Should the licence issue fee for LHC licences be moved out of the Act and into the Luxury Hire Car Industry Regulations?

For the sake of consistency, DIER proposes that the issue fee for LHC licences should be contained in the relevant regulations rather than the Act. This is a minor administrative amendment.

10.17. Fees to fund increased enforcement activity

44. Should the annual licence renewal fee for perpetual taxis, WATs, and LHCs be increased to fund additional activity by the Commission?

In the course of the Review, DIER has noted that over time the industry has made repeated calls for increased enforcement related to matters of standards and conduct of taxi and LHC operations. While the Commission maintains a high focus on safety regulation, other aspects of transport regulation do not receive the same priority. As one means of addressing this, DIER proposed to the Reference Group that additional enforcement be funded directly through an increase in the annual licence fee for all taxis and luxury hire cars.

This proposal was met with some resistance by the Reference Group and it is likely that the broader industry would respond similarly.

Nevertheless, DIER has noted that the annual licence administration fees currently paid by the industry do not reflect the full cost of the administrative burden on the Commission. DIER is under instruction from the Department of Treasury and Finance to ensure that all fees achieve full cost recovery. Currently there is a shortfall of almost \$30,000 per annum in the amount collected for administration purposes. This is considered unsustainable.

To achieve the level of enforcement required as a regulator and respond to industry calls for investigation of issues concerning behaviour and standards, DIER proposes to further increase fees to fund additional inspection resources in all regions. Treasury has advised that it is appropriate to defray the cost of enforcement through imposition of fees on industry participants given that the enforcement activity is industry-specific. The need to raise fees will be slightly offset by the proposal to introduce equivalent annual licence fees for LHCs and WATs.

In order to achieve full cost recovery, the necessary level of fees is 485 fee units for each licence type. At the current value of a fee unit of \$1.21, this equates to an annual fee of \$586.85 if the fees are applied equally across all taxi areas.

45. Should any fee increases be applied unequally across Regional, Other Metropolitan and Major Metropolitan areas?

The proposal to increase fees to 485 fee units to cover the full cost of administering the licensing scheme and enforcement is intended to apply equally to each category of licence, perpetual, WAT and LHC regardless of location.

Nevertheless, DIER is also considering an alternative proposal to apply different levels of fees across different areas based on a different level of enforcement in the regions. For example:

	Major Metro¹⁵	Other Metro¹⁶	Regional
Proposed fee units	550	365	140
Proposed fee amount	\$665.50	\$441.65	\$169.40

Again, these amounts are premised on applying the same level of fees to each of taxis, LHCs and WATs.

Note that the per-licence cost will fall after the release of new perpetual taxi licences in 2007.

¹⁵ Hobart and Launceston.

¹⁶ Burnie, Devonport, Ulverstone, New Norfolk, Perth and Georgetown.

10.18. Non-payment of fees

46. Should late payment charges be introduced for failure to pay fees as and when they fall due?

As a means of encouraging timely payment of fees, DIER has considered providing a penalty for late payment in the form of extra charges.

While this approach is routinely adopted in the private sector, it is considered that those who persistently avoid paying fees are just as likely to avoid paying additional charges and therefore this will be no disincentive.

47. Should the right to operate a licence automatically lapse when a fee in respect of that licence is not paid by the due date?

DIER considers that a more effective means of encouraging timely payment is to cause the right to which the fee relates to lapse in the event that the fee is unpaid. Under this scenario a taxi licence could not be operated beyond midnight of the due date and if found so doing, the operator or owner of the licence would be subject to a significant penalty.

Accordingly, DIER proposes that, similar to the vehicle registration scheme under which a vehicle with lapsed registration cannot be driven on a public street, taxi licences will lapse from the due date until the date payment is received by the Commission.

48. Should non-payment of a fee for a prolonged period give rise to cancellation of the licence to which that fee relates?

At this time, DIER does not propose to introduce an automatic provision to cancel a licence in the event that fees remain unpaid for a prolonged period. However, DIER will continue to monitor the attention that operators and owners give to the appropriate administration of their licences.

10.19. Enforcement

10.19.1. Monetary penalties

49. Where a penalty exists for one licence category for a particular act, but not for another, should new equivalent penalties be created?

DIER has noted discrepancies in the current penalty structure. For example, it is an offence to solicit a person to hire a taxi, attracting a penalty of 10 Penalty Units for a first offence and

20 Penalty Units for a second or subsequent offence. However, in the case of a luxury hire car, soliciting a person to use that service will attract a fine of only 10 Penalty Units in every case.

In some cases, penalties exist for some offences when committed in relation to a particular service with no equivalent penalty for other services. For example, a person who does not own a WAT or LHC licence must not represent himself or herself as having such a licence. However, no equivalent penalty exists in the case of a perpetual taxi licence and arguably the offence is more serious in this instance because an operator may be induced to enter into a lease at substantial lease rates for a non-existent licence.

