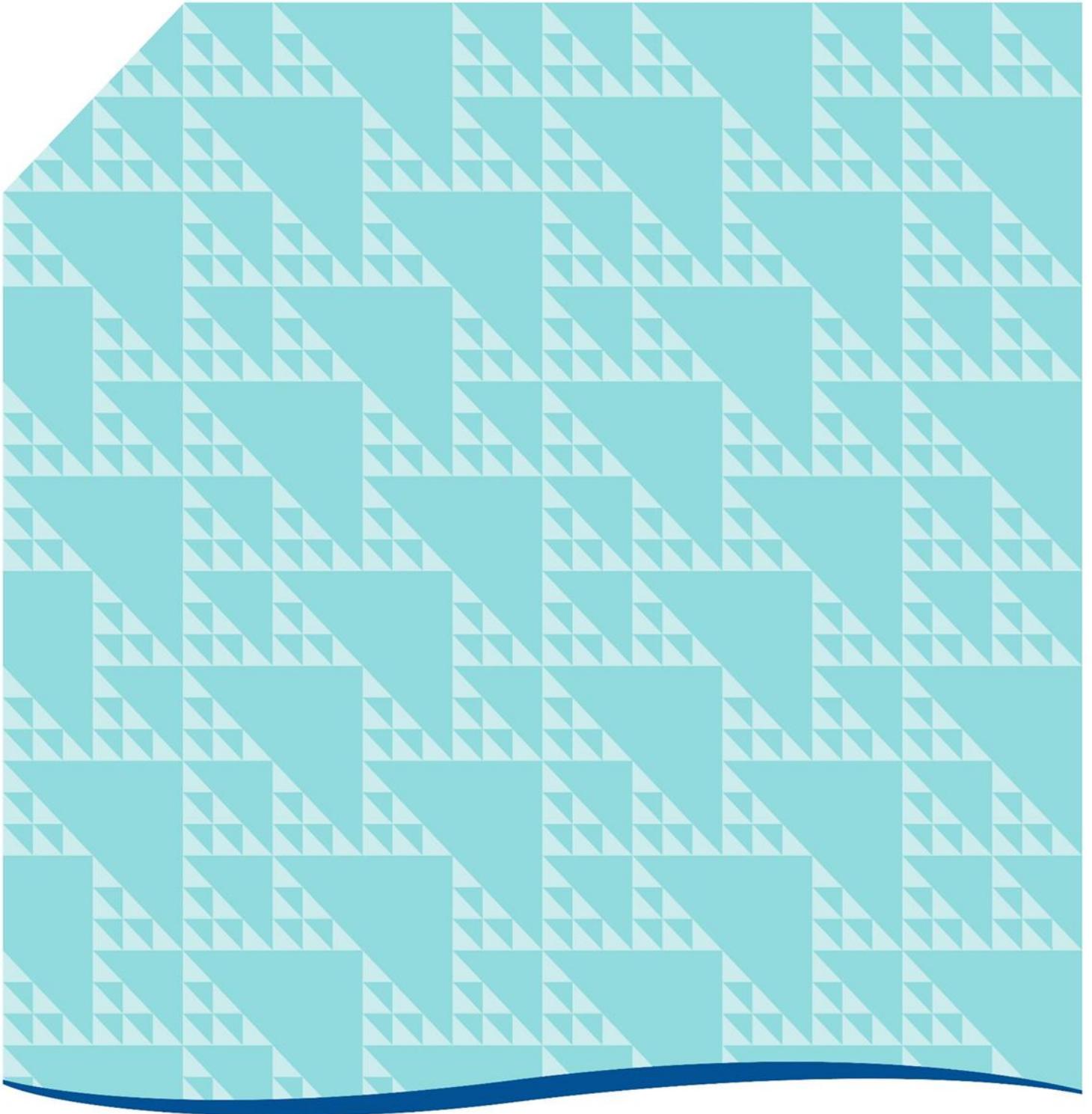


Proposals Paper  
October 2018

# Taxi and Hire Vehicle Industries Regulatory Review





# Contents

Introduction .....	4
How to make a submission .....	4
Proposal overview.....	6
Proposed new framework .....	7
Regulation of licences and service types.....	7
Regulation of fares .....	10
Regulation of operators .....	13
Regulation of drivers.....	15
Regulation of vehicles .....	16
Compliance and enforcement.....	18
Summary of proposed new framework .....	20
Glossary.....	23

## Introduction

This paper is the fourth paper of the review process, following the Background and Consultation Papers released in December 2016 and a Summary of Submissions released in July 2017.

The Proposals Paper sets out a new framework for the on-demand passenger transport industry<sup>1</sup>. In bringing about change to the industry, the priorities are to:

- protect the safety of passengers and drivers;
- promote greater competition and consumer choice;
- provide for the adequate delivery of accessible services;
- position for emerging technologies and service models; and
- pare back, wherever possible, the regulatory burden on industries.

In developing the Proposals Paper, the Department of State Growth (State Growth) has undertaken significant research and consultation to understand the implications of potential reforms for both service providers and consumers. The proposals have been developed with regard to:

- the history of taxi and hire vehicle reforms in Tasmania;
- the submissions to the Consultation Paper;
- reforms to the taxi and hire vehicle industries occurring in other jurisdictions, many of which are further along their reform trajectory than Tasmania;
- the interim arrangements which facilitated the introduction of ride-sourcing to Tasmania;
- the review into the provision of wheelchair accessible taxi services;
- market research commissioned by State Growth to better understand the views and consumer choices of Tasmanians who use taxi and hire vehicle services, including Uber; and
- targeted consultation in November 2017 with key industry stakeholders, as well as ongoing informal discussions.

Further details of each of the components that have informed the proposals, including a summary of analysis and key findings, can be found in the accompanying Review Report.

Some proposals are a continuation of the existing framework but have been included to provide a holistic view of the proposed on-demand passenger transport industry.

This paper seeks input from stakeholders on the proposed changes to assist State Growth to develop a final package of reforms for the Government's consideration.

