

Meeting of the Taxi Industry Reference Group – Minutes

Thursday 19 June 2008, 12:30 pm to 4:30 pm

Mawson Room, Hobart Function Centre, Elizabeth Street Pier, Hobart

Attendees

DIER

David Hope (Chair)
John Bessell
Bernard Carlington
Paul Coates
Barb Dunford
Jeremy Gleeson
Babette Moate
John Pauley

Taxi Industry

Roger Burdon
Steve Cheetham
Denis Elmer
Graeme Fish
Toby Green
Eddie Ng
Robert Postma
Shane Stewart

Minutes

Meeting opened at 1:05 pm

1. Welcome and apologies

The Chair introduced Paul Coates, who is working in Passenger Transport Policy Branch.

Apologies were received from Jim Deane. The Chair noted that Guy Anderson had left Tasmania and would no longer be part of the Reference Group.

The Chair stated that DIER had undertaken to present the Reference Group with a copy of the draft legislation prior to it being introduced into Parliament, and that the purpose of the meeting was to explain the major provisions of the Bill to the Reference Group.

2. Confirmation of minutes of Meeting #11

The Minutes of the meeting of 2 August 2007 were accepted as a true reflection of that meeting.

The industry representatives raised the following points in relation to issues recorded in the Minutes.

4a. Existing perpetual licences should be converted to owner/operator licences on transfer

Toby Green stated that he did not think this proposal would be effective and that he hoped it would not be given any further consideration in the future.

4b. Interaction with community transport

Robert Postma asked if any progress had been made on this issue. John Pauley stated that the project reviewing the regulation of community transport had commenced. DIER had conducted a survey of the sector. An issues paper would be released shortly and public submissions to the paper would be invited.

The Chair noted that Roger Burdon was representing the taxi industry on the reference group.

4c and d. Issue of perpetual licences

Graeme Fish reiterated his statement that new licences were being purchased by investors. Toby Green requested that DIER advise on the percentage of licence holders that resided interstate both immediately prior to the 2007 licence release and now. Graeme Fish advised that he had previously requested this information from DIER and had been advised it could not be provided due to privacy issues.

The group discussed DIER's assertion that the continued take-up of perpetual licences in Hobart indicated that the 'saturation point' had not been reached. Toby Green stated that this point would never be reached and that as long as licences were made available, people would purchase them.

Steve Cheetham noted that licences advertised in the newspaper had previously been purchased quickly, but recently licences were being advertised for three or four weeks. This suggested that the turnover of licences was slowing. Toby Green stated that this was the case, and that a low turnover was not a good thing for the industry.

Graeme Fish stated that the number of licences sold was not an accurate way to determine whether the saturation point had been reached. He suggested that the number of drivers and vehicles that weren't working at any one time would be a more accurate indicator, and that (based on his own observations), the present supply of taxi services exceeded demand.

4g. Wheelchair accessible taxis

Toby Green stated that with the change to the way in which WAT licences are issued, DIER must give serious consideration to ensuring that WATS give priority to wheelchair passengers. He was concerned that the draft Bill did not address this issue.

The Chair advised that DIER was working on this matter and had conducted research into methods used by other jurisdictions. The detail would not be included in the legislation.

4h. Taxi ranks

Robert Postma noted that with the release of additional licences in Hobart, it was more difficult for taxis to find space on taxi ranks, as the size of ranks had not increased. Toby Green advised that the Tasmanian Taxi Association had raised this matter with the police and with Hobart City Council. It was noted that the Montpelier Retreat rank had been increased, but only for certain periods of the evening when parking meters were not operating.

3. Review of legislation

Introduction

The Chair stated that the draft Bill gave effect to many of the recommendations that were proposed in Discussion Papers 11 and 12. He noted that there was no significant new policy in the draft Bill, although additional detail that had not been canvassed in the recommendations has been included in the Bill for some provisions, in order to make the provisions workable. He outlined the most significant new features:

- Provisions relating to the seizure and cancellation of licence number plates where annual administration fees are outstanding were not considered in Paper 11, but had been included in the Bill to ensure that the licence lapsing provisions were effective.
- Owner-operator taxi licences would only be issued to individuals who were accredited to operate a taxi service. Companies or other entities could not hold these licences. This was to make it more difficult for leasing arrangements to be established in relation to these licences.
- There would be a trigger for a second release of new owner-operator taxi licences in each year, but this would be 100 per cent of the reserve price (i.e. double) rather than ten per cent as was the case now for perpetual licences. Treasury requested that this be included to ensure that if there were a strong demand for the new licences, further licences would be made available.
- The objects of the Act had been removed, as the Office of Parliamentary Counsel advised that objects were not necessary and were normally not included in legislation. Rather, a brief statement that captured the intent of the Act would adequately describe the Act.
- The accredited taxi group provisions had been removed, as DIER considered that the Commission would not approve an accredited taxi group agreement permitting an operator or group to do something that was not permissible under the regulations (i.e. charge higher fares) and that if operators wished to introduce more flexible services there was scope for them to do so under the regulations. Consequently, an agreement with the Commission would be unnecessary.

