

Chair
Cabinet Economic Growth and Infrastructure Committee

SMALL PASSENGER SERVICES – FUTURE REGULATORY REGIME

Proposal

1. We are seeking Cabinet Economic Growth and Infrastructure (EGI) Committee's agreement to a new regulatory regime for the small passenger services sector (the sector).

Executive summary

2. This paper seeks EGI's agreement to a new regulatory regime for the sector to ensure the same regulatory requirements apply equally to all operators under a new, single class of passenger service. The proposed regime will continue to have a focus on safety for drivers, passengers, and vehicles. The proposed changes are necessary to:

- 2.1. respond to technology advances and introduce new business models within the sector (developments in these areas are making the existing regulatory distinctions between different classes of passenger services problematic and obsolete)
- 2.2. ensure the sector is able to operate in a competitive market
- 2.3. ensure that the regulatory regime is fit for purpose to meet New Zealand's future needs and that it delivers maximum benefits for consumers.

3. The proposed single class of small passenger service will enable firms to operate on an even footing and to provide a range of services that respond to market signals, while providing the necessary fundamentals for safety. The proposals in this paper will also remove a number of the current regulatory requirements that impose costs on operators, but no longer offer any significant benefits.

4. The proposals in this paper result from a review of the sector undertaken by the Ministry of Transport in early 2015.

Understanding the problem

5. Drivers and passengers need to be confident that they are safely providing and using small passenger services. The Government's role is to provide a regulatory regime that facilitates safe operations, and which promotes an industry that takes responsibility for ensuring safety.

6. The existing regulatory regime establishes clear distinctions between the types of services that operate within the sector (taxi, private hire, shuttles, dial-a-driver, ridesharing and carpooling). These regulatory distinctions apply varying levels of compliance burden and restrictions across the types of operators.

7. Taxi operators must ensure they develop and run their services according to an approved set of operating rules, provide 24/7 coverage, maintain approved in-vehicle cameras and panic alarms, register fares with the NZ Transport Agency, use meters to charge passengers and comply with mandatory signage requirement. Compliance with these requirements permits taxi services to operate on a taxi rank and to accept passengers hailing taxis from the street, as well as take pre-bookings.

8. In comparison, the wider private hire (non-taxi sector) operators commonly provide specialist wedding vehicles or limousine services. These services are prohibited from using a meter and are restricted to customers that have pre-booked and on an agreed fare basis.

9. Technology is enabling innovative business models (operating broadly within private hire rules) to take pre-bookings for immediate hire using smartphone apps. Technology is allowing these services to compete with taxis for passengers, but without having to meet the same compliance costs required for a taxi.

10. Internationally, ridesharing services (an extension of carpooling; but where a third party smartphone app or website connects drivers with passengers travelling to similar destinations) are increasing. The opportunity for ridesharing in New Zealand could provide significant benefits, such as improved customer services, reducing congestion, increasing transport choices and reducing emissions. However, with the existing regime, these services are likely to operate outside the regulatory regime according to the existing definitions. This means the safety risks associated with these services are not managed by the regulatory regime.

11. The circumstances in which the services provided by the sector when the current regulatory regime was established in the late 1980s are very different from today. Technology, the range of services offered, and consumer expectations have changed greatly. As a result, much of the existing regulation is outdated and imposes costs on the sector that can no longer be justified.

Options considered

12. The Ministry's review identified five regulatory reform options to provide the Government with choices about the future regulatory approach for the sector. A set of future state objectives were developed to identify what outcomes from the sector are sought and used as criteria to assess the key issues and regulatory reform options.

13. The five options considered are:
 - 13.1. Option 1 - retain the status quo
 - 13.2. Option 2 - modify the status quo
 - 13.3. Option 3A - reduce regulatory burden for a single class, with individual driver focus
 - 13.4. Option 3B - reduce regulatory burden for single class of approved transport operator
 - 13.5. Option 4 - single class of approved transport operator that meet taxi standards.
14. We consider that Option 3B – reduce regulatory burden for single class of approved transport operator will provide New Zealand with an optimal regulatory regime and will best deliver against the objectives that the Government is looking for from the sector.
15. Operators will be able to compete on an even footing and offer a range of services (quality and cost) that respond to market signals. The proposed regime will deliver benefits through increased competition, more flexibility to accommodate new technologies, and will enable transport operators to take their own business decisions on a range of issues, while the system will regulate to provide the fundamentals for safety.

How the future regulatory regime will function

The proposed future regulatory regime is based around a reduced level of regulatory burden, with a single class of approved transport operator.

The single class of regulated small passenger service will cover taxis, private hire, shuttles, ridesharing, and dial-a-driver services.

Any person or company that operates a small passenger service will have to be approved by the NZ Transport Agency as an 'approved transport operator'. The NZ Transport Agency will register an approved transport operator provided it has assessed the person(s) who would be in control of it as being fit and proper to run the passenger service.

The approved transport operator will be responsible for ensuring the following.

- Drivers have a passenger endorsement (P endorsement) – that they are a fit and proper person to drive passengers. They will display an identification card (operators will also notify the NZ Transport Agency if a serious complaint or allegation is received about a driver)
- Drivers only work within their work time limits
- Vehicles have a Certificate of Fitness (CoF)

An approved transport operator will set its own fares and be able to accept jobs from passengers via pre-bookings, or be engaged off a rank or street hail.

A driver will have to be associated with an approved transport operator (owner drivers could be their own approved transport operator). An individual driver will continue to be required to hold a P endorsement and display their identification card for passengers, driving within the work time limits (particularly where they drive for more than one approved transport operator) and that their vehicle has a valid CoF.

All services will be required to have an in-vehicle recording camera system, or an exemption to manage passenger and driver safety.

The NZ Transport Agency will approve applications for new approved transport operators (on the basis that the person(s) in control is a fit and proper person). They will register the approved transport operator and undertake regulatory activity to ensure that an approved transport operator or driver is operating in accordance with the law (P endorsements for drivers, work time limits and vehicles having a CoF).

The NZ Transport Agency will issue passenger endorsements for drivers (having made an assessment that they are a fit and proper person to drive a small passenger vehicle). The NZ Transport Agency will be able to suspend or revoke an approved transport operator or a driver's right to operate if it is in breach of the law.

Implementation of the future regime

16. The proposals in this paper will primarily require changes to the Land Transport Act 1998 (the Act) and the Land Transport Rule: Operator Licensing 2007 (the Rule). Amendments may also be required to other transport rules and regulations to give effect to the proposals in this paper.

17. The Government will consider the Land Transport Amendment Bill early in 2016 and we expect that should EGI agree the policy proposals in this paper, the relevant amendments to the Act would be undertaken in this process.

18. Changes to the relevant rules that give effect to the policy proposals in this paper (as opposed to consequential amendments) are required to undergo public consultation on the draft Rule amendments. We propose this to be undertaken parallel to timing with the Bill.

Applying in-vehicle recording cameras to the future single class regime

19. In 2010, the Government in response to calls from taxi sector operators, mandated the use of in-vehicle security cameras and panic alarms for taxi services in main urban centres, with the intention of reducing the personal safety risks to taxi driver.

20. We have considered options for retaining in-vehicle recording cameras, while still promoting innovation and the use of new technologies. These options are summarised below, with our proposed option being to mandate in-vehicle recording cameras with exemption provision.

20.1. **Mandatory in-vehicle video recording cameras** – applying the current regulatory regime for taxis to all operators.

20.2. **Obtaining a visual record** – operators would be required to take or hold a visual record of the passenger (this could be either a still image or video recording if operators opt for it).