## How to make a submission

State Growth invites stakeholders with an interest in modernising the on-demand passenger transport framework to provide feedback on any/all of the proposals outlined in this Paper.

In particular, State Growth is seeking feedback on the two options for the supply of new taxi licences.

---

<sup>1</sup> Paid, passenger-nominated, non-scheduled travel

Submissions must be received by 24 November 2018 and lodged in writing by email to [taxireview@stategrowth.tas.gov.au](mailto:taxireview@stategrowth.tas.gov.au) or mailed and addressed to:

Gary Swain  
Commissioner for Transport  
GPO Box 536  
Hobart TAS 7001

All submissions will be treated as public documents and will be placed on State Growth's website at [www.transport.tas.gov.au](http://www.transport.tas.gov.au), unless the submission is clearly specified as confidential (in full or part).

The information gained from the consultation process will assist the Government in completing its reforms of the on-demand passenger transport industry.

## Proposal overview

- The policy objectives of the new framework focus on safety, competition, accessibility, technological neutrality and regulation reduction.
- Importantly, the framework seeks to deliver a level playing field for all participants in the industry.
- The taxi and hire vehicle licensing regime will be streamlined and simplified.
- A staged approach to deregulation of supply is appropriate in the current environment.
- Consumers will benefit from increased competition in the booked market. Where there is sufficient competition, fares for booked taxi services will be deregulated which will promote competition of fares.
- For the first time in Tasmania, booking service providers – including ride-sourcing platforms like Uber and Shebah, but also including taxi networks and dispatch services – will be brought into the regulatory regime and made accountable for passenger and driver safety.
- The framework reduces the overall regulatory burden in relation to vehicles and drivers, without compromising the high safety standards set for industry.
- The proposed framework promotes co-regulation by the industry and gives the industry responsibility for ensuring its compliance with regulation. The benefit for industry is that it has greater flexibility in the way it achieves and maintains compliance.

# Proposed new framework

## Regulation of licences and service types

---

*The proposed framework will:*

*Streamline the existing licence types into taxi booked services only or taxi services (both booked and rank and hail); and*

*Deregulate the supply of new owner-operator taxi licences (based on one of the two options presented below).*

---

1. Under the new framework, services are either defined as booked services only, or taxi services (both booked and rank and hail services)

This reflects the different risk profiles of taxis, which are permitted to also undertake rank and hail services, and booked services.

Taxi services is the collective term for the existing Tasmanian taxi licensing regime, i.e. perpetual taxi licences, owner-operator taxi licences (OOTLs), wheelchair accessible taxi (WAT) licences and temporary taxi licences. Substitute WATs will no longer exist under the new framework.

Taxi services can take bookings, can be hailed on the street and can wait for passengers at taxi ranks. Geographic restrictions for taxis will continue to exist for the transition period.

Booked services combines the current categories of luxury hire car (LHC) and restricted hire vehicle (RHV) licences, and incorporates ride-sourcing and other booked on-demand services such as tourist transfers into the one licence category.

Booked service licences are limited in their scope of activity to booked on-demand services, which can be provided anywhere in the State (no geographic restrictions). They cannot be hailed and they cannot use taxi ranks or wait at a kerb for passing patronage.

2. Deregulate the supply of new OOTLs.

The prevailing consensus among economists and regulatory policy experts, both in Australia and internationally, is that supply constraints, particularly where they allow for speculative investment in taxi licences, makes services more expensive than they otherwise would be, do not benefit individual taxi drivers, and do not lead to the generation of additional wealth in the broader economy.

In its 2013 report, the Tasmanian Economic Regulator noted that taxi plate lease costs were estimated to contribute approximately 10 per cent to an average Hobart taxi fare<sup>2</sup>. Based on economic modelling, the Centre for International Economics found that removing supply restrictions

---

<sup>2</sup> Office of the Tasmanian Economic Regulator 2013, *Taxi Fare Methodology Inquiry*, [http://www.economicregulator.tas.gov.au/Documents/Taxi%20Fare%20Inquiry%20Report%20May%202013%20\(13%201757\).PDF](http://www.economicregulator.tas.gov.au/Documents/Taxi%20Fare%20Inquiry%20Report%20May%202013%20(13%201757).PDF), viewed 23 July 2018

in the Tasmanian taxi industry could deliver an overall benefit to the Tasmanian economy of around \$3 million per annum.<sup>3</sup>

Two options have been developed in relation to the availability of new OOTLs. While allowing the market to dictate the quantity of taxi licences has merit in the long term, a number of individuals and entities have invested in the taxi industry and any changes to the supply of new licences would adversely impact these licence holders. Accordingly, both options support a transitional approach to deregulation, albeit to varying degrees and over different periods of time.

A transition assistance package would be developed to support the faster approach to deregulation under option 1. Its objective would be to promote growth and investment in a safe on-demand passenger transport industry.

Under option 2, the review of arrangements would look at how well the approach is meeting the objective of deregulation, and what further steps could be implemented.

**Option 1** – *Taxi licences would be retained with supply constraints relaxed over five years. In the first year, licences would be available at existing costs but supply limits would be removed. Over the subsequent five years, the cost of licences would be reduced by a fifth of the current costs each year.*

The proposed five-year transition period would give the industry time to adapt to gradually declining licence costs and allow people who have invested significant capital into licence plates the opportunity to recover more of their investment.

In year 1 of the transition period, OOTLs would be available on application at the reserve price and over the counter (no tender process). In the subsequent four years, licences would be available on application but the price would be reduced by a fifth of the current reserve price each year. In the sixth year (i.e. post the transition period) licences would be available on application and for an administrative fee.

For example in the Hobart taxi area, the costs of new OOTLs over the five year transition period would be as follows: year one \$60 000, year two \$48 000, year three \$36 000, year four \$24 000, year five \$12 000. At the conclusion of the transition period, OOTLs would be available on application and on a cost-recovery basis (e.g. issue fee).

Notwithstanding the licence devaluation, licence owners would still be able to operate a taxi service and licences would continue to hold economic value since they provide exclusive access to a large and stable market for rank and hail transport services, and the Taxi Subsidy Program fares.