The Chair stated that the recommendations had been endorsed by Cabinet and that there was no scope to make any changes to the policy underlying the recommendations. Any such changes would need to be accepted by DIER, agreed to by the Minister and endorsed by Cabinet. This would result in further delays to the legislation and would result in the legislation not being in place by the 30 September deadline for the 2008 licence release.

The Chair advised that the existing Act had been amended in 2007 to delay the 2008 licence release until 30 September so that the 2008 release would be for the new owner-operator licences. At that time it had been considered that this would provide more than sufficient time to have the new legislation in place before the 2008 licence release. However, delays to the drafting this year meant that this might not be the case. Because of the tight timeframes, DIER could not guarantee that further perpetual licences would not be released in 2008.

The industry representatives expressed concern at the possibility that additional perpetual licences might be released and stated that it was not the industry's fault that the drafting had been delayed.

John Pauley noted that even if these licences were released, there was no compulsion for them to be taken up, nor was DIER responsible for people paying more than the market value for them if they were purchased. However, in 2007, the industry determined that Hobart licences were worth enough to trigger a second release of licences, all of which were purchased. He noted that, while the industry believed that there were too many licences, the additional 21 licences released in Hobart were easily accommodated. While there had been a suggestion that some licences were not being used in Hobart, in other taxi areas where this was the case, the new licences were never taken up.

Graeme Fish suggested that this reasoning overlooked investors, who would purchase a licence if they believed they could make a return and that this was the reason the Hobart licences were all taken up. He said that these investors were taking money away from the industry.

John Pauley agreed that DIER wished to remove opportunities for investors who did not contribute to the industry and stated that the only way to prevent investors from taking up new licences was for the new legislation to be passed. He noted that if further perpetual licences were released in 2008, it was possible that investors might see this as the last chance to purchase these licences, and that the price might again be high enough to trigger a second release. He advised that if the draft legislation were not passed, the existing legislation would continue to apply, and its requirement to issue further perpetual licences could not be changed.

John Pauley noted that the need to brief successive Ministers since the last Reference Group meeting had contributed to the delays and acknowledged that this was not attributable to the industry. However, he noted that when there had been a change in Ministers they had been lobbied by industry members. This had necessitated DIER returning to first principles with each Minister. He stated that DIER had worked on the basis of broad agreement with the industry on the major issues when having the legislation drafted and that DIER had attempted to include as much input from the industry as possible when finalising the policies. He stated that the Bill would be introduced into Parliament in its current form, unless there were non-policy

issues that had been overlooked in the drafting. The proper forum to air remaining concerns regarding the policy was now through the Parliament.

Graeme Fish stated that there was concern that owner-operator licences would be converted to perpetual licences in future, in the same way that some classes of restricted licences had been converted to full licences in other jurisdictions.

John Pauley stated that this was not intended to occur, as DIER considered owner-operator licences to be necessary in addressing existing issues relating to escalation of licence prices.

Timing

The Chair advised that the Bill had been released for public consultation. This meeting was part of the consultation process. Public comments on the Bill were being sought until 11 July 2008. Submissions should focus on the details and practical application of the Bill, rather than the underlying policies.

If any member of the Reference Group wished to make a submission, it must be submitted to DIER before 11 July. The Chair noted that there was no scope to extend this deadline, as timing was very tight to ensure that the Bill was finalised and introduced into Parliament this year.

Discussion on the key features of the Bill

DIER distributed a document that outlined the key features of the Bill. (Please note an amended version of this document has been circulated, as there were some omissions from the original document distributed at the meeting.)

Barb Dunford advised that the reforms recommended in Papers 11 and 12 would be introduced through the new Act, new taxi industry regulations and luxury hire car industry regulations, and also through administrative changes. She outlined the matters that would be covered by each instrument and the processes by which other matters would be managed.

