

Review of the
Taxi and Luxury Hire Car Industries Act 1995

**Paper 12 – Submissions in Response to
Paper 11**

Department of Infrastructure, Energy and Resources

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Introduction

In March, the Department of Infrastructure, Energy and Resources (DIER) released Paper 11 – Discussion Paper, Draft Policy Proposals (Paper 11), setting out the draft recommendations resulting from a review of the *Taxi and Luxury Hire Car Industries Act 1995* (the Act). Those recommendations were arrived at after an extensive process of review, which involved the development of ten discussion papers relating to the operation of the Act.

In order to obtain feedback on the proposals, DIER contacted a large number of people directly seeking comment on the outcomes of the Review and also placed notices in the three Tasmanian daily newspapers on two occasions.

To facilitate feedback, DIER prepared a summary of the major recommendations contained in Paper 11. This paper was circulated to interest groups, industry stakeholders and community groups seeking feedback on the draft proposals. The summary paper also provided details on how to obtain a copy of the full set of proposals contained in Paper 11. Many respondents contacted the DIER to obtain a copy. Advertisements were placed in the three Tasmanian daily newspapers inviting comment, and copies of the summary paper and the full version of Paper 11 were made available both by mail and via the DIER website.

A significant number of submissions were received in response to the draft proposals. These submissions have varied in their focus, responding in some cases to a single proposal and in other cases canvassing the majority of the draft proposals. Many have raised possible alternative approaches to issues raised in Paper 11. Others have sought to object to particular draft proposals, seeking reconsideration of the position as put by DIER.

To respond fully to these submissions, DIER has prepared this paper, setting out those objections and alternatives (in boxes at the commencement of each section) and considering the case for or against changing the draft proposals accordingly. Several alternative proposals submitted by respondents have been adopted:

- the reference to quality standards for luxury hire cars in the objects of the Act is to be removed;
- the Huon Valley taxi area is to be considered to be a remote area for the purposes of WAT vehicle standards;
- Group 1A for stretched luxury hire cars (LHCs) is to be retained, with a maximum operating age of 10 years;

- Group 2A for stretched LHCs is to be retained, with a maximum entry age of seven years and maximum operating age of 18 years;
- LHC drivers will be required to carry identification and present it upon demand rather than display identification in the vehicle;
- suspension and cancellation of licences will be subject to review and appeal provisions; and
- annual licence fees for standard taxis, WATs and LHCs will increase to 472 fee units (or \$590 at the current rate of \$1.25) rather than the original amount proposed of 485 fee units plus an additional levy of 20 fee units cover the cost of developing a pricing model and indexation method (or \$631). It is also proposed to allow a fare rise to offset this fee increase.

In regard to each of these proposals, respondents have presented DIER with a compelling case and supporting information which has caused the original draft policy proposal to be revised.

In order to continue the open process of public consultation, DIER has sought permission to publish the submissions along with DIER's response. Details of the submissions can be found at [Appendix 2](#).

1. Regulation of the Industry

1.1. Objects of the Act

Existing reference to viability in the objects of the Act should be retained.

Some respondents have rejected DIER's proposal to amend the objects of the Act. One respondent stated that to remove the current reference to viability will allow DIER to issue more licences.

It should be noted that the Act currently includes in the following statement:

“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.¹”

¹ *Taxi and Luxury Hire Car Industries Act 1995*, subsection 4(1).

The Act also includes a requirement for the Commission to issue new licences. Therefore, the view that to remove the reference to viability will permit more licences to be released does not recognise that the two elements can, and already do, exist together.

A reference to viability of the industry in the objects of the Act does not in any way limit the obligations on the Commission. While the objects of the Act may inform the reading of the Act where uncertainty exists, where the reading of the legislation is clear, it is not necessary to refer to the objects. For example, the Commission is currently required to issue new licences annually. This is not a discretionary power. Rather, it is an obligation. There is no need to refer to the objects of the Act in order to determine how this function is to be carried out. It is erroneous to suggest that the industry will gain a cap on licences by retaining the reference to viability in the objects of the Act.

In its submission, the Tasmanian Taxi Association (TTA) has stated that it is the moral responsibility of the regulator to ensure the viability of the industry given that the regulator is responsible for fare setting.

DIER has reviewed the legislation governing the taxi industries in every other State and Territory. There is no reference to viability as an object of regulation in any other Australian jurisdiction. Such a reference is not necessary for the purposes of effective regulation of a safe and efficient industry. An extract of the relevant section of each of the Acts is included in [Appendix 3](#).

It has also been suggested that the current subsidy scheme provided to WAT operators is directly related to the viability of the WAT industry and hence viability is a relevant objective to include in the Act. DIER considers that it is not necessary to refer to viability in the objects of the Act in order to provide a subsidy scheme. Indeed most other states provide similar subsidies without a reference to viability in the objects of their legislation. Therefore, it is not necessary in the Tasmanian Act.

DIER continues to be firmly of the view that the reference is inappropriate and should be removed.

Existing reference to minimum quality standards in the objects of the Act should be retained.

The TTA has called for DIER to retain the current object of the Act in relation to quality standards for the taxi industry, on the grounds that this is relevant to standards of vehicle and driver cleanliness and presentation.

As a regulator, the Commission has a duty to give due regard to the safety of the travelling public. While vehicle and driver presentation are important matters for customers, these are issues which passengers are well placed to assess according to their own standards. It is not

for the Commission to utilise the regulatory scheme, inspection resources and enforcement powers to deal with rust, dirt and driver hygiene.

One respondent has also suggested that the reference to “appropriate quality” should be retained in the objects of the Act, as to remove it would allow independent operators to function in an unpoliced fashion with no independent complaints handling. This would seem to suggest that by retaining the provision, somehow this will require compulsory affiliation with a radio room. This is not the case, as the reference exists in the current Act with no consequences for affiliation. DIER maintains the view that the objects of the Act should rightly focus on safety and accordingly the reference to quality should be removed. Further, complaints handling is separately required as part of operator accreditation under the *Passenger Transport Act 1997*.

Proposal to retain the reference to quality standards for luxury hire cars in the objects of the Act is inconsistent.

In its submission the TTA has noted that the reference to quality standards for LHCs is to be retained. The TTA argues that this is inconsistent with DIER’s statements that the market should determine standards for LHCs. DIER agrees and proposes to remove the reference from the objects of the Act.

2. Perpetual Licensing

2.1. Release of licences

No new perpetual taxi licences should be issued.

Under the current legislation, the Transport Commission is required to issue new taxi licences on an annual basis at the rate of either five percent of the existing number of licences in a taxi area, or one licence, whichever is greater. Some respondents to the Taxi Review Project have suggested that there is already an oversupply of taxis and propose that no new licences be released.

In the course of the Review, DIER has always maintained that the annual release of licences at the rate of five percent would be retained. In the first meeting with the Taxi Industry Reference Group in January 2006, DIER officers informed the Group that the annual release of additional licences pursuant to Tasmania’s commitment to the National Competition Council (NCC) was not within the scope of the Review. This continues to be the case.

Despite this, there have been strong representations to DIER that new perpetual taxi licences should not continue to be made available at the current rate of five percent annually. Further, the Review should be seen as an opportunity to change the existing arrangement.

This is directly at odds with DIER's view that in the interests of service to the general public, more licences should be made available to improve competition and the availability of taxis. Justification for limiting competition must be based on objective factors. Submissions from the taxi industry have made reference to various fishing industries where the number of licences is limited as a comparison to justify limiting the number of taxis. However, in the case of the fishing industry, limits are required in order to protect a scarce natural resource. To limit the supply of taxis merely serves to limit competition, which will ultimately be to the detriment of the general public.

In other industries, heavy artificial limitations on the operation of market forces are not imposed, despite the fact that a new entrant may be at real risk of business failure and a successful new entrant may impact substantially on an existing operator. By way of example, a city or shopping centre will usually have numerous outlets that serve coffee as a major component of their business. There are no limitations on the number of coffee outlets and they proliferate, competing directly, offering a variety of other goods and service initiatives and adopt various loyalty programs to encourage repeat custom. This is all of direct benefit to customers.

The Productivity Commission has found that the costs of restricting entry to the taxi industry are high and are largely borne by customers. Increasing the number of taxis has a direct impact on customers as it:

- creates the possibility of price competition;
- increases the number of taxis on the road resulting in shorter waiting times;
- this in turn results in increased demand for taxis, which benefits the industry; and
- gives rise to innovative ways of overcoming peak demand problems which increases efficiency.²

The taxi business is fundamentally a commercial enterprise and therefore there are no grounds for it to be unusually insulated from competition. Nevertheless, DIER considers that the taxi industry will continue to require some degree of direct regulation and does not propose to de-regulate the industry. Many submissions made have incorrectly labelled DIER's proposals as "de-regulation".

² Productivity Commission, Regulation of the Taxi Industry, AusInfo, Canberra, 1999, pp16-17.

Historically, the most significant and enduring feature of regulation has been the heavy restrictions on the total number of taxi licences that are available. Particularly in Tasmania's urban areas, the application of this regulation has been of an extreme nature in which (with the exception of WATs) no new licences have been made available for over 20 years.

Unarguably, this represents an extraordinary impediment to the application of market forces to the supply side of an industry that, in many other respects, is a service industry operating under normal commercial arrangements. DIER is strongly of the view (and has received no persuasive arguments to the contrary) that such heavy restrictions on market forces are ultimately a cost to the general public. The fact that the restrictions are also of significant private benefit to those relatively few individuals who own a taxi licence cannot take precedence over DIER's responsibility to consider the wider public interest.

Accordingly, DIER will not contemplate any proposal to cap the number of taxi licences at the present level. Nevertheless, DIER has given a commitment to the NCC to conduct regular reviews of the licensing scheme every two to three years to review the effectiveness to the program. Industry will have regular opportunity under this program of review to raise any issues arising from the annual licence release program as it progresses.

Predicted consequences of oversupply.

It has been suggested in a number of submissions that an increase on the current number of licences will have severe detrimental effects for the industry and passengers. In particular, the issue of additional owner/operator licences is considered likely to increase competition at busy times and discourage competition during less busy periods. It has been alleged that only existing licence holders who are members of networks will provide customer service outside peak periods, or beyond areas such as central business districts and airports. Consequently, passengers outside these areas, or those seeking to travel outside these times, will be disadvantaged.

No support for these allegations has been provided. DIER rejects the notion that holders of owner/operator licences (and their associated drivers) will be less active in seeking fares. In fact, in an environment of heightened competition, the opposite result is expected.

It has been suggested by one respondent that the current level of licence numbers is already too high and that, as a consequence, operators are declining short jobs, declining long jobs that would involve a lot of dead running and are declining airport jobs. The premise for declining such work is that to undertake these types of jobs makes it impossible to meet the cents per kilometre earnings benchmark used by the Australian Taxation Office (ATO) when assessing income for taxi operations. It is not clear why this is considered a limitation on the way that a taxi business is operated however, as the ATO only uses the benchmark:

“in cases where taxi operators or drivers have insufficient records and a default assessment is to issue, either under section 167 of the *Income Tax Assessment Act 1936* or section 105-5 of Schedule 1 to the *Taxation Administration Act 1953*,” or

“in negotiations with taxi operators or drivers being audited; and also for audit case selection purposes.”³

That is, the benchmark is not a determinant of income tax payable. A decision to operate a taxi business on this basis is not a matter for which DIER is responsible.

Given that the types of jobs allegedly declined would encompass a substantial proportion of the jobs that taxis could expect to do, it is not clear what work remains that these operators are willing to undertake. DIER is of the view that if there is such a significant level of discretion among operators, more competition is essential to ensure adequate customer service.

Release and buy-back arrangements.

One respondent has suggested that existing provisions in the legislation relating to the buy-back of taxi licences upon election of a licence holder should be retained as a balance to the issue of new licences.

When the *Taxi Act 1995* was first introduced, it provided for a buy-back of taxi licences during a defined period at the election of the licence holder subject to available buy-back funds. This scheme is now concluded as the time for making an election is closed and no further funds are available. Should future events dictate that some kind of buy-back scheme were required, this should be determined according to the conditions at the time and in light of Government policy of the day.

All new licences should be leased rather than sold.

Some respondents have proposed that any new taxi licences should be leased and not sold. DIER has repeatedly discussed the negative impact of leasing in the market. Given DIER's position, it would be inconsistent to recommend that the Commission commence a leasing arrangement.

³ Australian Taxation Office, Taxi cents per kilometre rates, Transport and Taxi Publications (sourced from www.ato.gov.au accessed 17 April 2007).

2.2. Release licences on assessment of criteria

Taxi licences should be issued on the basis of population growth.

In Paper 11, DIER has proposed retaining the current method for determining the number of perpetual taxi licences to be issued on an annual basis. In the first meeting with the Taxi Industry Reference Group, DIER officers informed the Group that the issue of additional licences pursuant to Tasmania's commitment to the NCC was not within the scope of the Review.

Despite this, there have been strong representations to DIER that new perpetual taxi licences should not continue to be made available at the current rate of five percent annually. Further, the Review should be seen as an opportunity to change the existing arrangement in favour of releasing perpetual taxi licences on the basis of population growth and if the conditions for issue of more licences are not proven, no new licences are to be made available. In particular the TTA, in its submission has called for licences to be issued on the basis of "proven need of additional capacity" and states that this might be achieved by issuing licences based on "response times and population growth". The TTA also notes that most other jurisdictions have licence release systems based on population or response time criteria.

The industry has maintained that population has not grown over recent times, therefore no more licence releases are justifiable. By contrast, the Australian Bureau of Statistics states that:

"Over the five years since June 2001 all Tasmanian cities recorded population growth. The fastest growth was experienced in Launceston with an average annual growth rate of 0.9% over the period. Devonport recorded an average annual growth rate of 0.7%, followed by Clarence and Hobart (both 0.6%), Burnie (0.5%) and Glenorchy (0.4%)."⁴

The NCC has stated that there must be at least annual releases of new licences⁵. Tasmania's commitment to release five percent of the existing number of licences on an annual basis, as implemented in the 2003 amendments to the Act, is seen to be consistent with the principles for reform developed by the Council. Some jurisdictions have indicated an intention to retain 'demand management' processes, whereby officials determine taxi numbers based on data such as response times and population growth. However, the NCC considers such arrangements to be inconsistent with National Competition Policy (NCP) obligations. Further, the NCC considers Tasmania's commitment to release licences annually at the rate of five per cent to be best practice.

⁴ Australian Bureau of Statistics, Release 3218.0 Regional Population Growth Australia, 2005-06 released at 11.30am 27/2/2007 (sourced from www.abs.gov.au accessed 11 April 2007).

⁵ National Competition Council, Assessment of governments' progress in implementing the National Competition Policy and related reforms: Volume 1: Assessment, Melbourne 2004, p 9.14.

The NCC does not favour the issue of licences based on population numbers. Bare population is not indicative of demand for on-demand passenger transport services. Expansion in tourism and growth in real per capita incomes is more determinative of the need for services and this is not factored into a population-based measure.

Industry often cites a 1:1,000 population as a suitable cap on supply of taxis. Tasmania currently (March 2007) has 445 taxis (including WATs) statewide. Population figures for Tasmania as at 30 June 2006 were 488,900⁶. This would indicate that, according to industry's own methodology, Tasmania could sustain another forty-three taxis. By contrast, the NCC cites New Zealand (NZ), where there are approximately 3 taxis per 1000 population, as an example of a jurisdiction with an appropriate level of supply. To establish this level of supply, Tasmania would need an additional 1,021 taxis.

To date, whenever DIER has made reference to deregulation of the NZ taxi industry, the local industry has responded with the view that the NZ experience has been a comprehensive failure for both the taxi industry and passengers. In particular, it has been suggested that as a result of unrestricted entry, standards have plummeted and fares have risen. Nevertheless, DIER's own research suggests that the increase in NZ taxi licence numbers (from 2,742 in 1989 to 8,089 in 2004), while outpacing population growth, has proved sustainable due to greater availability of taxis and an increased range of services available. Further, taxi fares decreased by as much as ten per cent over the first six years of deregulation⁷. These are positive outcomes for passengers.

