

Review of the
Taxi and Luxury Hire Car Industries Act 1995

Paper 1 – Introduction to the Project

Department of Infrastructure, Energy and Resources

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

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

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

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

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1. Introduction

The taxi industry is an important part of the Tasmanian public transport sector and, consistent with other Australian states and territories, is highly regulated. To be relevant and effective, the regulation of the industry must be aligned with the objectives and aims of the industry. The current legislation was introduced in 1995 “for the effective administration of a modernised taxi industry”¹. Since that time, advances in technology, the changing structure of the industry and the introduction of competition in the industry (through recent legislative amendments), as well as the identification of a number of unresolved issues, have resulted in the need for significant regulatory changes.

As a result, the Tasmanian Department of Infrastructure, Energy and Resources (DIER) has commenced a project to review the *Taxi and Luxury Hire Car Industries Act 1995* (the Act) and its associated regulations. The project will build on work undertaken by the Taxi Industry Review Group in its 1999–2000 review of the taxi industry legislation. It will progress a number of issues raised by the Review Group, but which were not considered in the review as they were outside its scope. The project will also look at issues that have emerged since the conclusion of the review. The issues to be considered are outlined in [section 2.2](#), and include fare review mechanisms, the interaction between taxis and luxury hire cars, and the operation of radio rooms.

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

DIER intends to seek a 12-month extension to the existing regulations. This is to enable the new regulations to be made under new legislation for the taxi industry. The new legislation and regulations will be developed following the conclusion of the consultation process outlined in this paper. The proposed 12-month extension to the regulations means that new regulations will be made under the new Act, and can be developed in conjunction with the Act to ensure that these instruments are complementary.

The Act was last significantly amended in 2003 through the *Taxi and Luxury Hire Car Industries Amendment Act 2003* (the Amendment Act) to implement the Review Group's recommendations. As noted above, the Review Group identified a number of issues to be addressed outside the review, and it is likely that some of these issues will be best addressed

¹ *Taxi Industry Act 1995* (Tas) – this Act was subsequently amended to include regulation of luxury hire cars.

through legislation. The Act also includes a number of redundant provisions that could be removed and several provisions that should be reviewed.

Rewriting the Act would ensure that it is capable of addressing these unresolved issues and that it remains relevant to the industry and able to deliver the Government's policy objectives for the industry. Once the Act is in place, the new regulations will follow.

1. Project Overview

1.1. Aims of the project

With the legislative and other drivers identified above in mind, the aims of the project are:

1. To develop a basis from which further reform of the legislation regulating the taxi and luxury hire car industries can be undertaken to further the Government's policy objectives for the industry², by consulting with the industry and other stakeholders on:
 - (a) issues that were identified by the 1999 Taxi Industry Review Group but were beyond the scope of that review;
 - (b) further issues identified since the review;
 - (c) opportunities for flexibility and innovation within the industry; and
 - (d) users' needs;
2. To clarify the Government's role as policy maker and regulator of the industry and to develop a proactive approach to fulfilling this role;
3. To encourage the assumption of greater responsibility by industry in the management of its own affairs; and
4. To develop a basis from which:
 - (a) new Regulations can be developed to replace the *Taxi Industry Regulations 1996* and the *Taxi Industry (Taxi Areas) Regulations 1996*, as required by section 11(2) of the *Subordinate Legislation Act 1992*; and
 - (b) the *Taxi and Luxury Hire Car Industries Act 1995* can be rewritten to ensure that it meets the current and future requirements of Government and the industry.

DIER will establish a Reference Group to act as the major point of contact and consultation between the industry and the government in relation to these issues.

1.2. Issues for consideration

As noted above, the project will address the issues raised by the Taxi Industry Review Group and a range of other issues that are of ongoing interest. DIER will produce a discussion paper on each issue, which will form the basis for consultation, through the Reference Group, with the

² The Government's policy objectives for the taxi industry are articulated at section 4 of the Act:

- a. to ensure safe operating conditions for passengers and drivers;
- b. to ensure appropriate minimum quality standards in the taxi industry;
- c. to ensure the availability of adequate standard taxi services at reasonable prices;
- d. to enable variation in taxi services to meet community demands at prices determined by market forces.

industry. The Reference Group will meet on each issue separately. The major issues to be considered are:

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

Summaries of the issues are presented at Appendices 2–9.

1.3. Consultation

In achieving an efficient and effective taxi service that meets acceptable standards of safety and service delivery, the Government must engage the industry and users in constructive dialogue to ensure that issues affecting the delivery of this service can be identified and addressed. The consultation process outlined in this paper will provide an opportunity for industry participants, users and other stakeholders to present their views to the Government.

1.3.1. Representation within the industry

Since the 1999 review the representation of the industry has changed significantly. The traditional industry peak lobby group, the Taxi Industry Association of Tasmania (TIAT), has disbanded and there is currently no single representative body for the industry.

Some of TIAT's former members have formed a new group, the Tasmanian Taxi Association (TTA). DIER understands that this group represents taxi firms from the metropolitan areas and some regional areas, and some independent operators in Hobart. Another group, Taxis Tasmania (TT), represents a number of taxi operators and their drivers in Hobart. There might be concern that these groups do not represent all industry participants, especially smaller operators outside the major metropolitan centres.

Currently DIER's contact with the taxi industry is fragmented and there is no formal consultative forum with the industry. Consultation is with the two industry associations, individual radio networks, co-operatives and independent operators.

1.3.2. Previous consultative arrangements

Working parties and similar groups have been established in the past, either for specific projects or reviews (e.g. the 1993 Working Party on Taxi Industry Reform and the 1999 Review of Taxi and Luxury Hire Car Legislation), or as advisory bodies. The Taxi Industry Advisory Board (TIAB) was established by the then *Taxi Industry Act 1995* to provide independent advice to the Minister and the Commissioner for Transport. A major focus of the TIAB was to facilitate the conversion of public vehicle cab licences into perpetual taxi licences. The TIAB was abolished, with the support of TIAT, in October 1999. Following this, the Taxi Advisory Group (TAG) was formed as a means of consulting with key stakeholder groups on operational matters and policy issues concerning the industry. The TAG has not met since September 2003.

DIER recognises that there is a wide range of, often conflicting, interests within the industry, which has meant that it might have been difficult to maintain a truly representative body. It is therefore likely that the issues raised and positions taken by the groups with whom DIER consults are not always reflective of the views of the broader industry.

1.3.3. Taxi industry Reference Group

One of the Review Group's recommendations was for DIER to establish a working party that would consider the issues that were outside the scope of the review and to undertake a review of the effects of the changes made to the legislation as a result of the review³.

As part of this project, DIER will establish a Taxi Industry Reference Group to facilitate communication between the industry and the Government. The Reference Group's role will be to provide advice to DIER on behalf of the industry. Initially the issues considered by the group will be those that will inform the process of rewriting the legislation. This will provide the industry with the opportunity to contribute to policy development in relation to the regulatory issues that affect it.

The draft Terms of Reference of the Reference Group for the duration of the project are outlined at [Appendix 1](#). These will be confirmed at the first meeting of the Reference Group.

It is expected that the Reference Group will consist of up to ten members from the industry as well as representatives from DIER. Additional members may be invited to join the group for meetings on specialist issues, such as driver conditions, wheelchair accessible taxis, and luxury hire cars.

Members of the Reference Group will be drawn from a range of interests in the industry, including taxi operators, drivers, licence owners and fleet managers. As far as possible, members will be representative of different geographic locations within Tasmania.

³ Taxi Industry Review Group: *Taxi Industry Act 1995* and luxury hire car legislation, Regulatory Impact Statement, April 2000, page 12.

In the first instance DIER will invite the two taxi associations to nominate representatives to the Reference Group. These representatives will be advised to the broader industry. People who consider that their interests cannot be adequately represented by those nominees will be able to nominate themselves for membership. Anyone nominating themselves will be expected to clearly explain why they consider the proposed Reference Group members cannot represent their interests and to demonstrate how they intend to represent others whose interests might not be adequately represented. DIER will make the final decision on membership of the Reference Group.

After the conclusion of this project, the Reference Group will be reconstituted as a group that will be the main point of future liaison and consultation between DIER and the industry.

1.3.4. Discussion papers

DIER will produce a series of discussion papers, each on a discrete issue, during 2005 and 2006. The discussion papers will form the basis of the meetings of the Reference Group, which will be held at approximately six weekly intervals from early 2006. All of the discussion papers will have a similar format, structure and style so that they can be consolidated into a single document.

The purpose of the staged approach is to ensure that each issue can be considered in depth, rather than having all issues considered at the same time and potentially in less detail. It will also enable stakeholders to contribute directly to issues where they have concerns or expertise, without them having to necessarily focus on issues that are less important to them. Further, as there will be some areas of overlap, later stages of the project will be able to build on the work undertaken in the earlier stages.

The project will be publicised to stakeholders outside the taxi industry by publishing the discussion papers on DIER's website. Interested parties will also be able to request copies of the papers from DIER. A [registration form](#) is attached to this paper.

1.4. Outcomes

At the conclusion of the consultations with the Reference Group, a final report summarising the outcomes of the consultations and making recommendations on progressing these issues will be presented to the Minister for Infrastructure, Energy and Resources. This will include proposals for redrafting the Act and remaking the Regulations, a process to be undertaken by the Office of Parliamentary Council (OPC).