WAT licences would continue to be available as per the existing legislation (i.e. on application and for an administrative fee). PTLs would continue to be able to be leased and traded.

**Option 2** – *Suspend the issue of new OOTLs for five years and deregulate the existing 24 taxi areas to four at year three.*

This proposal transitions the market towards deregulation over a greater period of time and by a staged approach.

The following arrangements are proposed:

- Suspend the issue of new OOTLS for five years, with a provision to extend.

---

<sup>3</sup> The Centre for International Economics 2013, *Setting Taxi Fares in Tasmania*, [http://www.economicregulator.tas.gov.au/Documents/Taxi%20Fare%20Inquiry%20CIE%20Report%20April%202013%20\(13%201756\).PDF](http://www.economicregulator.tas.gov.au/Documents/Taxi%20Fare%20Inquiry%20CIE%20Report%20April%202013%20(13%201756).PDF), viewed 23 July 2018.

- Provide an appropriate mechanism to ensure adequate supply in areas affected by unmet demand.
- At three years, reduce the taxi areas from the existing 24 to four: Hobart, Launceston, a combined Burnie-Devonport-Ulverstone, and the rest of the State.
- Review the arrangements to be timed for delivery at year five or shortly thereafter.

Ride-sourcing is still in its infancy in Tasmania. Uber entered the Greater Hobart market in December 2016, but only recently expanded its operations to Launceston, Burnie and Devonport in June 2018. Other ride-sourcing platform providers, Shebah and GoCatch, have also entered the market. The effect of ride-sourcing on taxi areas outside of the Hobart taxi areas is not yet known.

This approach is designed to allow for the time-limited suspension of the release of new OOTLs to assist industry to adjust to the impact of ride-sourcing. It allows an appropriate mechanism to ensure adequate supply in areas where there is unmet consumer demand for on-demand passenger transport services.

The suspension of the release of OOTLs would not affect new applications for WAT licences (i.e. on application and for an administrative fee), nor prevent trade in the secondary market of existing taxi licences of all types.

Deregulation of the taxi areas from the existing 24 to four at year three would be a step towards relaxation of supply and would allow greater movement of taxis across regional Tasmania to meet demand. Consideration could be given to retaining the Perth taxi area if issues related to this area cannot be resolved.

Combining the current Burnie, Ulverstone and Devonport taxi areas would improve availability of WAT services in Burnie which, unlike Ulverstone and Devonport, does not currently have any WAT services.

### 3. All vehicles that are used to provide booked services (except taxis) will need a booked service licence.

The new booked service licence will replace the existing LHC and RHV licences, and all existing LHC and RHV licences will be automatically transferred at the commencement of the new legislation. Existing LHC and RHV operators may continue to display their respective licence plates if they choose, however there will be no licence plate associated with a booked service licence.

For those who currently operate in the RHV and LHC markets, prescriptive vehicle and service specifications will be removed (see Proposal 20), as will the cost of the LHC licence.

All existing and active ride-source vehicles will be issued with a booked service licence. As with all other booked services, new ride-source vehicles entering the market after the commencement of legislation will be required to apply for a booked service licence.

It is recognised that a booked service licence for ride-source vehicles creates an additional layer of regulation for this class. However, the licensing requirements will support the effective administration of the sector and it is not anticipated that booked services licensing will be a burdensome process. Furthermore, the establishment of a booked services licence will mean that ride-sourcing vehicles are subject to the same requirements as other, similar classes of vehicles.

Consistent with the existing framework for LHC and RHV licences, there will be no government-imposed limitations on the number of services offered in the market. Booked service licences will be available on application and for an administrative fee. The administrative fee will be waived for all existing LHC, RHV and ride-sourcing vehicles.

These proposed changes represent reduced costs and regulation of the LHC and RHV classes, while ensuring an even playing field for ride-sourcing vehicles. In general terms, it means that the barriers to entering the market are lower which will enhance competition.

Currently, RHVs, LHCs and ride-source vehicles fall under different classes for MAIB premiums. It is proposed that these be reviewed by the Economic Regulator in line with the proposed framework.

## Regulation of fares

---

*Phased approach to fare deregulation for booked taxi services which mirrors the progressive development of competition in the market.*

*Introduce a range of consumer protections for deregulated fares.*

---

4. The Economic Regulator will review the regulated fare in the first year of transition to ensure that all efficient costs are transparently identified and factored into the regulated tariff.

In its 2013 report, the Economic Regulator made a number of recommendations aimed at improving the regulated fare setting process.<sup>4</sup> However, due to a number of factors, including the changing landscape with the introduction of ride-sourcing services, there has been no change to the fare setting process or methodology as a result of the Economic Regulator's recommendations.

It is proposed that the Economic Regulator review the findings of the 2013 Report to ensure that the recommendations remain contemporary. A determination on the regulated fare will be made in light of the Regulator's review. This will be the first change to the fare schedule since 2014.

5. Regulated maximum taxi fares will still apply for the rank and hail markets, Taxi Subsidy Program (TSP) fares and wheelchair accessible taxis (WATs) where they are being used for the purposes of being wheelchair accessible.

At taxi ranks, or when hailing passing taxis, consumers are restricted in their ability to assess offers, negotiate fares or choose between different taxis. As a result, operators are often in a strong bargaining position, relative to the consumer. Price regulation allows customers to get into an otherwise anonymous taxi knowing their fare is subject to pricing control.

Retaining the regulated maximum fare for the rank and hail markets ensures that the current consumer protections for these markets are maintained, until there is an appropriate evidence base to support deregulation of those markets. The reason for keeping TSP customers at the regulated maximum fare, including for booked services, is to protect more vulnerable members of the community from inflated charging. These approaches are consistent with almost all jurisdictions, including those which have deregulated the booked taxi market.

While TSP customers presently include those using WATs for the purposes of being wheelchair accessible, it is acknowledged that some of this cohort may transition to the National Disability Insurance Scheme (NDIS) over the transition period.

---

<sup>4</sup> Ibid.