Clearly, to step away from the present arrangements for annual release of perpetual taxi licences at the rate of five percent in favour of a population-based test would be contrary to the NCC's requirements. Further, the benefits which would accrue from increased competition would be lost. For example, additional licences will increase the availability of taxis, provide incentives for fare discounting and other consumer benefits such as loyalty programs, which in turn will attract patronage and potentially revive market share which has been lost to other forms of transport, such as self-drive hire cars. Accordingly, DIER will not recommend any change to the process for annual release of five percent of the existing number of licences.

Taxi licences should be issued on the basis of response times.

The other test for issue of new licence put forward by the TTA is based on response times. That is, where response times fall below a given benchmark, only then should additional licences be made available, and only sufficient licences to achieve the benchmark. Example data from a radio room has been provided in support of the proposition that response times in the Hobart taxi area are very fast, hence no more licences are currently required.

⁶ Jackson, N.O. (2007) Tasmania's Population, www.taspop.tasbis.com (accessed 17 April 2007).

⁷ Soon, J, Taxi!! Reinvigorating competition in the taxi market, Policy, Winter 1999, p13.

The use of response times represents a demand management approach to licensing, and again, it is noted that the NCC does not consider this approach compliant with NCP obligations. In particular, the NCC has stated “these arguments fail to recognise that high levels of performance can co-exist with substantially above-equilibrium prices, due to supply constraints.”⁸ That is, while supply restrictions prevent real price competition, consumer demand is weakened and consequently, response times are adequate to meet the performance benchmark, hence no new licences are issued. The situation then becomes cyclical. By definition, response times give no insight to unmet need, for example those potential customers of the taxi industry lost due to negative perceptions of price or service quality.

DIER will not recommend that taxi licences be issued on the basis of response times.

DIER should publish taxi to population ratios.

It has been suggested by one respondent that DIER is reluctant to make public current taxi to population ratios, as this would reveal a significant oversupply of taxis in Tasmania.

In response to this claim, DIER has included below the current ratios for Tasmania and has obtained details of the ratios for a number of interstate jurisdictions.

Jurisdiction	Standard Taxis	WATs	Population	Ratio - standard taxis to 1000 pop	Ratio - all taxis to 1000 pop
Tasmania	410	32	488,900 ⁹	0.8	0.9
Hobart	207	21	195,500*	1.1	1.2
Launceston	91	9	78,474*	1.2	1.3
Melbourne metro	3438	228	3,500,000	1	1.1
Darwin	103	18	111,300	0.9	1.1

*estimate – based on 2001 Census data.

It is noted that, in its submission, the TTA has chosen to calculate ratios based on the number of taxis, WATs *and* luxury hire cars combined, which produces a skewed ratio and overstates the level of supply.

Tasmania has met its National Competition Policy obligations.

One respondent has suggested that continued reform of the Act is not required. While Tasmania had an obligation to review its legislation, this has been done and the obligation is met.

⁸ National Competition Council, Assessment of governments' progress in implementing the National Competition Policy and related reforms: Volume 1: Assessment, Melbourne 2002 p 5.24

⁹ Jackson, N.O. (2007) Tasmania's Population, www.taspop.tasbis.com (accessed 03/05/2007).

While it is true that the 1999 Review and reform of the legislation were undertaken in accordance with Tasmania's NCP obligations, this is not the end of the process. The NCC advised all jurisdictions in 2002 that a gradual transition to open competition (the five per cent annual release of licences is considered to be a gradual transition) would be found to be consistent with NCP only if:

- licences were released annually; and
- regular monitoring and review (at least every two to three years) was undertaken.¹⁰

Ongoing review is therefore clearly required and Tasmania will not be considered to have met its obligations under NCP without continuing the reform agenda.

2.3. Perpetual taxi licence values

What is inherently wrong with the concept of taxi licences having a value to an individual as a personal asset, and that asset gaining in value?

In response to Paper 11 – Discussion Paper, Draft Policy Proposals (Paper 11), the question has been raised as to what is inherently wrong with the concept of taxi licences having a value as an asset and with the prospect of that asset gaining in value. The comparison has been made to houses owned as personal assets, which tend to increase in value.

In Paper 11, DIER has stated that there is little benefit arising from licences having value as an asset other than to the personal finances of licence holders. DIER is firmly of the view that high licence values detracts from the level of service provided to passengers in that high values drive high lease costs as licence holders must bear the cost of higher financing and pass this through to lessees. As a consequence of higher lease costs, taxi operators, who operate in an environment of capped maximum fares, must reduce costs elsewhere. This opens the possibility of cost cutting in areas such as vehicle maintenance, safety (for example) and remuneration of drivers. High overhead costs, of which the lease fee is a significant example, also reduce the scope for fare discounting which would be very much to the benefit of passengers.

Several respondents have noted that the Commission currently sets fares and that lease costs are not taken account of in this process. This is correct. Nevertheless, industry lobbies the Commission for fare increases every time their costs, including lease fees, increase. To provide operators with a fare increase every time licence lease costs increase simply transfers the

¹⁰ National Competition Council, Assessment of governments' progress in implementing the National Competition Policy and related reforms: Volume 1: Assessment, Melbourne 2004, p 9.14

burden onto passengers. Also, this would create a spiralling increase until fares would be so high as to make taxis beyond the reach of many potential passengers.

It is also claimed that licence holders increase their lease costs whenever a fare increase is applied, and some operators have indicated that they would prefer not to have fares increased for this reason. It is suggested that operators have to work more hours to get a higher return from a fare increase, because the fare increase is absorbed by a corresponding increase in lease fees. Ultimately, if this is correct, users are paying higher fares, which are returned to the licence holders, who see their assets increase in value due to the increased returns.

Some respondents have argued that pressure for fare increases relates to increasing operating costs and lease payments and that this has nothing to do with high licence prices. This comment ignores the direct link between licence prices and lease rates charged by licence holders.

The taxi industry has espoused the view that a taxi licence is not unlike other personal assets such as houses, and as house prices continually rise, it is entirely fair that licence values should also appreciate over time.

DIER considers that taxi licences are not at all like houses, in that one is a right to operate a business, granted by Government, while the other is a physical asset. Nevertheless, it is not correct to suggest that housing values continually rise. Houses are subject to the fluctuations of the market and may fall in value. Furthermore, Governments and Government institutions, such as the Reserve Bank, periodically take steps to stem the market, with direct consequences for house prices.

In particular, interest rate increases are periodically directed at cooling the economy, which will usually have the effect of preventing further housing price rises for a time. Governments also release more land into the marketplace in order to free up supply and make the cost of housing more accessible. This recognises the need to provide an important commodity to the general public. Similarly, it is entirely appropriate for DIER to propose the controlled issue of a pre-specified number of new taxi licences and to change the character of new licences such that they are more likely to be taken up by the market.

A licence to operate a taxi is quite different in character to a physical asset. A physical asset may be owned by any person who has legal standing to do so and will rarely require any ability, skill or expertise in order to be the legal owner. The owner of the asset will not usually be required to do anything in order to continue to exercise the right of ownership. In the case of a house, one is required to pay various taxes and duties, however these do not affect the right of ownership.

A licence to operate a taxi is a permission granted by a Government to undertake a particular activity. There is no physical asset, only a licence document and taxi plate which represent the right. Operation of a taxi business requires certain capabilities and expertise and the existence of these is confirmed under the operator accreditation scheme.

However, ownership and operation of a taxi licence has been allowed to separate into two roles with the legalisation of leasing and the introduction of operator accreditation. Through this, the Government has recognised that ownership of the right and the undertaking of the activity need not be combined. Perpetual taxi licences are also given legal status as personal property. Consequently, holding a licence is akin to being a shareholder in a company. The licence has effectively become a financial instrument. As a share represents a right to participate in the profits of a company, so a licence has become a right to participate in the earnings of a taxi operation. In neither case does the holder of the share or licence necessarily have a role in the business concerned.

Despite this similarity between shares and perpetual taxi licences, the character of the contribution each makes to the eventual business is entirely different. The shareholder brings funds to a business requiring capital and risks those funds in order to participate in the profits. In the case of a taxi business, the licence holder is not required to contribute funds that are used to operate the business; the licence holder contributes the right to operate in exchange for a regular return. Further, the licence holder does not put their contribution at risk in return for the right to a regular income as the investment in the licence will not be lost if the taxi business fails. Instead the licence holder will reclaim their licence and seek another lessee. Consequently, the licence has become a right to derive income. DIER is of the view that this right, with no attached risk or responsibility, is unequal and unreasonable.

DIER recognises however, that investors have committed funds to buying licences based on prevailing conditions. Accordingly, the proposal to make available new licences of a fundamentally different character does not alter the rights attached to existing licences. These investors will not be directly affected by the proposals.

Because they cannot be leased and may be subject to cancellation by the Commission, the proposed new licences are expected to be substantially less expensive than the existing licences. This should make these new licences attractive to some operators who currently lease existing licences at high lease rates. Despite this, the number of these new licences will be limited. Only five per cent of the number of existing licences will be issued each year. For the foreseeable future, the leasable perpetual licence will continue to dominate the taxi market in Tasmania. This is further reinforced by the lack of an assessed market value (AMV) for the new licences. As there is no reserve sale price for the new licences, there is no trigger for a second release of these licences in any year.

To the largest extent, the interests of existing licence holders are preserved under this policy proposal, while changes seen as necessary in the interests of operators and passengers are made. Nevertheless, investors are informed about the market and must understand that while a Government may make laws, those laws do not bind subsequent Governments in perpetuity. Any Government has the power to make new laws that may or may not be consistent with those of a previous Government. DIER has designed this policy proposal to recognise that existing investors play a central role in the market and to provide stability and certainty in recognition of that role to ensure the position of existing lessees and customers.

High taxi licence values benefit customers.

One respondent has suggested that high taxi licence values directly benefit customers as they serve to limit the type of person able to purchase a licence.

DIER does not accept this view, as licence holders are not necessarily involved directly in the operation of the taxi industry. Further, financial capacity is no measure of a person's fitness to be involved in the taxi industry. Accordingly, DIER requires taxi operators to be accredited under the *Passenger Transport Act 1997*. One element of accreditation is establishing that an operator is a fit and proper person to be providing the service. DIER considers that the accreditation scheme is a superior means for ensuring customer safety and effective management of a taxi business than high licence values.

In a similar vein it has been suggested that low priced licences will enable entry of new licence holders who lack sufficient business knowledge to operate successfully. One respondent has stated that entry of such operators will be detrimental to the existing industry. Another has suggested that the new entrants will be "cowboys". DIER does not accept that low priced licences equate to new operators who lack the skills to run a business or are somehow less suitable for the taxi industry than existing licence holders.

Returns on taxi licences have declined such that banks and investment funds offer better investment alternatives.

One response to Paper 11 has suggested that the proposals to issue more licences without a reserve tender price will ultimately diminish the return on investment currently available to licence holders. The respondent has pointed out that returns from banks and investment funds are more secure and are better managed for growth. Many respondents have referred to their licences as investments on which they expect to receive a reasonable return.

DIER is not an investment advisor and does not give financial advice. DIER does not promote taxi licences as an investment vehicle and makes no undertakings to purchasers with respect to potential earnings or capital appreciation. DIER does not accept that the purchase of a

perpetual taxi licence of itself can be said to equate to a “business investment” in the normal sense. Rather, it represents only a right to operate. Furthermore, DIER is of the view that the focus should instead be on the building of value in a taxi business, not reliance on the licence as an appreciating asset.

Arguing that more licences should not be released because it will reduce the value of existing licences implies that the taxi industry should be regulated to benefit a small number of licence holders. DIER is opposed to this position, as to do so would be at the expense of operators, who actually provide the service, and taxi users. If an individual chooses to purchase a taxi licence as an investment, they do so knowing that, as with all investments, there are risks. No investment strategy guarantees returns to investors, and this applies equally to investment in a taxi licence.

One respondent from within the industry has strongly supported DIER’s position suggesting that the use of taxi plates as an investment is holding back the Tasmanian taxi industry.

2.4. Assessed Market Value

The Assessed Market Value should be retained.

Some respondents have called for the Assessed Market Value (AMV), which serves as the minimum price the Commission may accept at tender, to be retained and applied to the issue of the proposed new owner/operator licences from 2008. The contrary view has been expressed by the Department of Treasury and Finance, which has advised that it supports the proposal to remove the AMV in relation to new perpetual licences.

DIER does not accept the view that the AMV for existing perpetual licences is applicable to the new category of owner/operator licence. The two types of licence are inherently different as they have different rights attached as shown in the table below:

Existing Perpetual Licence	New Owner/Operator Licence
Leasable	Not leasable
Personal asset	Cancellable for breach
Legal liability assigned to the responsible operator	Licence holder remains liable for any breach

The different characteristics of the new owner/operator licence mean that it will be viewed very differently by the industry and will have a different value in the market. Accordingly, the AMV which applies to the existing perpetual licences cannot be applied to the new owner/operator licences.

Another respondent has suggested that a new AMV should be developed specifically for the new class of owner/operator licence. DIER does not accept this. DIER considers that a reserve price for the issue of new licences has the effect of limiting the take up of new licences. To introduce any minimum issue price will prevent the market from determining what an owner/operator licence is worth. The NCC has already expressed reservations about the existing AMV, and Treasury would likely oppose any new minimum issue price. Further, as any AMV is based on the results of trading in the secondary market, it is not possible to create an AMV for a new type of licence, which has never been traded.

The TTA has also claimed in its submission that DIER has made unsubstantiated claims regarding the NCC's views of the AMV introduced in the 2003 amendments to the Act. The NCC expressed reservations about the use of an effective reserve price for the release of new licences by tender in its 2004 report, *Assessment of governments' progress in implementing the National Competition Policy and related reforms*: Volume 1 at page 9.15.

Impact of abandoning the Assessed Market Value.

The TTA has stated that without a reserve price the Commission will be able to accept low tenders, which would ensure that all licences offered would be taken up each time a licence release occurred. TTA has predicted that, consequently, in 10 years, 128 new licences would have been issued in the Hobart area. DIER does not dispute that the Commission could accept tenders that are lower than the current market price of a taxi licence. In fact, it is intended that the new licences would be issued at lower than current prices to facilitate ownership of taxi licences for operators and drivers currently unable to purchase their own licence because of the inflated licence prices. The fact that these licences have a different nature to existing perpetual licences (i.e. they cannot be leased and can be cancelled) means that they will not be available to 'hands-off' investors, who arguably would be more likely to pay a higher price for a licence than an owner/operator.

The taxi industry has made constant representations to DIER that operating costs are too high, and many operators have stated that lease costs contribute significantly to this. However, there is little support for regulating lease rates, and DIER does not consider it appropriate for the Government to intervene in the commercial arrangements between two parties in this manner.

What is required is a system whereby purchasing a licence is within the reach of an individual that wishes to operate a taxi. Under the current arrangements, if an individual could not obtain their own taxi licence, because the price was too high, their alternative would be to lease a licence. This could potentially take in excess of \$250 from their weekly income, to be paid to the licence holder, with no enduring benefit for the lessee. On the other hand, if lower cost licences were available to operators, their licence repayments (e.g. finance payments) would be

likely to be lower, and these payments would only be made until the licence had been paid for, as opposed to an ongoing lease fee.

It has been argued, however, that releasing owner/operator licences with no reserve price could result in an increasing number of taxis in the market with considerably lower cost bases, which could enable these operators to either operate at a greater profit margin than is currently possible, or to introduce discounted fares to attract more customers. Consequently, it is suggested, this would drive existing operators out of the market, as they would be unable to compete with operators that had a lower cost base.

An alternative scenario is that, with more owner/operators in the industry, the number of people prepared to be lessee operators at the current high lease rates might be reduced, which would force lease rates down over a period of time. It would be expected that lessors would seek to have their licences leased at a lower rate than not at all, so the current rates would be unlikely to be sustained in the long term. This would reduce operating costs for lessee operators as well, which would mean that they would not be at as great a disadvantage to the owner/operators as the industry might believe.

In the first instance, the number of licences issued initially will be very small (11 in Hobart and five in Launceston in the first year). This is unlikely to have an immediate impact on existing operators in terms of competing with operators with a lower cost base. The vast majority of taxis in the fleet would be operating under current conditions. Any effects would be gradual, and more likely to be noticed after several years of operation of the new licences. Further, the market could be expected to grow over time, particularly if greater competition in the industry leads to improved services overall, which, in turn, serves to convert more potential customers into actual customers.