1.4.1. Taxi and Luxury Hire Car Industries Act 1995

The purpose of rewriting the Act is twofold. Firstly, some recommendations from the Reference Group might need to be enshrined in legislation, either by introducing new provisions or by amending existing provisions. Secondly, the current Act is complex and out of date. For example, the sections that step-out the transition process from the previous arrangements to the 1995 Act are now largely redundant, as the transition process is complete. Some transitional provisions were removed through the Amendment Act, but others remain. The Act also has some technical problems that impact on its effective operation. The proposed amendments are summarised at [Appendix 10](#).

Rewriting the Act, after exploring all of the issues with the industry, will avoid the need to make a series of amendments to the Act, and should result in a more cohesive, well-constructed Act.

Approval to proceed with the new Act will be needed from both the Minister, and following that, from Cabinet. The time taken to draft the new Act will depend on the workload of the OPC and the priority the legislation is given in OPC's drafting program. Once drafted, it must be tabled and debated in Parliament before it can be enacted.

1.4.2. Regulations

Given the automatic repeal of the Taxi Industry Regulations and the Taxi Areas Regulations in December 2007 (assuming that a 12-month extension to the existing regulations is granted) new regulations are a priority outcome of this project. DIER will seek the extension to the existing regulations on the grounds that it would be more appropriate to make new regulations under the new legislation. This will ensure that the Regulations complement the Act and that any new regulation making powers in the Act can be taken advantage of.

Once drafted the proposed regulations will be assessed to ascertain whether they contain sections that impose a significant burden, cost or disadvantage on any sector of the public. If this is the case, DIER is required to undertake a regulatory impact statement (RIS) in respect of the regulations. The RIS process is outlined in the Subordinate Legislation Act and involves publicising the proposed regulations, making the RIS available for comments and submissions by the public for at least 21 days and consulting with representatives of groups likely to be affected by the proposed regulations. The RIS will provide both the industry and the public with the opportunity to make comments on the regulations.

The finalised regulations must be approved by the Governor. They are able to be disallowed by Parliament, and can be subject to Parliamentary review.

1.5. Timing

The approximate timetable for the project is:

| Timing | Issue |
|---------------|---|
| December 2005 | Establish Reference Group |
| January 2006 | Fare setting mechanisms and driver pay & conditions |
| February 2006 | Links between taxis and community transport Wheelchair accessible taxis |
| March 2006 | Taxi and luxury hire car accreditation under the Passenger Transport Act/ Industry code of conduct |
| May 2006 | Interaction between taxis and luxury hire cars |
| June 2006 | Taxi areas |
| July 2006 | Role of radio rooms |
| August 2006 | Review of National Competition Policy changes to the Taxi and Luxury Hire Car Industries Act |
| October 2006 | Technical and other amendments to the Taxi and Luxury Hire Car Industries Act |
| November 2006 | Final report to the Minister |
| Mid 2007 | New legislation introduced into Parliament |
| Mid 2007 | New Regulations made |

This timetable is a guide only. The timing might vary due to factors beyond DIER's control, including the time required to establish the Reference Group, the time required to obtain approval from the Minister and Cabinet to proceed, the priority given to developing the new legislation and the complexity of this process.

2. Background

2.1. Roles & responsibilities of parties

Taxis are part of the public transport sector and supplement services provided by mass transport providers, i.e. buses. For instance, they can provide transport outside normal operating times of other forms of transport and provide services in areas that are not served by other forms of public transport. They also provide transport to people whom are unable to access buses and other forms of transport.

Stakeholders in the taxi industry can be broadly divided into four groups: Government, customers, active industry participants (owners, drivers, fleet managers etc), and investors in the industry (i.e. licence owners who are not active industry participants). The roles and responsibilities of these groups are outlined in the following sections.

2.1.1. Government

The Government has an interest in the operation of the taxi industry insofar as it contributes to 'an effective internal and external transport and communications system that meets and responds to Tasmania's needs'⁴. Deriving from this Standard, the Government's specific role in relation to public transport is to facilitate a passenger transport system that provides Tasmanians with:

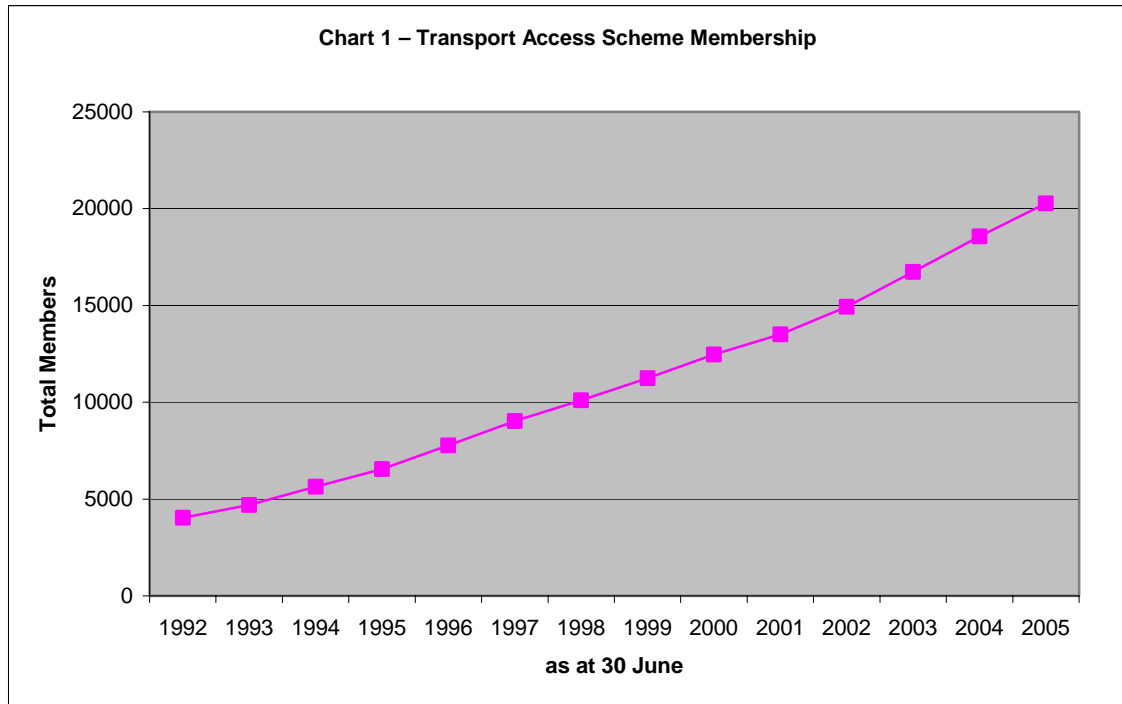
- equitable access, to facilitate their full participation in the community; and
- efficient mobility, to minimise the economic and environmental costs arising from the passenger transport task.

The Government is also concerned with the safety of the passenger transport system in relation to transport providers, customers and other road users. As with other Australian jurisdictions, the Government regulates the taxi industry to achieve these outcomes.

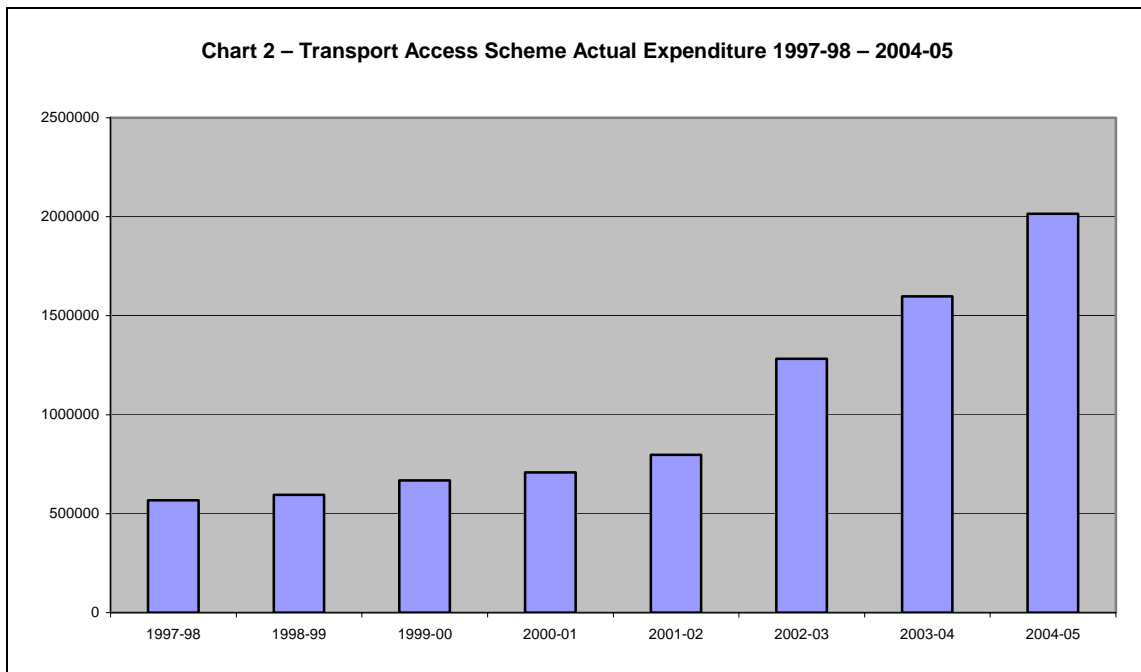
In addition to its regulatory interest, the Government has a significant financial interest in the taxi industry due to the funding it provides through the Transport Access Scheme (TAS). This scheme assists people who have a permanent and severe disability that prohibits independent access into the community. Under the TAS, eligible members pay a reduced fare and the Government pays the balance of the metered fare. A large number of regular taxi users are TAS members.

