

Portfolio Committee No. 6 - Transport and Customer Service

**Operation of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016***

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## Table of contents

	<b>Terms of reference</b>	<b>v</b>
	<b>Committee details</b>	<b>vi</b>
	<b>Chair's foreword</b>	<b>vii</b>
	<b>Findings</b>	<b>ix</b>
	<b>Recommendations</b>	<b>x</b>
	<b>Conduct of inquiry</b>	<b>xii</b>
<b>Chapter 1</b>	<b>Overview of the point to point transport industry and reforms</b>	<b>1</b>
	<b>Key stakeholders within the point to point transport industry</b>	<b>1</b>
	<b>Point to point transport reforms</b>	<b>2</b>
	Taskforce report and point to point legislation	2
	<b>The current regulatory framework</b>	<b>4</b>
	Safety and security	4
	Authorisation	5
	Licensing	5
	Fares	7
	<b>Point to Point Transport Commissioner</b>	<b>8</b>
	<b>Point to Point Independent Review 2020</b>	<b>10</b>
	<b>Bailment system</b>	<b>11</b>
<b>Chapter 2</b>	<b>Regulatory concerns</b>	<b>13</b>
	<b>Is there a level playing field?</b>	<b>13</b>
	Difference in operating costs	14
	Enforcement and compliance in the sector	17
	Bailment system and employment conditions	22
	Uneven access to government infrastructure	26
	<b>The shift in red tape</b>	<b>28</b>
	<b>A drop in service and quality standards</b>	<b>30</b>
	<b>Costs to enter the point to point sector</b>	<b>32</b>
	Should there be a cap on the rideshare sector?	34
	<b>Committee comment</b>	<b>35</b>

<b>Chapter 3</b>	<b>The consumer experience</b>	<b>39</b>
	<b>Customer satisfaction and usage</b>	<b>39</b>
	Fares	40
	<b>Taxi services in regional New South Wales</b>	<b>43</b>
	<b>Disability access</b>	<b>45</b>
	Barriers to accessing point to point transport	46
	Taxi Transport Subsidy Scheme	50
	Access to accurate fare information	52
	Wheelchair Accessible Taxis	53
	<b>Committee comment</b>	<b>55</b>
<b>Chapter 4</b>	<b>Industry assistance</b>	<b>59</b>
	<b>Taxi plate values</b>	<b>59</b>
	<b>Transitional Assistance Payment and Additional Assistance Hire Vehicles Payment schemes</b>	<b>61</b>
	Transitional Assistance Payment scheme eligibility and applications	62
	Additional Assistance Hire Vehicles Payment scheme eligibility and applications	63
	Stakeholder views	64
	<b>Additional Assistance Payment Scheme</b>	<b>65</b>
	Funding of and design of the scheme	65
	Complexity of the application process	71
	Time to apply	72
	Time taken to determine applications	73
	Lack of an appeal mechanism	74
	Impact of payments on Centrelink eligibility	74
	<b>Passenger Service Levy</b>	<b>75</b>
	Industry concerns with the Passenger Service Levy	77
	<b>COVID-19 pandemic assistance</b>	<b>80</b>
	<b>Calls for a buyback scheme</b>	<b>80</b>
	<b>Committee comment</b>	<b>84</b>
<b>Appendix 1</b>	<b>Submissions</b>	<b>87</b>
<b>Appendix 2</b>	<b>Witnesses at hearings</b>	<b>91</b>
<b>Appendix 3</b>	<b>Minutes</b>	<b>93</b>

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## Terms of reference

1. That, on completion of the inquiry into the Sydenham-Bankstown line conversion, Portfolio Committee No. 6 – Transport and Customer Service, inquire into and report on the operation of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016* and in particular:
  - (a) the operation of the regulatory system applying to the taxi industry,
  - (b) specifically, the system of bailment that operates in relation to the taxi industry, any changes pursued by the NSW Government to the system of bailment since enactment of the legislation, and any changes that should be made,
  - (c) the implementation of the industry assistance package for the taxi industry, including the Passenger Service Levy and how it has been applied,
  - (d) the impact of the legislation on the value of taxi plates,
  - (e) the role and function of the Point to Point Transport Commissioner, and
  - (f) any other related matter.

The terms of reference were self-referred by the committee on 6 November 2019.<sup>1</sup>

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<sup>1</sup> *Minutes*, NSW Legislative Council, 12 November 2019, p 634.

## Committee details

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### Committee members

<b>Ms Abigail Boyd MLC</b>	The Greens	<i>Chair</i>
<b>The Hon Mark Banasiak MLC</b>	Shooters, Fishers and Farmers Party	<i>Deputy Chair</i>
<b>The Hon Scott Farlow MLC</b>	Liberal Party	
<b>The Hon Sam Farraway MLC</b>	The Nationals	
<b>The Hon John Graham MLC</b>	Australian Labor Party	
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## Chair's foreword

Legalised by the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*, there is no doubt that the entry of rideshare services to the point to point transport industry caused significant disruption to the taxi and hire car industry in New South Wales. The committee set up this inquiry to focus on how the taxi industry has been affected by the reforms and whether government support to date has been adequate.

With such significant change to the point to point transport landscape, reform was inevitable. However, we believe that the government has failed to create a level playing field between the taxi and rideshare industries. The reforms removed many prescriptive requirements and placed more responsibility on the service providers in the industry. While a rideshare company may be able to shoulder such responsibility, it is important to recognise that the taxi industry is made up of many smaller participants that are now facing further burdens in addition to a reduction in revenue. The government must take steps to help alleviate the pressures on the taxi industry to ensure the viability of this industry particularly in regional towns which rely on their local taxi networks to maintain a 24/7 transport service.

As with any disrupted industry, there is a period of transition which can be challenging for stakeholders. In submissions and the online questionnaire, the committee read story after story of taxi licence holders losing up to 80 per cent of their taxi plate value. For many of these stakeholders, this represents a significant loss in income and retirement funds. We also heard about the difficulties faced by those taxi drivers and operators who are not licence owners.

While the \$250 million industry assistance package was a welcome announcement, we found that the package was insufficient and failed to alleviate the financial distress experienced across the taxi industry. The Transitional Assistance Payment was significantly limited in scope, particularly in comparison to the Additional Assistance Hire Vehicles Payment Scheme which essentially provided a buyback scheme for hire car licences.