Clearly, measures to reduce costs to operators are in the best interests of both operators, through better returns, and customers. Customers could be expected to benefit from the potential for lower fares, as well as improved services arising from greater competition in the industry.

One aspect of abandoning the AMV which industry has not acknowledged is that it will potentially reduce the number of licences offered for release each year, and will restrict the time that new licences are available for purchase from a 12-month period to a much shorter application period, as outlined below.

Under the current legislation, the AMV serves three purposes.

- it is the effective tender reserve price, and no bids below this amount can be accepted;

- it serves as a threshold test for the issue of additional licences in the same year. That is, if the average bid is 10 percent or more greater than the AMV, and all licences in the taxi area are sold, the Commission must offer an additional five percent of licences in the same year; and
- any licences not sold at tender remain available for sale for the rest of the year. The sale price is the AMV.

Without an AMV, the Commission would be required to accept the highest bid/s at tender, whatever the amount. This could be lower or higher than the current trading price in the market. As there would be no 'reserve' price there would be no trigger to release additional licences in the same year, and any licences which were unsold at tender would not be available for purchase later in the year, as is currently the case..

Table 1 below shows the potential difference between the number of licences that could be issued in the Hobart taxi area under the existing legislation and the number that would be made available if the proposed changes were introduced. In the table it is assumed that all licences are sold in every release, and that, for the existing legislation, the successful tender prices in every release are high enough to trigger a second round.

Note that the triennial licence revaluations could produce lower AMVs over the reference period, rather than AMVs that continually rise. This increases the possibility for future tenders to be high enough to trigger a second release. This scenario is based on the expected number of perpetual licences in Hobart as at 1 January 2008, and assumes that the new proposals are adopted from 2008. (In its submission, the TTA states that after 10 years of the new system 128 new licences would be offered in Hobart, based on a starting point of 209 licences currently on issue. This did not take into account the additional licences to be offered in 2007 under the existing legislation. The table is based on 207 Hobart licences in issue at 1 January 2007. It assumes that 21 new licences are taken up in the 2007 tender processes, a second release having been triggered due to the AMV being exceeded by more than 10 per cent for the licences sold at tender.)

Table 1: Comparison of Perpetual Taxi Licences potentially issued in Hobart under the existing system and the proposed system from 2008

Year	Existing Legislation					New Proposals		
	No of licences at 1 Jan	5%	New total after first release	Additional 5%	Total licences at 31 Dec	No of licences at 1 Jan	5 %	Total licences at 31 Dec
2007	207	10	217	11	228	207	21 <i>(two releases under existing legislation)</i>	228
2008	228	11	239	12	251	228	11	239
2009	251	13	264	13	277	239	12	251
2010	277	14	291	15	306	251	13	264
2011	306	15	321	16	337	264	13	277
2012	337	17	354	18	372	277	14	291
2013	372	19	391	20	411	291	15	306
2014	411	21	432	22	454	306	15	321
2015	454	23	477	24	501	321	16	337
2016	501	25	526	26	552	337	17	354
2017	552	28	580	29	609	354	18	372
Additional licences in 10 years			(609 – 228)		381	(372 – 228)		144
Total licences Hobart taxi area					609			372

Clearly, the impact of the AMV serves to allow the release of a much larger number of licences over time. After 10 years, a maximum of 381 additional licences could be offered under the provisions of the existing legislation, whereas under the proposal to abandon the AMV, 144 new licences would be the maximum to be offered. Nevertheless in its submission the TTA does not recognise the difference, and states that this is simply a claim on the part of DIER that this a potential benefit to industry.

The TTA has stated that potential licence purchasers will wait until tenders are called in the hope of obtaining a much cheaper licence than could be obtained in the secondary market. While some intending owner/operators may choose to do this, an investor seeking a licence would need to purchase one of the existing perpetual licences in the secondary market, at the market trading price, as only these licences would be leasable. They would not be able to purchase one of the new licences from the Government.

Removing the AMV would devalue existing taxi licences

The industry has long held the view that the release of new taxi licences, at any price, will result in all existing taxi licences losing their value. This concern has been heightened with the proposal to remove the AMV for new licences.

A number of licensees hold perpetual taxi licences as a significant component of their investment portfolio, and it is suggested that any actions that result in the devaluation of these assets would disadvantage these people, some of whom may be individuals who have worked

within the taxi industry for a number of years and who are relying on their licences appreciating in value.

While not disputing the fact that some licence holders have paid significant amounts for their licences, it should also be noted that since the introduction of the *Taxi Act 1995* there has always been provision for more licences to be issued. That no licences had been issued until 2007 has been to the advantage of licensees who have bought and sold licences since that time, with the scarcity of licences driving the market price up. DIER's records show that the price paid for Hobart taxi licences has increased significantly since 2003. From 1997 to 2003, the average trading price for Hobart licences was around \$70 000 to \$80 000. In 2004 this increased to \$95 000, and to June 2007 was about \$140 000.

With the introduction of the 2003 amendments for the mandatory release of new licences every year, it was expected that licence prices would not increase in value, as a major factor in the retention of their value was their scarcity. This has proved not to be the case. The AMV of a Hobart taxi licence assessed at June 2006 was \$120 000, and the average tender price of those licences sold in the 2007 release was \$142 387, some 20 per cent higher than the AMV. The prices for the licences sold in Launceston were greater than the AMV by a similar magnitude, and in Devonport the AMV was also exceeded by more than 10 per cent. These prices triggered a further release of licences within these three taxi areas in 2007.

Thus, despite industry's concerns that the issue of further licences would devalue existing licences, individuals continue to purchase licences either in the secondary market or through the annual release of licences at prices well above the AMV. As noted above, Hobart licences have increased in value by over 50 per cent since 2003, despite the commencement of 24 WATs in the period September 2004 to June 2007, and with the knowledge that a minimum of ten new licences would be released every year beginning from 2007.

It would be reasonable to assume that the full impact of the release of new licences will not be realised for a number of years. For this reason, and consistent with its commitment to the NCC, DIER intends to conduct reviews of the licensing scheme every two to three years.

However, arguing that new licences should not be released to protect the investments of licence holders puts the interests of a small number of investors before the interests of both taxi operators and the travelling public. This places the Government in the role of protector of these individuals' 'investments', and almost guarantees that this small group of people will receive a financial windfall at the expense of the majority of users and operators. It is not possible to defend acting in the interests of one party only, when it is the role of government to regulate the industry for the benefit of all Tasmanians

Given the long term nature of this type of investment, with a number of investors using taxi licences as part of their superannuation portfolios, any move at any time to change these arrangements would affect a number of individuals. This would be the case whether it is done now or in ten years time, as pressure to maintain this protection of licence values would continue into the future as new investors take the places of existing investors.

The pressure to maintain this protection can only continue to increase as licence values increase. Continually yielding to this pressure would effectively mean that the Government could never free up the licence supply as the market required, and this would be to the detriment of the majority of people with an interest in the industry (i.e. users and operators). Unless steps are taken to address this issue now, it will continue to be a problem for operators and users, and the longer the delay before implementing these changes, the more difficult it will be to introduce such provisions.

The Assessed Market Value should be reset annually.

Industry has repeatedly put forward the view that the AMV should be retained and reset annually. Annual revaluation is seen as necessary to keep the AMV more closely aligned with the price at which licences trade in the secondary market. Industry is of the view that the current three-year revaluation cycle allows the AMV to lag too far behind market value.

DIER considers this request to be driven by recent rapid increases in licence prices. If licence prices were falling, industry would prefer the current three-yearly revaluation cycle to ensure that future new licences were not sold at a price significantly lower than the market price of the day. This was the reason for introducing the AMV in 2003 – i.e. to act as a restraint on the expected reduction in the value of licences arising from the introduction of new licence. Regardless of this, as the AMV concept will not be applied to the new owner/operator licences, there will be no need to have the Valuer-General establish an AMV in the future as the existing perpetual licences will not continue to be released.

2.5. Compensation for licence holders

If the issue of new licences results in a decline in licence values, existing licence holders should be compensated.

Numerous licence holders have expressed strong views about the proposal to issue perpetual taxi licences without a minimum tender price. The industry has taken the view that in the absence of the AMV, the issue price of the new licences (which may be substantially below the current market price of existing licences) will automatically become the value of all licences in the market. This is despite the fact that only five percent of the existing number of licences will

be offered for sale in any year. This also ignores the fact that the new class of licences would not be available to investors wishing to lease a licence to an operator for a return and may be subject to cancellation for breach. Any potential diminution of licence value is considered by many in the industry as giving rise to an automatic right to compensation. The TTA has also stated that amendments that affect investment in licences may bring about a class action against Government or its agency.

Many respondents have also strongly rejected the annual issue of new licences of any type. However, it should be noted that the five percent annual release is required under existing legislation and this provision was never within the scope of this Review. The draft policy proposals relate only to the type of licence that might be released.

Licences are personal property under current legislation and the value of this property has been underpinned by the regulatory scheme designed to date. However, neither licence conditions nor legislation provides that Government is obligated to protect licence values. Government, as regulator, is obliged to manage the taxi industry in accordance with legislation to ensure an adequate:

- i. supply of taxi services; and
- ii. level of safety for road users.

As a regulator, Government is required to act for the benefit of all Tasmanians, rather than to provide a return on investment for licence holders who may consider licences to be part (or indeed, the totality) of their superannuation or other investment portfolio.

DIER has not proposed compensation for existing licence holders for several reasons. Firstly, neither Government nor taxpayers have been paid for the asset. That is, the Government, in most cases, did not sell the licence to the current licence holder. Clearly, where Government sells a right, there would be at least some argument in favour of compensation. However, in the case of taxi licences, very few have been sold by Governments at substantial prices. Most licences have been in existence for some decades, usually issued at nominal cost.

Secondly, from an efficiency perspective, compensation erodes the benefits of reform. In order to raise funds to compensate existing licence holders, it would probably be necessary to either impose a levy on the taxi industry that would be passed through to passengers, or seek funds from general revenue. This would serve to transfer the financial benefits of the proposed reforms from passengers or taxpayers to licence holders, the group which already benefits at the expense of passengers. That is, the financial benefits to the economy from increased efficiency would be transferred to the licence holders in the form of compensation payments. As licence holders already benefit from the scarcity of licences at direct cost of passengers, such an outcome would be unfair and unreasonable.

Third, licence holders have not undertaken substantial additional investment in connection with their use of a licence. Other than the cost of the licence itself, entry costs to the taxi industry are relatively low. The majority of the costs incurred in other assets relate to providing an appropriately equipped vehicle, which is a highly transferable asset.

Additionally, it is not possible to measure the quantum of any diminution of value of an existing licence that is unambiguously attributable to the release of new licence with different conditions. New licences of one form or another will be released annually in all taxi areas from 2007 onward. This alone is likely to have some impact on licence values which have become very inflated in some taxi areas due to scarcity and the personal investment characteristics of these licences. However, this is a separate matter to the proposal for a new class of licence resulting from this Review. Without a clear measure of the effects of a new class of licence, it would be irresponsible to suggest that a particular level of compensation was payable.

Further, the taxi industry has been aware that new perpetual licences would be made available (in some form or other) since the development of the *Taxi Industry Act 1995*. With the passage of this Act twelve years ago, reforms were implemented to provide for the annual release of new licences and therefore the industry has had a significant period to adjust to this arrangement. The annual release of licences was also explicitly provided for in the 2003 legislative amendments and in metropolitan areas this process commences this year.

As noted in Section 2.3 the price at which taxi licences trade has increased substantially since the legislation to give effect to these reforms was enacted. In April 1997, the capped value of a Hobart taxi licence was \$77,856. As of 1 July 2006, the AMV of a Hobart taxi licence was \$120,000. Speculation by investors has produced a 54 per cent increase in licence prices, while it has been readily apparent from legislation that more licences could be issued at any time. Arguably, any licence holder who has purchased a licence since these reforms were first mooted in the mid-1990s cannot reasonably claim compensation, as they will have been aware that the environment in which licence numbers were capped was not intended to endure.

The current proposal to change the type of licence issued and remove the AMV could not commence before January 2008 at the earliest, thereby providing time for the industry to prepare for the likelihood of additional licences which may potentially be available at lower cost.

DIER is of the view that there is no case for compensation to licence holders from the proposals contained in Paper 11.

2.6. Class of licence

Any new licences issued should be for specific operating periods, eg. day or night.

In response to Paper 11, it has been suggested that any new licences should be for a particular period of operation. The classes proposed are 'Day Licences' and 'Night Licences'. Specific operating hours were not suggested.

It is notable that in Melbourne, the Victorian Taxi Directorate is in the process of releasing some six hundred 'Green Top' taxi licences over six years. Four hundred licences have now been issued. These licences are for taxis which are permitted to operate between 3:00 pm and 7:00 am.

A similar concept has not been considered in Tasmania. The Victorian program was a direct response to growing demand for taxis at particular times of the day.

2.7. Owner/operator licences

Licence holders actively involved in the industry lead to a better standard of service.

One respondent with significant experience in the taxi industry has noted the benefits which having licence holders actively participating in the delivery of taxi services brings to both passengers and the industry itself. Further, the role of distant investors seeking a return on a licence through leasing was considered by the respondent to result in ill-prepared lessees entering the industry.

Another respondent from within the taxi industry has also suggested that owner/operator licences are better for the industry.

DIER considers these comments reflect its own view that owner/operator licences have substantial advantages over leased licences, as they grant the right to participate in the industry to the person who is actively involved in service delivery and this is more likely to provide benefits for passengers and industry.

New licences should be owner/driver licences instead of owner/operator licences.

DIER has proposed that new licences issued from 2008 onward should be owner/operator licences. That is, only an accredited operator would be entitled to hold this class of licence and that operator would be required to be the legally responsible operator of the licence. This is quite distinct from an owner/driver licence.

Under DIER's proposal, it would not be necessary for the owner of this new class of licence to actually drive the taxi to which the licence relates. It would be possible to engage drivers either as commission (bailment) agents or employees. However, this would not preclude the owner of the licence from driving the relevant taxi if they so wished. In the view of DIER, the benefits of requiring the licence holder to also be the driver are not persuasive, particularly given the practical difficulties of regulating such a requirement.

Many respondents have pointed out that there are difficulties with owner/driver licences. DIER is aware that there were a number of problems with the attempted introduction of owner/driver licences in the Northern Territory and this serves to add to its doubts about the merits of such a reform.

Licence holders should only be entitled to own one (1) owner/operator licence.

Some respondents take the view that licence holders should be restricted to owning only one owner/operator licence. No supporting arguments have been provided for this position.

DIER is of the view that taxi operators are capable of managing multiple taxis. Under the existing legislation, many accredited operators currently manage fleets from two to more than thirty taxis. To impose different requirements for owners of the new type of licence would be discriminatory and inequitable.

Further, to try to limit the number of owner/operator licences held and operated by a person would be very difficult. It would be necessary to inquire behind every company which tendered for a licence to determine if the shares were held by a person who already owned one of these licences or owned shares in another company which held a licence. The Commission would also be obliged to make similar inquiries every time one of these licences transferred in the secondary market. The regulatory burden created would add to administrative costs which are shared by all licence holders.

Owner/operator licences represent a restriction on market entry.

One respondent has suggested that to restrict the issue of licences to owner/operators represents a restriction on market entry.

DIER does not accept that limiting ownership of the new licences to taxi operators is a significant restriction. First, anyone can participate in a tender for the new class of licences. It will not be necessary to first become an accredited operator. DIER has taken the same approach with WAT licences issued under the current legislation. When calling for expressions of interest for WAT licences, DIER accepts submissions from all comers and will provisionally allocate a licence to a person who is not accredited. DIER then requires successful applicants to establish their accreditation prior to issuing the licence. In the case of the new

owner/operator standard taxi licences, bids will be accepted from all tenderers who, if successful, need to become an accredited operator before the licence will be issued.

New licences must be leasable.

One respondent has suggested that any new licences to be issued must be leasable. No support has been provided for this position.

DIER considers that no new leasable licences should be made available. A taxi licence is a right to operate a taxi business and the only person to have that right should be a person who delivers taxi services to the community, if not directly as a driver then as the legally responsible operator who hires drivers as part of running a taxi business.