DIER proposes to address this by introducing new penalties in instances where one category of service has no equivalent penalty to the other services.

50. Should the quantum of penalties be the same for similar offences across each category of licence?

DIER also proposes that where the quantum of a penalty for the same or equivalent offence differs across the service types, the penalties be adjusted upward to equal that which is the greatest penalty.

10.19.2. Other penalties

51. Should the Commission have the power to suspend or cancel perpetual licences?

Presently, there are no provisions to allow the Commission to suspend or cancel a perpetual taxi licence. DIER considers that there is strong argument that these are appropriate penalties in a regulatory scheme.

A power to suspend a perpetual licence is required and DIER proposes that this be included in the legislation. A power to cancel any licence obtained by deception should also be provided. This is discussed at Question 53 below.

In a capped licence number environment, cancellation should give rise to a power to issue an equivalent number of taxi licences of the same type via the usual process in order to maintain the level of service. It is proposed that the Commission have discretion to undertake the process for issue of replacement licences at the time of cancellation or as part of a periodic licence issue process such as an annual release.

52. Should a breach of the Act or Regulations warrant suspension or cancellation?

DIER proposes that licences should be subject to cancellation or suspension only for specified breaches of the Act or Regulations. It is not considered appropriate for licences to be subject to such a severe sanction for minor or technical breaches.

DIER proposes that failure to pay fees as and when they fall due should automatically result in suspension of any category of licence (see Question 47). DIER also proposes that the Commission should have greater powers to cancel WAT licences in specific circumstances (see [Section 3 Question 36](#)).

Note these proposed powers are intended to be additional to the Commission's existing powers to cancel or suspend WAT and LHC licences.

53. Should the Commission have the power to cancel a licence obtained as a result of providing false or misleading information or documents in the application process?

DIER considers that it is in the interests of all industry participants for the Commission to have the power to cancel a licence that has been obtained by deceptive means. While subsection 23J(3) makes it an offence to make a false or misleading statement to the Commission or produce a false or misleading document in connection with an application for a LHC licence, punishable by a fine, the Commission does not have the power to revoke a licence that has been issued as a result of misleading behaviour.

The same offence, punishable by a fine, exists in relation to WAT licences in subsection 23V(3). Again, the Commission should have the power to revoke a licence obtained by fraud. No similar offence exists regarding applications for perpetual taxi licences. DIER proposes that it should be an offence to use false or misleading information to obtain a perpetual taxi licence, with the Commission also empowered to revoke this category of licence if the industry is to have confidence that all prospective participants compete for licences on equal terms.

54. Should a licence holder have the right to renew a licence while that licence is suspended?

In the case of a suspended licence, DIER proposes that the legislation should specify that the holder retains the capacity to renew the licence by payment of the annual fee however, renewal would not change the fact of suspension. This provision is required to remove doubt as to the ongoing status of the licence.

10.20. Offences

10.20.1. Describing vehicle as a taxi

55. Should a vehicle which is not a public passenger vehicle be prevented from being described as a taxi?

DIER is of the view that it is clearly inappropriate that vehicles which are not public passenger vehicles should be able to be described as a taxi, and that this situation is an unintended outcome in the existing regulations. DIER proposes to amend the legislation such that any vehicle which is not authorised as a taxi should be prohibited from being described as such.

Furthermore, to clarify the provision, DIER proposes to provide some guidance in the legislation as to what would constitute describing a vehicle as a taxi. For example:

- the fitting of a top-light sign bearing the word "taxi", "cab" or similar; or
- the fitting of a fare meter.

10.20.2. Holding a licence

56. Should a person who does not hold a perpetual taxi licence be prohibited from representing himself or herself as being the holder of such a licence?

DIER considers that a person, be they a prospective customer, operator or driver, should be able to rely on the representations of licence holders to ensure orderly operation of the industry.

It is presently an offence to represent oneself as holding either a WAT or LHC licence where that is not the case. There is no similar provision in relation to perpetual taxi licences. This is a potentially serious inconsistency, as leasing of such licences occurs on a wide scale and licences may be used as security for financial transactions. The industry has a significant interest in ensuring that a claim of being a licence holder is not held in question and the value of holding a licence is not undermined.

10.21. Taxi standards: vehicles suitable to be licensed as taxis

57. Should the vehicle specifications for taxis contained in the Australia Design Rules be incorporated into the Regulations?

Given the Commonwealth's recent proposal to abandon the Australian Design Rules (ADRs) in relation to vehicle specifications, DIER proposes to include the relevant specifications relating to taxis in the Regulations to enable the Commission to continue to rely on the requirements. To

enforce the requirements, DIER proposes a penalty should be included for operating a non-compliant vehicle as a taxi.

10.22. Inspection requirements for WATs

10.22.1. Restraints and hoists

58. Should inspections standards for WAT wheelchair restraints and hoists be incorporated into the Regulations for consistency with other taxi inspection requirements?