Of particular concern to the committee was the Additional Assistance Payment Scheme. Representing \$142 million of the overarching \$250 million industry assistance package, this scheme was devised to provide assistance to industry participants facing hardship following the reforms. However, only a third of this money - \$42 million - was disbursed, suggesting that the criteria for hardship was far too strict. Additionally, evidence to this inquiry highlighted that the application process was too difficult for many that could have applied, with some being overwhelmed by the amount of paperwork necessary to demonstrate their dire financial situation.

We understand that an independent review has recently been undertaken, led by Ms Sue Baker-Finch, to consider a number of matters related to what our inquiry has considered, including whether further financial assistance is needed in the industry. Regardless of the outcome of that review, the government must as a matter of priority reinstate the Additional Assistance Payment Scheme and revisit the criteria to ensure that all eligible stakeholders can easily apply and are effectively supported throughout the process.

Finally, in recognition of the significant drop in taxi plate values and the hardship subsequently experienced by licence owners, the committee has recommended that the government develop and implement a buyback scheme of ordinary taxi licences. This would allow those licence owners who wish to retire to do so, while also helping the viability of the industry and releasing capital that can be used to innovate and effectively compete in the point to point transport industry.

Stakeholders across the taxi industry were forthright in sharing their experiences and struggles following the reforms. Ultimately, it was clear to the committee that further structural change and financial support is needed to ensure the survival of an industry that is important to communities and the broader transport infrastructure in New South Wales.

On behalf of the committee, I sincerely thank all those who participated in our inquiry, in particular the taxi drivers, operators, licence owners and networks who took the time to share their personal stories and views with us. I'd also like to thank my committee colleagues, and the committee secretariat and Hansard staff.



Abigail Boyd  
**Committee Chair**



## Findings

- Finding 1** **7**  
That the transfer and lease value of taxi licences have incurred a net loss of at least 80 per cent since 2015 as a direct result of the NSW Government's handling of rideshare illegal entry and operation in the market and subsequent regulation through the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*.
- Finding 2** **35**  
That the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016* has failed to level the playing field between taxis, hire vehicles and rideshare operators.
- Finding 3** **84**  
That the industry assistance package was insufficient, failing to alleviate the financial distress experienced across the taxi industry as a result of the implementation of the point to point reforms.
- Finding 4** **84**  
That the Additional Assistance Payment Scheme (AAPS) package, meant to provide assistance to industry members facing hardship, has been dramatically underspent. Of the \$142 million allocated, only \$42 million has been spent. Further, that of 1,258 applications, nil payments were made in 727 cases, which is more than half the total number of applications.

## Recommendations

- Recommendation 1** **33**  
That the NSW Government amend the point to point transport regulations and examine the universal service obligations to allow for flexibility.
- Recommendation 2** **35**  
That the NSW Government review how Compulsory Third Party insurance costs are calculated for all key stakeholders operating within the point to point transport industry, with a view to ensuring equal costs and competitive neutrality for taxis, hire vehicles and rideshare.
- Recommendation 3** **36**  
That the NSW Government improve quality and service standards within the point to point transport industry by:
- reinstating a centralised complaints handling system, and developing a fatigue management system and information sharing portal on banned drivers
  - incorporating these mechanisms in the Driver Vehicle Dashboard portal managed by the Point to Point Transport Commission
  - ensuring that any complaints handling system is accessible to consumers with a disability
  - developing either internally or through external tender a mother app that provides New South Wales public users with the ability to access booking and payment for all taxi and rideshare platforms.
- Recommendation 4** **36**  
That the NSW Government increase on-street enforcement efforts in the point to point transport industry, particularly in regional New South Wales and investigate why a disparity currently exists between enforcement of rideshare and taxi vehicles.
- Recommendation 5** **37**  
That the NSW Government change the signage requirements for rideshare vehicles to a more visible, easily identifiable format.
- Recommendation 6** **37**  
That the NSW Government work with local government to facilitate safe pick up and drop off zones for passengers of rideshare services and increase enforcement of these zones so they do not breach current rank and hail conditions.
- Recommendation 7** **37**  
That the NSW Legislative Council's Select Committee on the Technological Change on the Future of Work conduct an independent review into the employment relationship between rideshare services and their drivers to determine how best to apply employment entitlements to rideshare drivers.
- Recommendation 8** **38**  
That the NSW Government work with all stakeholders in the point to point transport industry to regulate the industry with a view to establishing a level playing field that addresses all inequities outlined through this inquiry process.

- Recommendation 9** 55  
That the NSW Government commission research by the Independent Pricing and Regulatory Tribunal to determine the impact of point to point transport reforms on fares for consumers, with this to assess the impact of the reforms since they have been introduced, and include a recommendation about arrangements for assessing the impact of fares on consumers in the future.
- Recommendation 10** 56  
That the NSW Government consider utilising the taxi industry in regional New South Wales for government funded initiatives and contracts, such as community transport.
- Recommendation 11** 56  
That the Minister for Transport and Roads immediately publicly release the Point to Point Independent Review 2020 (conducted by Ms Sue Baker-Finch).
- Recommendation 12** 57  
That the NSW Government improve access to the point to point transport industry for people with a disability by:
- requiring all booking apps to comply with accessibility guidelines
  - incorporating tactile number requirements in licencing requirements for all taxi and booked services
  - expanding the Taxi Transport Subsidy Scheme to rideshare services and moving to a provider-neutral smart card system
  - developing a mandatory education and training program, in consultation with the disability sector, that rideshare and taxi drivers must complete.
- Recommendation 13** 57  
That the NSW Government develop a point to point transport disability forum with representatives from the government, the point to point transport industry and the disability sector, to provide a formal forum to discuss and address disability access issues in the industry.
- Recommendation 14** 85  
That the NSW Government develop and implement a buyback scheme of ordinary taxi licences.
- Recommendation 15** 85  
That to pursue Recommendation 14, the NSW Government form a working group which includes industry and the Transport Workers' Union.
- Recommendation 16** 85  
That the NSW Government and working group (as outlined in Recommendation 15) develop a policy for bailment reform in conjunction with the development of a buyback scheme.
- Recommendation 17** 86  
That the NSW Government reinstate and expand the criteria of the additional assistance package, to ensure that all taxi industry participants including taxi drivers who have been affected by the reforms can apply.
- Recommendation 18** 86  
That the NSW Government consider ways to lessen the administrative burden on taxi networks when collecting the passenger service levy.