⁴ Tasmania *Together*, Goal 1, Standard 3 (page 36).

Chart 1 shows the growth in the number of TAS members since 1992. The number of members has increased from about 4000 in 1992 to over 20 000 in 2005.



From 1997–98 to 2004–05 government payments in the form of subsidised taxi fares has grown from \$568 000 to \$ 2 015 000 (refer to Chart 2). It is therefore in the interest of the Government that taxi services provide value for money to users.



2.1.2. Customers

Customers use taxis for a variety of reasons. Broadly speaking there are three categories of taxi use⁵:

- private or social use (includes discretionary users and taxi-reliant users);
- business use; and
- tourism.

Social users include people who travel to and from social events, especially on Friday and Saturday nights; to special events; in poor weather; or when their normal mode of transport is not available. Some of these users rely on a cost-effective taxi service for most or all of their transport needs, as they are unable to use other forms of transport due to their age, a disability, an illness or some other condition that impedes their mobility. These customers use taxis for a variety of reasons including attending medical appointments, shopping, travelling to school or work and attending social events.

Business customers use taxis to travel to and from airports, hotels and meeting venues. They are less likely to be concerned with cost and, more than other users, might prefer a higher quality service provided by a luxury hire car.

Tourists are likely to use taxis for similar reasons to both business customers (e.g. to and from airports and hotels) and social users (e.g. to and from social and other events and attractions etc). They might also use taxis as a form of touring service, with some taxi companies offering tours of local areas and attractions.

Customers' views will be important in the consultation process, as the Act aims to ensure that the taxi industry meets the needs of various user groups. It therefore follows that the needs of users and the extent to which these needs are being met by the industry should be considered.

The National Taxi Users Survey⁶, conducted in 2002, surveyed 226 taxi users in Hobart and Launceston. The survey considered a number of customer satisfaction measures, safety issues, instances where users failed to obtain a taxi, and complaints handling. In general the survey found that Tasmanian users had the highest levels of satisfaction, and lower levels of concern about safety and lower rates of failure to obtain a taxi than users in other states.

The results of this survey will provide valuable information in relation to assessing user satisfaction with taxi services and in determining the needs of users. Some further research might be undertaken to determine whether the results of the survey are still relevant in 2005. To supplement the 2002 survey results users are invited to participate in the consultation process.

⁵ Essential Services Commission Victoria: *Issues Paper Taxi Fare Review 2005*, April 2005, pages 11-12.

⁶ Colmar Brunton: *2002 National Taxi Users Survey Report*, February 2003.

The discussion papers will be available on DIER's website and interested parties can register with DIER to receive copies of the papers.

2.1.3. Industry participants

Active industry participants, including taxi operators, drivers, owner-operators, fleet managers, radio room staff and others involved in the day to day operations of the industry, have a major role to play in defining and delivering an efficient service that meets the needs of customers.

Operators may own their own licence or they may lease it from a licence owner. Operators are responsible for the maintenance of the vehicle and for the operating expenses of the vehicle such as fuel, registration and insurance. Some operators, who might own more than one vehicle, hire out their vehicles to bailee drivers. Other operators drive their own vehicle (owner-operators) and they might hire it out to a bailee driver for the shifts they are not driving it.

Taxi drivers who do not operate their own taxi are usually bailee drivers. These drivers are self-employed, rather than being employees, although for the purposes of workers compensation, they are treated as employees. They are considered to be small business operators and must be registered for the Goods and Services Tax (GST). A bailment agreement allows an operator to hire his or her taxi to a driver for an agreed period on agreed conditions. The bailment agreement provides for fare revenue collected by the driver to be shared, generally on a fifty-fifty basis, with the operator. These agreements are not regulated.

Many taxi operators and drivers are members of a radio rooms. They will enter into an agreement with a radio room and pay a fee to the radio room for the services provided. This includes access to the radio room's booking and dispatch service, and the use of the radio room's signs on the vehicle.

Given the range of participants and interests in the industry, it is not surprising that there is currently no single representative voice for the industry and the DIER has had some difficulty with obtaining an agreed position from the industry on issues of concern.

The Taxi Industry Reference Group, which will consist of members across a range of interest groups, will seek to address this problem. While it is recognised that there will always be a difference of views within the industry, it is hoped that the Reference Group will be able to work cooperatively on behalf of the industry and users, regardless of members' personal positions.

2.1.4. Licence owners

Many taxi licence owners do not operate the licences they own; rather they lease them to an operator. About two-thirds of Tasmanian taxi licences are leased. In a lease arrangement, the lessee operator purchases, maintains and operates the taxi. The arrangements between licence owners and lessees, including the lease rates, are not regulated by the Government.

Often these licence owners, who might hold more than one licence, will use their taxi licence as a long term investment and are therefore interested in achieving high lease rates and increased market values of licences over time. There is concern in the industry that this is at the expense of customers, and industry participants such as operators and drivers, and adversely affects the viability of the industry.

Input from licence owners will be encouraged, as they represent a significant investment in the industry.

2.2. Legislation

Tasmania's taxi industry is regulated through a number of legislative instruments, principally the *Taxi and Luxury Hire Car Industry Act 1995*. This Act was significantly amended in 1999 to incorporate the regulation of luxury hire cars, and again in 2003 to introduce wheelchair accessible taxis and to implement the National Competition Policy (NCP) changes, which arose from the 1999–2000 review (see [Section 3.2.1](#)).

The intent of the 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 manner⁷.

The Act provides for:

- the Valuer-General to determine the assessed market value of taxi licences in the taxi areas;
- the establishment of taxi area funds and a general administration fund;
- the Transport Commission to make available new perpetual taxi licences in all taxi areas every year;
- wheelchair accessible taxi licences to be made available in 2004 and 2005 in Hobart, Launceston, Devonport and Burnie;
- accreditation of groups of taxi licence holders and for those groups to register their own fares;
- the operation of luxury hire cars;
- regulations to be made in relation to a range of matters specified in the Act.

⁷ *Taxi and Luxury Hire Car Industries Act 1995* (Tas), Section 4(1).

Regulations made under the Act applicable to taxis include the *Taxi Industry Regulations 1996* and the *Taxi Industry (Taxi Areas) Regulations 1996*.

The Taxi Industry Regulations prescribe arrangements for the operation of taxis, including fares and charges, licensing of taxis, accreditation of taxi groups to enable them to register their own fares; security cameras, wheelchair accessible taxis and other miscellaneous provisions.

The Taxi Areas Regulations define the boundaries of the state's taxi areas and specify the assessed market value of taxi licences in those areas.

Other legislation that applies to the taxi industry includes:

- The *Passenger Transport Act 1997*, which applies to all public passenger vehicles, including taxis and luxury hire cars. It covers issues such as the registration of public passenger vehicles and the accreditation of operators of these vehicles.
- The *Vehicle and Traffic Act 1999*, which provides for the licensing of drivers of motor vehicles, including ancillary certificates for drivers of public passenger vehicles, the registration of motor vehicles and trailers and the imposition of motor tax. It also covers issues such as demerit points and speed cameras.
- The *Traffic Act 1925*, which provides for road rules and traffic infringement notices.

2.2.1. National Competition Policy Review

In 1999–2000 the Taxi Industry Review Group conducted a review of the legislation governing Tasmania's taxi and luxury hire car industries in relation to its compliance with NCP.

Under NCP agreements signed by all State and Territory Governments and the Commonwealth Government, the State Government was required to review and where appropriate, reform its legislation that placed restrictions on competition. The *Agreement to Implement National Competition Policy and Related Reforms* provided for competition payments to be made to the States and Territories conditional on them implementing the agreed reforms within agreed timeframes.

The Review Group comprised representatives from the taxi industry, government officials and an independent chair. The guiding principle for the review was that legislation should not restrict competition unless it could be demonstrated that:

- the benefits of the restriction to the community as a whole outweighed the costs; and
- the objectives of the legislation could only be achieved by restricting competition.

The review identified a number of restrictive provisions in the Act and assessed them against these guiding principles. After considering the issues, the Review Group either recommended that the provisions be either removed from the legislation or retained. For those that were retained, in some cases, less restrictive alternatives were proposed.

Those provisions that were assessed as neither being of net benefit to the public nor meeting the objectives of the Act were subsequently removed from the Act. These were: the requirement for a new vehicle to be used with a new taxi licence, and the provision restricting the carriage of unaccompanied freight weighing above 50 kilograms.