To date the Commission has required WATs to be fitted with a wheelchair restraint system that displays a label that states compliance with either of the Society of Automotive Engineers J2249 or Australian Standard 2942-1994. Additionally, in the case of a WAT fitted with a wheelchair hoist, the hoist must comply with Australian Standard 3856. DIER proposes that for consistency, these requirements be included in Regulations alongside the ADRs to ensure enforceability.

It is also proposed to alter the phrasing of Schedule 6 which requires that a vehicle presented as a WAT must meet the standards for wheelchair-accessible taxi specified under the Disability Standards. This will not change the requirements for vehicles only the reference to the Standard.

10.22.2. Age of vehicles

59. Should age of a WAT be determined on the basis of the compliance plate rather than from the first date of registration?

The Act currently provides that the age of a WAT is to be determined by reference to the first day on which the vehicle was registered¹⁷. This is different from the means of determining the age of other vehicles. The age of a standard taxi is determined by reference to its compliance plate¹⁸.

In 2007 it is proposed to outsource the process of taxi inspections. It would be difficult for an external inspector to determine the first date of registration of a vehicle as they will not have access to the information management system of the Commission. To prevent delay in the issue of inspection labels and a time consuming administrative workload, DIER proposes to determine the age of a WAT based on the compliance plate.

¹⁷ *Taxi and Luxury Hire Car Industries Act 1995*, Schedule 6(1)(d).

¹⁸ *Taxi Industry Regulations 1996*, Subregulation 16(1).

60.	Should the Commission have discretion to allow a WAT to pass inspection so as to align the end of the operational life of the vehicle with the term of the relevant licence?
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So as not to deprive an operator of time in which a vehicle could be used, DIER proposes that the Commission have discretion to allow a WAT to pass inspection for a nominated period (perhaps 3 months) beyond the 10 year lifespan, or until the relevant WAT licence expires, whichever is the lesser period.

10.23. Obligation to display plates and labels

61.	Should the obligation to display plates and labels be consistent for perpetual licences and WATs?
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DIER proposes that for consistency, display of plates and labels should be the same for all taxis.

10.24. Charging of fares

10.24.1. Prohibition on charging

62.	Should drivers be prohibited from charging passengers where the driver has failed to engage the meter and no other agreement has been struck between the parties regarding price?
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DIER does not propose to introduce a specific prohibition on charging where the driver has failed to engage the meter. The Regulations already provide that a passenger may only be charged the amount recorded on the meter.

Nevertheless, DIER is of the view that this would be an issue for an appropriate customer information campaign and would seek to see such a matter included in any efforts to create a better informed travelling public.

10.24.2. Defining the hire period

63.	Should a definition of the hire period be included in the regulations to clarify the issue regarding loading and unloading time?
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DIER considers that there is extensive confusion regarding the hire period at all levels of the industry. In conjunction with the proposed increase in the flagfall for the wheelchair tariff, DIER

considers that a necessary accompaniment is to restrict the start of the hiring to the moment that the vehicle pulls away from the kerb.

While definitions of the hire period from other jurisdictions have been considered, DIER considers most of these to be too complex, as even under the current arrangement in Tasmania, many drivers are getting it wrong to the detriment of passengers. DIER instead proposes to clarify the existing regulation such that the meter should be engaged as the vehicle is put in motion and the meter should be stopped once the vehicle comes to a stop at the destination.

DIER considers that this is also a necessary topic for inclusion in a customer information campaign.

64. Should the hire period be the same for all, regardless of the status of the passenger?

Given the existing level of confusion and there being no acceptable reason to discriminate against a wheelchair-reliant customer based only on the fact that they are a wheelchair user, DIER would not consider different hire periods for different customers.

10.25. Taxi signs

65. Should all taxis be required to bear a 'Napoleon Sign' top-light for clearer identification of taxis?

DIER does not consider it necessary to prescribe the type of top-light that should be fitted to a taxi. The current variety of lights is adequate to indicate that a vehicle is a taxi.

Nevertheless, DIER is of the view that better identification of individual taxi vehicles is necessary. Customers need to be able to pinpoint a particular vehicle for the purpose of directing complaints and tracking lost property and, on occasion, it may be necessary for police to identify a particular vehicle. Many taxis operating out of a radio room bear the same markings while some independent operators have no distinguishing markings other than a small taxi plate. While some networks display numbers prominently on their affiliated vehicles, the numbering systems of the various networks are not unique and there are sometimes multiple vehicles bearing the same number.

For clearer identification of individual taxi vehicles, DIER proposes that taxis should have specific vehicle registration plates with a unique number. To ensure that taxi registration plates are easily distinguishable from plates for other vehicles (including personalised plates), a specific colour scheme for the taxi plates is also proposed. These vehicle registration plates are to be additional to the existing taxi plates.

The existing taxi plate system does not incorporate a unique numbering scheme as the plates include a letter prefix for the taxi area. That is, in each taxi area there will be a taxi plate "001". In taxi areas where there are also WATs operating, there will be a second plate with this number but with a different prefix, indicating that the licence is for a wheelchair-accessible vehicle.