## Conduct of inquiry

The terms of reference for the inquiry were self-referred by the committee on 6 November 2019. The inquiry commenced on 2 April 2020.

The committee received 101 submissions and six supplementary submissions, as well as 617 responses from individual participants to an online questionnaire.

The committee held one public hearing by videoconference on 19 August 2020, and one public hearing in the Macquarie Room at Parliament House in Sydney on 25 September 2020.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, answers to questions on notice and the report on the online questionnaire.

# Chapter 1 Overview of the point to point transport industry and reforms

This chapter provides an overview of the point to point transport industry, by setting out the key stakeholders who provide point to point transport, including taxi licence owners, operators, networks and drivers, hire car operators and rideshare services. It then outlines the point to point reforms, explaining the objectives of changes to the industry and the role of the Point to Point Transport Commissioner. The chapter also touches on the independent review into the point to point transport industry currently being conducted, and concludes with an overview of the bailment system, which is relevant to employment protections for taxi drivers.

## Key stakeholders within the point to point transport industry

- 1.1** The point to point transport industry plays a significant role in supporting transport infrastructure and complementing public transport services.<sup>2</sup> Generally, it includes those that provide rank and hail services and booked services, including stakeholders from within the taxi, hire car and rideshare sectors.
- 1.2** The NSW Taxi Council and the Transport Workers' Union pointed to the role of the taxi and hire car industries in providing door-to-door transport services 24 hours a day, 7 days a week, being available at times when public transport has reduced or ceased operation, and providing services for people with a disability or who are less mobile and cannot use public transport.<sup>3</sup>
- 1.3** The NSW Taxi Council explained that the taxi industry is made up of four key stakeholders: taxi licence owners, taxi networks, taxi operators and taxi drivers.
- **Taxi licence owners** own the 'principal legal instrument to provide a taxi service'. A taxi licence owner can own, operate and drive a taxi but they can also lease the taxi licence to a separate taxi operator.
  - **Taxi networks** are authorised service providers which are the 'principal means through which taxi services are coordinated' by providing booking services and other services to operators and drivers.
  - **Taxi operators** pay a network fee to taxi networks to have access to the network's services. The network has no financial relationship with the taxi driver.
  - **Taxi drivers** bail taxis from taxi operators by paying a bailment fee to the operator. It is the taxi driver's responsibility to collect fares from passengers.<sup>4</sup>
- 1.4** In New South Wales, there are 4,000 taxi licence owners, over 250 authorised taxi service providers (networks), over 3,000 taxi operators and more than 15,000 authorised drivers.<sup>5</sup>

<sup>2</sup> Submission 60, Transport Workers' Union of New South Wales, p 1; Submission 83, Uber, p 6, Submission 62, NSW Taxi Council, p 10.

<sup>3</sup> Submission 62, NSW Taxi Council, p 10; Submission 60, Transport Workers' Union of New South Wales, p 1.

<sup>4</sup> Submission 62, NSW Taxi Council, p 11.

<sup>5</sup> Submission 62, NSW Taxi Council, p 10.

- 1.5** According to Uber, a large ridesharing service, ridesharing refers to 'transport services in which the driver and passenger connect via a digital application'. These applications communicate trip requests from passengers to drivers, allow passengers to identify drivers and vehicles, disclose the fare before a trip, generate a digital record of the trip and enable drivers and passengers to register feedback.<sup>6</sup>
- 1.6** The 'Transport Workers' Union outlined that there are 27 rideshare platforms available in Australia,<sup>7</sup> while a number of stakeholders to the inquiry suggested that there are 20,000 to 30,000 rideshare drivers.<sup>8</sup>
- 1.7** To provide some context to how ridesharing services entered the market, it is worth noting that Uber launched in Australia before the commencement of point to point transport reforms, with one service in 2012 and another in 2014.<sup>9</sup> This meant that Uber was operating illegally and capitalised on this advantage at the expense of taxi and hire vehicles.

## **Point to point transport reforms**

- 1.8** The reforms to the industry were implemented following an independent report which looked at how various services had changed as a result of a number of factors, including the entry of rideshare services into the market and new technologies for bookings and payments. This section will provide an overview of the Point to Point Transport Taskforce Report (hereafter referred to as the Taskforce Report) and its recommendations, and the legislation which created these changes, the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016* and associated regulations.

### **Taskforce report and point to point legislation**

- 1.9** Prior to the commencement of the point to point reforms the taxi and hire car industry was regulated, whereas rideshare services operated outside of this framework. According to the NSW Government, the regulatory framework at the time of Uber's rideshare launch in 2014 'did not accommodate the shifts that were occurring in technology, social attitudes and changing customer expectations of point to point transport'.<sup>10</sup>
- 1.10** In response, the then Minister for Transport and Infrastructure announced the establishment of an independent taskforce, led by Professor Gary Sturgess AM and assisted by Dr Tom Parry AM, to 'examine the future sustainability of taxis, hire cars and other emerging point to point transport providers in NSW, including rideshare services'.<sup>11</sup>
- 1.11** During July and August 2015, the Taskforce consulted with hundreds of stakeholders and released a discussion paper in August 2015. In response to the discussion paper, more than

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<sup>6</sup> Submission 83, Uber, pp 7-8.

<sup>7</sup> Submission 60, Transport Workers' Union of New South Wales, pp 1-2.

<sup>8</sup> See, Evidence, Mr Lee Furlong, Assistant General Manager, Legion Cabs, 19 August 2020, p 14; Evidence, Mr Brian Wilkins, President, NSW Taxi Industry Association, 25 September 2020, p 5.

<sup>9</sup> Submission 83, Uber, p 6.

<sup>10</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 8.

<sup>11</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 8.