Barb Dunford provided an overview of the Bill. The following issues were raised by the industry in this discussion:

Standard taxi licences no longer linked to specific vehicles

Perpetual and owner-operator taxi licences would not be assigned to specific vehicles. Any vehicle could be used as a taxi under a perpetual or owner-operator taxi licence, provided that it complied with the specifications and age requirements specified in the regulations. These requirements would not change. DIER emphasised that this meant that it would be extremely important for operators to affix the licence plate to the taxi that is providing the taxi service, and to keep records of which vehicles were being used under the authority of each licence they were responsible for.

Graeme Fish asked what the implications were for substitute taxi plates and whether DIER would recall these plates. John Bessell advised that substitute plates would no longer be necessary, as the taxi would be identified by its licence number plate. He said that DIER could recall the substitute plates, but that as they would be useless, there was no real need to do so.

It was noted that each taxi would continue to require a separate taxi licence number plate, in addition to its vehicle registration plate.

It was also noted that WAT and luxury hire car licences would continue to be assigned to specific vehicles.

Annual fees

Barb Dunford advised that the amount of these fees would be set in the Regulations. She noted that the annual fees would apply to all classes of licences, whereas at present, there is no annual administration fee for WAT licences.

In relation to licences lapsing as a result of unpaid annual fees, Barb Dunford advised that Transport Inspectors would have the power to seize licence number-plates of lapsed licences, or if the fees remained unpaid after 28 days the plates would automatically be void. The Commission would cancel seized or void licence number-plates and the operator would be required to apply for a new plate before they could begin to operate after they had paid their outstanding fees.

The Reference Group members indicated their clear support for a system that ensures non-payment of fees does not confer a benefit on the person who has avoided their obligation.

Transfer of licences

Barb Dunford noted that perpetual licences may be transferred to anyone, but that there are restrictions on the transfer of owner-operator licences, WAT licences and luxury hire car licences. These transfers must have been approved by the Commission prior to the transfer taking place, and they would not be effective until they had been approved by the Commission and recorded on the register of licences.

She advised that if a perpetual licence was transferred where fees were outstanding, the new owner would be liable to pay those fees.

Inactive licences

Toby Green expressed concern at the provisions that enabled the Commission to declare a taxi licence inactive and to issue a replacement licence. Barb Dunford explained that these provisions were only intended to be used in cases where an operator bought new licences in a taxi area and did not use them, for the purpose of preventing other operators from obtaining licences. Babette Moate noted that the key criterion to be considered by the Commission was whether the failure to operate a licence resulted in a restriction on competition in the taxi area. She advised that if an operator held inactive licences because there was insufficient demand for taxis, these provisions would not apply. It was unlikely that such an operator would purchase the new licence released in that area, so that that licence would remain available for purchase by any prospective competitor. There would not, therefore, be a restriction on competition.

Issue of owner-operator licences

The industry representatives asked why these licences were to be restricted to natural persons. DIER advised that this was to minimise the risk of 'virtual' leasing arrangements being established; for example through the formation of shelf companies.

Shane Stewart asked why there was not a definition of a 'fit and proper' person for the purposes of accreditation and suggested that this was not an effective provision.

John Bessell advised that an assessment of whether a person was a fit and proper person to operate a transport service was undertaken as part of the accreditation process. He advised that there had been cases of operators losing their accreditation as a result of being deemed not to be fit and proper, and that it would be difficult to formulate a practical definition of the term.

It was noted that for an owner-operator licence to be issued, the applicant must be the registered operator of a taxi that was not being used under the authority of another taxi licence. Graeme Fish asked what would happen if the lessee of a perpetual licence applied for an owner-operator licence, but only had the vehicle that they were currently operating under the perpetual licence, and whether this would exclude them from being issued with the owner-operator licence as they would not have a vehicle that wasn't at that time being used to provide a taxi service. DIER advised that the operator would be required to provide evidence of the termination of the lease of the perpetual licence, and that once they had been removed from the register of licences as the responsible operator of that licence, they could be issued with the owner-operator licence. The two processes were expected to be able to occur simultaneously.

Steve Cheetham proposed a scenario where the owner of a perpetual licence, who was the responsible operator of that licence, applied for an owner-operator licence that they intended to operate. If the operator intended to lease the perpetual licence but had not at that time found a lessee, and had only one vehicle, which they intended to operate on the new owner-operator licence, they would not be able to be issued with that licence under these provisions. DIER acknowledged that this situation would be more difficult to address, and that the best solution might be for the operator to purchase a second vehicle.