Making new licences owner/operated, and therefore unleasable, will not disadvantage existing licence holders as they will continue to be able to lease those licences and will be able to enter into new leases in the future. Further, as no new leasable licences will be issued, the number of leasable licences will effectively be capped and this may allow these licences to retain more value, as they will be the only licences of interest to investors.

Retain the existing system

The taxi industry has been vocal in its opposition to the release of new perpetual licences and has used this review as a vehicle for reaffirming this, despite having been informed that the Government did not intend to move away from its commitment to release new licences annually.

In an effort to allay concerns about both the introduction of a potential ten per cent increase of taxis into the metropolitan fleets each year and the apparently crippling lease costs of existing perpetual licences, DIER has proposed the introduction of a new type of licence, ownership of which would be restricted to operators. These licences would be released each year at a maximum of five per cent of the taxi fleet and sold at a price determined by the market.

DIER believes that this approach continues to fulfil the commitment to the NCP agreements by allowing a gradual opening up of the market, and that it also goes some way to addressing the concerns of the NCC about the artificial barrier placed on licence prices by the AMV by enabling market forces to determine the price at which a licence can be purchased from the Government.

However, DIER recognises that there has only been one release of new perpetual licences in metropolitan areas since the introduction of the amendments to the Act. This is not sufficient time to assess the impact of the new licences on competition within the industry. If the industry wishes this impact to be assessed before making any changes to the licensing arrangements, the only other alternative is to retain the existing system.

This would see licences made available in all taxi areas at the AMV every year at a rate of five per cent of the number of perpetual licences on issue in each area, with the potential for a further five per cent to be issued if the average price of the licences sold exceeds the AMV by more than ten per cent. DIER would seek to examine the effect of these new licences after three years of this system, i.e. after the 2009 release. By this time, a further 70 new licences could potentially have been released into Hobart from January 2007.

If the existing system were to be retained, DIER would not consider amending it in any way as part of the current review process, as it has already been endorsed by the NCC. In particular the trigger for the additional release of licences must be retained, to ensure that where there is a high demand for new licences (as reflected by high tender prices) this can be met, and to assist in offsetting any concerns about the AMV placing an 'artificial' barrier on tender prices.

2.8. Issue licences to new entrants

New licences should only be issued to new market entrants, especially in taxi areas where there are existing monopolies.

One respondent to Paper 11 has suggested that the issue of new licences is a necessary activity, not only to improve competition for the benefit of customers but also to enable new entrants to become established in the supply of taxi services. It is alleged that monopolies over the supply of taxi services currently exist in certain taxi areas. To overcome this, it is proposed that existing licence holders should not be eligible to tender for new taxi licences.

While DIER considers that new entrants to the taxi business represent a positive diversification that is more likely to encourage competition, it is problematic to restrict the issue of new licences to those who do not currently hold licences. It is not for DIER to specify how many licences a single operator can manage in order to operate an efficient business. Further, enforcement of limitations on licence holding presents practical problems. For example, if an existing licence holder establishes a new company and that company tenders for a licence, would this qualify as a new entrant with no existing licences?

DIER proposes to adhere to the current proposal under which new licences would only be available to accredited operators. In itself, this does not prevent new market entrants from applying for, and obtaining licences.

2.9. Existing perpetual licences

Existing perpetual taxi licences should also become non-leasable upon a change of ownership.

One respondent has suggested that in addition to the issue of new perpetual licences which cannot be leased, existing perpetual licences should become non-leasable when they change ownership. This would also, over time, make all perpetual taxi licences non leasable in the same way that WAT and LHC licences are not leasable.

As the change in character of existing perpetual licences would not occur until each individual licence (or the business entity which held the licence) was sold or otherwise transferred to a new owner, existing licence holders would be entitled to continue or commence leasing their licences. It would only be upon sale or transfer that the changes would take effect.

Such a proposal would mean that only accredited operators, or persons who are prepared to become accredited would be eligible to purchase licences. This will restrict the size of the potential secondary market for all licences somewhat, although there are no limits on the number of accredited operators.

This proposal to prohibit leasing of existing licences in the hands of a subsequent licence holder would create a single system of licences over time. This is considered desirable. However, the process of converting existing licences into the non-leasable form only upon sale or transfer preserves the rights of the existing licence holders. It also means that a potential purchaser of a licence could only acquire a licence which cannot be leased regardless of whether they tender for a new perpetual licence from the Commission or seek to buy an existing licence in the secondary market.

This proposal is very attractive from a regulatory perspective. It has the advantage of converting all licences to the same format over time, without impacting immediately and directly on existing perpetual licence holders. It also ensures continuity for existing lessees. DIER has given serious consideration to adopting this proposal. However, as it has not been possible to fully consult industry on this proposal or any version of it, DIER will not proceed with this suggestion at this time.

Existing perpetual taxi licences must remain leasable.

The TTA has stated that it will accept owner/operator licences on condition that existing perpetual licence can continue to be leased.

DIER has stated clearly in Paper 11 that while it is proposed that leasing of the new licences be prohibited, existing perpetual licences will continue to have the same rights and responsibilities attached as before. That is, existing licences can continue to be leased, owners of these

licences can enter into new leases and the licences can be sold to any person who is also free to lease the licence.

3. Wheelchair-Accessible Taxis

3.1. Issue of WAT licences

No additional WAT licences should be issued.

It has been proposed in a number of responses to Paper 11 that no additional WAT licences should be issued. It is suggested that the existing fleet is sufficient, and that if all WAT operators were to cooperate to service bookings, waiting times would be manageable.

The WAT scheme was introduced in Tasmania in response to the Commonwealth's *Disability Discrimination Act 1992* (DDA). Under this Act, taxi networks are required to provide an equivalent service to wheelchair-reliant passengers which delivers the same response times for WATs as for standard taxis. Given that the Commission will be issuing an additional five percent of standard taxi licences each year, waiting times for standard taxis are expected to fall in the future. In order to ensure that WAT services remain equivalent, taxi networks will need to increase their WAT fleets. If the number of WAT licences is capped at the present level, it will be impossible for networks to meet this requirement and they face the possibility of prosecution by the Commonwealth in the Federal Court. For DIER to restrict the number of WAT licences and give rise to such an outcome would be unconscionable.

There is also anecdotal evidence that the number of WATs is currently inadequate to meet passenger need. DIER has received numerous reports that WATs are not available at all at certain times, particularly Sunday evenings. The most effective way to address this shortage is likely to be by making more licences available.

To cap WAT licences at the present level would create substantial scarcity value in the licences. This in turn is likely to result in licences trading for value, and the resulting financing costs may lead purchasers to cut costs in other areas such as vehicle maintenance or driver remuneration. Either would have negative consequences for WAT passengers.

Further, no WAT licences have yet been issued outside of the metropolitan areas. Wheelchair-reliant passengers in these areas who are unable to transfer to a standard taxi are currently without a taxi service which can meet their needs. DIER intends to introduce a number of reforms to encourage the establishment of WAT services in remote areas. To cap WAT licence numbers now would deny this service to anyone living outside of the metropolitan area.

As at 1 July 2007, there were 36 WAT licence on issue in Tasmania. Twenty-four operate in Hobart; ten in Launceston and one WAT operates in each of Devonport and Burnie. DIER does not consider the current fleet to be sufficient. A study was undertaken in 2005 to assess response times for WATs by comparison to standard taxis. As a result of the poorer response times for WATs, 19 additional licences were offered in the four metropolitan areas in 2006. To date, a number of these licences have not been taken up. Despite offering the licences twice in 2006, only five licences were issued for the Hobart taxi area, and one licence was issued for the Launceston taxi area. Another Hobart licence has been provisionally allocated subject to presentation of a suitable vehicle. The remaining licences will be offered again in 2007.

It has been further suggested that a number of WATs are currently doing few wheelchair jobs and that additional WAT licences will also do standard taxi work instead of wheelchair work. DIER maintains that WATs are first and foremost taxis and as such can legitimately undertake all forms of taxi work. Nevertheless, DIER does intend to investigate the introduction of performance requirements in relation to wheelchair work if it is apparent that wheelchair-reliant passengers are not receiving an adequate service.

One respondent has suggested that issue of unlimited WAT licences will lead to a compromise of passenger safety. Given that it will be necessary to present a new vehicle in order to obtain a WAT licence in metropolitan and urban areas, a reduction in safety is considered highly unlikely.

In a submission from a respondent representing a significant number of wheelchair-reliant users of taxis, the proposal to issue WAT licences in unlimited number has received unqualified support.

DIER does not consider any of the arguments offered against offering WAT licences in unlimited number to be persuasive.

WAT licences should be available on demand up to a capped level.

One respondent to Paper 11 has called for on demand issue of WAT licences up to a predetermined cap. No maximum number has been suggested as a suitable cap.

DIER is of the view that to set a cap at some level greater than the present number of WATs presents the same issues as capping WAT licences at the present level. Given that additional standard taxi licences will be issued at the rate of five percent annually, there will be a point at which response times of WATs will be poorer due to a cap on the number of WAT licences available. This again raises the risk of taxi networks being prosecuted in the Federal Court for breach of the DDA.

WAT licences should be issued only where response times are poorer than response times for standard taxis.

In Paper 11 DIER has proposed that WAT licences should be made available in unlimited number. Industry has responded with the view that metropolitan WAT licences only be issued where response times are poorer than for standard taxis (which is the current arrangement).

The significant cost and time involved in studying response times of both standard taxis and WATs, in order to determine whether response times are equivalent, causes a significant delay between any service shortages occurring and action by the Transport Commission to measure the deficiency and act appropriately to make more licences available. This is an undesirable outcome for wheelchair-reliant passengers. This is the reason that DIER has recommended moving to open release of WAT licences.

Furthermore, if DIER were required to prove that response times for WATs are not equivalent to standard taxis, this would provide evidence of a failure to provide equivalent service and potentially leave Tasmanian taxi dispatch networks open to action in the Federal Court under the Commonwealth DDA.

Nevertheless, even the TTA, which has a number of radio rooms among its members, has called for WAT licences to be issued on the basis of response times. The TTA notes in its submission that response times of WATs are slower than for standard taxis but, in conflict with its proposal that licences be issued according to response times, maintains that this is not a reason to introduce more licences.

While the industry has responded to the proposed unlimited release of WAT licences with dire predictions of large numbers of new entrants causing existing service providers to withdraw from the market until there are insufficient taxis, DIER does not believe this to be likely. In the latest two calls for expressions of interest, the ballot for WAT licences in the metropolitan areas has been undersubscribed. Further, luxury hire car licences are currently available in unlimited number. Despite being available on demand, the number of licences is stable with applications for new licences occurring infrequently.

DIER considers the market to be sufficiently informed and mature to assess whether more licences should be taken up. Accordingly, DIER is retaining the proposal to make WAT licences available on demand in unlimited number.

WAT licences should be issued at the rate of five per cent.

Industry has proposed an alternative course whereby metropolitan WAT licences would be issued at the rate of five percent of the existing number of licences. However, no details have been put forward by industry to suggest how such a process would work. As WAT licences are

made available at no capital cost, it may be that industry is proposing to retain the existing process under which the Commission calls for expressions of interest and conducts a ballot. To adopt this method does not address DIER's concerns regarding the administrative burden this imposes on prospective WAT operators seeking to obtain a licence.

One respondent has suggested that the annual five per cent release of standard taxi licences should include any new WAT licences. Again, no details as to how many licences should be offered as WATs has been provided.

3.2. Issue price

WAT licences should be issued for a minimum price.

An alternative proposal put forward in response to DIER's recommendation that WAT licences be available in unlimited numbers, is that a minimum price, such as the existing AMV for perpetual taxi licences, be introduced. No proposal has been made suggesting how such a price would be established.

DIER is of the view that any minimum price would represent a significant barrier to entry, especially given the high standard of vehicle which is required. DIER is already concerned that the uptake of WAT licences has slowed substantially in the metropolitan areas since they were first introduced in 2004 and any additional barriers may result in poor response times by comparison to standard taxis. This may prevent the Tasmanian industry from meeting its obligations under the DDA.

Further, as there is no secondary market for WAT licences as individual items, there is no trading data on which to base a WAT licence issue price. DIER has deliberately designed the WAT scheme to discourage in-market trading of licences as separate commercial assets.

3.3. WAT booking

Centralised booking service.

Some respondents, including the TTA have supported DIER's proposal not to introduce a centralised booking service for WATs. The TTA, in its submission has even stated that a centralised booking service would not improve response times for WATs.

While some industry members have sought a single radio room for WAT vehicles, user representatives are happy with the current arrangement, and acknowledge that many WAT users prefer to contact a particular service provider and even have a preferred driver and will tailor their travel accordingly.

3.4. Purpose of WATs

WATs are for wheelchair-reliant passengers.

In its submission, the TTA has repeatedly stated that WATs are primarily for the wheelchair reliant and general taxi work is a secondary function. This is inconsistent with the stance that DIER takes, which is that WATs are first and foremost taxis. While DIER is concerned that wheelchair-reliant passengers should receive adequate services, this does not detract from the role of WATs as taxis. This is consistent with the requirements of the DDA, which requires accessible transport to be an equivalent service rather than a parallel service.

DIER is investigating matters such as priority access for wheelchair-reliant passengers and is considering strategies such as more rigorous monitoring of job numbers and the introduction of quotas to ensure an appropriate focus on wheelchair work by WAT operators. However, this does not indicate any intention on the part of the Commission to preclude WATs from non-wheelchair work. Accordingly, DIER does not propose to adopt the TTA's proposal to put WATs which are not doing wheelchair work under the management of radio rooms.

3.5. Vehicles

Review 10-year operating life.

It has been suggested that some WAT vehicles may not be of a suitable standard to continue to provide WAT services before the expiry of the ten-year operating life. DIER considers that this is possible, however, 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.

Vehicles previously registered as a WAT should be eligible to used with a new WAT licence in metropolitan areas.

One respondent has noted that it will no longer be possible to obtain a new WAT licence in metropolitan areas using a vehicle previously registered as a WAT and has called for the current provision to be retained.

DIER has established the WAT scheme including a trip subsidy to offset the significant cost of the vehicles. It is clear that to allow used vehicles to be reintroduced on new metropolitan WAT licences means that the subsidy will be excessive for some operators, and this is not an efficient use of taxpayer resources.

Trip subsidies are yet to be specified for non-metropolitan taxi areas. Subsidies for remote areas will be developed to take account of the relaxed vehicle standards in those areas.

Vehicles standards.

The TTA has proposed that if WAT licences are to be available on demand, WAT vehicles should be required to be new. This is consistent with DIER's proposal for the metropolitan areas.

Alternatively, the TTA has proposed that if WAT licences are issued on the basis of response times, then industry would accept suitably maintained second hand vehicles. DIER is not proposing to use response times as a means of determining the issue of licences and is concerned that an industry body with a significant number of radio rooms among its membership would advocate the use of a measure which would expose a potential breach of the DDA.

The TTA has also suggested that minimum vehicle standard specifications for WATs is somehow inconsistent with DIER's removal of references to minimum quality standards in the objects of the Act. DIER has retained references to standards for WATs in the Act. However, the standards concerned are accessibility standards in order to ensure compliance with Commonwealth requirements.

Substitute WAT vehicles.

In its submission, the TTA has sought clarification of DIER's proposal regarding substitute WATs. In particular, the TTA has questioned what would happen where a WAT operator obtains a temporary standard taxi licence while a WAT is undergoing repair or awaiting replacement. The TTA has forecast a situation where the operator is subsequently unwilling or unable to resume providing a WAT service and wishes to permanently transfer to a standard taxi licence and may seek to have the temporary licence extended.

DIER has proposed that a temporary licence would be available only for genuine repair or replacement situations. There would be no power for the Commission to accept a request to make a temporary licence into a permanent standard taxi licence. The operator would be entitled to hand in their WAT licence to the Commission but in order to become an operator of a standard taxi, it would be necessary to compete in the market place or at tender to obtain a licence in the same way as any other prospective market entrant.

3.6. Regional WATs

Relaxation of vehicle standards.