5,600 stakeholders made submissions which 'helped the taskforce form its recommendations to the Minister as part of its final report in December 2015'.<sup>12</sup>

- 1.12** Of relevance, the Taskforce concluded that it would 'not be enough' to 'graft ridesharing provisions into the existing regulatory structure'. The report stated that this would 'preclude the possibility of further innovation in the booked service market for entrepreneurs with entirely different service models'. It added that:

Simply amending the law by creating a new category for ridesharing would lock existing point to point providers, particularly the taxi industry, into an outdated regulatory framework and business model that would make it much more difficult for them to compete.<sup>13</sup>

- 1.13** Ultimately, the Taskforce made 57 recommendations, 56 of which were accepted by the NSW Government.<sup>14</sup> In forming the recommendations, the Taskforce distinguished between two types of point to point transport services: rank and hail services where the experience is anonymous and there is no record of the customer or their trip, and booked services where there is a record of the customer and their journey.<sup>15</sup>

- 1.14** The recommendations generally covered the following areas: safety and security, consumer protection – insurance and regulated fares, service quality and innovation, supply, compliance and enforcement, transport disadvantage and transition.<sup>16</sup>

- 1.15** These recommendations led to the introduction of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*, which passed both Houses of Parliament on 22 June 2016 without amendments.<sup>17</sup> Changes under this Act, and related regulations, commenced on 1 November 2017.<sup>18</sup>

- 1.16** According to the NSW Government, this meant that rideshare services were legalised and regulation was modernised to provide more opportunities for drivers and choice for consumers. In addition, the government implemented assistance packages for parts of the industry to help with the transition to the new framework:

The government's response was to legalise rideshare services and modernise regulation for point to point services to provide more opportunities for all drivers along with stronger safety mechanisms, better competition and choice for customers.

The response also included assistance for parts of the industry, which needed to adjust to the new regulatory and market changes.<sup>19</sup>

<sup>12</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 8.

<sup>13</sup> NSW Government, *Point to Point Transport Taskforce: Report to the Minister for Transport and Infrastructure*, November 2015, p 4.

<sup>14</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 17.

<sup>15</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 17.

<sup>16</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 16.

<sup>17</sup> Submission 60, Transport Workers' Union of New South Wales, p 3.

<sup>18</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 17.

<sup>19</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 17.

- 1.17 Essentially, the industry assistance package valued at up to \$250 million included \$98 million for taxi licence holders to assist in transitioning into the new regulatory framework, up to \$10 million buyback scheme for hire car licence holders and up to \$142 million for individuals in the industry facing hardship as a result of the reforms.<sup>20</sup>

## The current regulatory framework

- 1.18 The point to point legislation and regulations makes reference to passenger services and booking services. A passenger service provider 'carries on the business of providing a passenger service which means the transport, by motor vehicle (other than a bus), or passengers within or partly within the State for fare'. There are two types of passenger services: services provided by taxis which are authorised to stand or ply for hire, and services provided by hire vehicles which are any vehicles which do not provide taxi services. By comparison, booking service providers carry on the 'business of taking bookings for taxis or hire vehicles and communicating the bookings to drivers for passenger services or providers of passenger services'.<sup>21</sup>
- 1.19 The NSW Government noted that taxis can be used for booked services like hire vehicles. However, only taxis can offer rank and hail services.<sup>22</sup>

### Safety and security

- 1.20 According to the NSW Government, the point to point regulatory reforms strengthened safety laws. Essentially, service providers such as taxi networks and rideshare companies became accountable for the safety of their services, and while they have to meet safety standards as set out by the regulations, they can establish their own policies and procedures.<sup>23</sup>
- 1.21 By contrast, under the old system, the Taskforce noted that the framework with regard to safety was 'prescriptive', stating that it 'provided a narrow view of how to achieve safety outcomes and gave no opportunity for industry participants to "own" any of the standards or processes meeting them'.<sup>24</sup>
- 1.22 In terms of standards, a key safety standard set out in the regulation is the need for service providers to have a safety management system. This involves identifying and keeping records of reasonably foreseeable hazards, control measures taken to eliminate or minimise risks and what is done to maintain those control measures. Service providers are required to maintain records that specify how they comply with safety standards and details of any notifiable occurrences which must be reported to the regulator.<sup>25</sup>
- 1.23 Relevant to safety in the industry, it is also important to note that in recognition of the fact that taxis can engage in rank and hail services which are spontaneous and anonymous, additional safety features apply such as security cameras, duress alarm systems for taxis operating in

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<sup>20</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 31.

<sup>21</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 18.

<sup>22</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 18.

<sup>23</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 20.

<sup>24</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 9.

<sup>25</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 23.



Sydney, Wollongong, the Central Coast and Newcastle, vehicle fit outs and clear driver identification.<sup>26</sup>

- 1.24 The safety features required for taxis are vastly different to rideshare vehicles and the justification of rank and hail cannot solely account for that disparity.

### **Authorisation**

- 1.25 All taxi service providers and booking service providers must be authorised and comply with the conditions of any authorisation. As taxi services usually provide both booked services and rank and hail services, they require both types of authorisation.<sup>27</sup>
- 1.26 The Point to Point Transport Commissioner may grant or refuse an application for authorisation, and impose certain conditions. In accordance with various record keeping requirements as per prescribed conditions, taxi service providers must keep records of their drivers, vehicles and any affiliated providers, as well as records of each rank and hail trip. Booking service providers must maintain records of each booking for at least two years after a booking is taken.<sup>28</sup>
- 1.27 Providers must also comply with the safety standards of their type of service as a condition of their authorisation. Failure to comply with any conditions or requirements of the legislation can result in the variation, suspension or cancellation of the authorisation. In addition, annual authorisation fees apply based on the total number of passenger service transactions carried out in a financial year.<sup>29</sup>

### **Licensing**

- 1.28 The point to point transport legislation requires vehicles providing taxi services to have a taxi licence, which is issued by the Point to Point Transport Commissioner. Taxi licences can be renewed annually, and can be leased and transferred.<sup>30</sup> Transport for NSW and the Point to Point Transport Commissioner seemed to have no way of tracking the activity or lack thereof of the Passenger Transport Licence Codes.<sup>31</sup>
- 1.29 Each year, Transport for NSW determines the number of taxi licences to be issued based on a number of factors including: the likely passenger demand and latent demand for taxi services, the performance of existing taxi services, the demand for new taxi licences, the viability and sustainability of the taxi industry, and any other relevant matter with regard to the objective of ensuring improved taxi services.<sup>32</sup>

<sup>26</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, pp 17-18 and 20-22.

<sup>27</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, pp 23-24.