The Review Group considered that all other restrictions addressed the objects of the Act. They were also assessed as being of net benefit to the public, but in some cases, the Review Group recommended that less restrictive alternative could deliver the same benefit. For instance, it recommended replacing set taxi fares with regulated maximum fares and that provisions for registering discount fares be introduced. It also recommended that the Transport Commission's discretion regarding making new taxi licences available be removed so that new licences were automatically made available every year. The Review Group recommended that provisions for driver standards and taxi areas be retained unchanged.

During the course of the review, a number of issues, which were not related to the NCP review of restrictions on competition, were raised. However, as these were outside the scope of the review they were not presented in the Review Group's report. Instead, the Review Group recommended that a working party be established to consider these issues.

The Review Group also recommended that this working party review the performance of changes to the Act after two years, with a particular focus on the effect of the changes on price and service competition within the industry. This project establishes the working party suggested by the Review Group (see section 2.3.3).

2.2.2. The Taxi and Luxury Hire Car Amendment Act 2003

The recommendations of the Taxi Industry Review Group were largely reflected in the Amendment Act, which was passed by Parliament in December 2003.

The purpose of the amendments was twofold: to ensure that Tasmania's obligations under National Competition Policy were met, and to facilitate the industry's compliance with the Commonwealth *Disability Discrimination Act 1992* (DDA).

NCP amendments

As a result of the 2003 amendments, the Act requires the Transport Commission to make available a specified number of new perpetual taxi licences in all taxi areas every year⁸. In each area the number of new licences to be made available each year is equivalent to five per cent of the number of licences currently on issue in that area, or one licence, whichever is the greater.

The Valuer-General assesses licence values every three years⁹. The assessed market value (AMV) is the minimum price at which the Government can make new licences available. The AMVs of taxi licences range from \$1 000 in some rural areas to over \$80 000 in Hobart. Additional licences must be made available in a taxi area if the average tender price for licences in that area exceeds the AMV by more than ten per cent and all available licences in that area are sold.

The Amendment Act provides for a two-year moratorium (in 2004 and 2005) on the issue of new perpetual taxi licences in the metropolitan taxi areas. The purpose of the moratorium is to facilitate the introduction of WATs into the taxi fleet.

Disability Discrimination Act (DDA) obligations

The introduction of WAT licences was in response to the DDA. The DDA aims to eliminate discrimination, as far as possible, against people with disabilities, in a range of areas including the provision of services¹⁰. Public transport, which includes taxi services, is a service covered by the DDA.

The *Disability Standards for Accessible Public Transport 2002* (the Disability Standards) prescribe how public transport is to be made accessible for the purposes of the DDA. For instance, they prescribe minimum standards for WATs in relation to issues such as access to the vehicles and the size of vehicles. The Disability Standards require that response times for WATs are the same as for other taxis by 1 December 2007.

The Act requires that vehicles registered as WATs comply with the Disability Standards, and sets out other requirements for WATs, including the age of the vehicle and the means by which wheelchairs enter the vehicle¹¹.

In 2004, in accordance with the Act, 16 WAT licences were made available in the metropolitan taxi areas, and a further 17 were made available in 2005¹². These figures are equivalent to the number of standard perpetual taxi licences that would otherwise have been made available in 2004 and 2005 in these areas but for the introduction of WATs.

⁸ *ibid.*, Section 19.

⁹ *ibid.*, Section 11.

¹⁰ *Disability Discrimination Act 1992* (Cwth), Section 3(a)(ii).

¹¹ Taxi and Luxury Hire Car Industries Act, Schedule 6.

¹² *ibid.*, Schedule 7.

The Act provides for additional WAT licences to be made available in the metropolitan taxi areas in 2006 if it is considered that the response times for WATs fall short of that prescribed by the Disability Standards¹³. A review into the adequacy of WAT services was completed in December 2005. The findings of this review will provide input into the Minister's assessment of whether further WAT licences should be made available in 2006.

2.3. Taxi industry overview

2.3.1. Licences

Tasmania is divided into 24 geographic taxi areas, which define where a licensed taxi is able to operate¹⁴. Taxis are restricted to operating to, from or within their nominated area¹⁵. Of the 404 taxi licences on issue¹⁶, about 85 per cent operate in the four metropolitan taxi areas: Hobart (207), Launceston (91), Burnie (22) and Devonport (22). The remaining licences are spread across the regional areas.

As in other states, the Tasmanian taxi fleet includes both fleet-operated vehicles as well as owner-operator vehicles. Unlike some other states there is no requirement that taxis are operated through an accredited radio room. Therefore, in addition to the major radio rooms (e.g. City Cabs, Taxi Combined Services) there are a number of smaller radio rooms, co-operative arrangements and independent operators.

A significant proportion of taxis are owned and driven by the licensee, with assistance from one or two other drivers. This proportion is declining, with an increasing number of taxi licences leased or managed through taxi management companies. Taxi management companies manage all aspects of a vehicle's operation for the licensee, who often take no active part in the industry.

Of the 404 licences on issue, a total of 257 (64%) are leased. In Hobart 150 of the 207 licences are leased; in Launceston 74 of the 91 licences are leased, and in Burnie 19 of the 22 licences are leased. Other areas where plates are leased are New Norfolk (nine of nine), Perth (three of six), West Tamar (one of two) and King Island (one of two).

There are 39 licence holders from interstate. They hold a total of 71 licences in the Hobart (49), Launceston (20) and Burnie (2) taxi areas.

There are a small number of multiple licence holders in Tasmania. In Hobart 28 owners own more than one plate and of these, four owners own six or more plates. A total of 88 of the 207 Hobart plates are owned by sole plate owners. This ownership structure is similar in

¹³ *ibid.*, Section 23N(2)(a).

¹⁴ *Taxi Industry (Taxi Area) Regulations 1996* (Tas).

¹⁵ *Taxi Industry Regulations 1996* (Tas), Regulation 24.

¹⁶ Standard perpetual taxi licences, as at October 2005.

Launceston. Burnie operates as a co-operative of mostly individual licensees, whilst Devonport's taxi fleet is owned by a single company.

2.3.2. Supply and demand¹⁷

Taxis are owned and operated in a variety of ways. Many taxis operate through a radio room, which is the face of the taxi industry to the public for phone bookings. The radio rooms manage a fleet of cars and dispatch vehicles to jobs so as to minimise delays to customers and maximise the use of vehicles. At least half of the metropolitan taxi trips are booked through radio rooms¹⁸. For smaller taxi areas, the proportion of taxi work through radio rooms is higher. The balance of taxi work comes from hirings at ranks, with a small amount from hailing in the street and through phoning the driver directly.

The demand for taxi services is highly variable. There are distinct peaks during week associated with the travel to and from work or school, as well as social peaks on Friday and Saturday evenings. During the week there are significant periods of the time when the demand for taxis is fairly low.

The National Taxi User Survey¹⁹, conducted in 2002, asked users about occasions on which they were unable to obtain a taxi. Due to the high level at which the results were reported, the results of the survey are not conclusive in relation to whether the supply of taxis in Tasmanian urban centres is adequate to meet normal peak demands. However, when taken in conjunction with anecdotal evidence, the survey results suggest that peak demands may not be adequately catered for. The Taxi Industry Review Group noted that at certain times of the year there is a shortage of taxis (such as on New Year's Eve or during cruise ship visits)²⁰. The Review Group suggested that this might create a potential demand for temporary taxi licences²¹.

¹⁷ Unless otherwise noted, information regarding the Tasmanian taxi industry has been sourced from DIER data and the Taxi Industry Review Group's Regulatory Impact Statement (April 2000), which in turn cites: *Review of Proposed Changes to Taxi Industry Regulations* Transport Tasmania 1989, 1998 *Review of Standard Fares* – Report prepared for the Taxi Industry Advisory Board, and Department of Infrastructure, Energy and Resources internal records.

¹⁸ Colmar Brunton: op. cit.

¹⁹ *ibid.*

²⁰ Taxi Industry Review Group: op. cit., page 15.

²¹ Section 25(1)(e) of the Taxi and Luxury Hire Car Industries Act allows accredited taxi groups to provide taxi services under a temporary taxi licence on terms and conditions specified by the Transport Commission.

3. Further information

The Review of the *Taxi and Luxury Hire Car Industries Act 1995* is being conducted by the Passenger Transport Policy Branch of the Department of Infrastructure, Energy and Resources.

Further information on the project can be obtained from:

Taxi Industry Legislation Review
Passenger Transport Policy Branch
Department of Infrastructure, Energy and Resources
GPO Box 936
HOBART TAS 7001
www.transport.tas.gov.au
Phone: (03) 6233 2865
Email: taxi.review@dier.tas.gov.au

Review of the
Taxi and Luxury Hire Car Industries Act 1995

Introduction to the Project

Appendices

Appendix 1– Terms of Reference of the Taxi Industry Reference Group

(DRAFT – to be confirmed at the first meeting of the Reference Group)

Introduction

The Department of Infrastructure, Energy and Resources (DIER) seeks to establish a Reference Group of experienced taxi industry representatives to facilitate communication between the industry and the Government.

The role of the Reference Group will be to provide advice to DIER on behalf of the taxi industry on a range of issues affecting the industry. Initially the issues considered by the group will be those which will inform a process of rewriting the *Taxi and Luxury Hire Car Industries Act 1995*, the *Taxi Industry Regulations 1996* and the *Taxi Industry (Taxi Areas) Regulations 1996* proposed to be completed in 2007.