6. Change the regulated fare structure for WATs to be consistent with standard fares (Tariff 1 and 2).

Tasmania is the only Australian jurisdiction to provide for higher tariffs (flagfall, distance rate and waiting time) to be charged to wheelchair-reliant people travelling in WATs. This arrangement was carried into the WAT scheme in 2004 from the previous arrangements for “special purpose cabs” that provided taxi-style services for wheelchair-reliant people.

The higher tariffs are intended to compensate WAT drivers and operators for the additional time associated with transporting a wheelchair-reliant person (e.g. loading the wheelchair into the taxi) as, unlike in many other jurisdictions, the driver is not permitted to switch the taximeter on until the passenger is seated in the vehicle and it has started to move.

The 60 per cent TSP fare subsidy for wheelchair-reliant TSP members sufficiently reduces the fare paid for most trips by Tasmanians who use WATs to offset the higher tariff and to ensure there is no unlawful discrimination. However, two types of trips have been identified where this is not the case:

- a very small number of unusually long journeys where very high fares are charged (\$300+), and the \$30 cap on the trip subsidy is not enough to offset the higher fare (fewer than 0.05 per cent of trips); and
- trips where a wheelchair-reliant person using a WAT is not a TSP member (e.g. if their condition is temporary, or they are visiting from interstate or overseas) and pays the whole of the fare without subsidy.

If the TSP taxi subsidy safety net program for TSP members who have transitioned onto the NDIS ends as scheduled in mid-2019, there will be an increasing number of passengers who fall into the second category above. State Growth understands that NDIS members, if eligible for transport assistance, will receive a payment from the National Disability Insurance Agency to contribute to their “reasonable and necessary disability-related transport costs” and that this will be based on their individual needs, rather than a generic subsidy like TSP.

Changes to the fare structure will remove discrimination from the higher fares for WAT trips, and make accessing WATs more economical for passengers. It is probable that WAT passengers would undertake more travel.

However, State Growth recognises that if WAT trips are less financially attractive to the driver/operator, there may be reduced access and availability of WATs. Accordingly, it is proposed that the trip subsidy is increased and a suite of incentives, such as changes to vehicle age requirements, are introduced given the potential for a reduction in income as a result of the changing fare structure.

7. Taxis retain exclusive access to TSP customers for at least the transition period.

The current technology does not support TSP customers’ smart cards for use outside of taxis, however this may change over the course of the transition period.

For the taxi industry, this provides a steady stream of clients to support the industry through the transition period.

8. A phased approach to fare deregulation for booked taxis, other than as mentioned at Proposal 5, that mirrors the progressive development of competition in the market.

In comparison to the rank and hail market, there is a less compelling case for setting fare prices in the booked market. This is because it does not suffer from the same constraints to effective competition and consumers' ability to choose and be informed by alternatives is greater.

Under this model, a taxi operator/booking service provider may set its fares at any rate it determines. Passengers need to exercise their judgment and may need to obtain fare estimates from multiple service providers to find a service that suits them.

The phased approach to fare deregulation recognises that there are regional differences that exist within the taxi industry in Tasmania, with regard to competition and licence plate fees creating a barrier to entry. Such an approach would see fare deregulation start with the inner Hobart market where ride-sourcing is most established, and gradually be extended in line with the development of the market.

Where there is fare deregulation, operators would still have the option of using the regulated fare for booked services, rather than setting their own fare structure.

The deregulation of booked services for subsidised fares and WATs where they are used for the purposes of being wheelchair accessible will be reviewed to ensure adequate consumer protections exist.

9. Introduce a range of consumer protection measures for booked fares.

Where fares are deregulated, it is proposed that consumer protection mechanisms are introduced. This is consistent with other jurisdictions and will include:

- a fare estimate will be required to be agreed to by the operator and passenger(s) prior to the commencement of the trip;
- written offer and acceptance of the fare estimate (where it is reasonable to do so);
- the fare estimate being in Australian dollars and including all likely charges (e.g. airport rank access fee or toll), as well as any additional extraordinary charges (e.g. spoiling fee and no show fee); and
- the operator must provide an itemised receipt if requested.

Penalties will apply for demanding payment in excess of the fare estimate, unless the additional amount has been worked out in a way stated in the fare estimate.

10. Fares charged for booked services, other than taxis, will remain unregulated.

This does not represent a change in policy – currently fares for LHCs, RHVs and ride-source services are all unregulated. The reason for this approach is that, where consumers are booking a service in advance, they have the opportunity to 'shop around' for the best fare and/or negotiate fares and/or investigate alternative options, such as regular public transport.

11. Reduce the regulated credit card surcharge from 10 per cent of the metered fare to five per cent

The Australian Competition and Consumer Commission (ACCC) has legislated to prevent businesses charging customers excessive surcharges for using certain types of EFTPOS, Mastercard, Visa and American Express cards to make payments. Businesses can no longer include any internal costs when calculating what surcharge they will charge customers. Rather, a surcharge must be

limited to what it actually costs them to process card payments, including bank fees and terminal costs.

However, the ACCC's ban does not apply to any payments made for taxi services. Taxi services were excluded because the industry is already regulated by state and territory transport regulators.

Currently in Tasmania a fee of 10 per cent of the metered fare may be applied to fares that are paid by credit card, EFTPOS or other non-cash methods such as Cabcharge. In comparison, the Reserve Bank of Australia has said that, as a guide, payments through the domestic EFTPOS system are usually between 0.5 to three per cent.

The 2012 Victorian Taxi Industry Inquiry<sup>5</sup> found that about half of the surcharge is returned to drivers, dispatch networks and operators. It concluded that the 10 or 11 per cent surcharge (as was then the case) was "likely to far exceed the resource costs of providing the service and creates significant detriment for consumers of taxi services."

Following Victoria's decision to reduce the maximum fee to five per cent, a number of other jurisdictions (New South Wales, South Australia, Western Australia and the Northern Territory) have followed suit and similarly reduced the regulated credit card surcharge to five per cent.

## Regulation of operators

---

*A fully integrated and cohesive framework is required to underpin the sector in the long-term. To support this, booking service providers, including ride-source platform providers and taxi dispatch services, will be incorporated into the legislative framework and accredited.*

---

12. Incorporate booking service providers, e.g. ride-sourcing platforms and taxi dispatch services, as an integral part of the industry by requiring operator accreditation.