A taxi plate is only fitted to one end of the vehicle (usually the front) and this would limit the ability to identify the vehicle as it drives away. Taxi plates are also relatively small, and while intended to be legible from a distance of forty metres, vehicle registration plates are much more distinct. Further, taxi plates may be moved between cars quite frequently, potentially making it difficult to determine which vehicle a customer travelled in.

While taxis already have unique registration plates, attached to both the back and front of the vehicle, these are on the same format as for all other Tasmanian registered cars (unless personalised). Registration plates specific to taxis would quickly become recognised by customers and should assist with identification of a specific car.

Such a system could also apply for LHCs using another colour scheme so as to be distinct from the taxi system.

66. Should other vehicles be prohibited from installing a 'Napoleon Sign' top-light?

DIER proposes that the use of taxi top-lights should be an offence for any vehicle which is not a taxi. DIER considers that this is a matter of public safety.

10.26. Taxi meters

10.26.1. Meter technology

67. Should the Commission have the power to approve new types of meters that have operational parameters, (such as 'over the air' fare setting) which are not accommodated by the provisions of the existing regulations?

DIER considers that as this type of meter is already in operation in some Tasmanian taxis it is essential to reform the legislation to take account of this capability and to manage the consequences of tampering with such a meter. Given that this type of meter can be recalibrated without breaking a seal, it is imperative that the Commission has recourse against a person who improperly adjusts the meter. Under the present legislation this is not necessarily an offence.

68. Should the Commission have the power to regulate the use of new technology for fare changes to meters and to authorise persons to undertake such changes?

DIER considers that authorising persons to make over-the-air fare changes is probably unnecessary. However, DIER will monitor the situation and consider whether such action becomes necessary. In the meantime, the Commission should have the power to prosecute any person who calibrates a meter to a higher rate than the approved tariff.

69. Should provisions relating to 'positions' on the meter be updated to reflect new meter technology and design?

DIER proposes to rephrase the Regulations to be appropriate to contemporary metering technology.

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11. Further information

The *Taxi and Luxury Hire Car Industries Act 1995* Review Project is being conducted by the Passenger Transport Policy Branch of the Department of Infrastructure, Energy and Resources (DIER).

The Taxi Industry Reference Group met several times over the course of 2006 to consider a range of issues in order to inform the rewriting of the *Taxi and Luxury Hire Car Industries Act 1995*, the *Taxi Industry Regulations 1996* and the *Taxi Industry (Taxi Areas) Regulations 1996*. The issues considered were:

- Fare setting mechanisms and driver pay & conditions
- Taxis in rural areas, including links to community transport
- Wheelchair accessible taxis
- Taxi and luxury hire car accreditation under the Passenger Transport Act/ Industry code of conduct
- Interaction between taxis and luxury hire cars
- Role of radio rooms
- Taxi areas
- Review of National Competition Policy changes to the *Taxi and Luxury Hire Car Industries Act 1995*
- Administrative and enforcement provisions of the *Taxi and Luxury Hire Car Industries Act 1995* and the *Taxi Industry Regulations 1996*.

The discussion papers are available on DIER's website at www.transport.tas.gov.au/miscellaneous/taxi_review.html. Members of the taxi industry wishing to contribute their views to the project should contact one of the industry representatives on the Reference Group, or can provide written submissions to DIER. Members of the public who wish to contribute can email their submissions to taxi.review@dier.tas.gov.au or mail hard copies to the address below.

Further information on the project can be obtained from:

Taxi Review Project
Department of Infrastructure, Energy and Resources
GPO Box 936
HOBART TAS 7001
Phone: (03) 6233 2865
Email: taxi.review@dier.tas.gov.au

Review of the
Taxi and Luxury Hire Car Industries Act 1995

Discussion Paper: Draft Policy Proposals

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Appendices

Appendix 1: Glossary of Terms

Legislation

Disability Discrimination Act DDA	<i>Disability Discrimination Act 1992 (Commonwealth)</i>
Disability Standards	<i>Disability Standards for Accessible Public Transport 2002</i>
Fee Units Act	<i>Fee Units Act 1997</i>
Luxury Hire Car Industry Regulations LHC Regulations	<i>Luxury Hire Car Industry Regulations 2000</i>
Passenger Transport Act	<i>Passenger Transport Act 1997</i>
Subordinate Legislation Act SLA	<i>Subordinate Legislation Act 1992</i>
The Act	<i>Taxi and Luxury Hire Car Industries Act 1995</i>
The Amendment Act	<i>Taxi and Luxury Hire Car Industries Amendment Act 2003</i>
Taxi Areas Regulations	<i>Taxi Industry (Taxi Areas) Regulations 1996</i>
Taxi Regulations The Regulations	<i>Taxi Industry Regulations 1996</i>
Trade Practices Act	<i>Trade Practice Act 1975 (Commonwealth)</i>
Vehicle and Traffic Act	<i>Vehicle and Traffic Act 1999</i>