The Reference Group will not be expected to participate in the drafting of the legislation, as this is undertaken by the Office of Parliamentary Council within the Department of Premier and Cabinet. However, the Reference Group will provide the industry with the opportunity to contribute to the development of policies that will form the basis from which the new regulatory framework can be established.

While the process of rewriting the legislation will have a defined lifespan of approximately 18 months, it is intended that the Reference Group's activities will continue beyond the conclusion of this process, to provide continued representation for the industry to Government in the longer term.

Background

There are currently no formal consultative arrangements between the Tasmanian Government and the taxi industry. In previous years a number of industry/ Government consultative bodies have been established. The Taxi Industry Advisory Board (TIAB) was established by the *Taxi Industry Act 1995* to provide independent advice to the Minister and the Commissioner for Transport on matters relating to taxis with a specific focus on facilitating the smooth conversion of public vehicle cab licences into perpetual taxi licences. The TIAB was abolished, with the support of the former peak industry body, the Taxi Industry Association of Tasmania (TIAT), in October 1999. Following the abolition of the TIAB the Taxi Advisory Group (TAG) was formed as a means of consulting with industry and key stakeholder groups on operational matters and policy issues concerning the taxi industry. TAG has not met since September 2003 and TIAT

disbanded in 2004. Since that time DIER has consulted directly with operators and the two new industry groups, the Tasmanian Taxi Association and Taxis Tasmania.

In addition to these arrangements, there have been specially convened working parties for reviews of the industry, such as the 1993 Working Party on Taxi Industry Reform, and the Taxi Industry Review Group, which was established in 1999 to review Tasmania's taxi industry legislation in relation to its compliance with National Competition Policy (NCP).

During the 1999 review, the Taxi Industry Review Group identified a range of issues that were beyond its Terms of Reference. In the Regulatory Impact Statement the Review Group recommended that a working party be established by the Secretary of DIER to consider these issues and to undertake further work on matters that were considered during the review.

In his second reading speech of the *Taxis and Luxury Hire Car Industries Amendment Bill 2003* in December 2003 the then Minister for Infrastructure, Jim Cox MHA, committed the Government to the establishment of such a working party.

The establishment of this Reference Group honours this commitment and will provide a consultative forum for the medium to long term.

Membership

Core members of the Reference Group shall be drawn from across the taxi industry, including taxi operators, licence owners, drivers and fleet managers. As far as possible, members shall be representative of different geographic locations within Tasmania.

The maximum number of core members drawn from the industry shall be ten (10). Additional members may be invited to join the group for consideration of specific issues where additional expertise may be required. This might include, but would not necessarily be limited to, taxi drivers and luxury hire car operators or drivers.

Members shall be selected through a two-stage process.

In the first stage, DIER will approach the two taxi industry associations, the Tasmanian Taxi Association and Taxis Tasmania, for nominations to the Reference Group. Each association will be asked to nominate representatives who are well placed to be able to represent the views of the industry and who will have the support of the different interests within the industry. The associations will be asked to consider nominating people who have not been involved in previous advisory groups.

After having received the industry nominations DIER shall advise the names of the representatives to the wider industry through its industry newsletter and provide an opportunity for other industry participants to nominate themselves to the group. Such nominees must

demonstrate that their interests are not well represented by the associations' nominees and that they are able to act on behalf of a broad, unrepresented section of the industry and to provide input to the Reference Group that is in the interests of the industry as a whole.

DIER will require nominated members of the Reference Group to have a demonstrated interest in the Tasmanian taxi industry, relevant experience in the industry, an understanding of the issues facing the industry and the capacity to contribute to a formal review process.

Nominees must canvas the views of the industry to present to the Reference Group.

Members must attend the majority of the Reference Group's meetings. Once the Reference Group has finalised its input into the process of rewriting the legislation, longer-term membership of the group will be considered.

DIER shall chair the Reference Group and will provide secretariat support for the work of the group. DIER representatives shall include the Director, Passenger Transport Policy (Chair), the Manager, Vehicle Operations and the Manager, Transport Operator Accreditation.

Quorum

A minimum of six (6) industry representatives shall be taken to be a quorum. Continuity of membership is important for the work of the group. For this reason proxies will not be permitted.

Terms of Reference

The Taxi Industry Reference Group shall be established as a representative group from the taxi industry to work with DIER on considering a range of issues related to the rewriting of the *Taxi and Luxury Hire Car Industries Act 1995* and the remaking of the *Taxi Industry Regulations 1996* and the *Taxi Industry (Taxi Areas) Regulations 1996*.

After the completion of this process, the terms of reference of the Reference Group shall be revised and the group shall be reconstituted as the principal point of consultation between the industry and the Government in the medium term and beyond.

The issues to be considered by the Reference Group shall initially include, but shall not be limited to, those outlined below.

1. The Reference Group shall consider the following issues identified by the Taxi Industry Review Group:

- **fare setting mechanisms:** the Reference Group shall consider current arrangements for setting taxi fares and examine alternative methods, including the scope of fares to be set by an independent body;
 - the Reference Group shall examine the distribution of revenue in the industry and other issues relating to driver remuneration and conditions;
 - **an industry Code of Conduct:** the Reference Group shall assist with the development of an industry Code of Conduct that complies with the operator accreditation requirements of the *Passenger Transport Act 1997*;
 - **radio rooms:** the Reference Group shall examine the role of radio rooms to consider whether they adequately promote competition for taxi services within areas and whether they can improve their capacity to respond to and adopt innovative practices and new technologies;
 - in so doing, consideration shall be given to the benefits and drawbacks of the regulation and compulsory membership of radio rooms; and
 - **taxi areas:** the Reference Group shall examine the feasibility of amalgamating adjoining taxi areas with similar assessed market values of licences.
2. The Reference Group shall consider the following issues identified by DIER and/or the industry:
- operation of the *Taxi and Luxury Hire Car Operator Accreditation Guidelines* including providing feedback to DIER and the Transport Operator Accreditation Board on the industry's progress in implementing them and to pass on suggestions about any changes that might enable smoother implementation of the guidelines;
 - the potential for the taxi industry to provide cost effective services to the rural and community transport sectors;
 - issues relating to luxury hire cars, including the interaction and distinction between taxis and luxury hire cars; and
 - the operation of wheelchair accessible taxis.
3. The Reference Group shall provide expert advice to DIER on the operations of the changes to the *Taxi and Luxury Hire Car Industries Act 1995* that were introduced in 2003. In particular the Reference Group shall consider whether there has been effective

price and service competition in the provision of taxi services, following the partial deregulation of fares and the revised arrangements for issuing new licences.

4. The Reference Group shall provide expert advice to DIER on other issues that might arise during its work.

The Reference Group shall be the main point of future contact and consultation between DIER and the industry.

Meetings

The Reference Group will work with members of DIER's Passenger Transport Policy Branch and with other DIER officers as required. Reference group members will be required to attend the meetings scheduled for the group, and it is expected that members will conduct themselves in a professional and business-like manner.

Meetings of the Reference Group will be convened by DIER and will be held approximately once every six (6) weeks over an approximate 12–15 month period. The commitment from members is expected to be to attend approximately nine (9) meetings over this time. An indicative timeline for the meetings can be found at [Attachment 1](#).

Meetings will be held in either Hobart or Launceston. Members will be entitled to a payment in recognition of the expenses incurred in attending meetings.

As the secretariat for the Reference Group, DIER will provide an agenda and discussion papers for each meeting. It is anticipated that each meeting of the Reference Group will consider one issue in detail. Meetings will follow the agenda and should not be considered as an opportunity to raise unrelated operational issues that can be addressed through other channels. Members of the Reference Group will be expected to review the papers and to actively contribute to the work of the group in relation to the issues raised, including presenting the views of industry on the issues to the group for consideration. Protocols for the conduct of the meetings can be found at [Attachment 2](#).

The discussion papers will be made available to stakeholders outside the Reference Group for comment. Submissions from these stakeholders will be provided to the Reference Group for consideration, to enable it to present the industry's preferred position on each issue to the Department.

The Government shall be the sole decision making body in respect of policy decisions affecting the taxi and luxury hire car industries. DIER shall provide advice to the Government on the issues considered by the Reference Group, based on the input provided by the Reference Group.

Attachment 1: Indicative Timeline for Reference Group Meetings

| Timing | Issue |
|---------------|--|
| January 2006 | <i>Fare setting mechanisms and driver pay & conditions</i> |
| February 2006 | <i>Links between taxis and community transport</i> <i>Wheelchair accessible taxis *</i> |
| March 2006 | <i>Taxi and luxury hire car accreditation under the Passenger Transport Act/ Industry code of conduct **</i> |
| May 2006 | <i>Interaction between taxis and luxury hire cars **</i> |
| June 2006 | <i>Taxi areas</i> |
| July 2006 | <i>Role of radio rooms</i> |
| August 2006 | <i>Review of National Competition Policy changes to the Taxi and Luxury Hire Car Industries Act</i> |
| October 2006 | <i>Technical and other amendments to the Taxi and Luxury Hire Car Industries Act</i> |

* Representatives of WAT operators and wheelchair-reliant users will be invited to participate in this meeting.