20.3. **Operators' business decisions** – operators make their own business decisions on how they can best ensure the safety

20.4. **Mandating in-vehicle recording cameras with exemption provision** – operators would be required to have in-vehicle recording cameras as is currently mandated for taxis, but with an option to be exempted by the NZ Transport Agency should they be able to demonstrate they can ensure safety of drivers and passengers through alternative means (proposed option for the future).

21. Under our proposed approach, all approved transport organisations and their services would be required to meet the existing requirements for in-vehicle recording cameras. This requirement would have a supporting provision to provide for exemptions, on a case by case basis. Exemptions would be granted where the NZ Transport Agency considered that an approved transport organisation's operations met specified criteria to provide for driver and passenger safety.

22. We recognise that there is a range of other innovative and technology based solutions that provide alternative means to help manage the risk posed to driver safety.¹ We consider that the proposed approach, will ensure driver and passenger safety, while promoting innovation and technology within a regulatory regime that supports competition between services.

Introduction and the need for regulatory reform

23. The Associate Minister of Transport asked the Ministry of Transport earlier this year to undertake a review of the small passenger services regulatory regime. The need for review is in response to the growth of technology within the sector. The review has sought to determine how New Zealand's regulatory environment for the sector can continue to be fit for purpose and flexible enough to accommodate new technologies.

24. The existing regulations establish clear distinctions between the types of services that operate within the sector (taxi, private hire, shuttles, dial-a-driver and carpooling, while not addressing ridesharing at all). These regulatory distinctions apply varying levels of compliance burden across the types of operator. However, technology is challenging this regime and we are experiencing the introduction of alternative, technology-based models entering the market.

25. Innovation within the sector is presenting new approaches to address risks, which the existing regime manages through prescriptive regulation. Retaining the status quo is not an option if the Government wants to ensure a dynamic and competitive small passenger services market that delivers benefits for consumers.

Sectors the proposed future regulatory regime will apply to

26. The proposed future regime set out in this paper is intended to apply to the following parts of the sector as defined in the existing legislation, or where not defined, described below.

26.1. *Taxis* – are permitted to collect passengers through street hails or bookings, required to use a meter, and must be part of an Approved Taxi Organisation.

¹ For example, smartphone applications that include a photo of the driver and the passenger and enable each party to rate each other as part of incentives for good behaviour, GPS tracking and live tracking of the location of passengers and drivers, and the ability to share this information with third parties.

26.2. *Private hire* – traditionally provided specialist vehicles for use in special events, such as wedding cars, Crown cars, or limousines. These services can only take pre-booked passengers and the fare must be agreed before the start of the trip.

26.3. *Shuttles* – services that carry passengers that begin or end their journey at the airport, a bus or ferry terminal, or a railway station. Shuttles generally provide shared services for individuals travelling to and from these locations.

26.4. *Dial-a-driver* – services that use the vehicle provided by one of the passengers and the driver is paid for the transport of the passenger's vehicle.

26.5. *Ridesharing* – where a driver and passenger (who may not know each other) are travelling to similar destinations at similar times and use a third party to connect them. New Zealand is not yet seeing ridesharing, but it is an emerging service for users of small passenger services overseas.

26.6. *Transport network companies* – consider themselves as providing communications functions between passengers and drivers, as opposed to providing services.²

Sectors that the regulatory regime will not apply to

27. We do not propose that the regulatory regime apply to carpooling based on the circumstances set out below.

28. The first circumstance is where two or more people who have a pre-existing knowledge of each other (for example, they may be colleagues or neighbours) and may share the cost of the trip based on the operating costs of the trip such as petrol and depreciation, but not the driver's time.

² Some operators facilitate connections between passengers and drivers, and consider themselves as transport network companies (for example, Uber, where its services and drivers operate under private hire rules). The future regulatory regime would consider providers of such services would be approved transport operators and transport network companies are those providing solely the communications services. Accordingly, the section in this paper 'sectors that the regulatory regime will not apply to' provides where services would not be considered approved transport operators.

29. The second circumstance is where a driver and passenger (who may not know each other) are travelling to similar destinations at similar times and uses a third party to connect them. The driver and passenger may have a cost-sharing arrangement (as described above), but the third party does not receive any revenue for facilitating the carpooling trip. It should be noted that this type of operation still carries the same risk that are regulated for in the wider regime (unknown driver and passenger).

30. We expect the prevalence of these services to be of limited scale. It is likely that drivers of carpooling and ridesharing services are more likely to drive for a regulated ridesharing service as the driver could gain compensation for their time (as opposed to cost recovery only). There are also limited incentives for a person to provide this type of service without a truly altruistic motive (as they are unable to profit from it). Furthermore, for regular trips such as home to work carpool arrangements, it is likely that once a driver and a passenger identified that they could coordinate their travel and the arrangement would become more like the definition set out above.

31. We do not propose the future regulatory regime apply to a transport network company (for example, a call centre company) that provided a back office communications function, through which it supported a completely unrelated approved transport operator.

Criteria for identifying the best approach for the future

32. As part of the review, a future state objective for the small passenger service sector was identified. It was then used as a set of criteria to assess the key issues and regulatory reform options. Appendix A provides a full explanation of the future state objective. The bullets set out the criteria from that objective:

- 32.1. A system that is responsive to supply and demand.
- 32.2. An efficient system that imposes the lowest level of compliance burden to achieve the regulatory objective.
- 32.3. Fees and charges should be transparent.
- 32.4. Provides effective choice for people to move where they need to go in a timely manner.
- 32.5. The system incentivises the provision of improved customer services.
- 32.6. The system mitigates the safety risk for passengers, drivers and from vehicles.

Options for future regulatory approach

33. This paper considers five regulatory reform options for the future. The options are underpinned by three broad regulatory reform approaches.

34. Each regulatory reform option has been assessed against a future state objective, which has been used as criteria. The following table sets out a summary of the five regulatory reform options.

General approach	Regulatory reform options
Retaining status quo	<p>Option 1 – Retain status quo</p> <p>This option would involve generally retaining the existing regulatory regime. This would introduce the proposed definitions of ridesharing and require it to be regulated in line with private hire. Carpooling would be exempted.</p>
	<p>Option 2 – Modified status quo</p> <p>This option would be the same as Option 1 – and would clarify the distinctions between taxi and private hire services by establishing a requirement that private hire services must be booked 60 minutes prior to the trip.</p>
Lower level of regulation and remove distinctions between types of operators to establish a single class	<p>Option 3A – Reduced regulatory burden for a single class, with individual driver focus</p> <p>This option would establish a single regulatory regime that applies to all passenger services in the same way (including transport network companies for example, and technology provided services). In line with the approaches to the key issues, much of the detailed regulation would be removed or revised to provide a reduced level of compliance burden. Individual drivers would be responsible for managing compliance. Checking individual driver compliance would be the focus of the regulatory agencies.</p>
	<p>Option 3B – Reduced regulatory burden for single class of approved transport operator</p> <p>This option would generally be the same as Option 3A. However, regulatory compliance would sit at the company level. Anyone providing passenger services would be an approved transport operator by the NZ Transport Agency.</p>
Establish a single class of operator based on taxi standards	<p>Option 4 – Single class of approved transport operator that meet taxi standards</p> <p>This option establishes a single set of requirements applying equally across the sector. However, it would require all operators to meet the current regulatory requirements for taxis.</p>

35. Option 3B will provide New Zealand with an optimal regulatory regime and will best deliver against the objectives that the Government is looking for in the sector. This option would remove much of the existing detailed prescription that controls how passenger services may be operated, leaving a range of matters to be taken as business decisions by individual operators.