<sup>28</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 24.

<sup>29</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 25.

<sup>30</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 28.

<sup>31</sup> See, Evidence, Mr Anthony Wing, Point to Point Transport Commissioner, 25 September 2020, p 68.

<sup>32</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 26.

- 1.30** After Transport for NSW determines the number of licences to be issued, the Point to Point Transport Commissioner conducts a public tender with licences issued to the highest bidders. These licences can be renewed up to nine times, with the annual fee being the amount of the successful tender bid.<sup>33</sup>
- 1.31** The Commissioner can issue taxi licences under the following three categories: metropolitan, non-metropolitan and wheelchair accessible. The Commissioner may also specify conditions on licences but the trend in recent years has been to apply very few conditions.<sup>34</sup>
- 1.32** The legislation also provides for conditions to be applied in terms of a taxi's area of operation. Wheelchair accessible taxi licences are not subject to area based restrictions other than the metropolitan/non-metropolitan restrictions.<sup>35</sup>
- 1.33** After the reforms were introduced, the NSW Government did not issue any additional annual taxi licences for four years, so as to help the industry adjust to the new regulatory framework, and as recommended by the Taskforce. No licences have been determined for areas outside of Sydney due to limited or no demand.<sup>36</sup>
- 1.34** For the year 2020/2021, Transport for NSW has also determined that no additional taxi licences be issued anywhere in New South Wales due to the COVID-19 pandemic.<sup>37</sup>
- 1.35** It is important to note that the legislation recognises the continued force of taxi licences under the previous regulatory framework. Known as ordinary taxi licences, these licences were perpetual and could be bought and sold on the open market, inherited, leased or sub-leased. Ordinary licences specify the area of operation for the licence holder. The NSW Government supported the Taskforce recommendation that a review should be conducted into area based restrictions on rank and hail services but to date, this review has not been undertaken.<sup>38</sup>
- 1.36** The NSW Government also accepted the Taskforce's recommendation to stop the release of further ordinary licences. It did not accept, however, the recommendation to convert existing ordinary licences into annual licences as 'this would significantly affect the rights of taxi licence owners'.<sup>39</sup>
- 1.37** In terms of booked services, a special licence such as a hire car licence is no longer required. Booked services are unrestricted in their area of operation and can accept bookings for journeys anywhere in New South Wales. There is also no cap on the number of hire car vehicles able to operate in New South Wales.<sup>40</sup>

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<sup>33</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 26.

<sup>34</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 27.

<sup>35</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 27.

<sup>36</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 26.

<sup>37</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, pp 26-27.

<sup>38</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 28.

<sup>39</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 25.

<sup>40</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 25.

*Value of ordinary licences*

- 1.38** In its submission, the NSW Government provided information on the transfer and lease value of ordinary taxi licences. The committee also received evidence from industry participants on values which was by and large less positive.
- 1.39** In Sydney, licence transfer values have been stable above \$70,000 since April 2019 and up to \$105,000, compared to \$333,000 in July 2015 when the Taskforce was announced. Outside Sydney, transfer values 'have ranged from \$9,500 to \$19,000 in August 2019'. More specifically:
- in Newcastle and Wollongong, the value of ordinary licences was 'around \$30,000' in 2019, compared to \$200,000 in 2013
  - in Bathurst and Armidale, 'licence transfer values were steady at the time of the reforms but have undergone a decrease and rebound in more recent years':
    - in Bathurst values were at \$44,393 in May 2019, \$41,394 in August 2019, \$145,352 in September 2019 and \$125,392 in October 2019
    - in Armidale values were at \$84,764 in March 2018, \$170,619 in June 2018, \$150,000 in November 2018 and \$140,000 in May 2019
  - in Orange and Lismore, licence transfer values 'have remained steady up to the present day'
  - Tamworth 'has seen a sudden reduction followed by stabilisation since 2016'
  - Grafton 'has seen gradual but steady declines in value'.<sup>41</sup>

**Finding 1**

That the transfer and lease value of taxi licences have incurred a net loss of at least 80 per cent since 2015 as a direct result of the NSW Government's handling of rideshare illegal entry and operation in the market and subsequent regulation through the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*.

**Fares**

- 1.40** With the introduction of the point to point reforms, booked trips were no longer subject to a maximum regulated fare. This means that all booking service providers (including booked services for taxis, traditional hire cars and rideshare services) can now set their own fares.<sup>42</sup>
- 1.41** However, booking service providers must provide a fare estimate to a customer who must accept the estimate before the trip commences. The fare estimate must be in Australian dollars, can be based on rate per distance, rate per time, a flat rate or a combination of these, and must include information on how the fare may vary and how this variation may be calculated.<sup>43</sup>

<sup>41</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, pp 58-59.

<sup>42</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 29.

<sup>43</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 29.

- 1.42** Booked fares for customers with a disability using the Taxi Transport Subsidy Scheme remain regulated. In this instance, a fare calculation device must be used and the fare cannot exceed the regulated maximum set by the fares order.<sup>44</sup>
- 1.43** The maximum fares for rank and hail taxi services remain regulated. Transport for NSW makes a fares order and may have regard to any recommendations made by the Independent Pricing and Regulatory Tribunal.<sup>45</sup> The NSW Government advised that it is an offence to demand a fare higher than the maximum amount in the fares order, but providers can charge less than the maximum.<sup>46</sup>
- 1.44** The current fares order was made on 1 February 2018. It included the removal of a booking fee, the setting of a maximum cleaning fee of \$120, the removal of the return toll for the Sydney Harbour Bridge and Tunnel northbound trip, and the provision to allow taxi service providers to pass onto passengers the cost of the \$1.00 passenger service levy, plus GST (see paragraph 4.92 and chapter 4 for more information about the purpose and collection of this levy). The NSW Government noted that 'nominal maximum fares have not increased since 1 July 2014'.<sup>47</sup>

## **Point to Point Transport Commissioner**

- 1.45** As part of the reforms, the NSW Government established the role of the Point to Point Transport Commissioner to focus on enforcement and compliance. The NSW Government advised that: 'While the taskforce did not recommend an independent regulator, the NSW Government established the Commissioner as an independent statutory officer ... to signal a new approach to regulation in the industry'.<sup>48</sup>
- 1.46** The Commissioner is appointed by the Governor on recommendation from the Minister for Transport and Roads. The Commissioner's functions and powers are as below:
- to administer the authorisation and licencing schemes established by the Act,
  - to manage the enforcement of the Act and the Regulation,
  - to recommend safety and other standards for passenger and booking services,
  - to assist in the determination of liability for and enforcement of payment of the passenger service levy,
  - to advise the Minister on passenger services and booking services matters,
  - any other functions imposed on the Commissioner by the Act or any other legislation.<sup>49</sup>
- 1.47** The current Point to Point Transport Commissioner is Mr Anthony Wing. In evidence before the committee, Mr Wing advised that for the 2020-2021 financial year the Commissioner's focus is on the following key areas based on its audit and oversight program: driver on-boarding by service providers, safety management systems, preventative vehicle maintenance, illegal and

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<sup>44</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 30.