Acronyms

ACT	Australian Capital Territory
ADRs	Australian Design Rules
AMV	Assessed Market Value
CPI	Consumer Price Index
DIER	Department of Infrastructure, Energy and Resources
ESC	Essential Services Commission
GBE	Government Business Enterprise
GPOC	Government Prices Oversight Commission

Acronyms

GPS	Global positioning system
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LHC	Luxury hire car
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NSW	New South Wales
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SA	South Australia
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SPC	Special Purpose Cab
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TAS	Transport Access Scheme
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TIRG	Taxi Industry Reference Group
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WAT	Wheelchair-accessible taxi
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Appendix 2: Objects of the Act

Taxi and Luxury Hire Car Industries Act 1995

4. Intent and objects of Act

- (1) The intent of this Act is, in respect of taxi services, to ensure the provision of a safe, demand-responsive, taxi transport system in Tasmania that adequately meets the needs of various groups in the community in an orderly and commercially viable manner.
- (2) The objects of this Act are as follows, in respect of each taxi area:
 - (a) to ensure safe operating conditions for passengers and drivers;
 - (b) to ensure appropriate minimum quality standards in the taxi industry;
 - (c) to ensure the availability of adequate standard taxi services at reasonable prices;
 - (d) to enable variation in taxi services to meet community demands at prices determined by market forces.
- (3) The intent of this Act is, in respect of luxury hire car services, to ensure the provision of a safe, high-quality, personal hire transport system.
- (4) The objects of this Act are as follows, in respect of luxury hire car services:
 - (a) to ensure safe operating conditions for passengers and drivers;
 - (b) to ensure appropriate minimum quality standards in the luxury hire car industry at a premium to standard taxis;
 - (c) to clarify the respective roles of taxis and luxury hire cars.

Appendix 3: Remote Taxi Areas

The following taxi areas are deemed to be remote for the purposes of WAT vehicle standards and WAT-style services using compliant, accessible vehicles attached to standard taxi licence.

These areas have been determined to be remote on the basis that the boundary of the taxi areas is at least thirty kilometres from the nearest major metropolitan centre, or the taxi area has a population of less than 6,000 and the boundary of the area is at least twenty kilometres from the nearest major metropolitan centre.

Break O' Day

Bruny Island

Central Highlands

Circular Head

Dorset

Flinders Island

Glamorgan Spring Bay North

Glamorgan Spring Bay South

Kentish

King Island

Meander Valley

Tasman Peninsula

West Coast

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Appendix 4: Luxury Hire Car Vehicle Specifications Comparison

Current Situation	
Column 1	Column 2
Vehicle	Maximum age
Group 1	
Ford Fairlane Ghia	7 years (note maximum age for taxis in metropolitan areas is 8 years with entry up to 5 years of age)
Ford LTD	
Holden Caprice	
Holden Statesman	
Mazda 929	
Volvo 960, S90 and V90	
Group 1A	
Stretched or modified versions of Group 1 vehicles	12 years
Group 2	
BMW Series 7	15 years
Cadillac	
Daimler	
Jaguar	
Mercedes Series 230 and above	
Toyota Lexus LS 400	
Group 2A	
Stretched or modified versions of Group 2 Vehicles	-
Group 3	
Bentley	-
Rolls Royce	

Proposed Specifications		
Column 1	Column 2	Column 3
Vehicle Specifications	Maximum age	Maximum age on entry
Group 1		
Minimum wheelbase 2800mm	7 years	-
Classification as passenger vehicle		
New price ≥\$57,009		
<i>Note: each of the vehicles identified meets the nominated criteria.</i>	2007 Holden Caprice 6.0L 5sp auto, 3009mm, \$69,990 rrp	
2007 Ford LTD 5.4L 6sp auto, 2919mm, \$75,525 rrp	2007 Holden Statesman 6.0L 5sp auto, 3009mm, \$62,990 rrp	
	2007 Ford Fairlane Ghia 5.4L 6sp auto, 2919mm, \$63,625 rrp	
Group 1A		
Abolished		
Group 2		
Minimum wheelbase 2800mm	15 years	5 years
Classification as passenger vehicle		
New price ≥\$142,522		
	BMW 740i V8 6sp auto, 2990mm, \$181,000	
	Mercedes E500 5.5L V8 7sp auto, 2854mm, \$160,300	
	Toyota Lexus LS430 4.3L V8 6sp auto, 2925 mm, \$171,600	
Group 2A		
Abolished		
Group 3		
Abolished		

Appendix 5: Extract from the *Taxi Industry Regulations 1996* (Operators' Responsibilities)

Roadworthiness Inspections

29. Inspection requirements

Unless an agreement has been made between the Commission and an accredited taxi group in relation to the inspection of taxis, a taxi must be presented by the responsible operator for inspection by an authorised officer, or another person specified by the Commission, at least every 6 months, and at any other time specified by the Commission.