36. We expect this option to promote enhanced competition between service providers through evenly applied regulation and a lower level of compliance burden. This option would provide strongest incentives for the provision of improved customer services, compared to the status quo.

37. Requiring a regulated approved transport operator will promote higher levels of regulatory compliance within the industry. Approved transport operators will, in addition to the need to comply with its regulatory obligations, have its own business incentives to manage the quality of its drivers and their vehicles. The close alignment of the regulatory requirements and business incentives will act to promote regulatory compliance across the industry. This option will also enhance regulatory efficiency for the NZ Transport Agency compared to Option 3A.

38. There are a number of proposals we are seeking EGI's agreement to, in order to give effect to Option 3B – Reduced regulatory burden for single class of approved transport operator. These are set out in the following headings.

Ensuring passenger safety under a single class of small passenger services

39. The future regulatory regime needs to ensure that passengers can be confident that they can use small passenger services safely. Personal safety risks for passengers stem from being in a one-on-one situation with drivers where they have little or no information about the driver, the safety of the vehicle, or once they are inside the vehicle the passenger is essentially a 'captive' customer.

40. Historically, passengers connected with a taxi by telephone or off the street (a taxi rank or street hail). Both of these approaches offer only limited protection in terms of passenger safety. How passengers connect with a taxi service (along with the features and technologies that a particular operator has with the connection mode) can influence their confidence in the service and safety.

41. The regulatory regime should provide minimum standards to manage risks, and passenger service operators should be able to make their own business decisions to implement other features that enhance passenger safety.

42. There is still a need for regulation to provide passengers with confidence that they can safely use small passenger services. Accordingly, we propose that the minimum standards should retain the existing requirements for:

- 42.1. the driver to be a fit and proper person (and hold an identification card displayed to passengers)
- 42.2. a complaints mechanism – for serious improper behaviour³ by drivers
- 42.3. ensuring sufficient driving experience
- 42.4. managing driver fatigue

³ For example, serious behaviour and offences include murder, attempted murder, sexual offences, abduction, kidnapping, robbery and intent to cause bodily harm by injury.

42.5. ensuring the vehicle is safe.

P endorsements and fit and proper person checks

43. We propose the primary mechanism to ensure safety of passengers continues to be a P endorsement to a driver's licence. This means all small passenger service drivers are subject to a fit and proper person check to be eligible for a P endorsement.

44. By precluding certain individuals from being able to drive legally a small passenger service vehicle, the fit and proper person test provides confidence to passengers about the suitability of a small passenger service driver.

45. The existing provisions set out that persons convicted of specified serious offences to be prohibited from holding a P endorsement. The provisions also permit the NZ Transport Agency to take into account relevant criminal convictions (such as assaults or sexual offending), road traffic history, as well as any relevant information that may be held by the NZ Police (such as patterns of behaviour that may indicate a person is not appropriate to hold a P endorsement). These provisions will not change in the future regime.

46. The NZ Transport Agency is currently responsible for assessing if an individual is a fit and proper person to participate in the small passenger service industry as well as other commercial driving sectors. Each year the NZ Transport Agency receives around 2,800 new Passenger endorsement applications. Fit and proper person checks on an additional 24,000 P endorsement holders are undertaken each year. These checks are for applicants renewing their P endorsements and the NZ Transport Agency's annual checks to ensure that holders of P endorsement valid for five-years are still fit and proper.

47. A key element of the fit and proper person assessment is a vetting check undertaken by NZ Police. From late 2014, the timeframe for the Police checks exceeded the service level agreement of 20 working days due to resource constraints at NZ Police and increased demand for services (the implementation of the Vulnerable Children Act 2014 required additional vetting services from NZ Police). These circumstances resulted in significant delays (up to around 50 working days) with the processing of passenger endorsement applications.

48. In September 2015, the NZ Transport Agency and NZ Police implemented a system that gives priority to new applicants and those renewing their endorsements. In addition to the system, the NZ Police's commitment to reducing processing times for vetting checks has already seen a significant improvement in the time taken to complete police checks.

49. Police checks for the NZ Transport Agency are now being completed (for new and renewal applicants) within the 20 working days service level agreement. Police are committed to maintaining processing times at this level, and believe further improvements in timeframes are achievable.

50. The NZ Transport Agency is continuously improving the P endorsement application process, which is still predominantly paper based. Shortly the NZ Transport Agency will be digitising P endorsement applications and using a centralised case management system including an online tool that customers can use to track the progress and status of their application. This will result in process improvements, reduced timeframes, and better information for customers. It is also expected to result in fewer follow-up enquiries from applicants to the NZ Transport Agency.

51. Our clear expectation is that standard P endorsement applications will be completed within a maximum of 20 working days.⁴ We also expect improvement on this timeframe where possible. We have asked the NZ Transport Agency to monitor the timeframes for these applications and report to us if timeframes exceed 20 working days.

52. We also expect the Ministry of Transport, NZ Transport Agency, and NZ Police to commit to further improvement and are investigating whether additional measures (such as further prioritisation, and changes to business practices) can be made to further improve timeframes for checking if a person is fit and proper to hold a P endorsement. These agencies will report back to us in early 2016 on further options for improvement. We intend to express our positions on the service delivery of the P endorsement assessment in the future through the Minister of Transport's annual letter of expectations to the Chair of the NZ Transport Agency.

Serious complaints mechanism

53. We are proposing that, as is currently the case for taxi operators, all approved transport operators should have a duty to notify the NZ Transport Agency of any complaints received alleging serious improper behaviour by drivers. This will be supported by a duty for approved transport operators to support the NZ Transport Agency and the NZ Police when either party undertakes any regulatory or compliance activity.

54. These requirements will assert responsibility for the approved transport operator to take responsibility and manage any behaviour issues with drivers, while ensuring the NZ Transport Agency is alerted to any information that may result in a driver no longer being fit and proper.

⁴ Standard applications are applications where the applicant (including evidence of completing any tests, medical requirements and courses) has supplied all necessary information. Non-standard applications take longer because the applicant has either not completed all the requirements or because information is required to be obtained from overseas jurisdictions.

55. The existing regime requires all small passenger services to maintain a complaints register, including prescriptive requirements regarding how the complaint must be recorded, and applies to all complaints that the company may receive. We propose to remove the remaining requirements applying to complaints and requirements about how complaints are recorded. How approved transport operators manage other complaints should be a matter for each business to determine for itself.

56. This approach recognises that technology is offering new approaches for companies to present and manage their brands in the market place. For example, some companies provide passengers with the opportunity to rate their driver (and drivers to rate their passengers), while social media is increasing in its ability to impact on the reputation and brand of companies.

Retaining other passenger safety-related requirements

57. We propose to retain a number of passenger safety-related provisions within the existing rules, and apply them across the future single class of operator.

57.1. 2 years' NZ driving experience pre-requisite for P endorsements – to ensure drivers are sufficiently experienced to be driving passenger services.

57.2. Management of driver fatigue – extend the current regime applicable to taxi services to the wider regime, and for the work-time and log-book regime to continue to apply as it does currently.