<sup>45</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 29.

<sup>46</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 29.

<sup>47</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 30.

<sup>48</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 33.

<sup>49</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 65.

unsafe driver behavior, and public health.<sup>50</sup> The Commissioner also noted the Commission's role in supporting the industry during the 2019-2020 bushfires and COVID-19 pandemic.<sup>51</sup>

**1.48** In addition, Mr Wing provided statistics to the committee on compliance and enforcement activity during 2019-2020:

During 2019-20, my compliance officers carried out regular activities including 63 safety audits of service providers, 289 advisory visits for service providers, 33 audits of the passenger service levy returns of service providers and 1,486 hire vehicle and taxi compliance checks across metropolitan and regional New South Wales. As well as carrying out covert and overt compliance activity, authorised officers issued 300 improvement notices and 31 prohibition notices. 1,627 penalty infringements were issued by commission officers and NSW Police Force for individual breaches of the point to point transport law. Furthermore, in 2019-20 we commenced prosecuting people for breaches of the law as part of our crackdown on touting and soliciting at Sydney Airport.<sup>52</sup>

**1.49** In relation to safety enforcement, the Commissioner 'regularly undertakes safety audits to ensure service providers are complying with point to point transport law'. The Commissioner's audit team offers advisory visits before audits and follows up with service providers on their audit results. The Commissioner noted that between 1 November 2017 and 31 March 2020, 770 advisory visits and 232 safety audits have been conducted with service providers.<sup>53</sup> The Commissioner also conducts on-street compliance activity by using a risk based approach to identify high risk locations, such as major events.<sup>54</sup>

**1.50** To help the point to point transport industry 'make informed decisions about whether their potential drivers and vehicles were safe and appropriate', the Point to Point Transport Commission manages a Driver Vehicle Dashboard (DVD). The Commissioner described this as 'a world first online tool that runs real-time safety checks from multiple external databases and displays results using an easy to understand traffic light system'. Through the portal, industry participants can check driver licensing, serious driving offences, medical fitness, disqualifying criminal charges, previous public passenger driver matters, other serious safety offences in New South Wales, as well as vehicle registration and checks in the one place.<sup>55</sup>

**1.51** The Commissioner also provided information on the ways in which he works with stakeholders within the sector. First, there is an industry reference group, which is comprised of key stakeholders from the industry and government. This group discusses key issues, shares information and provides guidance to industry on compliance. The group provides a mechanism for the industry to advise the Commissioner on areas of concerns for the industry and to work together to achieve compliance with the regulatory framework.<sup>56</sup>

<sup>50</sup> Evidence, Mr Wing, 25 September 2020, p 47.

<sup>51</sup> Evidence, Mr Wing, 25 September 2020, p 48; Submission 63, NSW Government and Point to Point Transport Commissioner, p 80.

<sup>52</sup> Evidence, Mr Wing, 25 September 2020, p 47.

<sup>53</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 69.

<sup>54</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 70.

<sup>55</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, pp 73-74.

<sup>56</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 78.

- 1.52** In addition, the Commissioner works with stakeholders in regional New South Wales by partnering with local councils, police and regional offices of other Transport for NSW divisions to 'build awareness of the Commissioner's role, function and vision for the point to point transport industry' and 'inform the Commissioner's compliance and engagement activities through local knowledge and data on emerging issues'.<sup>57</sup>
- 1.53** The Commissioner also provides education tools to help service providers understand their obligations. This includes webinars to address identified knowledge gaps, as well as general information for service providers. The Commissioner also works with the industry to seek feedback to appropriately target education programs.<sup>58</sup>

### **Point to Point Independent Review 2020**

- 1.54** In March 2020, a review of the point to point transport industry commenced. Led by Ms Sue Baker-Finch, the review is considering:
- whether there is a need for further industry assistance, particularly for those in regional areas
  - whether there is a need for further structural adjustment to ensure the long-term viability of the sector and to realise positive customer outcomes
  - whether there are regional towns at risk of losing point to point transport services and what can be done to address transport needs in those communities, particularly in relation to wheelchair accessible services.<sup>59</sup>
- 1.55** With the review's focus on regional New South Wales, the NSW Government advised Ms Baker-Finch was appointed based on her background in regional, local and state business chambers:
- Ms Sue Baker-Finch was selected and appointed by TfNSW to undertake the review consistent with the NSW Government's Procurement Guidelines. Given the regional focus of the Review, Ms Baker-Finch, who has a background in both regional, local and State business chambers, was selected to lead the review.<sup>60</sup>
- 1.56** No evidence was given in relation to Ms Baker-Finch's previous experience in the point to point transport industry.
- 1.57** In evidence before the committee, Dr Joost De Kock, Deputy Secretary, Customer Strategy & Technology at Transport for NSW, advised that Ms Baker-Finch has consulted 'very broadly' with industry participants. Ms Baker-Finch provided her review to the Minister for Transport

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<sup>57</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, pp 78-79.

<sup>58</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 79.

<sup>59</sup> Evidence, Dr Joost De Kock, Deputy Secretary, Customer Strategy & Technology, Transport for NSW, 25 September 2020, p 46; Submission 63, NSW Government and Point to Point Transport Commissioner, p 7.