Penalty:

Fine not exceeding 10 penalty units.

Daily Vehicle Safety Inspection – Signs and labels

9. Temporary taxi licences

(1) The holder of a temporary taxi licence must cause a taxi operated under the authority of that licence to display a label issued by the Commission stating the expiry date of the licence.

Penalty:

Fine not exceeding 5 penalty units.

(2) ...

(3) ...

(4) A responsible operator must remove a label issued under subregulation (1) after the expiry of the temporary taxi licence.

Penalty:

Fine not exceeding 2 penalty units.

13A. Permits of substitution

(1)–(8) ...

(9) A person who holds a permit of substitution must –

(a) affix the taxi licence number plate of the unavailable vehicle to the substitute vehicle specified in the permit; and

(b) keep that taxi licence number plate affixed to that vehicle until the permit expires; and

(c) remove that taxi licence number plate from that vehicle as soon as the permit expires.

Penalty:

Fine not exceeding 10 penalty units.

(10) . . .

17. Issue of number-plates and labels

(1) The Commission may, in respect of a taxi operating under a perpetual taxi licence or a temporary taxi licence, issue either or both of the following to the licensee or responsible operator of the taxi:

(a) a distinctive licence number-plate;

(b) a distinctive label.

(2) A licence number-plate or label issued in respect of a taxi under subregulation (1) may –

(a) be in such form as the Commission determines; and

(b) be in addition to, or in substitution for, any other plate, label or form of identification issued by the Commission in respect of that taxi.

(3) A licence number-plate or label issued under subregulation (1) remains the property of the Commission.

(4) The Commission may, by written notice, request that the licensee or responsible operator of a taxi return a licence number-plate issued to that licensee or responsible operator under subregulation (1) within such time as the Commission specifies in the notice.

(5) The licensee or responsible operator of a taxi must comply with a request made of that licensee or responsible operator under subregulation (4).

Penalty:

Fine not exceeding 10 penalty units.

(6) The Commission may, on payment of the prescribed fee, issue the licensee or responsible operator of a taxi with a replacement for a licence number-plate issued under subregulation (1).

17A. Obligation to display number-plates

(1) This regulation applies if the licensee or responsible operator of a taxi is issued with a licence number-plate by the Commission under regulation 17(1).

(2) The licensee or responsible operator must ensure that the licence number-plate is affixed, in the prescribed position, to the vehicle shown on the register of taxi licences as the vehicle to which the licence number-plate relates.

Penalty:

Fine not exceeding 5 penalty units.

(3) It is a defence in proceedings for an offence under subregulation (2) if the defendant establishes that, when the offence allegedly occurred –

- (a) the licence number-plate was –
 - (i) lost; or
 - (ii) unusable because of damage sustained in an accident; and
- (b) he or she had notified the Commission in writing as soon as practicable after –
 - (i) the loss was discovered; or
 - (ii) the licence number-plate sustained the damage.

(4) For the purposes of subregulation (2), the prescribed position for the licence number-plate is immediately above or next to the taxi's front number-plate so that the licence number-plate is clearly legible from a distance of 20 metres at any point within an arc of 45 degrees from the surface of the licence number-plate above or to either side of the taxi.

(5) The licensee or responsible operator of a taxi must not affix a licence number-plate issued under regulation 17(1) to any vehicle other than the vehicle shown on the register of taxi licences as the vehicle to which the licence number-plate relates.

Penalty:

Fine not exceeding 5 penalty units.

17B. Obligation to display labels

(1) This regulation applies if the licensee or responsible operator of a taxi is issued with a label by the Commission under regulation 17(1).

(2) The licensee or responsible operator must ensure that –

(a) the label is affixed to the taxi in accordance with the Commission's written instructions; and

(b) while the vehicle is operating as a taxi, the label remains so affixed to the taxi.

Penalty:

Fine not exceeding 5 penalty units.

17C. Obligation to display inspection labels

(1) This regulation applies if the licensee or responsible operator of a taxi is issued with an inspection label for the taxi by the Registrar.

(2) The licensee or responsible operator must –

(a) immediately affix the inspection label to the left hand side of the inner side of the rear window of the taxi; and

(b) ensure that, while the vehicle is operating as a taxi, the inspection label remains so affixed to the taxi.

Penalty:

Fine not exceeding 5 penalty units.

22. Duties of responsible operators and drivers

(1) A responsible operator must cause to be carried in the taxi prominent notice of the standard fares and charges or any alternative fares approved in respect of the taxi.

Penalty:

Fine not exceeding 10 penalty units.

(2) The responsible operator of a taxi must ensure that any alternative fares approved in respect of that taxi are displayed in a manner acceptable to the Commission.

Penalty:

Fine not exceeding 10 penalty units.

24A. Discount fares

(1) ...

(2) ...

(3) A driver or responsible operator of a taxi may only charge a discount fare if –

(a) details of the terms and conditions of that discount fare are displayed in the taxi so that those details are legible from the outside of the taxi; and

(b) the fare is charged in accordance with those terms and conditions.