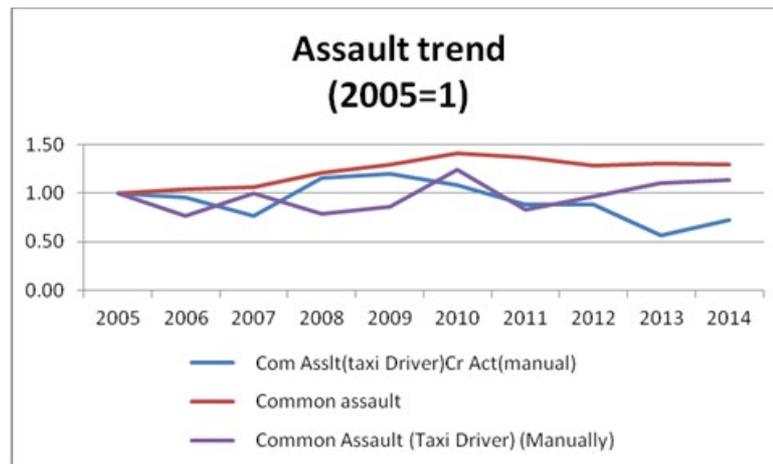
57.3. Retaining the Certificate of Fitness (CoF) inspection – similar to a warrant of Fitness (WoF) for a private car, but required every 6 months.

Ensuring driver safety

58. Drivers of small passenger services face safety risks as they are in a one-on-one situation with passengers they do not know, or who may be intoxicated.

59. Between 2008 and 2012, there was an annual average of 81 assaults (under the Crimes Act and Summary Offences Act) on taxi drivers, this included two drivers that were killed in assaults.⁵ The graph below set out the assault trend between 2005 to 2014 for offences against drivers.

⁵As set out in 'Taxi Driver Safety Review', a report commissioned by the Ministry of Transport, 2013.



60. In 2010, the Government, in response to calls from taxi sector operators, mandated the use of in-vehicle security cameras and panic alarms for taxi services in main urban centres only, with the intention of reducing the personal safety risks to taxi drivers. In-vehicle recording cameras have also provided safety benefits for passengers.

61. In line with this Government's previous decisions, we are committed to ensuring that the safety of drivers and passengers is maintained. For the future, we propose that all small passenger services are subject to the existing requirement for an in-vehicle recording camera, with this proposal being supported by an exemption regime. Our intention with the exemptions component in the regime is to provide for passenger and driver safety, while ensuring that operators are able to innovate and make the most of the new technologies as they become available.

62. Applying this proposal to the future sector will mean that some operators will be required to meet a higher level of compliance burden (through either an in-vehicle recording camera or to meet the exemption criteria), for example, those operating traditional private hire services.

63. That said, the range of technology-based systems is vast and evolving quickly. Currently, New Zealand has small passenger services that utilise features such as: enabling information about the driver and passenger to be provided to each other (including images and post-trip rating systems); live GPS tracking of the location of passengers and drivers; and cashless transactions that reduce the risk of a driver being attacked. These innovations are occurring within app-based and traditional services.

Proposal for the future regime

64. We are proposing that, all passenger service vehicles must be fitted with an in-vehicle recording camera, unless the approved transport operator has an exemption from the NZ Transport Agency. The NZ Transport Agency would continue to approve appropriate in-vehicle recording camera systems that approved transport organisations could use. The NZ Transport Agency will be able to exempt an approved transport operator from the in-vehicle

recording camera requirement, where it meets the each of the following criteria.

64.1. **Providing services to registered passengers only** - An approved transport operator only provides services where the passenger is registered with the approved transport operator.

64.2. **Collection of driver and passenger information** - When registering with an approved transport operator, a passenger/driver must provide their name, photo, address, and phone number.

64.3. **Availability of driver and passenger information** - In advance of commencement of each trip, the approved transport operator makes the name and photo of the passenger and driver available to each other.

64.4. **Retaining a record of each trip** - The approved transport operator retains a record of each trip undertaken, including the start and end points.

65. The exemption provisions and criteria would be set out in land transport rules. Further revision or change to the criteria may be required in rule drafting to ensure the exemptions regime is flexible, technology enabling, and manages driver and passenger safety. We are seeking Cabinet's agreement to the Minister of Transport and the Associate Minister of Transport making decisions (in the process of rule drafting) on any changes to the criteria in line with our intentions for the regime.

66. An approved transport organisation could seek exemption for all of its vehicles, or for specific vehicles (for example, an approved transport operator could have a fleet of vehicles with a mix of in-vehicle recording cameras and those that are operated under the exemption).

67. The camera regime would continue as it does currently, where the NZ Transport Agency considers applications for approval (from any person). Operators then choose from the range of approved systems which system they wish to use. The exemption process would be separate to the approval process of an approved transport organisation.

68. We propose that there be a corresponding offences and penalties regime. This would apply to drivers and approved transport organisations that operated services without either an in-vehicle recording camera or an exemption.

69. To enforce the regime, we expect that the NZ Transport Agency include enforcement of the proposed in-vehicle recording camera or exemption requirements as part of undertaking its audit and investigation responsibilities.

70. The driver safety aspect of the exemptions will have crossover with an approved transport operator's Health and Safety at Work Act responsibilities. We expect that the specificity of the criteria will help to ensure clarity about the expectations for operators that hold exemptions and will help both regimes to operate effectively with each other.

71. It is our expectation that where an approved transport organisation is considering how it may meet the criteria for an exemption, that it is required to do so in line with the Privacy Act 1993.

72. In the future regime of a single class of operator, we have also considered three other options for the future of in-vehicle recording cameras. On balance, we consider that the other options they are less likely to provide the objectives of safety, low regulatory burden, and incentivising improved customer services in a competitive market, in comparison to our proposed approach. The alternative options considered are set out below.

72.1. **Option 1 -- Mandating in-vehicle recording cameras.** Operators within the small passenger services sector would be required to have in-vehicle recording cameras, as is currently mandated for taxis in main city centres. This would limit the incentives for operators to innovate and utilise new technology.

72.2. **Option 2 -- Obtaining a visual record.** Operators would be required to take or hold (by a method of their choice) a visual image of the passenger (this could be either a still image or video recording if operators opt for it). There are issues with this proposal's compatibility with the Privacy Act 1993. To manage these issues further prescription to the requirement may be required. Furthermore, this option is likely to deliver less safety benefit than our proposed approach.

72.3. **Option 3 -- Operator business decision.** Operators make their own business decisions on how they can best ensure the safety of their drivers and passengers including the use of a form of visual image or recording. This option would require passenger service operators to make business decisions, rather than having to meet the cost of a particular technology. While this offers the lowest level of compliance burden, it does not provide the level of driver and passenger safety that we wish to achieve with the proposed future regime.

Further provisions for driver safety

73. We propose that the future regime retain (and apply to all small passenger services) two existing provisions to help manage driver safety.

73.1. The power to refuse to accept some passengers – this enables passenger service drivers to refuse to accept passengers if they consider that their personal safety could be compromised.

73.2. A duty for approved transport operators to promote driver safety – this requires passenger service operators to make business choices from the range of mechanisms available to them (in addition to the mandated safety requirements).

74. The Health and Safety at Work Act 2015 (which will come into effect from 4 April 2016) will apply to all approved transport operators. The Health and Safety at Work Act provides that all employers or 'persons conducting a business or undertaking' must ensure a safe workplace (including small passenger service drivers). An approved transport operator would have a duty, so far as reasonably practicable, to eliminate health and safety risks, or if elimination is not possible, to minimise the risk.

75. For the future, WorkSafe advises that it does not generally adopt the prescription of particular control. However, in the absence of the existing in-vehicle camera and panic alarm regime, it would need to reconsider if approved transport operators were taking all reasonable steps to undertake eliminate or minimise risks.

76. When the existing in-vehicle recording camera regime was implemented, further provisions were established to require a telecommunications system within vehicles. The telecommunications system provides for an emergency alert (panic alarm) and response facility to be provided, notification to the NZ Police, and for establishing two-way communication with the driver.