DIER has received a number of comments in support of the proposals to encourage the take up of WAT licences in remote areas. This includes relaxing the vehicle standard and allowing accessible vehicles to operate on standard taxi licences while being able to charge WAT tariffs and claim the trip subsidy.

However not all of these submissions support restricting the areas in which the new rules would apply. Some respondents have sought relaxation of vehicle standards in all non-metropolitan areas, while other support relaxing the vehicle standards in all taxi areas. The TTA has called for consistent requirements across the State.

Rather than being applicable to all non-metropolitan areas, DIER sought to limit the relaxation of vehicle standards to remote areas. A remote taxi area has been defined as a taxi area:

- the boundary of which is at least thirty kilometres from the nearest metropolitan centre; or
- the boundary of which is at least twenty kilometres for the nearest metropolitan centre and the population of which is less than 6,000.

These criteria generally mean that those areas that abut metropolitan taxi areas will not qualify as remote and will therefore not be able to access the relaxed vehicle standards.

DIER has received submissions calling for the Huon Valley taxi area to be included in the remote category based on its geographical characteristics. This area does not fall within the criteria developed to qualify as a remote taxi area due to its proximity to Hobart. Nevertheless, it has been highlighted that Huonville is a considerable distance from the boundary of the Huon Valley taxi area, being approximately 38 kilometres from the centre of Hobart. Further, all of the other population centres in the Huon Valley taxi area are even more remote, with Dover being more than 77 kilometres by road from the centre of Hobart.

On this basis, DIER considers that it would not be unreasonable to classify the Huon Valley taxi area as remote, despite the fact that it does not qualify within the guidelines originally developed.

One respondent has rejected any relaxation of vehicle standards in any areas of Tasmania, on the grounds that the proposal to allow the use of a vehicle up to seven years of age to enter service as a WAT (in the specified remote areas) will amount to a safety compromise. DIER

rejects this argument on the grounds that this requirement is consistent with the current requirements for standard taxis in non-metropolitan areas and is therefore seen as appropriate for WATs in remote areas.

Allowing wholly out-of-area work.

Support has been received from a user representative for DIER's proposal to allow WAT operators to obtain a licence condition to undertaken WAT work wholly out-of-area.

One respondent has suggested that operators are unlikely to take up this offer. DIER acknowledges that it is unlikely that WAT operators will do wholly out-of-area work in more remote taxi areas, however some approaches for a licence condition to work in abutting taxi areas from the licence holders' "home" taxi area have already been made to the Commission.

The TTA has criticised the proposal on the grounds that the licence condition would be withdrawn if a WAT were to establish in the taxi area where a metropolitan operator worked out-of-area. DIER considers this to be appropriate as a dedicated service will always be preferable to a partial service from an adjoining area and should not be discouraged due to ongoing competition from another taxi area.

WAT-style services.

The TTA has criticised the proposal to allow standard taxi operators to establish a service using an accessible vehicle on a standard taxi licence in taxi areas with no WAT service. In particular, TTA is concerned that the Commission would allow such a service to be established but withdraw it if a WAT licence was issued in the taxi area.

DIER considers that in some very small taxi areas, the only way to encourage introduction of accessible services is to provide incentives to existing operators to develop suitable services. Nevertheless, if there is the opportunity to introduce a WAT, then the additional incentives for a perpetual taxi licence holder would be unnecessary and should be withdrawn as this would not be an efficient use of resources.

Wheelchair capacity of vehicles.

One respondent has recommended that WATs in regional areas should have the capacity to carry multiple wheelchairs to facilitate share journeys. DIER considers that the market should be able to determine what type of vehicle is appropriate in a particular taxi area. The TTA has supported this view.

3.7. Transport Access Scheme

Review maximum level of subsidy.

A review of the maximum level of subsidy available under the Transport Access Scheme (TAS) has been requested. The TAS is not governed by the Taxi and Luxury Hire Car Industries Act and hence is not within the scope of the Review.

4. Luxury Hire Cars

4.1. Operating life of LHC vehicles

Maximum operating life of LHC vehicles should be extended so as to be uniform with taxis.

DIER has proposed that LHCs in Group 1 should continue to be able to operate up to seven years of age. This is consistent with provisions in the current legislation. DIER has also proposed that, for consistency, LHCs operating outside of metropolitan areas should no longer be able to continue operating past the maximum age on the grounds that “luxury” should be the same, regardless of where a passenger commences a journey.

One respondent has suggested that Group 1 LHCs should be able to operate up to ten years of age, which is the same as for regional taxis.

DIER takes the contrary view regarding age of LHC vehicles. While it is acknowledged that LHC vehicles will require a higher level of investment than a vehicle operating as a taxi, a longer operating life should not be provided. In fact, in developing Paper 11, DIER investigated the possibility of reducing the operating life of Group 1 LHCs to five years. This is because passengers in the true LHC market will expect to be transported in vehicles, which are still relatively new, and of a high standard. The same does not apply to taxis, therefore, using taxis as a benchmark for these vehicles is not appropriate.

While operators of LHCs need to recover the cost of a more expensive vehicle, the true LHC market is such that this should be possible over the same, or even a lesser operating life than a taxi. However, if LHCs are undertaking what is essentially taxi style work at the same fares as taxis, this will be difficult. LHCs are not licensed to be taxis and do not have restrictions on the level of fares charged, therefore setting an appropriate fare structure to recover the higher level of investment is the responsibility of the operator. It is not reasonable to suggest that the regulatory framework should be altered such that LHCs can operate entirely within the market for taxis given that they are not licensed as such.

One respondent has suggested that there should be no age limit for LHCs. DIER does not accept that this is appropriate for the true LHC market.

Maximum operating life of stretched LHC vehicles should continue to be greater than for unmodified vehicles.

Members of the LHC industry have approached DIER to express their concern at the proposal to abandon the categories for stretched vehicles which permit a longer operating life than for unmodified vehicles.

While the operators agreed to put an alternative proposal to DIER none was provided.

Nevertheless, DIER accepts their representations that a longer operating life is necessary to recover the greater level of investment in these vehicles. On this basis, DIER proposes to retain separate categories for stretched vehicles, as follows:

Group	Criteria		Maximum Entry Age	Maximum Operating Age
Group 1A	Wheelbase minimum 2800mm prior to stretching	Purchase price equal to or greater than luxury car tax threshold (based on manufacturer's RRP prior to stretching and with no optional extras)		10 years
Group 2A	Wheelbase minimum 2800mm prior to stretching	Purchase price equal to or greater than 2.5 times luxury car tax threshold (based on manufacturer's RRP prior to stretching and with no optional extras)	7 years	18 years

4.2. Abolition of LHC licences

LHC licences should be removed from the market via a compulsory buyback.

One respondent suggested that, as the proposed reforms would render the LHC industry unviable, all LHC licences should be bought back and the industry abandoned. It was proposed that to give effect to this, DIER should impose a one-off levy on all taxi licences to fund such a program.

In Paper 11, the possibility of a buyback of LHC licences was not canvassed. DIER did consider the Productivity Commission's recommendation that the distinction between LHCs and taxis should be abolished but, concluded that there is a genuine LHC market which demands a

service different to that which is provided by taxis. A meeting on 15 June 2006 with a number of LHC operators from around the State confirms this view.

DIER has acknowledged, however, that the size of the true LHC market is most likely smaller than the current number of LHC licences on issue (47) would suggest. In the 2006 meeting with LHC operators, it was agreed that the size of the market is small and perhaps only 10-15 vehicles operate on a full-time basis. However, operators also advised that as taxis sometimes do hire car work by removing the top light, it is hard to determine the actual size of the market.

DIER is of the view that the Tasmanian LHC industry is essentially two separate industries at present. One sector serves the true LHC market, which is a small market. The remaining LHCs provide a service which is essentially parallel to that offered by taxi operators with better vehicles (without the ability to stand at ranks and accept hails in the street).

A buyback of LHC licences (originally issued at \$5,000 each) would remove 47 licences from the Tasmanian private transport market and would cost \$235,000. A \$200 one-off levy on taxi licences would raise just over \$80,000 in revenue. A levy of almost \$600 would be required in order to fund a buyback of the entire LHC industry as suggested. The proposed \$200 levy would facilitate the buyback of only about 16 LHC licences.

Given that a substantial number of LHCs are providing what is essentially a parallel taxi service, a buyback of all LHC licences would require existing taxis to make up any shortfall in service. This would deliver a significant benefit to taxi operators in areas where there are large numbers of LHCs operating. Taxis in areas where LHCs rarely provide services would not benefit to the same degree. Nevertheless, under the proposal, all taxi licences around the State would be subject to the same levy.

An increase in work for taxis in areas which previously had high numbers of LHCs providing services parallel to taxis would also likely deliver an increase in licence values in those areas, generating a double benefit. Again, this would not flow to licence holders in areas where there was little or no LHC work to take over.

If a buyback of all LHC licences were effected and existing taxis were to assume the work previously undertaken by LHCs, the consequences for passengers in some taxi areas may be negative. In areas which previously had high LHC numbers, potentially there would be a significant increase in work for the existing taxis which may increase passenger-waiting times.

Perhaps a more equitable solution than to simply allow the market to redistribute work currently undertaken by LHCs if a buyback of all LHC licences were effected, would be to issue an equivalent number of taxi licences into each taxi area where a LHC licence primarily operated. For example, there are about 28 LHC licences where the vehicle is based in Hobart and ten licences relating to vehicles based in Launceston.

While it could be anticipated that in the event of a buyback, taxis would take over much of the work currently done by LHCs, there is still a small customer group that is seeking a higher level of service. In order to allow this market to be met, it may be necessary to allow some limited passenger services (LPS) to continue to provide this premium service. It is noted that there is no fee for a licence to undertake LPS work. Therefore a buyback of a LHC licence from an operator in the true LHC market would likely result in a transfer of service to the LPS market while providing a refund of the LHC licence fee to the operator.

4.3. Taximeters in LHCs

LHCs should be permitted to have taximeters fitted.

In Paper 11, DIER proposed that LHCs not be permitted to use taximeters. In the course of public consultation it has been suggested to DIER that the use of taxi meters in LHCs is beneficial to both passengers and operators, and letters have been presented to DIER from representatives of passengers of an LHC operator which would seem to confirm a preference for such meters.

DIER has taken the view that the presence of a taximeter in a LHC blurs the distinction between the two services. In particular, passengers may be misled to think that a taximeter is sealed and is calibrated to charge a Government-regulated fare. One letter from a passenger representative supporting the use of taximeters in the LHCs refers specifically to regulated taxi rates and the sense of comfort that this provides.

The LHC operator who provides the service in question has advised DIER that he chooses to use a meter in his LHC and that the meter is calibrated to the scheduled taxi fare and his customers prefer his standard of car at the same price as a taxi. However, the same operator also advised DIER that he charges Tariff 2, the weekend and evening tariff, at all times. Therefore, while his customers are advised that he charges the same price as taxis, this is only true in part. Such a situation is disturbing as it confirms DIER's view that customers are being misled even if the financial consequence in this case is only the small difference between the two tariffs on weekdays.

Three LHC operators have separately made representations to the Department specifically on the issue of allowing the use of taximeters. Two of those operators have indicated that they charge the same rates as taxi fares. One operator stated that the use of these meters protects the public. As the Commission has no power to check these meters, there is no means of verifying whether this is true and in at least one case, DIER is aware that this is something of a misstatement.

Taximeters have the potential to be a useful business management tool. Meters are electronic devices, the equivalent of a cash register for a retail business, capable of transferring data used for producing management reports. Meters can also be linked to electronic payment and receipt printing facilities. However, it is not clear that the meters in LHCs are being used in this way.

It has been suggested to DIER that in addition to permitting the use of meters, LHC fares should be regulated. However, DIER sees no need to take this step as LHC operators have established their own fares over many years based on market experience and there is no evidence to suggest that having the opportunity to negotiate the price of using a LHC is disadvantaging customers.

The true LHC business is a premium quality and highly discretionary service. Imposing a regulated fare calculated by a sealed taxi meter on taxi services is vital to ensure customer protection in an environment of information asymmetry, but these reasons do not apply to a LHC operation. In the absence of a regulated fare, the use of a taximeter should be unnecessary for a LHC operator.

To deny a LHC operator the opportunity to use a business tool such as a taximeter is a restriction on business. Nevertheless, DIER's concerns about the potential for customers to be misled are well founded, and the use of a taximeter is probably an essential tactic for any LHC operator seeking to obtain fares by presenting the service as akin to that of a taxi. DIER is aware of accusations that some LHC operators will attempt to park either on taxi ranks, or closely adjacent to them. While these accusations are unproven, the possibility that this could occur is of concern and highlights the potential difficulties associated with taximeters being used in LHCs.

In its submission, the TTA has supported the proposal to prohibit the use of taximeters in LHCs. However, the TTA has expressed a concern that to prevent the use of meters will be in breach of NCP. DIER does not have the same view, as it is clear that taximeters have the potential to mislead customers and this is a sufficiently serious issue to warrant the introduction of appropriate regulation which is in the public interest.

Accordingly, DIER does not intend to continue to allow the use of taximeters in LHCs.

4.4. Distinction between the taxi and LHC industries

Overlap between taxis and LHCs to be reduced.

As part of the Review, DIER was required to investigate whether hiring activity in the luxury hire car market undermines the distinction between the LHC industry and the taxi industry to the extent that the objectives of the Act are not being met. The requirement to review this aspect of the Act was made by Cabinet when the 2003 amendments to the Act were approved.

There have been numerous reports from operators and drivers of both taxis and LHCs as to inappropriate behaviour by members of the other industry over the years. Rarely is substantiating evidence provided. One claim in particular occurs at regular intervals, being that LHC drivers illegally stand on taxi ranks to pick up work. There is constant complaint on the part of operators of both businesses that the other business is stealing work that legitimately 'belongs' to them.

LHC operators also complain about taxis undertaking work as small passenger vehicles after removing the vehicle top lights. This is permitted under the regulations for taxis carrying passengers:

- to weddings or funerals;
- in accordance with a contract approved by the Commission;
- under an agreement between the licence holder or the licensee's agent and any person; or
- as a limited passenger service. Limited passenger services that could be provided by a taxi are educational, recreational, adventure or other brochured tours.

While some LHC operators complain about taxis undertaking this work, others endorse this activity by engaging some taxi operators with better vehicles to fulfil overflow jobs (as the agent of the taxi licence holder). In other cases, taxi operators who also have LHCs will use an LHC vehicle to fulfil bookings originally requested for a taxi, a practice which is condemned by some taxi operators. In many cases there has been a deliberate blurring of the distinctions between taxis and LHCs to the benefit of operators, while in other cases operators look to the Commission for enforcement of the distinctions.

DIER is aware that at times, certain large events require more premium standard, unmarked vehicles than existing LHC licence holders can provide. Large political conferences and events

such as ANZAC Day are examples. Contracting out of this additional work to premium quality taxis using the agency exception in the Act is of benefit to the passengers and both the LHC and taxi operators. Nevertheless, as many taxis are leased rather than owner operated, technically this would require the LHC operator to enter into an agreement with the taxi licence holder for such work, who would then instruct a lessee (assuming the terms of the lease permitted such instruction) to carry out the work. It is unlikely that this is what occurs in practice, making such agency arrangements technically outside the law.

In other cases, radio rooms dispatch LHCs instead of taxis. A number of respondents have referred to this practice. In Paper 11 DIER made it clear that radio rooms should clearly represent the service they are providing and a LHC should not be dispatched unless the passenger is first asked if they will accept the substitution and any difference in fare is disclosed.

At this time, DIER does not intend to prevent taxis from undertaking work without top lights, however, it is proposed that the legislation be altered to enable taxi operators (rather than the licence holder) to enter into an appropriate agreement with an agent. Nor does DIER propose to restrict the dispatch of LHCs from radio rooms. However, DIER is of the view that prohibiting taximeters in LHCs is necessary to ensure customers are not misled to believe that fares charged are Government-regulated fares. DIER believes that this change will improve the distinction between the two industries in a manner that is least likely to disadvantage customers.

4.5. Distinction between taxis, LHCs and limited passenger services

Overlap between taxis, LHCs and LPS vehicles to be reduced.