New entrants to the on-demand passenger transport market, such as ride-sourcing companies, operate under a non-traditional business model which is not captured by the current accreditation model. Additionally, taxi networks are increasingly taking more ownership and control over the various driver and vehicle-based risks associated with operating a passenger transport service.

The new framework will incorporate booking service providers as a passenger transport service operator under the *Passenger Transport Services Act 2011*, and therefore will require operator accreditation. Booking service providers include ride-sourcing companies, such as Uber and Shebah, as well as taxi networks and dispatch centres.

Incorporating booking service providers in the framework will mean that players who have significant influence and benefit financially from the industry also have regulated responsibilities and can be held to account for the delivery of the service.

Regulating booking service providers supports a move away from a prescriptive approach to compliance and enforcement. It promotes a co-regulatory approach where industry develops and

---

5

administers its own arrangements, but government provides legislative backing to enable the arrangements to be enforced.

13. Ride-sourcing drivers will not require operator accreditation where they are performing work on behalf of a booking service provider.

Under the interim arrangements which are currently in place for ride-sourcing, drivers of these services are exempt from the requirement to hold operator accreditation. The exemption was granted on the grounds that accreditation for ride-source service providers is unnecessary in light of the conditions of the exemption, and consequently it would not compromise public safety.

The interim arrangements meet the broad policy intent of accreditation through a combination of factors:

- the suite of requirements that apply to individual service providers and their vehicles – particularly the requirement for drivers to hold an ancillary certificate and for vehicles to be subject to initial and subsequent audits;
- the exemption limits the types of services that are captured to include only those with features that assist in managing risks to the driver, passengers and the general public;
- the unique features of ride-sourcing platforms – specifically compulsory cashless payment; tracking and automatic recoding of driver, vehicle and journey information; and an online ratings systems for drivers and passengers – provide additional safety protections not present in other hire vehicle services that may operate under an owner/operator model; and
- the systems to address the safety of the operation would be limited by the scale of the “driver-partner” model and the capacity for immediate control over both vehicle and driver, i.e. each driver-partner is responsible for the delivery of a single service using only themselves as driver and a single vehicle, for which they are required to be a registered operator.

The new framework will not require ride-source drivers to obtain operator accreditation where they are performing work on behalf of an accredited ride-source platform provider. This is because the ride-source platform provider will have responsibility for safety in the same way that accredited taxi operators have responsibility for safety. In this context, drivers working for ride-source platform providers have the same safety responsibilities as drivers for taxi operators.

If a driver is not performing work on behalf of an accredited ride-source platform provider, the driver will need to be approved as an accredited operator.

14. A booking service provider may agree to take on the responsibility of safety standards on behalf of affiliated operators, e.g. in the case of a taxi network.

The framework will not require compulsory affiliation of service operators with booking service providers as is the case in some jurisdictions. However, a booking service provider may agree to take on responsibility for the safety, security and related systems for the service, on behalf of an affiliated operator.

Affiliated operators, other than ride-sourcing drivers, will still require operator accreditation, however they will not ordinarily have an audit regime as a condition of their accreditation and the liability for annual fees will be with the booking service provider.

Affiliations will be a matter for the sector and will not be arbitrated by the Transport Commission. However, where affiliations exist, the Transport Commission will have the power to share relevant information between the parties (e.g. in the event one party’s accreditation is suspended or cancelled).

15. Annual administration fees to cover compliance and enforcement will become a liability of the operator. The annual fee payable will be determined by the number of vehicles associated with the operator, either directly or through affiliated parties.

This replaces the current arrangements where annual fees are paid as a cost per licence held. In changing from the current system, it captures ride-sourcing companies.

## Regulation of drivers

---

*The primary regulatory concern of the new framework in relation to drivers is with safety and ensuring that drivers are suitable to be providing commercial public passenger vehicle services.*

*This proposed approach aligns with the focus of the existing framework.*

---

16. Continue to monitor the evolution of the Working with Vulnerable Person Registration, and whether the existing arrangements for assessing whether a driver is 'fit and proper' can be streamlined.

The community has an expectation that they will be safe when using on-demand passenger transport. To endeavour to meet this expectation, the Registrar of Motor Vehicles (RMV) applies the 'fit and proper' test to every driver wishing to operate a public passenger vehicle.

In making this assessment the RMV considers numerous factors, including road safety, honesty/integrity and social behaviour and evidence is gathered in respect of these through an applicant's Working with Vulnerable Persons (WWVP) (children) Registration, and either a national police check or criminal history check.

The WWVP (children) Registration is solely focused on child-related activities and will look at a range of relevant prior convictions. However, checks around integrity, fraud and dishonesty are not considered as part of the assessment. It is understood that from mid-2019, the WWVP (children) Registration will be expanded to require people working with vulnerable adults to be registered and will include checks for integrity, fraud and/or dishonesty.

The RMV will continue to monitor the evolution of the WWVP Registration and whether it can be used as the single process to establish if an ancillary certificate applicant is 'fit and proper' to provide on-demand passenger transport services.

17. Phased and risk-based approach to medical declarations.

The medical self-declaration process is relatively new in Tasmania, and was implemented as an interim measure for the ride-sourcing class of ancillary certificates. State Growth undertook an audit in 2017 which indicated strong compliance amongst drivers, albeit with a limited sample size.

It is proposed that the medical self-declaration be implemented more broadly, based upon evidence and the risk profile of the service. Initially the medical self-declaration will be introduced for the new booked service class. Subject to the success of this wider roll-out, the process could be expanded to taxis. Due to the limited number of active booked service drivers and sample size, it would be

premature to expand the medical self-declaration to taxi drivers until such time as the audit process has been through a full cycle of drivers and the results are statistically significant.

The effect of the introduction of medical self-declarations will be that the requirement for a medical check on application would be removed, thereby reducing the regulatory cost of getting drivers on the road. Based on an audit sample of 20 per cent annually, the three-yearly medical check would be extended to every five years.