77. The panic alarm requirements align well with the existing requirements for a taxi service to operate from a fixed location with 24/7 service. However, in the future, we expect the sector to be much more diverse. We are proposing to remove the requirements about how and where an approved transport operator must work from. In line with our views of how the future sector will operate, retaining panic alarms is not a provision that we consider necessary to retain under the future regulatory regime.

78. We consider that our proposals to address driver and passenger safety, as well as the specific regime for in-vehicle recording cameras will be sufficient to manage safety. This approach does not restrict operators from making their own business decisions to implement panic alarm systems.

Comment from the Office of the Privacy Commissioner

79. The privacy risks associated with the use of in-vehicle video recorders by urban taxis have been well managed under the current regime. If the regime is extended as proposed to apply to all small passenger services, the Office of the Privacy Commissioner (OPC) supports the proposal that regulators develop rules that would govern the provision for exemptions to the requirement.

80. The proposed approach would provide opportunities for operators to use alternative technologies to address safety concerns. This would potentially raise new privacy risks. Both operators and drivers would need to ensure any alternative methods used to collect personal information (including visual images of passengers) were not unreasonably intrusive and that reasonable security safeguards to protect against loss or inappropriate access, use, modification or disclosure of personal information are in place.

81. The paper notes that organisations will be expected to consider how they might operate in line with the Privacy Act 1993 and that in developing its processes the NZ Transport Agency would work with the OPC to ensure a smooth assessment process.

82. OPC supports the approach proposed whereby the procedures governing in-vehicle recording (and exemptions) would continue to be formalised under Land Transport Rules. The revised procedures should require that the NZ Transport Agency consult with the Privacy Commissioner during the development of those rules, and whenever they are reviewed or subsequently amended. The rules should also acknowledge explicitly that nothing in the exemptions process should limit the application of the Privacy Act 1993, but applications for exemptions should set out how the information privacy principles will be complied with.

Removing restrictions on how drivers and passengers connect

83. The current regime prescribes how taxis and private hire operators are able to connect with customers. Taxis are permitted to collect passengers through bookings, or being hailed on the street (via either waiting for passengers at a taxi rank, or driving around waiting to be hailed). Private hire operators are prohibited from being on the road for the purpose of accepting a casual hire and only permitted to accept passengers through pre-bookings and on an agreed fare basis.

84. Under the regime of a single class of small passenger service, we propose to remove the regulatory distinctions on how operators connect with passengers. All passenger service companies would be able to take pre-bookings, rank hire or street hail. This would mean the rules would be silent on how all passenger service operators may choose to connect drivers with passengers.

85. We expect there will still be niche markets within the sector, (particularly for the one-off type service such as a wedding car). The overall effect of removing these restrictions will offer passengers an increased level of choice over their preferred service provider, while maintaining passenger safety. We also expect that increased competition will lift the incentives for passenger service operators to improve customer service levels.

Consumer protection, pricing, and fares under a single class of operator

86. The future regime needs to ensure the sector is able to manage consumer protection issues. The development and increasing use of apps are providing passengers with improved access to a range of information on passenger service choices available to them (for example, the basis of the fare, estimated trip cost, driver information, route tracking, and cashless transactions).

87. We propose that all passenger services should retain the existing requirement (that currently apply to taxi services) to:

87.1. accept the first hire offered when a vehicle is available for hire (subject to the power for a driver to refuse to accept some passengers where they consider that their personal safety may be at risk)

87.2. unless requested or agreed otherwise by the hirer, to take a route that is most advantageous to the hirer.

88. To help manage any disagreement between drivers and passengers, we propose that the future regulatory regime include a duty for the passenger service driver to agree the basis of the fare with the passenger prior to the commencement of the trip. This could be by agreement at the start of the trip or at the time of booking and would operate according to existing consumer protection and contract law.

89. Under this arrangement, the NZ Transport Agency would not longer be required to investigate and take action in response to fare-related disputes between passengers and companies. Disputes would be addressed by existing mechanisms provided in the Consumer Guarantees Act 1993, the Fair Trading Act 1986, and contract law.

90. Small passenger services transactions are generally low in value, and part of the sector already operates on an agreed fare basis. In addition, consumers are still able to raise any issue with the operator directly, or utilise feedback through social media or consumer protection forums. On balance, we do not consider there are sufficient grounds to justify further regulation in this area.

91. We propose to remove the existing requirements in relation to fares and charging and what other parts of the sector are prohibited from. These requirements relate to the operation of taxis on ranks, the registration of (and any changes to) fares with the NZ Transport Agency, requirements to display fare signage in a vehicle, meter requirements and restrictions.

92. We also propose to remove restrictions on carpooling arrangements to be based on a cost-recovery basis only. Carpooling will remain unregulated, but based on a more specific definition.

93. Removing the mandated signage for taxis decreases the ability for regulators and vulnerable passengers to distinguish between what is a legitimate taxi service and what is an unregulated vehicle.

94. There are alternatives to manage this risk, such as the provision of information (to encourage consumers to choose brands they trust, not to get into unmarked vehicles, and to ensure drivers have a visible P endorsement). Risk could further be managed by targeted enforcement at high risks times and the utilisation of CCTV footage and other information available to identify any issues. In this context, we do not consider mandating the existing signage

requirements across the whole sector is likely to be effective response to the risk.

Meeting the needs of people with disabilities

95. We expect that a sector that is competitive and responsive to demand will be best positioned to provide services for people with a range of needs. New Zealand is seeing operators responding to the demands of people with disabilities by building features into their apps that make it easier for people with specific needs to book a passenger service vehicle that meets passengers' specific needs.⁶ However, the market is unlikely to provide a sufficient supply of services for people with disabilities and the Government has a role to intervene to address this issue.

The Total Mobility Scheme

96. Where the sector does not fully provide transport services for people with disabilities, the Government's Total Mobility Scheme is one intervention that assists in meeting the transport needs of disabled people. The Total Mobility Scheme provides subsidised taxi and private hire services to people who have an impairment that prevents them from undertaking components of a public transport journey unaccompanied, and in a safe and dignified manner. It also makes payment to the owners of hoist vehicles for each Total Mobility Scheme member that requires the use of a wheelchair hoist on a trip.

97. The Government's contribution to the Total Mobility Scheme is from the National Land Transport Fund (NLTF), and councils, through the public transport activity class. The level of funding provided for the Total Mobility Scheme is a matter that the Government and the funding agencies can, and should, review over time.

98. Under the proposed regime, the changes to the small passenger services market are uncertain. As a result, the impact on the users and funders of the Total Mobility Scheme could vary. To manage this uncertainty, we are also proposing a monitoring regime that will take into account (along with other measures as set out below), changes to services subsidised by the Total Mobility Scheme.

Ongoing monitoring services for disabled people

99. We want to be sure that under the future regime, we continue to provide a regulatory regime that supports the provision of services to meet the needs of people with disabilities. We are proposing two initiatives to ensure that we

⁶ The NZ company Cabchooze's app enables passengers to order a wheelchair capable vehicle. While not available in New Zealand currently, Uber provides services where passengers can request drivers and vehicles that are knowledgeable of accessibility needs and are accommodating of passengers who require wheelchair accessible vehicles with a ramp or hydraulic lift. Uber also offers services tailored for senior and disabled communities where drivers are specifically trained to assist passengers into the vehicles and can accommodate folding wheelchairs, walkers, and scooters.

have the necessary information to identify and respond to any negative impacts.

99.1. transport officials will meet with organisations representing users with disabilities that use small passenger services directly, to better understand the current level of services provided. This will also help to identify what the potential impact may be on specific users of services.