** Luxury hire car industry representatives will be invited to participate in these meetings.

Attachment 2: Taxi Industry Reference Group Meeting Protocols

The project to rewrite the taxi industry legislation involves a significant amount of work for the Reference Group and for DIER, and the time available for meetings is limited. It is important that Reference Group members from both DIER and the industry adopt a disciplined and professional approach to the meetings, and that members work together to maximise the value of the Reference Group process.

To this end, meeting protocols for the Reference Group have been developed. The protocols outline the roles and responsibilities of the members of the Reference Group, and set out the way in which the group's meetings will operate.

Role of the Reference Group

The role of the Reference Group is to discuss a range of issues associated with the rewriting of the legislation governing the taxi industry. The group is an advisory, rather than a decision-making, body. Its role is therefore to provide advice to the government on issues related to the legislation. The group will not be responsible for drafting the new legislation.

Notice of meetings

Dates will be set for the second and third meetings at the first meeting. The date for each subsequent meeting will be set two meetings in advance.

The Department of Infrastructure, Energy and Resources (DIER) will distribute the agenda and papers for each meeting three weeks before each meeting. Members should ensure that their contact details are up to date, and advise DIER if these details change.

Attendance

It is expected that members will attend all meetings. However, DIER recognises that circumstances will arise where a member might find it impossible to attend. If a member is unable to attend, they should notify DIER as soon as possible. They should provide their feedback on the agenda items separately to DIER.

A quorum for the group will be six industry representatives. If there are fewer than six members able to attend, the meeting will be postponed. Because it will be important to maintain continuity of the group, substitute members will not normally be accepted if a member is not able to attend.

Preparation for the meetings

All members should familiarise themselves with the papers well in advance of the meeting. Where appropriate, members may wish to make written responses to the papers.

The papers will contain a number of questions that will form the basis of the discussion at the meetings. As far as possible members should discuss these questions with the people on whose behalf they are participating in the Reference Group, so that they can present the views of these people to the meeting.

Agenda

The agenda provides a structure to the meeting and outlines the issues to be considered and the order in which they will be considered. Items that are not on the agenda will not normally be discussed, unless they are relevant to the issues at hand. Members should not raise at the meetings unrelated operational issues that can be addressed through other channels. Members can raise issues to be added to the agendas of future meetings.

If members identify issues that are relevant to the issues being discussed that are not on the agenda, they should notify DIER at least one week prior to the meeting date so that these can be added to the agenda.

Chair

The Chair of the Reference Group will be the Director of DIER's Passenger Transport Policy Branch. The Chair is responsible for conducting the meeting in an orderly manner and for ensuring that all items on the agenda are discussed in a timely and professional way. If the discussion deviates significantly from the topic, the Chair can ask members to refocus their attention on the topic.

Conduct of meetings

Members should give others the chance to speak and not interrupt the speaker. The Chair decides who should speak and will invite comments from members who have not had the opportunity to contribute.

Discussions should focus on the issues at hand. Mindful of times constraints, care will be required to avoid repetition of issues.

Minutes

DIER will record the discussions from the meetings and will forward summaries to all members. Members should read these summaries carefully and advise DIER as soon as possible if there are any inaccuracies. Final summaries will be posted on DIER's website once they have been agreed by the members.

Further information

Enquiries about the meetings, proposals for additional agenda items, apologies and comments on the meeting summaries should be directed to Barb Dunford, Project Manager of the taxi industry legislation review on 6233 2865 or by email barb.dunford@dier.tas.gov.au

Appendix 2 – Fare Setting Mechanisms and Driver Pay & Conditions

Options for fare setting

- The Taxi Industry Review Group identified the fare setting mechanism as a matter to be addressed outside of the review. DIER commissioned a report into taxi fare setting and review mechanisms in other jurisdictions in 2004²².
- Taxi fares are specified in the *Taxi Industry Regulations 1996* and are reviewed periodically at the request of industry, or in response to extraordinary circumstances (such as the introduction of GST). Fares are usually adjusted in line with the Consumer Price Index (CPI) or through the use of a taxi cost model, which measures the level of change over time of basic costs associated with operating a taxi.
- Recently the CPI has been used as the method by which fares are adjusted. Where an increase above CPI has been proposed, a Regulatory Impact Statement (RIS) must normally be undertaken to determine whether the proposal has a net benefit to the public or imposes an unreasonable cost or burden on the public.
- The existing methods of calculating fare increases are widely criticised. CPI is not seen as representative of the costs of operating a taxi. The cost model is seen as being too slow to respond to the increase in operating costs. It is also difficult to determine how to measure costs to include in the model, as the costs of operating a taxi will vary significantly between operators and vehicles.
- A 7.3 per cent fare increase was implemented from 2 November 2005. This increase was determined through the taxi cost model.
- Frequent changes to fares are seen as undesirable, as every fare change requires taximeters to be reset and resealed at a cost to taxi operators. It has also been suggested that a fare increase results in a corresponding reduction in patronage and that this results in a reduction in driver income.
- A range of fare setting options could be considered, including retaining the current system, modifying the current system, reviewing the cost model, using an index other than CPI, and encouraging the take up of the provisions allowing for operators to establish accredited groups with the ability set their own fares. The role of an independent body

²² Pearson's Transport Resource Centre Pty Ltd: *Taxi Fare Setting/Review Mechanism Project Final Report*, August 2004.

such as the Government Prices Oversight Committee (GPOC) in relation to fare setting will also be considered.

Driver payments and conditions

- Driver conditions, in particular payments to drivers, have been identified by some parties within the industry as requiring consideration. The Act provides that for workers compensation purposes a taxi driver who drives for an operator is taken to be employed by the responsible operator. However, in other aspects, the driver is considered to be an independent contractor.
- Driver remuneration is not regulated, but set by agreement between the taxi operator and the driver, and is typically 50 per cent of the metered fare.
- It is recognised by the industry that drivers normally receive relatively low rates of pay despite real increases in fares and licence values over time. The Victorian Essential Services Commission's (ESC) report into taxi fares²³ noted that the benefits of these increases largely flowed to licence owners rather than drivers and operators. It suggested that as the distribution of revenue within the industry was inequitable any increases in fares would not address the problem of low driver payments or low returns to operators.
- There are other issues of concern in relation to driver conditions, and some of these might relate to the rate of pay. Issues identified by the Victorian ESC include high driver turnover, long working hours and declining vehicle standards.

²³ Essential Services Commission, Victoria: *Report of the Taxi Fare Review 2005*, June 2005.

Appendix 3 – Links between Taxis and Community Transport

Rural Transport Solutions

- DIER's Rural Transport Solutions (RTS) project aims to gain a more thorough insight into the key issues of rural transport services, through in-depth market research on views of stakeholders and an audit of community transport resources. It will consider ways in which the Government might better coordinate community transport services to better meet users' needs and to provide a more efficient and effective service to the community.
- The RTS research on community transport arrangements in Tasmania will be drawn on to determine the structure of the taxi industry in regional areas, the needs of stakeholders, the views of the taxi industry and the adequacy of taxi services.

WATS in rural areas

- There are currently no WATs operating in rural and regional areas. Under the Commonwealth *Disability Discrimination Act 1992* (DDA) these areas should be serviced by WATs, and the level of service should be equivalent to that of a standard taxi.
- Many of the regional areas have a low level of demand for taxi services, with only one or two taxis per area. The introduction of a WAT into these areas would in some cases double the size of the taxi fleet. In regional taxi areas, new perpetual licences have been available since 2004 but in most areas have not been taken up. This implies that the market for standard taxis in these areas might not support an additional taxi.
- Consideration needs to be given to the costs and benefits of the introduction of WATs into the non-metropolitan taxi areas, and how this might be accomplished in order to meet the requirements of the DDA. It will be important to examine the barriers to provision of WAT services in regional and rural areas and to develop strategies to overcome these barriers to ensure good outcomes for wheelchair-reliant residents of these areas.

Links with Home and Community Care

- The Home and Community Care (HACC) program is administered by the Department of Health and Human Services and aims to assist people with functional disabilities to live independently in their own homes and be a part of community life. It funds a range of organisations to provide services, including transport, to eligible clients.

- Concerns have been raised about the 'infringement' of the community transport sector on taxi style work, resulting in a possible loss of business for taxi operators. The project will explore whether taxi operators are in a position to contribute to the provision of community transport and access HACC funding.
- The role of radio rooms in relation to improving taxi services in rural and regional areas through improved communication will also be considered.