All drivers over the age of 65 will be required to undertake annual medical checks. This is consistent with the current framework for taxi drivers, but applies the same standards for ride-sourcing drivers.

#### 18. Reduce mandatory training requirements to only those that relate to the safety of drivers and passengers.

Mandatory training for taxi drivers was initially introduced to ensure that service standards were maintained in an industry where taxis provided a monopoly service, and the training is primarily focused on service delivery.

The new framework proposes to move away from government regulated training, except where it relates to the safety of drivers, passengers and other road users. Under this approach, drivers will no longer be required to complete a specified training course or undertake a knowledge test. Instead, operators will be responsible for ensuring that drivers have the appropriate level of training to deliver the service, and will be free to choose the method and content of this training.

The exception to this is in relation to the provision of WAT services. It is critical that drivers are trained in how to meet the needs of a passenger with a disability, and to operate the vehicle specific systems such as wheelchair tie down, restraint systems, ramps and hoist operation. Where an operator provides a WAT service, all drivers will be required to undertake this training.

As part of their annual ancillary certificate renewal, all drivers will be required to declare that they understand and will comply with their public passenger vehicle legislative obligations, as well as their requirements under disability/anti-discrimination legislation.

#### 19. As a condition of operator accreditation, drivers will be required to provide identification (either physically or electronically) when undertaking a trip.

Driver identification gives passengers confidence that their driver has the appropriate accreditation to be providing an on-demand passenger transport service.

## Regulation of vehicles

---

*The new framework focuses on vehicle safety and avoids regulation related to comfort or aesthetics.*

---

#### 20. No aesthetic or comfort-based standards.

The new framework will focus on vehicle safety and avoid regulation related to comfort or aesthetics. As noted at Proposal 3, it is proposed that prescriptive vehicle requirements for LHCs and RHVs be removed. Those operators who wish to provide luxury or special occasion services will still be able to market their services as such even without strict regulation. It will be a matter for

those operators to determine what features and characteristics the market prefers in a vehicle and is willing to pay for and offer vehicles that meet those requirements.

The reason for this approach is that the market is best placed to dictate comfort levels and aesthetics, but market failure is likely to emerge in relation to safety and regulation of these factors is therefore required.

21. Require all vehicles to have a 5-star ANCAP safety rating (date stamped within seven years) when newly entering the market, and a maximum age limit of 12 years.

The Australasian New Car Assessment Program (ANCAP) provides consumers with transparent advice and information on the level of occupant and pedestrian protection covered by different vehicle models in the most common types of crashes, and the ability of technologies to avoid a crash.

To achieve the maximum 5-star ANCAP safety rating, a vehicle must achieve the highest standards in all tests and feature advanced safety assist technologies. Vehicles that are designed well for safety can either avoid a crash from happening or help absorb the energy in the event of a crash – research shows that there is twice the chance of being killed or seriously injured in a 3-star ANCAP rated car compared to a 5-star ANCAP rated car<sup>6</sup>.

The safety features of a vehicle are just one component of providing a safe on-demand passenger transport service. It is also critical that vehicles are well maintained throughout their lifespan. To support this, all on-demand passenger vehicles will:

- continue to be subject to annual inspections by independent approved inspection stations;
- be subject to six-monthly, independently approved inspections when they are older than 10 years; and
- undergo a vehicle safety inspection by a qualified person every six months or 10 000 KLM, whichever occurs first.

Additionally, operators will be required to have in place a servicing and safety regime that will be subject to auditing.

Analysis conducted by ANCAP found that, in Australia, older vehicles (those built in 2000 or prior) account for 20 per cent of the registered vehicle fleet but are involved in 33 per cent of fatality crashes. Newer vehicles (those built 2011-2016) make up 31 per cent of the fleet but are only involved in 13 per cent of fatality crashes.<sup>7</sup> In order to promote safer outcomes, a maximum of age limit of 12 years is proposed for all small passenger vehicles used to provide on-demand services.

It is recognised that those vehicles currently authorised to provide a RHV service – for example unique, classic or customised cars – would fall outside of these requirements. Taking a risk-based perspective, these vehicles are typically used sparingly for specific tasks, so their exposure to risk is likely to be lower than that of other booked services. For this reason, these vehicles would be exempted under the new framework, subject to meeting the requirements of any inspection regime.

Additionally, ANCAP tests new, unmodified vehicles available to Australian and New Zealand consumers. It does not generally set requirements for, or assess, aftermarket products or vehicle modifications. Accordingly, it is unlikely that wheelchair accessible vehicles will be rated by ANCAP and will be exempted from this requirement. However, in addition to the above age requirements

---

<sup>6</sup> Folksam analysis, 2010, referenced on <https://www.ancap.com.au/safety-ratings-explained>, 2017

<sup>7</sup> Fatalities vs. Registered Vehicles, ANCAP Update: Global NCAP Annual Meeting, Antwerp, Mr James Goodwin, ANCAP Chief Executive Officer, September 2017

the Transport Commission will apply a minimum set of safety standards that the vehicles must meet, as well as the standards in the *Disability Standards for Accessible Public Transport 2002*.

22. Continue to require rank and hail vehicles (ie taxis) to have additional equipment, such as a top light and security camera (in currently prescribed taxi areas).

These requirements are a continuation of the existing framework and are for driver and passenger safety in the relatively higher risk (anonymous) rank and hail markets.

At the conclusion of the transition period, when there are no longer geographic restrictions on taxis, all taxis performing rank and hail work will require additional equipment.

## Compliance and enforcement

---

*The new framework promotes co-regulation by the industry and gives the industry responsibility for ensuring its compliance with regulation.*

*The benefit for industry is that it has greater flexibility in the way it achieves and maintains compliance.*

---

### 23. Introduce a chain of accountability model

Under this model, all parties who have control or influence over the on-demand transport sector – i.e. accredited operators (including affiliated operators if applicable), registered vehicle operators and drivers – share responsibility for compliance.

For example, in a situation where an unlicensed driver is dispatched by a radio network to a job, then the booking service provider, the taxi operator and the driver would be held to account.