Further blurring between the types of services occurs with LPS vehicles. Small passenger vehicles may undertake work LPS work including regular passenger transport services (which requires operating to a schedule and making the service open to the general public or a class of persons) and brochured tours. The Commission requires that such tours:

“must be advertised/brochured in such a way that a member of the public could easily obtain written details of the service being provided. Any brochure produced must include a set itinerary of the service and the route to be followed. It cannot include a service where the customer is able to dictate either the route or the destination of the service or a service that will compete with functions identified as belonging to luxury hire cars or taxis.”¹¹

Buses (10 seats or more) may undertake irregular tours or general hire LPS work. Provision is also made for other categories of vehicle such as vintage cars and motorcycles to undertake

¹¹ Transport Commission guidelines

particular work. See Appendix 1 for a copy of the relevant section of the Passenger Transport Act.

Based on complaints received, it would appear that the taxi industry considers much of the LPS work to rightfully belong to taxi operators. For example, transporting passengers from various accommodation establishments to airports. Taxi operators have complained that this work is being undertaken by vehicles which, unlike taxis and LHCs, are unlicensed and do not face maximum operating age limits.

One suggestion from a LHC operator that would further blur the distinction between all the service types is the proposed recasting of taxi ranks as public passenger vehicle ranks. This would enable LHCs, LPS vehicles and buses as well as taxis to use ranks to pick up passengers. DIER does not consider that this would be of benefit to customers. Prospective passengers approaching a rank are seeking an on-demand point-to-point transport service at a price. There is no guarantee that a bus, LHC or LPS vehicle is standing at a rank with the intention of providing such a generic service. It would be necessary for passengers to engage with each of the drivers to determine what kind of service they are providing and whether this suits the passenger's purpose. More than likely, a provider will offer to provide the service which a potential passenger is seeking in order to obtain work, regardless of whether it is a service which that provider can legally offer. To have transport providers engaging in illegal trade is of benefit neither to industry nor passengers. Accordingly, DIER does not accept this proposal.

The issue of LPS work was first raised by the Taxi Industry Reference Group in Meeting #10 after the draft policy proposals were developed. It has also been raised in a number of submissions. This issue was not been canvassed in the course of the Review, as it is not a part of the Taxi and Luxury Hire Car Act. LPS work is governed by the Passenger Transport Act. Given that:

- this issue has not been considered in detail by the Reference Group;
- no alternatives have been proposed; and
- no consultation has been undertaken with LPS operators,

DIER does not propose to make any changes to the provisions governing the LPS industry in response to the matter at this stage of the Review. However, given the number of submissions to raise this issue, DIER is of the view that a review of the regulation of LPS is required in the future. A review of the broader Passenger Transport Act is under consideration and the LPS scheme would be addressed as a part of that exercise. At this time it would also be appropriate

to reconsider work undertaken by taxis in accordance with Regulation 23 of the *Taxi Industry Regulations 1996*, as this directly overlaps with LPS work.

4.6. Regulated fares

GPOC should set fares for LHCs.

It has been proposed that in addition to the proposal that the Government Prices Oversight Commission (GPOC) set taxi fares, regulated fares should also be set for LHCs.

This proposal has been suggested despite DIER's statements in Paper 11 that fares for LHCs should be determined by individual operators to suit their market which is of a quite different nature to the taxi market. In Paper 11, DIER also opposed the suggestion that a minimum fare should be introduced.

LHC operators provide a premium service which is more than point-to-point on demand transport. Passengers in the true LHC market will expect a level of service which may include a uniformed driver, special personal assistance, continuous availability over a prolonged period without notice, anonymity and, of course luxury transport. For such a service most customers are prepared to pay a premium fare and accordingly there is far less need for limits to be placed on fares than there is in the case of taxi services. Further, in order to meet the particular requirements of each passenger, LHC operators need to be able to respond to requests and set prices accordingly. No fare regulation can incorporate the flexibility which LHC operators will require.

Any form of fare regulation is likely to be limiting and impose a significant restriction on business. DIER does not propose to introduce fare regulation for LHCs.

4.7. Security

LHCs should be required to have security cameras fitted.

It has been proposed by a respondent to Paper 11 that all LHCs should be required to fit security cameras. In Paper 11, DIER found that security cameras are required in taxis operating in metropolitan areas. However, the characteristics of what DIER determines to be the "true" LHC industry should determine whether cameras are needed, rather than on the fact that some LHCs operate as de facto taxis.

Considering the intended nature of the LHC industry and its customers, it is not apparent that there is a security issue and so cameras should not be required. Given the lack of confirmed

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

While another respondent has called for LHCs operating out of radio rooms to have cameras fitted, DIER is firmly of the view that the LHC industry should determine the need for cameras.

Compulsory identification for LHC drivers not to be on display in the vehicle.

Many respondents have supported the proposal to introduce compulsory driver identification. However, one respondent, while agreeing that it is necessary, has suggested that it should be worn by the driver rather than displayed in a LHC.

This alternative has been proposed on the grounds that a visible display on the dashboard in a LHC detracts from the presentation of the vehicle. DIER considers that requiring a driver to wear identification is something of an imposition, and while it may suit some drivers and their operators, others may feel it detracts from personal presentation.

In the ACT, LHC drivers are required to carry an official identification document and must present that identification on demand, whether to a passenger or police. DIER considers this proposal to be an acceptable alternative and will adopt this recommendation.

4.8. LHC Vehicle criteria

In addition to the generic characteristics for determining which vehicles are eligible to be LHCs, some restrictions on the type of vehicle are also required.

One respondent has correctly noted that the proposed method for determining the vehicles that would be eligible to operate as a LHC will permit operators to choose to use a variety of vehicle types including four wheel drives. It has been suggested that the proposal should be altered to restrict such vehicles from eligibility. No supporting reasons for this proposal have been provided.

The proposed criteria are:

- a minimum wheelbase of 2800 millimetres; and
- passenger vehicle classification; and
- for Group 1, 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 (\$57,009) at which luxury car tax applies,

based on the manufacturer's recommended retail price excluding dealer delivery and statutory charges; or

- for Group 2 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).

DIER does not consider it 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. As LHCs are limited to small passenger vehicles, larger passenger vehicles such as buses would not be eligible.

The criteria for determining whether a vehicle is eligible to be a LHC should be based on the internal dimensions rather than wheelbase.

It has been suggested by one respondent that wheelbase is a less successful determinant of passenger comfort than the internal dimensions of a vehicle and that the criteria for establishing eligibility as a LHC should be altered to reflect this.

While DIER accepts that internal dimensions of a vehicle may be more directly related to passenger comfort, applying minimum specifications of this nature would be more complex than the proposed single wheelbase measurement.

Standard internal dimensions which might be applied include leg, shoulder, head and hip. These dimensions differ for both front and rear seating. To establish minimum passenger space it would therefore be necessary to specify eight separate dimensions. To determine whether a vehicle would be eligible as a LHC under such a system would clearly be much more involved than under the proposal to use wheelbase as an eligibility criterion. Further, detailed information on internal dimensions is not as readily available as the wheelbase specification. Most manufacturers websites provide information on the wheelbase. Only some manufacturers provide the additional information regarding internal dimensions and it would be necessary to request these additional specifications from dealerships in order to establish whether a vehicle is eligible.

DIER considers that the proposal to use internal dimensions has merit. However, practical application of such a scheme is complex and would add to the administrative burden of LHC operators. Accordingly, DIER proposes to retain a minimum wheelbase as a criterion for eligibility.

A minimum entry age should be imposed for Group 1 LHCs.

Some submissions, including from the TTA, have noted that there is no maximum entry age specified in the proposals for Group 1 LHC vehicles. However, there is a maximum entry age limit for taxis in metropolitan areas of five years and seven years in non-metropolitan areas. As a consequence of this, it has been suggested that a vehicle that would be unsuitable to become a taxi, may be suitable to commence work as a LHC.

The TTA has proposed a maximum entry age for Group 1 vehicles of two years.

To date, there has been no maximum entry age limit on LHCs in either Group 1 or Group 2. The introduction of a maximum entry age for Group 2 is seen to be necessary as the maximum operating life for this group is 15 years.

While it is possible that a vehicle which would be ineligible to commence operation as a taxi, may well qualify as a Group 1 LHC, DIER is of the view that the difference in nature between the taxi and the true LHC market, that operators would only choose to introduce an older vehicle where this would be accepted by their market.

4.9. Logbooks

Logbooks should not be introduced.

Some respondents have rejected DIER's proposal to introduce a requirement for LHC operators to keep logbooks in their vehicles. It has been suggested by one respondent that logbooks are ineffective as an enforcement tool in an environment where passengers change their plans at short notice.

Nevertheless, DIER is firmly of the view that this is an appropriate step that will not impose undue hardship on operators, as many have already advised that this is a normal operating procedure in their business. Where passengers change their plans, updating the logbook to reflect the change is appropriate.

4.10. Advertising

Advertising on the exterior of LHCs should be prohibited.

Several respondents have noted that DIER has proposed a prohibition on LHC operators soliciting for business, yet has also proposed allowing LHCs to bear external advertising.

These positions are not inconsistent as advertising on a vehicle that it is a LHC is quite a separate matter from touting for business by indicating that the vehicle is for hire.

DIER maintains that advertising on the exterior of the vehicle is a normal means of promoting a small business. If passengers of a LHC service are prepared to be seen in a vehicle bearing such advertising, operators should be entitled to present their business in this manner. While unmarked vehicles are probably more usual in the LHC business, advertising in this way should not be prevented.

5. Operator Accreditation

5.1. Lost property

Why should operators be required to hold lost property for seven days?

Under the current arrangements for lost property a driver or operator is required to retain the property for seven days before delivering it to the nearest police station. DIER has proposed to revise this requirement such that the operator is required to hold the property for seven days and may then deliver it to a police station.

To impose a regulatory requirement on either of two parties means that no one party is responsible, thereby giving rise to enforcement difficulties. The operator, who is accredited and has broader responsibility for the conduct of the taxi business, (including management of lost property) is the sensible party for this responsibility. Additionally, when a customer is seeking to retrieve lost property it will be the operator's telephone number they call attempting to do so.

The period of seven days before forwarding property to a police station is considered adequate. Operators should hold the property for a reasonable time to give passengers opportunity to discover the loss and attempt retrieval.

Operator accreditation.

In its submission, the TTA has noted that operator accreditation provisions are relatively easy to negotiate and this will not be a barrier to a person seeking a new owner/operator licence. DIER agrees that obtaining accreditation is not too onerous, yet it delivers outcomes for passengers who can be assured that an operator has passed a criminal history check and has appropriate systems in place to ensure a safe operation.

6. Radio Rooms

6.1. Compulsory affiliation

Taxis and LHCs should be required to be members of radio rooms (dispatch networks).

Despite the lengthy case DIER presented in Paper 11 against compulsory affiliation, a number of respondents have expressed the view that all taxis should be required to be members of dispatch networks. One respondent has suggested that failure of an operator to join a radio room would amount to a breach of the duty of care to the driver. It is noteworthy that some proponents of this view have a direct financial interest in a network and so would likely benefit from any proposal for compulsory affiliation, as this would have the effect of boosting membership with a consequent increase in fee revenue for the network.

The TTA, which represents a number of radio rooms, also argues for compulsory affiliation. The TTA goes further and suggests that DIER has no evidence that the Department of Treasury and Finance does not support compulsory affiliation. DIER notes correspondence from the Secretary of that Department dated 25 July 2007, which states:

“At its most basic level, compulsory affiliation places an artificial burden on taxi operators by forcing them to comply with the fees and conditions set by the established radio rooms. Radio rooms, secure in the knowledge that their services must be purchased regardless of price, would have a reduced incentive to compete or drive innovation.

The basis of my concerns toward the regulatory proposals for radio rooms is that no case of market failure has been demonstrated.”

It is not feasible to reiterate all of the arguments presented in Paper 11 against compulsory affiliation. No new information has been presented to suggest to DIER that a net public benefit would be delivered by compulsory membership. To the contrary, the TTA, in its submission has conceded several of the major arguments previously proffered in support of compulsory affiliation. In particular, TTA has admitted that membership of a radio room does not ensure temporal and spatial coverage and that introduction of GPS is too expensive to consider at this time.

DIER has received a number of submissions which support allowing taxi operators to work independently of networks. Notably, the TTA has stated that it accepts that there is a place for independent operators. Nevertheless, the TTA has also proposed introducing a record-keeping requirement for independents in the form of a log book. DIER will not be adopting this recommendation.

Based on the information available, DIER will not be introducing a requirement for compulsory affiliation.

New taxi licence holders will not be members of radio rooms.

One respondent has suggested that new licence holders will not join radio rooms and will operate from mobile telephones as independents. It is not clear whether the respondent is suggesting that new licence holders will chose to be independent, or whether existing radio room members will prevent new licence holders from joining.

DIER does not regulate radio rooms and is not proposing to do so. If an existing radio room were to decide to cap its membership, it may do so choose to do so if this determination is made as a single legal entity. However, where a radio room is an association of a group of individuals, the Australian Competition and Consumer Commission may take an interest in what could be horizontal agreements between competitors to restrict competition by preventing the entry of a new competitor.

Compulsory affiliation with a single radio room.

One respondent has proposed compulsory affiliation with a single Hobart radio room. This would have the effect of creating a monopoly and would likely cause other radio rooms to close.

Creation of monopoly or a near monopoly supply of radio room services was highlighted in Paper 11 as a significant concern for a regulator. As taxi operators would not have any choice about joining, the radio room operator would have significant market power. To avoid abuse of such market power, DIER would be obliged to regulate every aspect of the radio room service in order to ensure that services were delivered equitably and at a fair price. Such a significant increase in regulation would be extremely costly and would ultimately result in higher fares for customers.

DIER considers that this situation can be avoided by allowing taxi operators to choose whether membership of a radio room offers their business a suitable return and allows competition between radio rooms for supply of services. This delivers fair results for operators without increasing costs to consumers.

If compulsory affiliation is introduced, how can creating a monopoly for radio room services be avoided?

Given the strong support from some respondents for compulsory affiliation, DIER has considered how such an arrangement may be implemented without creating monopoly, or near-monopoly supply situations from developing. In Paper 11, considerable discussion was devoted to the possibility of needing ever increasing regulation of radio rooms to protect the interests of

members who are required to be part of such an organisation in order to operate their taxi business.

The only reasonable solution to this issue would be for DIER to introduce a Government-provided radio room. That is, either DIER would establish, staff and operate such a facility or call tenders from existing radio rooms both in Tasmania and interstate to contract to provide these services for all Tasmanian taxis. In either case, all Tasmanian taxi operators would be required to be affiliated with the Government service and would pay regulated fees to the Commission to fund the service. Taxi operators would still be free to be members of other radio rooms in addition to the Government service; however, it would not be possible to operate a taxi without membership of the Government radio room.

Only by providing radio room facilities in this way, could DIER ensure that all taxis were provided with the same minimum service, that dispatch for greatest spatial and temporal coverage was achieved and that equality of dispatch occurred.

This proposal is not DIER's preferred course. However, if industry continue to seek compulsory affiliation, DIER proposes to undertake a feasibility study to establish its own radio room service.

6.2. Accreditation of radio rooms

Radio rooms should be accredited and given powers to address operating issues.

In its submission, the TTA, whose members include several radio rooms around the State, has called for radio rooms to be accredited. In addition to accreditation, the TTA is seeking powers for radio rooms to impose minimum operating requirements on members and impose sanctions for failure. In particular, powers are sought to impose a code of conduct, quality standards and require minimum operating hours.

DIER has already noted that, in the absence of compulsory affiliation, additional regulation or radio rooms, whether in the form of an accreditation scheme or more formal regulatory arrangements, is not necessary. In accordance with the Government's Legislation Review Program, regulation of any kind should only be introduced where it is the only means of achieving an objective.

Radio rooms do not need an accreditation scheme and accompanying powers to deal with members. The membership contract into which operators enter in order to obtain the benefits of membership, will clearly state the requirements of the radio room which operators must meet. In the event that it does not do so, radio rooms should investigate new contracts that specify any requirements they might wish to incorporate, and any penalties, such as non-dispatch for a period, to be imposed for breach. A private contractual agreement between the parties is

sufficient for this purpose and no involvement from the Commission is required to achieve this outcome.

Accreditation of radio rooms should be introduced with minimum standards of operation.