Appendix 4 – Wheelchair accessible taxis

- Wheelchair accessible taxis (WATs) were introduced through the *Taxi and Luxury Hire Car Industries Amendment Act 2003* to enable the industry to meet its obligations under the Commonwealth *Disability Discrimination Act 1992* (DDA).
- The *Disability Standards for Accessible Public Transport 2002* (the Standards) prescribe how public transport is to be made accessible for the purposes of the DDA. For instance, they prescribe minimum standards for WATs in relation to issues such as access to the vehicles and the size of vehicles. The Standards require that response times for WATs are the same as for other taxis by 1 December 2007.
- In 2004 and 2005, 33 WAT licences were made available in the metropolitan taxi areas in lieu of standard perpetual licences. Thirty-two of these licences were taken up and these vehicles are being progressively rolled out. The Amendment Act provides the Minister with the discretion to extend the moratorium on perpetual taxi licences in the metropolitan areas for a further 12 months and make further WAT licences available. Further WAT licences can only be made available in 2006 if it is deemed that the response times for WATs are not at least equivalent to the response times for standard taxis in a particular taxi area, as required by the Standards.
- DIER commissioned a review into the adequacy of WAT services to assist the Minister in making this decision. The review was completed in December 2005, and the report is being considered by the Minister.
- It is likely that the review will identify a range of issues associated with WATs that require further investigation and consultation. For instance, the Act requires that entry to WATs is by a ramp; hoist entries are not permitted. There has been some concern from both users and operators about safety issues associated with ramp entry.
- WAT licences are issued free of charge for a period of ten years. They can be renewed after this period at the discretion of the Transport Commission. It was expected that the original operator would be entitled to have their WAT licence renewed automatically. However, consideration needs to be given in relation to the circumstances under which WAT licences could be renewed if they had been transferred from the original operator in the initial ten-year period.
- The *Taxi and Luxury Hire Car Industries Act 1995* does not contain provisions for other vehicles to be used as substitute WATs when the normal WAT is being serviced or repaired. The requirement for a WAT to be a new vehicle makes the cost of an operator purchasing an additional WAT that meets the requirements of the Act to use as a

substitute vehicle prohibitive. There might be alternatives that could be considered to address this issue so that customer demand can continue to be met and so that operators do not lose income when a WAT is off the road.

Appendix 5 – Taxi and Luxury Hire Car Accreditation & Code of Conduct

Operator accreditation guidelines

- The *Passenger Transport Act 1997* (PT Act) introduced Operator Accreditation for all public passenger vehicles. To bring the taxi and luxury hire car industries into line with accreditation requirements for operators of other public passenger vehicles, the *Taxi and Luxury Hire Car Accreditation Guidelines* were introduced in December 2005.
- Accreditation under the PT Act²⁴ is designed to:
 - encourage improved passenger transport industry standards;
 - raise awareness of safety and other related issues; and
 - ensure someone is accountable for meeting those standards.
- Given the high number of leased licences, it will be important to establish a mechanism by which the responsible operator of each licence can be identified for the purposes of accreditation.
- Early feedback from operators regarding the guidelines was mixed, with some operators seeing the requirements as no more than they were already doing, and others considering them to be an impost that would be enough to put them out of the industry.
- Existing operators will receive a twelve-month accreditation from the date of the release of the Guidelines. To maintain their accreditation, by the end of this twelve-month period operators must demonstrate that they meet the accreditation requirements.
- The Reference Group could coordinate feedback from the industry on the guidelines to inform DIER and the Transport Operator Accreditation Board of the industry's progress in implementing them and to pass on suggestions about any changes that might enable smoother implementation of the guidelines.

²⁴ Accreditation under the PT Act is different from accreditation under Part 5 of the Taxi and Luxury Hire Car Industries Act, which provides for organised groups to be accredited and therefore able to set their own fares, charge different fares, seal their own meters etc.

Industry Code of Conduct

- The development of an Industry Code of Conduct to promote orderly market behaviour has been flagged with the industry and was recommended by the Review Group.
- The Taxi Industry Association of Tasmania produced a *Code of Practice for the Operating of Taxis* in conjunction with the then Taxi Industry Advisory Board and the then Department of Transport in July 1997. The Code covered licensing, vehicles, drivers and passengers and identified procedures for dealing with lost property and making complaints. Some elements of the Code were derived from legislation.
- Some other jurisdictions have introduced codes of conduct for their taxi industries.
- The accreditation guidelines require taxi operators to have in place a “code of behaviour” with which their drivers are expected to comply. An industry code of conduct that meets the accreditation requirements could be developed. Operators could adopt this code, or modify it to meet their own needs, instead of developing their own code.
- There are likely to be links between accreditation/code of conduct and the possible regulation of radio rooms.

Appendix 6 – Interaction between Taxis and Luxury Hire Cars

- Luxury Hire Cars (LHCs) are regulated by the *Taxi and Luxury Hire Car Industries Act 1995*, the *Passenger Transport Act 1997* and the *Luxury Hire Car Industry Regulations 2000*.
- LHC licences are issued by the Transport Commission on application. There is no restriction on the number of licences able to be issued and there are currently 46 licences throughout Tasmania. Unlike taxis, LHCs are permitted to operate anywhere in the state.
- LHCs are not seen as providers of public transport in the same way as taxis. LHCs are supposed to provide a very high quality personal service at a premium cost rather than a standard service accessible to all who require it. Unlike in the taxi industry, the role of Government in regulating LHCs is not to ensure efficiency and effectiveness. The Government's role is to ensure the safety of passengers and drivers and for setting minimum standards for LHCs. The Government is also responsible for clarifying the respective roles of LHCs and taxis.
- The Reference Group will seek input from LHC industry representatives in relation to the interaction between taxis and luxury hire cars.
- The distinction between the work of taxis and that of LHCs is established by the legislation. LHCs can only accept pre-booked work and are not permitted to ply for trade, for instance at taxi ranks. Vehicles are required to be maintained at a 'luxury' standard, but there is no definition of this term.
- In practice the boundaries between taxis and LHCs may be poorly understood and enforcement can be difficult. This is particularly the case in relation to pre-booked work, the definition of which is not clear and is not defined in the LHC Regulations. As a result, there has been concern expressed by operators of both taxis and LHCs that their work is being encroached on by the other class of vehicle.
- The taxi industry has opposed the use of meters and electronic dispatch systems in LHCs, as it believes that the use of such technology to determine a fare is only permitted in taxis. LHC licences require the fare to be agreed in advance between the hirer of the vehicle and the driver. It has been argued that this condition would prevent an LHC driver from using a taximeter to determine fares.
- Security cameras are mandatory in taxis in the Hobart, Launceston, Devonport, Burnie and Ulverstone taxi areas. They were introduced to improve driver safety in these areas.

It might be argued that, as LHCs are only able to accept pre-booked work, the need for security cameras is reduced.

- Altering the difference in cost between taxis and LHCs could be a way in which the two might be better differentiated. This might be achieved by more closely regulating the specifications of LHCs, by lowering the maximum age for a vehicle used as an LHC or by increasing the cost of an LHC licence.

Appendix 7 – Taxi Areas

- The *Taxi and Luxury Hire Car Industries Act 1995*, through the *Taxi Industry (Taxi Area) Regulations 1996*, divides the State into 24 taxi areas, which define where a licensed taxi is able to operate. Taxis are restricted to operating to, from or within their nominated area.
- The Review Group supported the retention of taxi areas, although there were some calls during the review to amalgamate areas and/or to remove the area system altogether. The reasons for this were not published by the Review Group.
- The main disadvantage of taxi areas is that they could result in a lack of supply of taxis in peak periods in areas where demand is high as operators are prohibited from moving outside their own area to busy areas. The Review Group concluded that this was not a major issue and that, except in cases of extraordinary high demand, there is sufficient availability of taxis to meet demand in all areas, even at peak times. However, results from the 2002 National Taxi Survey do not necessarily support this conclusion.
- After the 2003 assessment of taxi licence values, which determined their assessed market values (AMV) at 1 July 2003, a number of taxi areas close to one another have the same or similar AMV. While this was not an intended outcome, it is not surprising, as some of the smaller taxi areas would have similar economic and demographic characteristics and would have similar demands for taxi services per head of population.
- The Review Group recommended that the potential benefits and drawbacks of amalgamating adjoining taxi areas with the same or similar assessed market values of licences be examined.
- Benefits of amalgamating taxi areas might include an increased flexibility for taxis to respond both to seasonal changes in demand in different areas, as well as to longer term changes to demand due to new infrastructure developments, and changing demographics. It might also, however, mean that taxis move away from the less commercially viable pockets within the extended taxi areas, leaving smaller centres without a taxi service.

Appendix 8 – Role of Radio Rooms

- The Review Group noted the important role Taxi Dispatch Services (radio rooms) play in the taxi industry and felt that radio rooms were ideally placed to promote competition in respect to prices and quality.
- The Review Group recommended that the role of radio rooms be reviewed to consider whether they adequately promote competition in the industry and whether they can improve their capacity to respond to and adopt innovative practices and new technologies.
- In 2005 DIER commissioned research into the regulation of taxi dispatch services (TDSs) in Australia and compulsory operator affiliation or membership. All States and Territories outside Tasmania regulate their TDSs, and in these jurisdictions membership of or affiliation with a TDS is compulsory for all taxi operators.
- There may be links between the regulation of radio rooms and the taxi and LHC operator accreditation guidelines, particularly if radio rooms are to be used as ‘pseudo regulators’ as occurs in some other jurisdictions.
- There is no evidence from other jurisdictions to support the view that regulation of radio rooms in combination with compulsory affiliation results in faster uptake of new technology and innovation. Furthermore, smaller radio rooms might not have the financial capacity to implement expensive new technology. However, there is scope to investigate ways in which radio rooms might better respond to new technologies and implement more innovative practices.