A person may be a party in the chain of responsibility in more than one capacity.

The benefits of this approach are:

- improved safety and compliance because all parties are responsible for ensuring safety;
- it supports a co-regulatory approach between government and industry; and
- it will provide more flexibility to businesses to install measures specifically tailored to each business to prevent breaches on the basis of their individualised safety risk.

### 24. Introduce a primary duty of care

To ensure greater accountability and responsibility for safety outcomes, all of the parties in the chain will be required to ensure, so far as is reasonably practicable, the safety of drivers, passengers and other road users in the delivery of on-demand passenger transport. This will impose a requirement that a person evaluate the particular risks associated with their business and put in place systems to identify, manage, mitigate, and, where possible, eliminate those risks. These obligations will align the primary duties of the on-demand transport sector with workplace health and safety laws.

The complexity of the risk management system requirements would be commensurate with the scale of the operation, i.e. a three vehicle operation will require less resources to ensure compliance with regulatory accountabilities compared with a 100 vehicle operation.

The level and nature of a person's duty depends on the person's functions, the nature of the safety risk and the person's ability to control, eliminate or minimise the risk.

Primarily there will be an education and awareness approach to compliance, however, there will be new and tougher provisions with significant penalties for those who fail to meet their safety obligations. There will be three categories of penalties based on the degree of culpability, risk and harm.

**25. Accredited operators are subject to a regular independent audit regime as a condition of their accreditation.**

This is consistent with the existing framework. Audits assess operators' systems and processes that support safety, compliance with legislation and accreditation standards.

The audit regime schedule is set by the Transport Commission and it has the discretion to set different audit regimes for different operators, e.g. reduce the auditing requirements of operators who are consistently found to comply with legislative requirements and accreditation standards.

**26. Penalties for non-compliance**

Along with the new penalties for breaches of duty of care, there will continue to be a number of other sanctions available to the Transport Commission, including warning, improvement notices, infringement notices, probation, suspension and cancellation of accreditation, require additional audits or variation of conditions of accreditation, and a requirement to provide the Commission with evidence and information.

## Summary of proposed new framework

Service types	Booked only	Booked, rank and hail
<b>Transport categories</b>	Booked services - includes ride-sourcing, luxury hire car, restricted hire vehicles and tour vehicles.	Taxis (including Wheelchair Accessible Taxis)
<b>Scope of passenger transport services</b>	<ul style="list-style-type: none"> <li>• Booked.</li> <li>• Point-to-point.</li> <li>• Anywhere in Tasmania.</li> </ul>	<ul style="list-style-type: none"> <li>• Booked.</li> <li>• Rank and hail.</li> <li>• Point-to-point.</li> <li>• <b>Option 1:</b> Anywhere in Tasmania at the end of the transition period.</li> <li>• <b>Option 2:</b> Geographic restrictions maintained. Reduced from the existing 24 taxi areas to four taxi areas at year three.</li> <li>• Taxi Subsidy Program customers.</li> </ul>
<b>Licences</b>	<ul style="list-style-type: none"> <li>• No supply constraints.</li> </ul>	<ul style="list-style-type: none"> <li>• No supply restriction on Wheelchair Accessible Taxis (as is currently the case).</li> <li><b>Option 1:</b> <ul style="list-style-type: none"> <li>• Phased approach to market liberalisation over five years. Remove supply restrictions in year one but retain licence costs, decreasing by 1/5 each year over five years.</li> <li>• No geographic restrictions at the end of five years.</li> </ul> </li> <li><b>OR</b></li> <li><b>Option 2:</b> <ul style="list-style-type: none"> <li>• Suspend the issue of new owner-operator taxi licences for five years.</li> <li>• Provide an appropriate mechanism to ensure adequate supply in areas affected by unmet demand.</li> <li>• At year three, reduce the number of geographic taxi areas from 24 to four: Hobart, Launceston, Burnie-Devonport-Ulverstone, and rest of State.</li> <li>• Review of arrangements to be timed for delivery at year 5 or shortly thereafter.</li> </ul> </li> </ul>
<b>Fares</b>	<ul style="list-style-type: none"> <li>• Unregulated.</li> <li>• Estimate must be provided by operator and agreed to by passenger prior to commencement of trip.</li> </ul>	<ul style="list-style-type: none"> <li>• Phased approach to fare deregulation (booked services only) that starts in inner Hobart and gradually extends to mirror the progressive development of competition in the market.</li> <li>• Retain regulated maximum tariff for Taxi Subsidy Program members, Wheelchair Accessible Taxis where they are being used for the purposes of</li> </ul>