Penalty:

Fine not exceeding 10 penalty units.

(4) A driver or responsible operator must charge a discount fare if –

(a) details of that discount fare are displayed in his or her taxi; and

(b) the terms and conditions of the hiring of the taxi meet the displayed terms and conditions of the discount fare.

Penalty:

Fine not exceeding 10 penalty units.

(5) A driver or responsible operator must not display in a taxi the details of a discount fare if the taximeter installed in the taxi is not calibrated to charge the discount fare.

Penalty:

Fine not exceeding 10 penalty units.

28D. Installation

(1) ...

(2) If a security camera system is installed in an operating taxi, the responsible operator of the taxi must also display signs that comply with item 3 of Schedule 2.

Penalty:

Fine not exceeding 5 penalty units.

- (3) A sign displayed under item 3 of Schedule 2 –
 - (a) must be able to be read from outside the vehicle; and
 - (b) must not be obscured or covered.

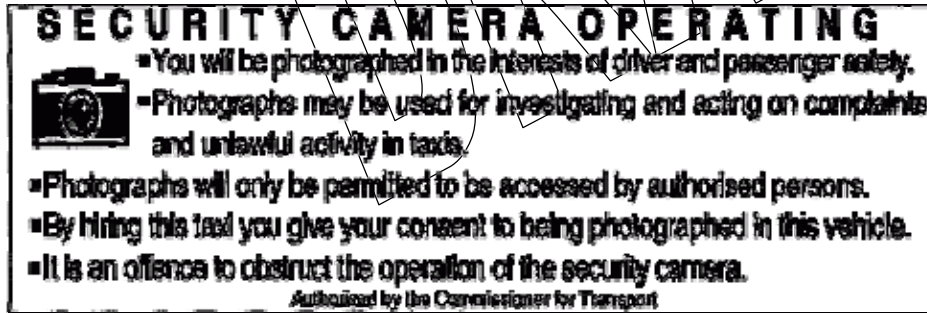
Penalty:

Fine not exceeding 5 penalty units.

SCHEDULE 2 ITEM 3. Security camera signs

A security camera sign –

- (a) is to be located –
 - (i) immediately above each external door handle if the taxi is a sedan or station wagon; or
 - (ii) adjacent to each external door handle, including the external rear-door handle if the vehicle has rear access for wheelchairs, if the taxi is a van; and
- (b) is to be at least 50 millimetres high and at least 150 millimetres wide and be in the following form:



28E. Testing of security camera system

- (1) ...
- (2) ...
- (3) ...
- (4) A driver, or responsible operator, of a taxi must display in the taxi written evidence of the most recent testing of the security camera system that complies with item 4 of Schedule 2.

Penalty:

Fine not exceeding 5 penalty units.

(5) The written evidence of the most recent testing of a security camera system displayed under item 4 of Schedule 2 –

(a) must be able to be read from inside the vehicle; and

(b) must not be obscured or covered.

Penalty:

Fine not exceeding 5 penalty units.

SCHEDULE 2 ITEM 4. Security camera test label

A security camera test label –

(a) is to be located on the upper left-hand side of the inside of the front windscreen; and

(b) is to be attached to the front windscreen; and

(c) is to be in the following form:

SECURITY CAMERA LABEL

Camera Make **Serial Number**

Vehicle Registration

Tested By **Date Tested**

Authorised by the Commissioner for Transport

28N. Distinguishing number-plates and labels

(1) The Commission may issue a WAT licensee with a distinctive licence number-plate or label, or both, for the vehicle to which the licensee's licence applies.

- (2) A licence number-plate or label so issued may be in such form as the Commission determines.
- (3) A licence number-plate or label so issued may be in addition to, or in substitution for, any other plate, label or form of identification issued by the Commission in respect of the vehicle.
- (4) A licence number-plate so issued remains the property of the Commission.
- (5) If the Commission exercises its power under subregulation (1), it must also issue the WAT licensee with written instructions for affixing the licence number-plate or label on the vehicle for which the licence has been issued.
- (6) The registered operator of the vehicle must –
 - (a) affix the licence number-plate or label to the vehicle in accordance with the Commission's written instructions; and
 - (b) keep the licence number-plate or label affixed to the vehicle in accordance with the Commission's written instructions for so long as the person holds a WAT licence in respect of the vehicle; and
 - (c) cause the licence number-plate or label to be completely covered up during any period during which the person's WAT licence in respect of the vehicle is suspended; and
 - (d) remove the licence number-plate or label from the vehicle within 14 days after the day on which the person's WAT licence in respect of the vehicle expires, is surrendered or is cancelled; and
 - (e) return the licence number-plate to the Commission within 30 days after the day on which the person's WAT licence expires, is surrendered or is cancelled.

Penalty:

Fine not exceeding 10 penalty units.