In Paper 11 DIER stated the view that regulation of radio rooms and minimum standards of operation was unnecessary. Despite this, a number of respondents have requested regulation of radio rooms in their submissions. However, no evidence of the need for regulation has been presented. It has not been suggested that radio rooms are not meeting the needs of their members.

Given that DIER is not recommending that affiliation to a network be compulsory for operators and drivers, 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.

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.

6.3. Safety

All Tasmanian taxis should be fitted with security cameras and GPS.

One respondent has suggested that all Tasmanian taxis should be fitted with both security cameras and global positioning system (GPS) devices as a means of improving the safety of drivers and passengers.

While 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, no evidence has been provided for expanding the requirement for security cameras to non-metropolitan areas. Nevertheless, operators in rural areas have the choice to install cameras at any point should they wish.

DIER accepts that continuously monitored, periodic pulse GPS systems do have safety benefits. However, this is very costly technology and requires continuous monitoring to be fully effective.

It is understood that one network in Tasmania is currently equipped with these facilities. There are also specialist businesses providing these services to fleet managers of other types of commercial vehicles in order to track vehicle location. Some vehicle tracking systems are offered as options on new vehicle purchases. Any operator seeking a GPS monitoring service has the option to install the equipment from any of the available suppliers.

The TTA has stated that GPS is not justifiable at this time on the grounds of expense.

While DIER accepts that there may be benefits from both universal GPS and security cameras, it is considered that operators should have the option of adopting GPS technology and there is no evidence of need for the extension of security camera requirements to all areas.

7. Taxi Fares and Driver Pay and Conditions

7.1. Minimum fares

A minimum fare of \$5.00 should be introduced to encourage drivers to undertake short jobs.

Numerous respondents have commented on fare levels and a small number of responses have suggested that minimum fares should be introduced. One respondent suggested a five-dollar minimum fare would encourage drivers to take short jobs that are currently considered undesirable by some, resulting in jobs being declined.

DIER is of the view that an appropriate balance of fare components between flagfall and kilometre rate should be sufficient to ensure adequate recovery on jobs of any length, rather than specifying a minimum fare. It has been suggested that the current balance (\$3.10 flagfall and \$1.63 kilometre rate on tariff 1 in metropolitan areas) does cause drivers to favour longer trips and encourages long queues at airports at the expense of (for example) urban shopping centre ranks. This is a matter which should be put to the Government Prices Oversight Commission (GPOC) in terms of reference for developing a fare-setting model.

In addition, DIER is of the view that increased competition through the issue of new licences will encourage drivers to accept jobs regardless of length.

7.2. Fares

DIER should not seek to encourage price competition.

One of the factors behind DIER's proposal to issue new owner/operated licences without an effective reserve price is that, by reducing overhead costs, it will provide greater scope for fare discounting and other programs which will benefit passengers.

Several respondents have rejected the notion of price competition and one respondent stated that fare discounting would lead to price wars, which are not in the interests of the industry.

The Commission does not regulate the taxi industry for the benefit of industry. Rather, the Commission regulates the industry for the benefit of all Tasmanians. To suggest that price competition should be avoided for the sake of the industry alone ignores the interests of the largest group in the taxi market, the passengers. DIER is not prepared to contemplate establishing a regulatory environment in which price competition was not an element.

Further, to prevent price competition below the maximum fare would represent a significant restriction on competition and impact on business and would therefore be at odds with NCP.

Fares are too low.

It has been suggested by one respondent that the public has never paid a reasonable amount for taxi services. The respondent suggests that fare increases continually lag cost increases. It was suggested that a fare increase of between 200 and 300 per cent would generate an appropriate fare. However, it was acknowledged that this would significantly affect patronage.

DIER is of the view that over time, fares have more than kept pace with cost increases.

Under the proposal to have GPOC or other independent body develop a new fare-setting model, the taxi industry would have the opportunity to contribute views such as these to the process.

Fare setting.

In its submission, the TTA has supported the proposal to transfer the fare-setting role to an independent body. However, the TTA has called for a role in determining the terms of reference and prefers a model where agreement must be reached with industry.

While DIER acknowledges the support for this proposal, terms of reference must be set to reflect a requirement to balance the interests of the industry and the public. Accordingly a model requiring agreement from industry is not appropriate. However, any independent inquiry

process would necessarily require full public consultation and industry would have appropriate opportunity to have input into this process.

7.3. Competition and driver earnings/hours

An increase in licence numbers will reduce driver earnings and cause drivers to work longer hours.

One position stated in numerous responses to Paper 11, is that any increase in licence numbers will lead to reduced earnings for already low-paid taxi drivers, causing drivers to work longer, possibly unsafe, hours. A petition to this effect, signed by 68 drivers from the Launceston area, was submitted to DIER officers at a Taxi Industry Reference Group meeting.

Firstly, DIER does not accept that the taxi market is static in size. With greater availability of taxis and opportunity for price competition there is significant scope for the market to expand, as has been the experience in New Zealand.

Secondly, it should be noted that the Commission has no role in determining driver pay and conditions and has not made any recommendations regarding driver pay and conditions, other than to continue to require worker's compensation cover for drivers. Taxi operators and drivers are responsible for jointly negotiating driver remuneration. Those operators concerned about attracting and retaining drivers are free to strike payment arrangements with drivers that will achieve those outcomes. Drivers will be attracted to those workplaces that offer better terms and conditions.

One respondent has stated that the safety of passengers and drivers in her vehicle will be jeopardised as her driver is now working fourteen-hour shifts. If an operator already has concerns about fatigue-related error, they should carefully consider their potential liability as an employer and potential public liability that may result if an accident were to occur which was both foreseeable and avoidable.

7.4. Supply of trained drivers

An increase in licence numbers will cause a driver shortage, especially for WATs.

A number of respondents have raised the issue of an existing shortage of drivers that will be exacerbated by the issue of any additional licences. Current operators have indicated concern that their existing drivers may seek to obtain one of the new, potentially cheaper owner/operator licences, which they could drive for themselves, thereby becoming unavailable to drive for their current operator.

At times, many industries face shortages of appropriately trained, experienced staff. Such conditions exist in many industries at present due to the good economic times and the low unemployment level being enjoyed throughout Australia. In such circumstances, it is necessary for an industry to respond by making prospects attractive for potential employees. The Commission has no role in determining driver pay and conditions. Taxi operators who wish to attract drivers will need to consider proactive strategies for doing so.

DIER should actively recruit and train new drivers for the benefit of taxi operators.

It has been suggested that DIER should be responsible for training new drivers for the taxi industry. DIER does not consider that this is an appropriate role for a regulator and suggests that it is time for the industry, whether as individual operators or through its representative body, to put strategies in place to improve rates of driver attraction and retention.

Driver training time and the cost to undertake training should be reduced to encourage new drivers to enter the market.

One method of attracting drivers that has been proposed is for the lowering of entry requirements for drivers. In particular, it has been suggested that the driver-training program should be reduced to one and a half days duration instead of the current two and a half day program and that the cost should be reduced accordingly.

One respondent has suggested that there are a number of factors making it difficult to obtain drivers and has called for reform of:

- the requirement for a criminal history check;
- training costs;
- medical costs;
- cost of uniforms;
- driver pay;
- driver employment conditions.

Driver accreditation and training was not part of the Review, as it is not governed by the Taxi and Luxury Hire Car Industries Act. Further, DIER does not consider that the criminal history checks, training requirements or medical fitness requirements should be reduced.

Tasmania already has among the lowest entry requirements for taxi drivers in the country and the costs are substantially below those in many other jurisdictions. For example, in New South Wales, the duration of training is 116 hours and costs approximately \$1200. In the ACT, the

course is five days long and costs approximately \$300. By comparison the course offered by Road Transport Training in Tasmania is two and half days duration and costs \$380.00.

The TTA has supported the requirement for training, particularly with regards to transport of the disabled. However, TTA has also criticised the cost and advocated a user pays principle. It is not clear who TTA considers to be the user in this case, however, in the event that it is the disabled community, no proposal has been put forward as to how cost recovery could reasonably be achieved.

Driver pay and employment conditions are the responsibility of operators and DIER has no role in setting or enforcing these arrangements. Whether a uniform is required and who bears the cost of uniforms is a matter for operators to negotiate with their drivers and is not a matter for DIER.

8. Rural Taxis

No specific submissions have been received on rural taxis.

9. Taxi Areas

Amalgamation of taxi areas.

There have been limited responses on the issue of taxi areas. One respondent agreed that amalgamation of taxi areas was not necessary.

In its submission, the TTA has criticised the proposal to integrate Savage River and Waratah townships into the Burnie taxi area. DIER does not see it as feasible to retain these townships as separate areas and will adhere to the proposal to amalgamate the area.

Perth and Launceston boundaries to be redrawn.

The TTA has proposed radical redrawing of the Perth/Launceston taxi area boundary to abolish the current spill over zone at the airport and casino. Specifically, TTA has proposed to incorporate the airport and casino into the Launceston taxi area, to convert two or three Perth taxi licences into Launceston licences and to not release further licences into the Launceston area.

DIER does not consider this proposal desirable or practical. To redraw the boundaries in this way would deliver a windfall gain to two or three Perth operators who would obtain a licence of far higher value. There is no way to effect a conversion of a few Perth licences to Launceston

licence in a way that would be fair or equitable for all Perth operators. Further, a cap on Launceston licence numbers after the conversion would suggest that somehow Launceston should be forever quarantined from the five per cent annual release due to an additional two or three licences being introduced under this proposal. Accordingly, DIER will not be adopting this proposal.

10. Technical Issues, Administration and Enforcement

10.1. Information on the taxi industry

DIER should continue to be obliged to inform licence purchasers of viability of the industry.

One respondent has stated that DIER should continue to be obliged to provide prospective industry entrants with information on viability, of the taxi industry.

At present DIER makes relevant information available on its website. However, DIER proposes to remove the requirement to provide this information, as a potential entrant should reasonably undertake their own due diligence before embarking on any business venture. DIER is not responsible for undertaking due diligence on behalf of a person interested in taking up a licence. Furthermore, DIER does not have access to objective, reliable information on the financial viability of the industry as this is commercial-in-confidence and is not shared with the Department by the industry.

10.2. Taxi leasing

DIER should have a role in resolving disputes over taxi leases.

One respondent has strongly urged DIER to have an active role in the handling of disputes between licence holders and lessees. The respondent is concerned that under the proposed changes, it would be necessary to get permission from the lessee before advising the Commission to update the register and enter a new lessee as the responsible operator.

This is not the system that DIER has proposed. The current legislation requires the owner of a licence to advise the Commission as to the existence of a lease and the identity of a responsible operator. However, the current legislation requires *both* parties to advise the Commission on termination of a lease. This is clearly not practical and the Commission has obtained advice that it is appropriate to accept notification of one party only. In recognition of current practice, DIER has proposed that the legislation should be changed to allow one party only to notify the Commission that a lease has been terminated.

With regard to lease disputes, DIER is not able to offer a dispute resolution service for lessors and lessees. Parties in dispute should seek their own independent legal advice to resolve what is a private matter. It is noted that the TTA supports this position.

DIER should establish a standard form lease.

It has been suggested that DIER establish a standard lease with uniform terms and conditions. In particular, it was proposed that such a lease should have a minimum two-year term for leases with a penalty for breach. It is not clear whether the penalty proposed is to be enforced by a court or by the Commission.

For DIER to prescribe the terms and conditions of leasing would be a significant restriction on business for both lessors and lessees. Such an approach, with penalty provisions, would remove flexibility for operators and licence owners and may limit innovation.

Where penalties are prescribed in a legal document, it will be necessary in many cases to have the penalty enforced. In the case of breach of contract, a court would usually be responsible for imposing any penalty. If the Commission were to be responsible for enforcing leases, this would significantly add to the existing administrative task, which would have consequences for the quantum of fees paid by all licence holders.

DIER does not consider that it is desirable or necessary for the Commission to issue a standard form lease or undertake an enforcement role in relation to lease agreements.

10.3. Fees

Increased enforcement should be funded from the General Tax Base.

In Paper 11, DIER proposed an increase in the annual fees paid by standard taxis, WATs and LHCs in order to fund additional enforcement resources. This proposal was largely in response to numerous calls from within industry (both taxis and LHCs) for greater enforcement of the activities of other providers. Many in the taxi industry have sought greater enforcement against LHCs for alleged behaviours such as standing on taxi ranks and soliciting fares. Taxi industry members have also called for activities of other taxi drivers to be investigated such as queue jumping at ranks. LHC operators have also sought additional enforcement against taxi operators alleging a range of misdemeanours, such as drivers smoking in cars.

DIER directs enforcement resources first to ensuring public safety. This reduces the availability of resources for enforcement of standards that are primarily the responsibility of operators to address with drivers. While DIER has explained this position numerous times to industry, there

continues to be a high level of dissatisfaction with this policy and demands for more to be done continue.

Accordingly, DIER has put forward a proposal that would enable additional resources in each region of the State. While the industry has not commented on whether they consider an increase in resources to be of benefit, the industry has consistently rejected DIER's proposal to fund these resources via an increase in the annual fee.

The most common response from industry is to recommend that taxpayers generally should fund any new resources. Industry has used police funding as an example of enforcement that is provided from general revenue and claim that this should also be the case for enforcement in the taxi and luxury hire car industries. Industry has also claimed that it already makes a substantial contribution to general revenue through costs of registration, vehicle inspection and the fuel excise. In its submission, the TTA has stated that criminals are not required to fund police, therefore it does not accept that the taxi industry should fund its own enforcement.

It would appear that industry has an expectation that the broader tax base should make a contribution that benefits the taxi industry. Only one submission has suggested that the proposed additional enforcement resources should be forgone.

DIER takes the view, that while the industry might make some contribution to general revenue, as the type of additional enforcement being sought relates directly to matters for which accredited operators are responsible, industry should fund the additional cost. Treasury concurs with this position and has provided advice that the cost of industry specific enforcement should properly be borne by industry.

Furthermore, the proposed annual fees are not out of step with those charged in other states. For example, annual fees for Sydney taxis are \$1,000 and \$445 in Victoria. Accordingly, DIER will not recommend that any additional resources be funded from general revenue

DIER has recognised that the magnitude of the proposed increase from 100 fee units (or \$125 as at 1 July 2007) to 485 fee units plus a 20 fee unit levy for the price setting activity is significant. Accordingly, DIER proposes that a small fare rise be allowed to offset the increase. Further, there are now more taxi licences in Tasmania than at the time Paper 11 was released in March 2007. DIER proposes to recalculate the fee across the entire fleet at the current point in time. Therefore, instead of the original proposal to increase totalling 505 fee units (or \$631.25), DIER proposes to increase fees to 472 fee units (or \$590 based on the current fee unit rate of \$1.25). This level of fee will fund enforcement activity, administration fees and the costs of independent fare setting consultancies.

Different annual licence fees for investors and owner/operators.

One respondent has suggested that annual licence fees should be different for different classes of licence holder. It has been proposed that investors who lease out their licences should pay double the annual fee of owner/operators.

No reason for this proposal has been offered. It is not clear to DIER that owner/operators cause a lesser enforcement or administrative burden. DIER considers that to provide for different fee structures based on leasing is likely to encourage licence holders not to register leases so as to avoid a higher fee. Accordingly, DIER will not adopt this proposal.

Different annual licence fees should apply for WATs.

One respondent has suggested that annual licence fees for WATs should not increase from the current zero fee to the proposed 472 fee units. As an alternative, it has been proposed that WAT fees be set equal to the current annual fee for a standard taxi, which is \$125 (revised as at 1 July 2007). The reasoning presented is that this is too large an increase given that no annual fee is currently applied for WAT licences.

DIER takes the view that WATs are first and foremost taxis. DIER has consistently maintained that WATs must have the same status as standard taxis in all things such as the ability to stand at a rank and do non-wheelchair work. Given this, it is appropriate to impose the same fees as for standard taxis.

10.4. Enforcement

All enforcement activity should be undertaken by Tasmania Police.

One respondent has suggested that instead of using Transport Inspectors to monitor compliance of the taxi industry, all responsibility for enforcement activity should be transferred to Tasmania Police. This was proposed as an alternative to increased annual fees for taxis and LHCs.