		<p>being wheelchair accessible, and members of transport subsidy schemes in other jurisdictions.</p> <ul style="list-style-type: none"> <li>• Change the regulated fare structure for Wheelchair Accessible Taxis to be consistent with standard fares.</li> <li>• Undertake a review to ensure that all efficient costs are transparently identified and factored into the regulated tariff.</li> </ul>
<b>Operators and Booking Service Providers</b>	<ul style="list-style-type: none"> <li>• Regulation of booking service providers as operators to account for ride-sourcing companies.</li> <li>• Accreditation of operators requiring them to meet certain standards and have systems in place to ensure legislative compliance.</li> <li>• Responsible for relevant driver training and competence.</li> <li>• Annual fees to cover an efficient compliance and enforcement regime.</li> </ul>	<ul style="list-style-type: none"> <li>• Regulation of booking service providers as operators to account for taxi networks/dispatch services.</li> <li>• Accreditation of operators requiring them to meet certain standards and have systems in place to ensure legislative compliance.</li> <li>• Responsible for relevant driver training and competence.</li> <li>• No compulsory affiliation of taxi operators to radio rooms.</li> <li>• Annual fees to cover an efficient compliance and enforcement regime.</li> </ul>
<b>Vehicles</b>	<ul style="list-style-type: none"> <li>• No aesthetic or comfort based standards.</li> <li>• 5-star Australasian New Car Assessment Program (ANCAP) or equivalent rating for vehicles newly entering the market (date stamped within 7 years) – exceptions can be made by the Transport Commission.</li> <li>• Annual inspection for vehicles under 10 years of age and six-monthly inspections for vehicles over 10 years. Existing inspection arrangements for new vehicles to remain in place.</li> <li>• Age limit of 12 years.</li> </ul>	<ul style="list-style-type: none"> <li>• No aesthetic or comfort based standards.</li> <li>• Removal of requirement that Wheelchair Accessible Taxis be brand new (as defined) when initially authorised to perform a public passenger vehicle service in particular taxi areas.</li> <li>• Annual inspection for vehicles under 10 years of age and six-monthly inspections for vehicles over 10 years. Existing inspection arrangements for new vehicles to remain in place.</li> <li>• 5-star Australasian New Car Assessment Program (ANCAP) or equivalent rating for vehicles newly entering the market (date stamped within 7 years) – exceptions can be made by the Transport Commission. Requirement for Wheelchair Accessible Taxis to meet minimum safety standards and the <i>Disability Standards for Accessible Public Transport 2002</i>.</li> <li>• Age limit of 12 years.</li> <li>• Rank and hail vehicles (ie taxis) to have additional equipment - e.g. top light, visible driver ID, security camera, taximeter.</li> </ul>
<b>Drivers</b>	<ul style="list-style-type: none"> <li>• Framework allows for ongoing evolution of driver authorisation and renewal processes which reflect the activity and risk profile of the service being provided.</li> <li>• Phased and risk-based approach to medical declarations based on evidence. Compulsory annual medicals for drivers over 65.</li> <li>• Annual training self-declaration process for all drivers: covers legislative obligations, requirements of disability and anti-discrimination legislation and driver behaviours.</li> </ul>	

	<ul style="list-style-type: none"> <li>• No mandatory training requirements for Ancillary Certificate. This involves removing compulsory driver training from the driver authorisation process. Under this model, the operator would be responsible for ensuring that their driver is appropriately trained to operate the vehicles they are using and the service they are providing. Where a taxi operator has Wheelchair Accessible Taxis, all of its drivers must be trained in how to meet the needs of a wheelchair-reliant passenger and to operate the vehicle specific systems.</li> <li>• Driver identification, including ancillary certificate number, must be available to passengers, either displayed in the vehicle or made electronically available to the passenger.</li> </ul>
<b>Compliance and enforcement</b>	<ul style="list-style-type: none"> <li>• Complaints that are not criminal in nature will continue to be directed to taxi operators/booking service providers in the first instance. If consumers remain dissatisfied, they can refer to Transport Commission or Registrar of Motor Vehicles.</li> <li>• Chain of accountability model introduced. Under this model, all parties who have control or influence over the point-to-point transport sector share responsibility for compliance and have a primary duty of care to deliver safe services.</li> <li>• Industry will be expected to manage how to meet their obligations. The Department of State Growth will continue to require systems audits of operators to ensure compliance.</li> <li>• Options to deal with non-compliance – warning, improvement notices, infringement notices, probation, suspension, cancellation, require additional audits or variation of conditions of accreditation, and a requirement to provide the Transport Commission with evidence and information.</li> <li>• Ongoing enforcement measures to ensure that ride-sourcing drivers are not taking advantage of taxi ranks, or touting for trade.</li> </ul>

# Glossary

ACCC	Australian Competition and Consumer Commission
Affiliated operator	An accredited operator who, by virtue of an agreement with a booking service provider, uses the safety, security and related operational systems of the booking service provider. Affiliated operators will still have responsibilities within the chain of accountability.
ANCAP	Australasian New Car Assessment Program
Booked service licence	<p>All vehicles that are used to provide booked services (except taxis) will be authorised under a booked service licence.</p> <p>Licences will be limited in their scope of activity to booked on-demand services, which can be provided anywhere in the State (no geographic restrictions). They cannot be hailed and they cannot take advantage of taxi ranks.</p>
Booked services	<p>A sub-set of on-demand passenger transport services. Booked services are requested by a passenger in advance either by telephone, app, website or email.</p> <p>Combines the current restricted hire vehicle licence and luxury hire car licence, and incorporates ride-sourcing and other booked on-demand services such as tourist transfers into the one licence category.</p>
Booking service provider	<p>An entity which:</p> <ol style="list-style-type: none"><li>receives requests for persons to be transported by a small passenger vehicle; and</li><li>arranges or facilitates the acceptance of those requests by or on behalf of drivers of small passenger vehicles.</li></ol>
Chain of accountability	<p>The safety of on-demand passenger transport services will be the shared responsibility of each party in the chain of accountability – i.e. drivers, accredited operators (including affiliated operators if applicable) and registered vehicle owners.</p> <p>A person may be a party in the chain in more than one capacity.</p>
LHC	Luxury hire car
NDIS	National Disability Insurance Scheme
On-demand passenger transport	Paid, passenger-nominated, non-scheduled travel.
OOTL	Owner-operator taxi licence
Primary duty of care	All parties in the chain of accountability will be required to ensure, so far as is reasonably practicable, the safety of drivers, passengers and other road users in the delivery of on-demand passenger transport services through the elimination of risks to safety. If it not reasonably practicable to eliminate risks to safety, to ensure those risks are minimised so far as is reasonably practicable.
Reasonably practicable (in relation to a safety duty)	That which is, or was at a particular time, reasonably able to be done in relation to ensuring safety, taking into account and weighing up all relevant matters including:

- a) the likelihood of the hazard or the risk occurring;
- b) the degree of harm that might result from the hazard or the risk;
- c) what the person concerned knows, or ought reasonably to know, about:
  - i. the hazard or the risk; and
  - ii. ways of eliminating or minimising the risk; and
- d) the availability and suitability of ways to eliminate or minimise the risk; and
- e) after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.

RHV

Restricted hire vehicle

Taxi services

The collective term for the existing licensing regime, i.e. perpetual taxi licences, owner-operator taxi licences, wheelchair accessible taxi licences and temporary taxi licences. Substitute wheelchair accessible taxis will no longer be required under the new framework.

TSP

Taxi Subsidy Program

WAT

Wheelchair accessible taxi

WWVP

Working with Vulnerable Persons