- (6A) It is a defence in proceedings for an offence under subregulation (6)(b) if the defendant establishes that, when the offence allegedly occurred –
 - (a) the licence number-plate was –
 - (i) lost; or

- (ii) unusable because of damage sustained in an accident; and
- (b) he or she had notified the Commission in writing as soon as practicable after –
 - (i) the loss was discovered; or
 - (ii) the licence number-plate sustained the damage.
- (7) The Commission may issue a WAT licensee with a replacement licence number-plate or label on payment of a prescribed fee.
- (8) The Commission may, by written notice, request a WAT licensee to return a licence number-plate issued to that licensee under subregulation (1) within such time as the Commission specifies in the notice.
- (9) The WAT licensee must comply with a request under subregulation (8).

Penalty:
Fine not exceeding 10 penalty units.

32. Advertising material in or on taxis

A responsible operator or driver of a taxi must not use or drive the taxi if it contains any advertising matter that –

- (a) is unsafe or distracting to other drivers; or
- (b) detracts from the comfort and convenience of the passengers.

Penalty:
Fine not exceeding 5 penalty units.

Appendix 6: Redundant Provisions

<i>Taxi and Luxury Hire Car Industries Act 1995</i>		
Section	Description	Comment
3	Interpretation	
	'application date'	The Act provided for a buy back of licences and a complementary scheme to convert existing cab licences and prescribed licences to perpetual taxi licences by application from licence holders. Licence holders were entitled to make an application for conversion from the application date until expiry. The conversion scheme continued until the expiry date of 2 August 1997. The buy back scheme continued until 2 April 1997. Both processes are now out of time.
	'buy back'	As above.
	'existing cab licence'	As above.
	'expiry date'	As above.
	'Hobart taxi area'	This area was specified in relation to a fund created for a now-exhausted scheme for refunds of transfer payments under previous legislation. This term is not used elsewhere in the legislation and need not be separately defined.
	'market price'	Definition provides that market price is the amount determined under section 19(2)(a). It is noted that section 19(2)(a) does not determine an amount. Rather, this subsection is part of the specification of the number of perpetual taxi licences to be issued in any one year. The term 'market price' is not used in the Act or the Regulations.
13	Funds for taxi areas	Provision was made for establishment of a fund for each taxi area deriving fees from conversions, temporary licence fees and funds from borrowings or provided by Parliament. These funds were to be used for buy back, promotion and development of industry or as directed by the Minister. Insofar as the fund related to the conversion and buyback process, this is now out of time.
14A	Refunds from special fund for Hobart taxi area	Provided for refund of monies generated from a levy on the transfer of licences in Hobart. While late claims may be forthcoming, these may be handled on an ad hoc basis. It is not necessary to maintain the legislated process for claims which were due to have been made on or before 30 April 1996.

<i>Taxi and Luxury Hire Car Industries Act 1995</i>		
Section	Description	Comment
16	Transitional arrangements	This provision enabled a licence holder to continue to operate the licence while the process of buy back and conversion was effected. The transitional arrangements are also out of time.
17	Administration of funds for buy back of licences	The Act provided for administration of the buy back of licences to be by tender. The process is out of time.
18	Time limit for conversion and buy back	Provides for restricted cab licences which were not converted to cease to be of effect. These licences are now null and void.
23N(1)	Number of WAT licences to be made available	Subsection provides for initial number of WAT licences to be issued in the first two (three) years to be set out in Schedule 7. Note that some WAT licences were not taken up in the North West, such that the schedule must remain for the centres concerned to enable the Commission to reissue those licences.
23N(3)	Number of WAT licences to be made available	Subsection provides process for licences which were not taken up in the first two (three) issues to be made available again. Note that some WAT licences were not taken up in the North West, such that the schedule must remain for the centres concerned to enable the Commission to reissue those licences.
27(8)	Regulations	Subsection (8) provides for regulations of a savings or transitional nature regarding conversion of licences. This process is out of time.
Schedule 7	Number of Wheelchair Accessible Taxi Licences	Provides the number of WAT licences to be issued in the first two years. But note that some WAT licences were not taken up in the North West such that the schedule must remain for the centres concerned to enable the Commission to reissue those licences.
<i>Taxi Industry Regulations 1996</i>		
Section	Description	Comment
18	Ballot for buy backs	Provides the process for conducting a ballot under buy back scheme. This process is out of time.

<i>Taxi and Luxury Hire Car Industries Act 1995</i>		
Section	Description	Comment
28U(b)	Procedure for issuing WAT licences	The process for issuing WAT licences provided for preference to be given to persons who were operating vehicles fitted with a wheelchair lift (commonly known as SPC Vehicles) as at 1 January 2004. The purpose was to ensure that existing service providers had opportunity to continue to provide services under the new WAT scheme and were not unduly disadvantaged by the introduction of that scheme. There were few such operators and they have now had more than two and half years to make a decision to seek a WAT licence. Therefore the provision is arguably redundant.

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Appendix 7: Resources

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