While the police currently undertake some enforcement activity relating to taxis and LHCs, police do not generally deal with those aspects of regulation specific to these industries. To transfer this responsibility to another Agency would require a transfer of funding to ensure adequate resources to carry out the function. While much of Tasmania Police's function is funded from the general tax base, there are also specific areas of activity that are funded by particular industries, such as various fisheries. To ensure appropriate resourcing, it would be anticipated that Police would seek a levy or other power to raise funds from the taxi industry.

Ultimately the outcome would be the same regardless of which Agency is charged with responsibility for enforcing the Act.

Appeal provisions.

The TTA has supported the proposal to allow for suspension and cancellation of licences on condition of appeal to a magistrate. The TTA has claimed that in recent times the Commission has cancelled registrations and accreditations without good and sustainable reasons.

DIER agrees that an appropriate review mechanism is necessary where a power is provided to cancel or suspend licences. Currently, review and appeal provisions exist under the *Passenger Transport (Review of Decisions) Regulations 2000*. In the case of reviewable decisions, an aggrieved person may apply to the Commission for an internal review and if aggrieved by the outcome of that review, may appeal to a magistrate. It is proposed that similar provisions would be created under the Act in relation to powers for suspension and cancellation of licences.

Other enforcement powers.

In its submission, the TTA has called for ranks to be provided with enforcement powers. From this submission it is not clear who would be vested with authority and what powers would be provided. If it is proposed that drivers located at ranks should have powers to sanction other drivers, DIER considers that this is unwise. Alternatively, if it is proposed to allow councils to monitor behaviour at ranks, this would be a matter for local government. Owners of ranks on private property already have the power to restrict entry.

10.5. Vehicle operating life

The maximum operating life of taxis should be extended.

It has been proposed by a number of respondents that the operating life of taxis should be extended. An upper limit of ten years was suggested in one case. This would represent an increase of two years for metropolitan taxis but as non-metropolitan taxis currently have a ten-year operating life, this does not represent an increase for this category. Such a proposal would also bring metropolitan taxis in to line with WATs.

DIER does not accept this proposal, as metropolitan taxis undertake considerably more travel than other vehicles of the same class, or taxis in non-metropolitan areas. The need for age limits is based on safety due to issues such as metal fatigue, which are not easily assessed via an inspection. A lesser age limit for metropolitan taxis is appropriate to ensure passenger safety.

Another suggestion is that the maximum operating life provisions be removed in favour of the inspection scheme, which requires all taxis to be inspected every six months. It has been recommended by one respondent that this frequency would adequately allow for identification of vehicles that were no longer fit to operate as a taxi.

An alternative on this suggestion is that vehicles be entitled to continue operating based on presentation of the vehicle.

DIER does not support any of these suggested alternatives. A fixed cut-off age is considered preferable to any inspection or standards-based approach. A nominated age is easily determined and is not open to argument. It is considered that this is the only fair and equal way to apply the regulations.

10.6. Specific vehicle type

All Tasmanian taxis should be one particular type of vehicle.

One respondent has suggested that all Tasmanian taxis should be a particular type of vehicle with standard livery in order for instant identification of a vehicle as a taxi. London, with its Black Cabs, has been presented as an example with its distinctive vehicles which both identify the vehicle as a taxi and one's location in the world.

An argument presented in support of this proposal is that the Tasmanian taxi industry would gain significant buying power from vehicle retailers.

To date, taxi operators have been able to use vehicles that meet the requirements of the Single Uniform Type Inspection Manual and the inspection and relevant age requirements. To change to one type of vehicle at this time would create significant upheaval and expense for operators and may cause services to passengers to be seriously interrupted during a changeover period. Further, to prescribe only one vehicle type may be limiting for passengers or drivers with particular needs. Accordingly, DIER does not propose to adopt this recommendation.

10.7. Standards regulation

Standards regulation should be introduced.

It has been suggested that minimum standards regulations should be introduced including driver uniforms, vehicle presentation requirements and a driver code of conduct.

DIER considers that these matters are all within the purview of the operator accreditation scheme and regulations addressing these matters would produce an unnecessary overlap. Accordingly, DIER will not add regulations on these matters.

Customer choice is a better alternative to standards regulation.

One respondent has suggested that instead of standards regulations, prospective passengers should be entitled to choose any taxi that is parked on a rank, rather than only the taxi at the front of the rank. That is, a market response would be a more effective way of enforcing standards.

DIER supports this view. However, it is disturbing that a member of the taxi industry has proposed that DIER give passengers the option to select any taxi from a rank, when in fact, Tasmanian taxi customers have always had this right. This indicates the lack of understanding of customer rights that exists both among the public and some industry members.

All prospective taxi passengers have the right to inspect vehicles on a taxi rank and choose the taxi they prefer, based on whatever criteria they wish to use. Further, other taxis on the rank are required to make way for that taxi to exit the rank upon obtaining a fare, regardless of whether other taxis are nearer to the front of the rank.

No new regulation should be introduced.

One respondent has suggested that as the current regulatory regime is inadequately enforced, no new regulation should be added.

While the proposals presented in Paper 11 would involve new regulations, DIER is also proposing to remove a number of other regulations from the existing legislative scheme. In addition, DIER has proposed adding new enforcement resources. Accordingly, DIER does not accept that no new regulations should be introduced.

10.8. Register

The licence register should be a public register.

The TTA has proposed that the register of licences held by the Commission should be a public register. DIER has proposed that the register should not be public as all necessary information can be obtained under accreditation.

As the LHC register and WAT register are not public, DIER is of the view that the perpetual licence register should be the same.

The register of security interests should be retained.

DIER has proposed abolishing registration of security interests over taxi licences. The TTA has opposed this recommendation stating that it is a retrograde step.

DIER notes that the Commonwealth Attorney General's Department is currently reviewing personal property securities legislation with a view to developing a single national securities register. One central register would clearly be advantageous to licence holders and financiers. Maintenance of a duplicate system by the Commission is undesirable.

10.9. Worker's Compensation

Taxi operators employing drivers on very low pay should be exempt from Worker's Compensation premiums.

One respondent has rejected DIER's proposal to retain the current requirement for operators to obtain worker's compensation cover for all drivers. It has been suggested that in smaller taxi areas, many drivers earn so little from driving taxis that they remain entitled to receive various forms of Commonwealth income support. The respondent suggests that if injured, these drivers continue to receive their income support and so have no need of worker's compensation.

Such a proposal would see drivers on income support treated differently to other taxi drivers creating two classes. Arguably, taxi operators may try to discriminate between drivers on this basis in order to avoid paying premiums. An outcome of such an arrangement would be to burden the Australian public with the costs of injured workers, when this is rightly the responsibility of the employer.

DIER does not accept that one group of drivers should be treated differently to others or the concept of cost shifting to another party, whether public or private. It is noted that the TTA has supported the provision of worker's compensation for drivers.

It should be noted that the provision making it a requirement to provide worker's compensation insurance for taxi drivers has now been moved into legislation overseen by Workplace Standards. This is no longer a matter for DIER.

Review of the
Taxi and Luxury Hire Car Industries Act 1995

Proposals in Response to Paper 11

Appendices

Appendix 1: Passenger Transport Act 1997

Schedule 2

1. The following passenger services are taken to be limited passenger services for the purposes of this Act:
 - (a) the hiring out of a classic or vintage car, or a custom car such as a "hot-rod", for weddings or other special occasions, together with a driver;
 - (ab) the hiring out, for weddings or funerals, of a small passenger vehicle that, apart from any consideration of age, would be classifiable as a luxury vehicle for the purposes of Part 4A of the *Taxi and Luxury Hire Car Industries Reform Act 1999*;
 - (b) the hiring out of a motor cycle for irregular tours or general hire, together with a driver;
 - (c) the hiring out of a bus for irregular tours or general hire, together with a driver;
 - (d) the hiring out of a small passenger vehicle, together with a driver, for adventure, recreational, educational or other brochured tours, either in accordance with guidelines issued by the Commission under section 25A or an approval under that section;
 - (e) the use of a small passenger vehicle on regular passenger transport services;
 - (f) the hiring out of a 4 wheel drive vehicle for irregular tours, together with a driver;
 - (g) the hiring out of a vehicle that is fitted with a wheelchair lift for general hire by persons with disabilities, together with a driver;
 - (h) such other passenger services as may be prescribed to be limited passenger services.

Appendix 2: Submissions

Over fifty submissions were received in response to the call for feedback on the draft policy proposals in Paper 11. Each respondent was contacted where possible to seek their permission to publish their submission.

Due to the extensive number of submissions, the full text is not attached. Rather a list of respondents who agreed to the publication of their submission is provided. The text of the submissions is available on the DIER website at www.transport.tas.gov.au/miscellaneous/review_of_taxi_industry_legislation. As the submissions are in excess of two hundred pages, a reference to the page number is given for each submission.

Some respondents were willing to have their submissions published on the condition that their name was withheld. This information has been removed from submissions in accordance with that stipulation.

Respondent	Organisation	Pages
Tasmanian Taxi Association		1-108
B J Gillie	Star Taxis	109-110
R J Green		111-112
B J Duckett	Merseylink Bus Service	113-118
Patrick Ochaya	Ochaya Luxury Taxi and Limo Service	119
David Jones	Ulverstone Taxis	120-132
David Holland	T&D Holland Taxis	133-134
Name withheld by request		135
Name withheld by request		136
Tomasz Gadzinski	Burnie Hire Cars Co-Op Society Ltd T/A Burnie-Wynyard Taxis	137-138
Greg Stick		139-141
Steve and Liz Roomes	SVR Limousines	142
Rex Greenberg		143-145
Name withheld by request		146
D W Challen	Department of Treasury and Finance	147
Dennis Sutcliffe		148
Lorne Geeves		149
Andrew McCullagh		150
K W Harrick		151-152
Gary and Cherie Burr		153-157
Carol A Burgess		158
Ronald J Burgess		159
Name withheld by request		160
L M Burrows	H&G Taxis Pty Ltd	161-166
Tony Dilger	Taxi Combined Services (Launceston) Pty Ltd	167-169
Marion Deane	Du Ross Nominees Pty Ltd	170-172
Shane Stewart	Taxi Combined Services (Launceston) Pty Ltd	173-176
Peter Spence		177

Respondent	Organisation	Pages
Geoff and Maree Vincent		178-180
Rodney Shearing		181
Jenny Stanzel	ParaQuad Tasmania Inc	182-188
Petition of taxi drivers	Presented by Shane Stewart of Taxi Combined Services (Launceston) Pty Ltd	189-193
C Edlin		194
A Slater		195
R Burgess		196
R Lyons		197
J P Lyons		198
Ben McKay	Tasmanian Youth Consultative Committee	199
J M Moore	CFH Distributors Pty Ltd	200
Geoff Richardson		201-202
Geoff Richardson		203-205
DE & SS Alderton		206-211
Terry Van Dyk		212-213
John Lyons		214-215
Norm Bratton		216
Gavin O'Reilly		217-218
Alistair Cameron	Cam-shron Tasmania Pty Ltd & D&GDW Pty Ltd T/A Taxi Blue	219-223
Yurgen O Riske		224
Jose Gasset		225-226

One submission was also received for which permission was not granted for publication. Accordingly, that submission has not been made available. A further submission was received which did not provide sufficient identification of the respondent to enable DIER to make contact in order to obtain permission for publication. That submission has also been excluded.

A small number of people contacted DIER officers to offer comments in response to Paper 11. A few requested meetings in order to put forward objections or suggest alternative proposals. Some of these individuals indicated that they were not comfortable making a written submission. In the interests of full and open consultation, DIER has endeavoured to include these comments and respond to the proposals received, rather than restricting submissions to those received in writing.

Appendix 3: Objects of Acts in Other Jurisdictions

ROAD TRANSPORT (PUBLIC PASSENGER SERVICES) ACT 2001 (ACT)

2 Objects

The objects of this Act include—

- (a) to provide for the accreditation of the operators of public passenger services and taxi networks that operate in or partly in the ACT; and
- (b) to provide for the licensing of vehicles used as taxis and hire cars in or partly in the ACT; and
- (c) to encourage public passenger services that meet the reasonable expectations of the community for safe, reliable and efficient public passenger services.

Passenger Transport Act 1990 (NSW)

4 Objects

The objects of this Act are:

- (a) to require the accreditation or authorisation, by the Director-General, of the operators of and drivers involved in public passenger services (other than ferry services), and
- (b) to dispense with the licensing of ferries and buses used to provide a public passenger service, providing instead for:
 - (i) ferry and bus services to be operated under fixed-term contracts entered into between the Director-General and operators, and
 - (ii) deregulation of long-distance and tourist services, and
 - (iii) regulation of government and non-government buses and ferries on a more equal basis, and
- (c) to encourage the provision of school bus services on a more commercial basis, without disregarding the reasonable expectations of traditional service operators, and
- (d) (Repealed)
- (e) to encourage public passenger services that meet the reasonable expectations of the community for safe, reliable and efficient passenger transport services, and
- (f) to encourage co-ordination of public transport services.

COMMERCIAL PASSENGER (ROAD) TRANSPORT ACT (NT)

[This Act does not contain an Objects section, stating only:]

“An Act to regulate the carrying of passengers in motor vehicles for hire or reward, and for related purposes”

TRANSPORT OPERATIONS (PASSENGER TRANSPORT) ACT 1994 (QLD)

2 Objectives of Act

(1) This Act is intended to achieve the provision of the best possible public passenger transport at reasonable cost to the community and government, keeping government regulation to a minimum.

(2) However, this Act recognises that market entry restrictions may be needed in the public interest.

(3) The overall objectives of this Act are, consistent with the objectives of the Transport Planning and Coordination Act 1994, to--

(a) enable the effective planning and efficient management of public passenger transport in the State; and

(b) provide a system of public passenger transport in the State that--

(i) is responsive to community needs; and

(ii) offers an attractive alternative to private transport in a way that reduces the overall environmental, economic and social costs of passenger transport; and

(iii) addresses the challenges of future growth; and

(iv) provides a high level of accountability; and

(v) provides public passenger services at a reasonable cost to the community and government; and

(c) provide a reasonable level of community access and mobility in support of the Government's social justice objectives; and

(d) provide an adequate framework for coordinating the different forms of public passenger transport to form a comprehensive, integrated and efficient system.

Passenger Transport Act 1994 (SA)

3—Objects

The objects of this Act are—

(a) to benefit the public of South Australia through the creation of a passenger transport network that—

(i) is focussed on serving the customer; and

- (ii) provides accessibility to needed services, especially for the transport disadvantaged; and
 - (iii) is safe; and
 - (iv) encourages transport choices that minimise harm to the environment; and
 - (v) is efficient in its use of physical and financial resources; and
 - (vi) promotes social justice; and
- (b) to provide a system of accreditation for—
- (i) the operators of passenger transport services; and
 - (ii) the drivers of public passenger vehicles; and
 - (iii) the providers of centralised booking services within the passenger transport industry,
- in order to encourage and facilitate the observance of industry standards for passenger transport within the State; and
- (c) to require the licensing of taxi-cabs; and
 - (d) to provide for a new approach to the provision of passenger transport services by the public sector.

Transport Act 1983 (VIC)

4. Objects and functions of Department

(1) The objects of the Department under this Act are—

- (a) to improve the efficiency and effectiveness of transport facilities and networks to meet the needs of the community; and
- (b) to ensure that a public transport system is provided in Victoria that is efficient, effective, safe and reliable and has due recognition for the needs and interests of the users of that system and the taxpayers of Victoria; and
- (c) to ensure the achievement of optimum overall transport outcomes by undertaking integrated transport planning and integrated transport system and service development linked to the overall planning strategies and other policies of the Government.

Taxi Act 1994 (WA)

[No objects section]

Appendix 4: Resources

Australian Bureau of Statistics, Release 3218.0 Regional Population Growth Australia, 2005-06 released at 11.30am 27/2/2007 (sourced from www.abs.gov.au accessed 11 April 2007).

Australian Taxation Office, Taxi cents per kilometre rates, Transport and Taxi Publications (sourced from www.ato.gov.au accessed 17 April 2007).

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Productivity Commission, Regulation of the Taxi Industry, AusInfo, Canberra, 1999.

Soon, J, Taxi!! Reinvigorating competition in the taxi market, Policy, Winter 1999.