<sup>60</sup> Answers to questions on notice, Transport for NSW, 13 November 2020, p 7.

and Roads and the Minister for Regional Transport and Roads in July 2020. Dr De Kock noted that 'the Government is considering its response to the review'.<sup>61</sup>

## Bailment system

- 1.58** Relevant to the point to point transport industry is the system of bailment, which provides employment protections for taxi drivers but not rideshare drivers.
- 1.59** Essentially, the relationship between taxi drivers and taxi operators is governed under Chapter 6 of the *Industrial Relations Act 1996* which applies to bailment and contracts of carriage. This legislation provides a 'discrete regulatory regime for certain transport workers, who at law are not employees'. The NSW Government explained that 'the Chapter 6 scheme is based on the premise that the drivers involved are, in terms of bargaining power, in an analogous position to employees'.<sup>62</sup>
- 1.60** Under the Act, a contract of bailment is a contract under which:
- a) a public vehicle that is a taxi is bailed to a person to enable the person to ply for hire, or
  - b) a public vehicle that is a hire vehicle is bailed to a person to transport passengers.<sup>63</sup>
- 1.61** The NSW Government advised that 'rideshare drivers are unlikely to be covered by Chapter 6 of the *Industrial Relations Act* (unless they are bailing the vehicle).<sup>64</sup> The 'Transport Workers' Union also explained that rideshare drivers are not considered employees of their rideshare platforms meaning that they do not have access to employee entitlements.<sup>65</sup>
- 1.62** Under Chapter 6, the Industrial Relations Commission has the power to make contract determinations, which are similar to awards, in regards to contracts of bailment between a bailor and bailee, and to approve contract agreements, similar to enterprise agreements, between parties of the contracts. A contract determination can be made in relation to driver remuneration, annual leave, sick leave, long service leave, the minimum and maximum number of bailment hours and other matters the Commission considers necessary.<sup>66</sup>
- 1.63** It is important to note that Chapter 6 did not always apply to all of New South Wales. The *Industrial Relations Act* originally limited bailment contracts to metropolitan Sydney, Newcastle and Wollongong. This was amended in 2003 to ensure that Chapter 6 applied to all contracts of bailment. However, there are no contract determinations operating in the industry outside metropolitan Sydney.<sup>67</sup>

<sup>61</sup> Evidence, Dr De Kock, 25 September 2020, p 46; Answers to questions on notice, Transport for NSW, p 8.

<sup>62</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 36.

<sup>63</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 37.

<sup>64</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 37.

<sup>65</sup> Submission 60, Transport Workers' Union of New South Wales, pp 6-8.

<sup>66</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 37.

<sup>67</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 38.

- 1.64** The current contract determination operating in the industry is the *Taxi Industry (Contract Drivers) Contract Determination 1984*, which regulates the method of payment required by the bailee to the bailor. There are two methods of payment. Under Method 1, the driver must pay the operator 50 per cent of their fare earnings, and 55 per cent in their first year, while the operator pays for fuel. Under Method 2, a driver retains the balance left after deducting a set daily pay-in amount, and pays for fuel and car wash. The NSW Government advised that the maximum pay-in amounts have not changed since July 2012, and range from \$175.01 for a day shift to \$266.55 for a Friday or Saturday night shift. A driver can choose their payment method 'without being victimised or terminated because of the choice they make'.<sup>68</sup>
- 1.65** In addition, a driver can be a permanent bailee or a casual bailee. A permanent bailee bails the taxi from the same owner/operator for five shifts per week or at least 220 night shifts or 230 day shifts per year. By comparison, a casual bailee is a driver who does not meet the criteria of a permanent bailee and is not entitled to sick leave or annual leave.<sup>69</sup>
- 1.66** NSW Employee Relations is the regulator and has authority to monitor compliance and enforcement of bailment agreements in the taxi industry that fall under a contract determination. The NSW Government noted that NSW Employee Relations 'has been successful in prosecuting a number of taxi owners/operators predominantly for non-payment of annual leave...'.<sup>70</sup>
- 1.67** In addition to its role in investigating and prosecuting complaints, NSW Employee Relations also plays a role in educating taxi owners/operators about their legal entitlements and obligations. These include education campaigns, information workshops, webinars and fact sheets and other online material on the NSW Employee Relations website.<sup>71</sup>

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<sup>68</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 39.

<sup>69</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 39.

<sup>70</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 41.

<sup>71</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 41. See also, Answers to questions on notice, Department of Premier and Cabinet, 3 November 2020.



## Chapter 2 Regulatory concerns

This chapter examines concerns raised by inquiry participants in relation to the point to point regulatory framework. It begins by considering whether the reforms have achieved a level playing field for industry participants – by looking at the difference in operating costs between key players in the sector, along with enforcement and compliance activities and labour standards for drivers.

The chapter then moves on to discuss other regulatory related concerns raised by stakeholders, including concerns that administrative obligations have been shifted from government onto taxi networks, a drop in quality and service standards within the industry, and the ease with which people can enter the sector, given this can affect competition.

### Is there a level playing field?

- 2.1 Many stakeholders from the taxi industry told the committee that they believed that the government failed to deliver a level playing field through the reforms. Generally, these stakeholders argued that the reforms favoured the rideshare industry, leaving the regulatory burden to fall unevenly onto the taxi industry.
- 2.2 For example, Mr Martin Rogers, Chief Executive Officer of the NSW Taxi Council, observed that it has been difficult for the taxi industry to compete with rideshare services. He explained that while the two services operate in the same space, their business models are different. In particular, he noted that the taxi industry is not one big business but made up of thousands of small businesses, noting that 'decisions need to be made with this in mind'.<sup>72</sup>
- 2.3 Regional Taxilines raised a similar point outlining that 'the current situation has two very different sectors trying to compete for a share of the booked transport market but with very different cost structures and non-level playing fields'.<sup>73</sup>
- 2.4 While Legion Cabs were 'grateful' for some of the reforms, it also contended that some reforms have fallen short, 'many leaving gaping holes' or stifling competition, thereby not allowing the taxi industry to realise its full potential.<sup>74</sup> Mr Vic Hazir, Association Secretary of the Taxis Owners and Small Business Association, described the regulations as 'draconian, biased and unfair'.<sup>75</sup> Similarly, the Australian Taxi Drivers Association and Taxi Driver Action Inc stated: 'The operation of the Act has been characterised by inequitable, uneven and unfair application of its regulations by the Point to Point Commission, and its failure to enforce clear regulatory requirements'.<sup>76</sup>
- 2.5 Inquiry participants, mostly from the taxi industry, raised a number of issues with the regulatory frameworks and other structural factors that tip the playing field in favour of rideshare services, including:

<sup>72</sup> Evidence, Mr Martin Rogers, CEO, NSW Taxi Council, 25 September 2020, p 3.