Appendix 9 – Review of the National Competition Policy Changes to the *Taxi and Luxury Hire Car Industries Act 1995*

Background

- The 2003 amendments to the *Taxi and Luxury Hire Car Industries Act 1995* responded to Tasmania's obligations under the Commonwealth *Disability Discrimination Act 1992* (DDA) and National Competition Policy (NCP). The amendments introduced wheelchair accessible taxis (WATs), together with reforms aimed at meeting the NCP obligations.
- The major NCP related changes to the Act were: the requirement for new perpetual licences to be made available every year; and the ability for operators, drivers and accredited taxi groups to offer discount fares. This was intended to encourage a gradual opening up of the taxi market to new entrants and to increase competition and innovation within the industry.
- The Taxi Industry Review Group recommended that the performance of changes to the Act be reviewed after two years. In particular, it recommended that consideration be given to whether there had been effective price and service competition in the provision of taxi fares. The then Minister's second reading speech on 2 December 2003 committed the Government to this review.
- This review will not reconsider the principles on which the Act is based nor will it revisit the work undertaken by the Review Group in relation to the industry's NCP obligations. The review will fulfil the commitment to investigate the effects of the Act on competition within the industry.

Uptake of discount fares

- Under the Act a driver, a responsible operator or an accredited taxi group (accredited with the Transport Commission under the Taxi Industry Regulations) can apply to the Commission for registration of a discount fare. It was intended that operators would use discount fares to generate additional patronage and improve economic returns. However, to date, these provisions have not been used.

New licences

- The reserve price at which new licences are made available, the Assessed Market Value (AMV), is determined by the Valuer-General. The AMV reflects the market value of a

licence, whereas the capped value, which was used prior to 2003, represented a value above which licence prices were not intended to rise.

- In metropolitan areas WAT licences were made available in lieu of perpetual licences in 2004 and 2005. All of the 16 WATs offered in 2004 were taken up and all except one of the 17 WAT licences offered in 2005 were taken up. A review of WATs in relation to the adequacy of service they provide in order to assess whether additional WAT licences should be made available in 2006 was completed in December 2005. The report is currently being considered by the Minister.
- New perpetual licences have been offered in the non-metropolitan taxi areas. Due to the small number of the existing fleets in these areas, only one new licence has been made available in each area each year and these have been taken up in only a small number of taxi areas. Given the small number of areas in which new perpetual licences have been issued and the short time since the issue of these licences, it might be difficult to assess the impact of the new licences on service and competition.
- To inform this part of the project, DIER will undertake research into factors that might have affected the demand for taxi services in Tasmania since 1978, which is when the last new perpetual taxi licence was issued in Hobart, and how this has affected the price of taxi licences.

Appendix 10 – Review of the *Taxi and Luxury Hire Car Industries Act 1995*

Redundant sections of the Act

- The *Taxi and Luxury Hire Car Industries Act 1995* includes a number of provisions that step out the transition process from the previous legislation to the 1995 Act. Some of these provisions were removed through the 2003 Amendment Act, but other transitional provisions remain. As the transition process is complete, the relevant sections of the Act are now redundant. The following table summarises the proposed changes:

| Section | Amendment | Explanation |
|--|---------------------------------|---|
| Interpretation <ul style="list-style-type: none"> Application date Existing cab licence Expiry date | Remove | No longer required. Relates to the process for converting cab licences, buyback of licences – now complete. |
| S. 13(1)(b) conversion fees for perpetual taxi licences | Remove | Conversion fees no longer relevant. |
| S. 14A Refunds from special fund for Hobart taxi area <i>Taxi Industry Amendment (Hobart Taxi Refund) Act 1998</i> | Remove entire section | Redundant – this section provided for the refund of monies generated from a levy on the transfer of licences in Hobart. Not all refunds have been claimed. DIER is seeking advice on how to finalise this process. |
| S. 16 Transitional arrangements | Remove | No longer required – this section provided for the conversion of existing cab licences to perpetual licences – process now complete. |
| S. 17 Administration of funds for buy back of licences | Remove | The buy back provision had a defined life. |
| S. 18 Time limit for conversion and buy back | Remove | A transitional provision for conversion of 'restricted cab licences' – process now complete. |
| S. 27(8) | Remove | Regulating power regarding transitional arrangement for cab licences – process now complete. |
| General | Remove reference to cab licence | Term no longer valid. |

Technical amendments

The following technical amendments have been proposed. Others might be identified during the course of the project.

Requirement to register a vehicle to a taxi licence (sections 21(a) and 22)

- The Act requires a vehicle to be registered and recorded against a taxi licence. If a vehicle registered against that licence becomes unavailable for use, the operator must apply to the Transport Commission to use a substitute vehicle.
- It is proposed to remove these requirements and in doing so remove the compliance costs they impose on industry, for instance in cases where a taxi becomes unroadworthy and the operator is prevented from using a substitute vehicle because it cannot be registered with the Commission.
- Under this proposal, taxis will continue to be required to display a taxi licence plate. However, the substitute licence plate will no longer be required. The new arrangements will not affect enforcement of licensing, as taxis are clearly identifiable on road by their top light. It is a simple task then to check whether the vehicle has a taxi licence plate.

Accreditation of groups of taxi operators (section 24)

- Section 24 currently enables persons holding perpetual taxi licences to operate as an accredited group. Accredited groups may enter into an agreement with the Transport Commission to specify their own fares, charge different fares and seal their own meters etc.
- Section 24 does not apply to people holding Wheelchair Accessible Taxi (WAT) licences. It is proposed to include WAT licence holders in these provisions.

Appendix 11 – Glossary of Terms

| Legislation | |
|----------------------------------|--|
| DDA | <i>Disability Discrimination Act 1992 (Commonwealth)</i> |
| Disability Standards | <i>Disability Standards for Accessible Public Transport 2002</i> |
| LHC Regulations | <i>Luxury Hire Car Industry Regulations 2000</i> |
| Passenger Transport Act, PT Act | <i>Passenger Transport Act 1997</i> |
| The Act | <i>Taxi and Luxury Hire Car Industries Act 1995</i> |
| The Amendment Act | <i>Taxi and Luxury Hire Car Industries Amendment Act 2003</i> |
| The Regulations | <i>Taxi Industry Regulations 1996</i> |
| Taxi Area Regulations | <i>Taxi Industry (Taxi Areas) Regulations 1996</i> |
| Subordinate Legislation Act, SLA | <i>Subordinate Legislation Act 1992</i> |
| Acronyms | |
| AMV | Assessed market value |
| CPI | Consumer Price Index |
| DIER | Department of Infrastructure, Energy and Resources |
| ESC | Essential Services Commission Victoria |
| GPOC | Government Prices Oversight Committee |
| GST | Goods and Services Tax |
| HACC | Home and Community Care |
| LHC | Luxury hire car |
| NCP | National Competition Policy |
| OPC | Office of Parliamentary Counsel |
| RIS | Regulatory Impact Statement |
| RTS | Rural Transport Solutions |
| TAG | Taxi Advisory Group (inactive) |
| TAS | Transport Access Scheme |
| TDS | Taxi dispatch system (radio room) |
| TIAB | Taxi Industry Advisory Board (has been abolished) |
| TIAT | Taxi Industry Association of Tasmania (now disbanded) |
| TT | Taxis Tasmania |
| TTA | Tasmanian Taxi Association |
| WAT | Wheelchair accessible taxi |

Appendix 12 – Resources

Colmar Brunton: *2002 National Taxi Users Survey Report*, February 2003.

Essential Services Commission, Victoria: *Final Report of the Taxi Fare Review 2005*, June 2005 (sourced from www.esc.vic.gov.au).

Essential Services Commission, Victoria: *Issues Paper – Taxi Fare Review 2005*, April 2005 (sourced from www.esc.vic.gov.au).

Pearson's Transport Resource Centre Pty Ltd: *Taxi Fare Setting/Review Mechanism Project Final Report*, August 2004.

Productivity Commission: *Regulation of the Taxi Industry*, Commission Research Paper, Ausinfo, Canberra, 1999 (available at www.pc.gov.au/research/commres/taxiregulation/index.html).

Taxi Industry Review Group: *Review of Taxi and Luxury Hire Car Industries Act 1995 Luxury Hire Car Legislation in Tasmania*, Discussion Paper, July 1999 (available at www.transport.tas.gov.au/miscellaneous/index.html).

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

Registration for *Taxi and Luxury Hire Car Industries Act 1995* Review Discussion Papers

Name: _____

Address: _____

Town: _____ State: _____ Postcode: _____

Email: _____

I would prefer (please tick one):

- copies of the following discussion papers to be mailed to the above address
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- DIER to notify me by email when the following discussion papers are available on the web site

Discussion papers (please tick):

- All of the discussion papers
- OR
- Taxi fare setting mechanisms and driver pay and conditions
- Links between taxis and community transport
- Wheelchair accessible taxis
- Taxi and luxury hire car accreditation under the Passenger Transport Act/Industry code of conduct
- Interaction between taxis and luxury hire cars
- Taxi areas
- Role of radio rooms
- Review of the National Competition Policy changes to the *Taxi and Luxury Hire Car Industries Act 1995*
- Technical and other amendments to the *Taxi and Luxury Hire Car Industries Act 1995*

Please return this form to:

Passenger Transport Policy Branch
Attention: Barb Dunford
Department of Infrastructure, Energy and Resources
GPO Box 936
HOBART TAS 7001

Fax: (03) 6233 3937

Email: taxi.review@dier.tas.gov.au

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