99.2. During the transition to the proposed regulatory regime, transport officials will work with the NZ Transport Agency and local government to monitor trends and feedback from the sector to identify any change in service levels (including any impact on services involved in the Total Mobility Scheme).

100. We have asked officials to report back to me on the progress of these initiatives in 2016.

Braille signage

101. We propose to remove regulation related to signage across the sector and this includes Braille signage. The Rule currently requires that a taxi must have Braille signage that provides the name of the approved taxi organisation, the unique fleet number assigned to the taxi, and the approved taxi organisation's telephone number for complaints.

102. The requirement for taxis to provide information in Braille imposes a cost on taxi operators. There are approximately 12,000 people in New Zealand who are blind or have low vision.

103. In the proposed single class regime, continuing the mandated requirements for Braille signage would mean all vehicles would be subject to it. This has practical implications where vehicles involved in offering ridesharing services are not full-time passenger services, or in the case of wedding cars, the signage is likely to offer limited benefit.

104. We recognise that without the mandated requirement, many operators may choose not to have signs in Braille. However, changes are also occurring in the way people engage and use services. For blind passengers (and all passengers), pre-booking a trip by phone or through an app makes it safer as more information about the driver, company, time and details of the trip, are obtained. In addition, technology allows other mechanisms for customers to capture the information that is currently provided through Braille signage. For example, using a smartphone app that exchanges information with the passenger and the driver could offer immediate audio information as well as collecting and retaining information for future reference.

Ensuring that regulatory compliance is achieved

105. While many of the proposals are to reduce the regulatory burden, a small number of key regulatory requirements remain, and compliance with these will be critical if passengers are to have confidence in the small passenger service system.

106. To ensure that regulatory compliance is undertaken efficiently, the right incentives need to be allocated to the right participants in the system. A high level of regulatory compliance is needed across the entire small passenger service sector – taxis, private hire, ridesharing and carpooling. The diagram in Appendix B sets out how regulatory compliance will be managed under the proposed regime.

107. We propose to retain the existing offences and penalties regime, to align with the requirements that will be part of the future regime. For example, the existing penalties for operating a taxi service without operating as part of an ‘approved taxi operator’, would in the future regime apply to operating a passenger service without being part of an ‘approved transport operator’.

Approved transport operator – key driver for regulatory compliance

108. We propose that an approved transport operator (a provider of taxi, private hire, shuttle, dial-a-driver, ridesharing services; or a transport network company that operates in the market in a manner similar to other passenger service operators) would be responsible for ensuring, and maintaining evidential records, that all:

108.1. of its drivers have a P endorsement – that they are a fit and proper person to drive passengers (and that they display an identification card)

108.2. drivers only work within their legal work time limits

108.3. vehicles have a CoF (this would not apply to dial-a-driver services)

108.4. vehicles have an in-vehicle recording camera, or an exemption.

109. In addition to the above regulatory responsibilities, and those identified throughout this paper, an approved transport operator will have its own business interest in complying with those matters. Any level of non-compliance will diminish its reputation with the public and potentially reduce future revenues.

Drivers

110. For the future, a driver could only drive for an approved transport operator (they could be an owner/driver, in which case they would themselves have to be an approved transport operator). A driver would have an individual responsibility for ensuring they:

110.1. hold a current P endorsement (and the associated identification card)

110.2. work within their work time limits (including when they worked for more than one approved transport operator)

110.3. any vehicle that they drive has a valid CoF (the CoF requirement would not apply to dial-a-driver services)

110.4. operate using either an in-vehicle recording camera or an exemption from

the requirement.

The future role of the NZ Transport Agency – the primary regulator

111. We propose that the NZ Transport Agency continues to be able to undertake audits or other investigations to satisfy itself that an approved transport operator (and any parties connected with it, including drivers) complies with all relevant regulatory obligations.

112. Where the NZ Transport Agency is not satisfied, it should have the power to require compliance, or to suspend or revoke a person or operator's authority to operate. As the primary regulatory organisation for the small passenger service industry, the NZ Transport Agency needs to have sufficient oversight of the industry and its operation.

113. The future regulatory regime will require changes in the way the NZ Transport Agency carries out its regulatory role on a day-to-day basis. The proposed regime removes many regulatory obligations on sector participants and enables the NZ Transport Agency to focus its resources through approved transport operators on the core safety requirements of P endorsement, work-time, and CoF.

114. Reducing the regulatory barriers to entry (where licensing of approved transport operators will be based on fit and proper assessments only) will mean the NZ Transport Agency's effort will need to be focused on enforcement (such as suspension and revocation).

115. The focus on enforcement may be less cost effective for the NZ Transport Agency to undertake (as opposed to the focus on entry control under the existing regime). However, on balance, we consider the benefits of lower entry barriers outweigh this concern.

The role of the NZ Police

116. The NZ Police currently undertake limited regulatory activity for the taxi sector. This is generally as part of wider public safety initiatives, (for example, prior to the New Zealand's hosting of the rugby world cup in 2011 NZ Police assisted with undertaking compliance audits on taxis. Any activity undertaken by NZ Police is done so in support of the NZ Transport Agency as the primary regulator.

117. NZ Police apply a risk-based approach in targeting resources and for the future regime. It advises that undertaking regulatory activity for the small passenger services sector is not likely to be a priority against other demands.

Removing unnecessary regulation from the existing regime

118. We are proposing regime that will provide the fundamental provisions necessary for the sector to operate safely and to ensure flexibility for existing and future passenger services.

119. We propose to remove the existing requirements that add compliance costs and do not contribute to the system achieving the outcomes the Government is looking for in the future. These requirements are: signage requirements; Area Knowledge Certificate; that a driver has passed a full licence test in the last five years; the English Language Requirement; access to small passenger services on a 24/7 basis; certificate of knowledge of law and practice; the specific requirements about what the NZ Transport Agency must be satisfied of before granting an application to approved operators, and the Passenger Service Licence.

Stakeholder engagement

120. Advice we have received from officials in preparing the proposals in this paper has been informed by engagement with stakeholders.

121. The Ministry of Transport worked with the NZ Transport Agency and the NZ Police throughout the review to understand and take their views into account.

122. As part of the review process, the Ministry of Transport held two sets of meetings with a range of sector participants.⁷ The Ministry of Transport was clear with the sector that its input was not formal consultation. The meetings have provided an opportunity for the review to test its thinking on key issues and to gain an understanding of the views from sector participants.

Consultation

123. The following departments were consulted on the development of this paper: The Commerce Commission, Department of Internal Affairs, Local Government New Zealand, Ministry of Education, Ministry of Business Innovation and Employment, Ministry of Justice, New Zealand Police, the New Zealand Transport Agency, Office for Disability Issues, Office of the Privacy Commissioner, The Treasury, and WorkSafe New Zealand.

124. The Department of the Prime Minister and Cabinet has been informed.

⁷ The groups of sector participants were made up of a range of representatives from the taxi and private hire sectors, technology providers, and passenger representatives, including the Blind Foundation, Age Concern, Hospitality New Zealand, and the Automobile Association.

Legislative implications

125. The Land Transport Act 1998 will need to be amended to give effect to the proposed changes in this paper, as will Land Transport Rule: Operator Licensing 2007, Land Transport Rule: Work Time and Log Books 2007, and the Land Transport (Offences and Penalties) Regulations 1999. Consequential amendments may also be required to other Transport Rules to give effect to the proposals in this paper.

126. Cabinet has agreed to include a Land Transport Amendment Bill in the 2015 legislative programme with a priority of five. The Land Transport Amendment Bill is proposed to be introduced in the first half of 2016.