Wheelchair accessible taxis

Graeme Fish queried why WATs could be aged no greater than 12 months or have no more than 1000 km on the odometer. Barb Dunford advised that this requirement replaced the existing requirement for a WAT to be a new vehicle. She noted that the 'new vehicle' requirement had resulted in confusion and had been open to varying interpretations since it had been introduced and that this was an attempt to better define this requirement.

Barb Dunford advised that substitute wheelchair accessible taxis would be a separate class of vehicle from WATS and could be aged up to seven years.

It was noted that as WAT licences were linked to the vehicle, there was a need to regulate the use of substitute WATs. DIER acknowledged that the provisions in the Bill had the potential to prevent operators from utilising a substitute WAT at short notice. However, it was noted that this clause was aimed at circumstances where the original WAT would be unavailable for a long period of time. DIER noted that as the WAT scheme became more entrenched, there could be further opportunities to refine these procedures.

Luxury hire cars

Shane Stewart asked why an application for a luxury hire car licence could be made by a person authorised by the registered operator of the vehicle. Babette Moate

advised that this was intended to cover circumstances where the licence holder leased the vehicle and required the authority of the lessor to use the vehicle as a luxury hire car. It was suggested that the proposed wording in the Bill did not achieve this.

DIER undertook to review this clause and the equivalent clause for WATs.

Use of taxis outside area

The group discussed the practical application of this clause. It was noted that in some cases a driver would not know, until they arrived to pick up the passenger, that the trip would be a wholly out of area trip.

Barb Dunford noted that this clause had originally been in the regulations but had been elevated to Act level on the advice of OPC. This was to reinforce that the area system was a significant component of the regulation of the industry.

Taxi areas

Graeme Fish asked why the Hobart taxi area did not simply include the municipal areas of Kingborough and Sorell rather than listing individual towns. Babette Moate advised that this was because the review had recommended that the Hobart taxi area remain unchanged.

Regulations

Graeme Fish queried the reason for including particular matters in the regulation-making powers in Schedule 5. Babette Moate advised that OPC had recommended including very broad regulation making powers, as restricting the powers might prevent regulations from being made in future.

4. Future meetings

The Chair advised that any changes made to the draft Bill as a result of the public consultation process would be drafted by the Office of Parliamentary Counsel (OPC). Once the Bill had been finalised it would be assessed by Treasury for any restrictions on competition contained in the Bill and the impact the Bill might have on business. Once Treasury had completed its assessment, the Bill would be forwarded to the Minister for approval, and then to Cabinet for endorsement, after which it could be introduced into Parliament.

The Chair advised that in the meantime, DIER was working with OPC on new regulations and that DIER would reconvene the reference group later in the year to consider the draft regulations.

Future consultative arrangements

The Chair advised that DIER considered that there would be an ongoing role for a representative industry group to maintain dialogue between DIER and the industry. However, there was some uncertainty about the future of the existing Reference Group. He noted that the Tasmanian Taxi Association had made its views on this

issue clear, but that views of others were not known. He indicated that DIER would communicate further with members in relation to this issue.

5. Other business

Fares

The Chair advised that the proposed 3.75 per cent increase was not a final figure and that DIER was seeking information from the industry on the suitability of that amount and the distribution between the flag fall and kilometre rate. DIER had also asked the industry to respond to the issue of the likely effect of an increase on patronage. The Chair noted that if an increase greater than CPI were agreed on, DIER would have to justify to the Minister why such an increase should be imposed on the public.

Toby Green stated that the current fare setting mechanism was too slow to respond to price increases and that there needed to be a model in place that would be able to be used for the next four to five years. He noted that other transport providers such as airlines had been able to quickly respond to recent increases in the price of fuel. He stated that the new model must provide sufficient revenue to enable drivers to make a living, as well as returns to enable operators to make a living and return a small profit.

Toby Green stated that it was not possible for taxis to be a low cost carrier and that operators needed to be able to charge fares that enabled them to make a proper return on their investments. He said that if this did not occur, taxis would not be able to provide a service at all.

Graeme Fish stated that fare increases were always 12 months behind in the view of the taxi industry. He said that if the CPI had already been applied, the industry would be in a better position to cope.

Steve Cheetham requested a copy of the list of taxi costs components used to develop the index. (List provided at the end of the meeting.)

The Chair urged members of the Reference Group to make submissions on the rate of indexation they would prefer, how to apply it across the fare components and to provide comments on the expected impact of a fare increase on patronage. Dennis Elmer stated that a submission was currently being prepared.

Meeting closed at 4:30 pm.