127. We propose that amendments to give effect to the proposed future regime for small passenger services will be one part of the amendments implemented through the Land Transport Amendment Bill.

128. In addition to the proposed changes to the Act, implementing the policy proposals in this paper will require significant policy changes to Land Transport Rules. These changes require specific public consultation to be undertaken on the draft amendments. We propose that the rule consultation process be undertaken in parallel timing with changes being made through the Land Transport Amendment Bill.

129. This paper recommends that Cabinet invite the the Minister of Transport and Associate Minister of Transport (under the delegated transport portfolio responsibilities) to issue drafting instructions to give effect to the recommendations in this paper. We are also seeking authorisation for the Minister of Transport and the Associate Minister of Transport to make decisions, consistent with the overall policy decisions in this paper, on any issues that arise during the course of drafting.

Regulatory Impact Analysis

130. Regulatory impact analysis requirements apply to this policy proposal, and a regulatory impact statement has been prepared and attached to this paper.

131. The Transport Sector Independent Regulatory Impact Statement Review Panel (the panel) has reviewed the Regulatory Impact Statement (RIS) prepared by the Ministry of Transport. The panel considers that the information and analysis summarised in the RIS partially meets the quality assurance criteria. The panel has provided this rating due to the limited cost benefit analysis. This has meant the RIS does not quantify the impact of the proposed future regulatory regime. The Panel also identified that the RIS does not fully assess some of the risk associated with some proposals.

Transitional arrangements

132. Once the future regulatory proposals are agreed, transport officials will develop an implementation plan. The detail of the implementation plan will be developed as part of a separate, but closely related process to the drafting of amendments to the Land Transport Act and Transport Rules.

133. The implementation plan will take into account the process to transition operators from the existing regime to the future, and entering operators that are currently outside the regime.

Disability perspective

134. This paper proposes to remove mandates for Braille signage for existing taxi services and to retain the existing regime to provide subsidised services for disabled people.

135. The Ministry of Transport will work with the NZ Transport Agency, the Office for Disability Issues, and disabled people organisations to monitor and respond to any change in the level of services for people with disabilities, should it be necessary.

Financial implications

136. Once there is certainty on the future regime (to be obtained through the decisions We are seeking today and the drafting of legislative changes) transport officials will work to identify changes to fees and charges regulations that may be needed to ensure they align with the changes to the NZ Transport Agency regulatory role.

Gender and human rights implications

137. There are no gender or human rights implications or decisions arising from the proposals in this paper.

Privacy implications

138. The privacy implications associated with the proposals in this paper are set out in the section 'applying in-vehicle recording cameras to the future single class' and includes a statement provided by the Office of the Privacy Commissioner.

Publicity

139. Should the EGI agree to the proposals in this paper, we intend to issue a media statement before the end of December 2015, to announce the intended future regulatory regime for the small passenger services sector. We

also intend to issue a media statement when the Land Transport Amendment Bill is introduced.

140. The sector has been engaged with the Ministry of Transport throughout the process of the review and is aware that Government is considering what the best approach for the future may be.

141. A communications plan is under development by the Ministry of Transport to assist with this announcement and it will make supporting information available on its website to ensure the public is aware of the changes and the reasons for them.

142. We intend that this paper and the Ministry of Transport's regulatory impact statement be publicly released on the Ministry of Transport's website once the announcement has been made.

Recommendations

143. The Minister of Transport and the Associate Minister of Transport recommends that the Committee:

1. **note** that the proposals in this paper are on the basis of a review of the small passenger services sector undertaken by the Ministry of Transport earlier in 2015

144. **agree** the preferred regulatory reform approach for the future of the small passenger service system is Option 3B of the following:

- Option 1 – retain the status quo
- Option 2 – modify the status quo
- Option 3A – reduce regulatory burden for a single class, with individual driver focus
- Option 3B – reduce regulatory burden for single class of approved transport operator
- Option 4 – single class of approved transport operator that meet taxi standards

145. **agree** that the future small passenger services sector will remove the regulatory distinctions between the types of services and establish a single class of 'small passenger service'

146. **agree** that the future regulatory regime will apply to taxi, private hire, dial-a-driver, shuttle, ridesharing services, and Transport Network Companies that operate in the market in a manner similar to other passenger service operators as an approved transport operator, to be defined as 'small passenger services'

147. **note** that the future regulatory regime will not apply:

- (a) where two or more people who have a pre-existing knowledge of each other (for example, they may be colleagues or neighbours) and may share the cost of the trip
- (b) where a driver and passenger (who may not know each other) are travelling

to similar destinations at similar times and use a third party to connect them. The driver and passenger have a cost-sharing arrangement and the third party (does not receive any revenue for facilitating the carpooling trip)

- (c) to a company (for example, a call centre company) that provides a back office communications function through which it supports a completely unrelated passenger service company, would not itself be an approved transport operator

To ensure passenger safety

- 148. **agree** that the future regime for small passenger services include:
 - (a) a fit and proper person test for all drivers
 - (b) that a driver must have held for at least two years a New Zealand full licence (of a class other than Class six)
 - (c) driver work time and logbook requirements – similar to current requirements
 - (d) a Certificate of Fitness requirement (renewed every six months)
 - (e) that a small passenger service operator be required to both notify the NZ Transport Agency of any complaints received alleging serious improper behaviour by drivers, and support the NZ Transport Agency or the Police when they undertake any regulatory or compliance activity
- 149. **note** that we expect standard P endorsement applications to be completed within a maximum of 20 working days and that we have asked the NZ Transport Agency to report to me when timeframes exceed 20 working days
- 150. **note** that the NZ Transport Agency and NZ Police will report to us in early 2016 on the initial findings from investigation to identify further options to improve fit and proper persons checks.
- 151. **note that** we intend to express our positions on the service delivery of the P endorsement assessment in the future through the Minister of Transport's annual letter of expectations to the Chair of the NZ Transport Agency

Ensuring driver safety

- 152. **agree** that the future regime for small passenger services include:
 - (a) powers for passenger service drivers to refuse to accept some passengers – where a driver considers that their personal safety could be compromised
 - (b) a duty approved transport operators to promote driver safety
- 153. **note** that the future regime for small passenger services no longer include the mandatory panic alarms by taxi operators as set out in the existing transport rules (but will not be prohibited under the future regime)

154. **agree** the preferred approach for the future of in-vehicle recording cameras is Option 4 – *Mandating in-vehicle recording cameras with exemption provision* of the following:
- Option 1 – *Mandating in-vehicle recording cameras*
 - Option 2 – *Obtaining a visual record*
 - Option 3 – *Operator business decisions*
 - Option 4 – *Mandating in-vehicle recording cameras with exemption provision*
155. **agree** that to give effect to option 4 – *Mandating in-vehicle recording cameras with exemption provision*, the future regime for small passenger services will include:
- (a) that all small passenger services must have an approved in-vehicle recording cameras as set out in the existing provisions for taxi services
 - (b) that operators may apply to the NZ Transport Agency for an exemption from an in-vehicle recording camera where they meet all criteria of: providing services to registered passengers only; collection of driver and passenger information; availability of driver and passenger information; and retaining a record of each trip
156. **agree** that the Minister of Transport and the Associate Minister of Transport may make further changes to the criteria to ensure the exemptions regime is flexible, enables technology, and manages driver and passenger safety
157. **note** that the requirements for in-vehicle recording cameras and exemptions will require operators comply with the Privacy Act 1993.

Removing restrictions on how drivers and passengers connect

158. **note** the future regime for small passenger services no longer needs to prescribe how different types of small passengers connect with their customers and that the regulatory regime be silent on this

Consumer protection, pricing, and fares under a single class of operator

159. **agree** that the future regime for small passenger services include:
- (a) a duty for a passenger service driver to take a route that is most advantageous to the hirer (unless agreed otherwise)
 - (b) a duty for a passenger service driver to agree the basis of the fare with the passenger prior to the commencement of the trip
160. **note** that the future regime for small passenger services no longer include:
- (a) for a taxi driver on a rank to accept the first hire offered
 - (b) for taxi and shuttle operators to register fares with the NZ Transport Agency
 - (c) for a taxi to display its registered fare information on the outside and inside of the vehicle

- (d) for a taxi to use a meter to calculate a fare and not charge more than the meter in relation to the operation and maintenance of meters that are used to determine the fare for a trip (taxi fares may be based on either a meter or fixed fare)
- (e) for shuttle operators to notify the NZ Transport Agency of their fare schedules and keep it notified of any changes
- (f) that private hire operators are prohibited from using a meter, and required to agree the fare with the hirer before the commencement of a trip (private hire operators are not required to register their fares with the NZ Transport Agency)
- (g) restrictions on carpooling arrangements to be based on a cost-recovery basis only (carpooling will remain unregulated based on a more specific definition)

Meeting the needs of people with disabilities

- 161. **note** the Total Mobility Scheme remains the appropriate mechanism for the Government to assist in meeting the needs of people with particular requirements and that the level of funding provided for the scheme is a matter that the Government and the funding agencies can, and should, review over time
- 162. **agree** that transport officials report back to us in 2016 on initiatives to better understand the existing levels of services provided for people with disabilities to be in a position to identify and respond to any impacts resulting from the wider changes to the market
- 163. **note** that the future regime for small passenger services no longer include a requirement for taxis to provide information in Braille

Ensuring regulatory compliance is achieved

- 164. **agree** that the future regime for small passenger services include providers of taxi, private hire, shuttle, dial-a-driver, ridesharing services; or a transport network company that operates in the market in a manner similar to other passenger service operators as an approved transport operator
- 165. **agree** that an approved transport operator would be responsible for ensuring, and maintaining evidential records, that:
 - (a) all of its drivers have a P endorsement – that they are a fit and proper person to drive passengers
 - (b) all drivers only work within their work time limits
 - (c) all vehicles have a Certificate of Fitness (excluding dial-a-driver services)
- 166. **note** that in addition to the specified regulatory responsibilities, an approved transport operator will have its own business interest in complying with those matters and that any level of non-compliance will diminish its reputation with the public and potentially reduce future revenues

167. **agree** that the future regime for small passenger services in relation to drivers include:
- (a) that a driver could only drive for an approved transport operator (they could be an owner/driver, in which case they would themselves have to be an approved transport operator)
 - (b) that a driver would have an individual responsibility for ensuring they held a current P endorsement and identification card
 - (c) that a driver would have an individual responsibility for ensuring they worked within their work time limits (including when they worked for more than one approved transport operator)
 - (d) that a driver would have an individual responsibility for ensuring any vehicle that they drive has a valid Certificate of Fitness (the Certificate of Fitness requirement would not apply to dial-a-driver services).
168. **agree** that the future regime for small passenger services in relation to the NZ Transport Agency include:
- (a) that the NZ Transport Agency will approve applications for new transport operators on the basis that the person(s) in control of it are fit and proper persons
 - (b) that the NZ Transport Agency be able to undertake audits or other investigations to satisfy itself that an approved transport operator (and any parties connected with it, including drivers) comply with all relevant regulatory obligations
 - (c) where the NZ Transport Agency is not satisfied, it should have the power to require compliance, or to suspend or revoke a person or operator's authority to operate
 - (d) the authority to investigate complaints that relate to the non-compliance of an approved transport operator (or its drivers) with their regulatory responsibilities.
169. **agree** that the relevant existing offences and penalties regime be retained under the future regime to support the proposed future regulatory regime

Removing redundant requirements from the existing regime

170. **note** that the redundant requirements we are proposing to remove are outdated regulations that imposes compliance costs on the sector that are not longer justified
171. **note** that the NZ Transport Agency has a role in providing information to assist industry participants to understand their role and responsibilities and other organisations, such as the NZ Taxi Federation, could also have a role in providing information and support for their own members to understand their role and responsibilities within the small passenger system

172. **note** that the future regime for small passenger services no longer include:
- (a) signage requirements applying to taxis
 - (b) the Area Knowledge Certificate requirement
 - (c) that a driver must have passed a full licence test in the last five years immediately preceding the date of application for an passenger endorsement to their licence
 - (d) that taxi drivers meet an English language requirement
 - (e) access to small passenger services on a 24/7 basis operators would make business decisions on the quantity and timing of their service provision
 - (f) the Certificate of Knowledge of Law and Practice for the operator of an approved taxi organisation or a small passenger service
 - (g) the specific requirements about what the NZ Transport Agency must be satisfied before granting an application to approved operators
 - (h) the Passenger Service Licence

Legislative implications

173. **note** that a Land Transport Amendment Bill, which will implement the proposals agreed to by Cabinet, has been included in the 2015 legislative programme with a category 5 priority
174. **invite** the Minister of Transport and the Associate Minister of Transport to issue drafting instructions to give effect to the recommendations set out in this paper.
175. **authorise** the Minister of Transport and the Associate Minister of Transport to make decisions, consistent with the overall policy decisions in this paper, on any issues which arise during the course of drafting

Financial implications

176. **note** that further work will be undertaken to identify changes to fees and charges regulations that may be needed to ensure they align with the changes to the NZ Transport Agency regulatory role

Transitional arrangements

177. **note** that work will need to be undertaken to ensure a smooth transition from the existing regime into the future one and that this will need to provide for existing operators and those that will need to enter the regulatory system

Publicity

178. **note** we intend to issue a media statement before the end of December 2015, to announce the intended future regulatory regime for the small

passenger services sector and this will be supported by the Ministry of Transport making information available on its website to ensure the public is aware of the changes and the reasons for them

179. **note** we intend to issue a media statement when the Land Transport Amendment Bill is introduced. We also intend that relevant documents including this paper and the Ministry's cost benefit analysis and regulatory impact statement be publicly released once the announcement has been made.

Hon Simon Bridges
Minister of Transport

Dated: _____

Hon Craig Foss
Associate Minister of Transport

Dated: _____

Appendix A — Future state objectives used as criteria to assess the options considered

The future state objective

An efficient system

1. The system is **responsive to supply and demand** – passenger service companies operate in a competitive market(s) that is responsive to both supply and demand signals (meeting customer needs).
2. The system imposes the **lowest level of compliance burden to achieve the regulatory objective** – the compliance burden on operators should be as low as possible, while ensuring there are appropriate requirements in place to meet any specified objectives.
3. There is **transparency over fees and charges** – passengers should have access to meaningful information about what the costs of the services are, enabling them to make informed service choices.

An effective system

4. The system provides **effective choice for people to move where they need to go in a timely manner** – the system should provide passengers with a range of service offerings (quality and price) to meet their expectations.

A resilient system

5. The system **incentivises the provision of improved customer services** – the regulatory regime should act to incentivise innovation and improved customer service over time.

A safe and responsible system

6. The system **mitigates the safety risk for passengers, drivers and from vehicles** – reducing passenger, driver and vehicle safety risks is of fundamental concern to the small passenger service industry. Drivers and passengers need to have confidence that they can safely participate in the small passenger system.

Appendix B – Model for compliance across the sector