<sup>73</sup> Submission 68, Regional Taxilines Pty Limited, p 7.

<sup>74</sup> Submission 81, Legion Cabs, p 2.

<sup>75</sup> Evidence, Mr Vic Hazir, Association Secretary, Taxis Owners and Small Business Association, 25 September 2020, p 2.

<sup>76</sup> Submission 15, Australian Taxi Drivers Association and Taxi Driver Action Inc, p 2.

- costs associated with operating and maintaining a taxi compared with a rideshare vehicle
- enforcement and compliance disparity
- the bailment system and employment conditions.

**2.6** In contrast, rideshare services were largely in support of the reforms, citing competition and innovation as some of the main benefits. For example, Uber highlighted that: 'As the first state in Australia to reform point to point transport, NSW has led the world in openly regulating the sector, allowing for competition, complementarity and innovation between different types of point to point services'.<sup>77</sup>

**2.7** Similarly, Ola argued that deregulation has introduced competition in the point to point sector with New South Wales consumers as 'the biggest beneficiary' in terms of choice, experience and pricing.<sup>78</sup>

**2.8** Despite support for the reforms, both rideshare services identified some barriers that they believe disadvantage their businesses. These include:

- uneven access to government infrastructure such as bus lanes and curb space for pick up and drop off
- difficulty servicing the airport and major events.<sup>79</sup>

**2.9** These issues, along with the concerns raised by the taxi industry, were examined so as to determine whether the regulatory framework and other structural factors have created an uneven playing field for either industry.

### **Difference in operating costs**

**2.10** Inquiry participants pointed to higher operating costs imposed on taxi services compared with rideshare services as a key example of an uneven playing field in the point to point transport sector. In particular, a number of stakeholders highlighted the differences associated with insurance costs and the costs of installing mandatory safety features and other vehicle fit-outs such as security camera, meters and signage.<sup>80</sup>

**2.11** The NSW Taxi Council asserted that 'taxi operators have been left with the high operating costs creating an unfair and inequitable playing field with rideshare'.<sup>81</sup> According to the Council, these high costs have seen drivers and operators move to rideshare services leaving many taxi vehicles vacant, even in times that have been traditionally peak times for taxis in the past. In turn, the Council suggested that this makes it harder for operators to maintain services during quieter

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<sup>77</sup> Submission 83, Uber, p 3.

<sup>78</sup> Submission 82, Ola Australia Pty Ltd, p 3.

<sup>79</sup> Submission 82, Ola Australia Pty Ltd; Submission 83, Uber.

<sup>80</sup> See for example, Submission 8, Southern Highlands Taxis, Limousines & Coaches, p 2; Submission 62, NSW Taxi Council, p 20; Submission 65, Taxi Drivers Benefit Association NSW Inc 1701522, p 11; Submission 67, Manly Warringah Cabs (Trading) Co-operative Society Ltd, pp 4 and 6, Submission 15, Australian Taxi Drivers Association and Taxi Driver Action Inc, p 2.

<sup>81</sup> Submission 62, NSW Taxi Council, p 20.

periods when in the past they would offset their losses from the quieter periods during the busier periods.<sup>82</sup>

- 2.12** In terms of compulsory third party (CTP) insurance, the NSW Taxi Council explained that taxi operators pay over \$5,500 in metropolitan Sydney and over \$3,000 in regional New South Wales in CTP insurance costs, while rideshare operators pay as low as \$500 for their premiums. The Council further highlighted that there are still large upfront payments for taxis operators who opt in for instalment payments, while rideshare operators only pay 10 cents per kilometre in Sydney and 6.6 cents per kilometre in regional New South Wales.<sup>83</sup>
- 2.13** Manly Warringah Cabs elaborated on this model, explaining that rideshare services pay per kilometre engaged in a trip; that is when the driver picks up the passenger and drops them off. Rideshare operators do not pay for the kilometres while driving to pick up passengers. By contrast, taxis pay for all kilometres driven in a year regardless of whether they have passengers or not. Manly Warringah Cabs proposed that rideshare drivers be charged for every kilometre driven while logged into their rideshare app.<sup>84</sup>
- 2.14** In a similar vein, the Taxi Drivers Benefit Association NSW recommended that all point to point transport vehicles be placed into one common greenslip category.<sup>85</sup>
- 2.15** Rideshare services also had views on the calculation of CTP insurance premiums. Ola argued that CTP costs are a large burden on the industry and subsequently on the consumer. The rideshare service believed that 'the system needs to change to adequately reflect the real risks and to remove both double-dipping and price gouging from the insurance sector'. In addition, Ola argued that any changes, 'especially those that may increase costs, should ensure the system adequately caters for people who only drive a few hours a week as a rideshare driver to make sure they can still earn a decent living and are not forced out of the industry'.<sup>86</sup>
- 2.16** President of the NSW Taxi Industry Association, Mr Brian Wilkins, said that the industry had been working with the State Insurance Regulatory Authority for some time to address the issue of CTP calculations but that work in this area has been pushed back:

We have been working with the State Insurance Regulatory Authority ... for a long time now to try to come to some sensible agreement on the fact that taxis should not be 11 times more expensive than a private vehicle to put CTP insurance on in the Sydney metropolitan area, but they are. And that is not going to be changed now until 2021. They had to put it back because of other constraints that have come on. So the playing field has never eventuated.<sup>87</sup>

- 2.17** In its submission, the NSW Government stated that the *Motor Accident Injuries Act 2017* 'reduced premiums for all motorists including owners of taxis, hire cars and ride sharing vehicles'. As at April 2020, the NSW Government submitted that the average metropolitan taxi premium

<sup>82</sup> Submission 62, NSW Taxi Council, pp 20-21.

<sup>83</sup> Submission 62, NSW Taxi Council, p 20. See also, Evidence, Mr Rogers, 25 September 2020, p 10.

<sup>84</sup> Submission 67, Manly Warringah Cabs (Trading) Co-operative Society Ltd, pp 6-7.

<sup>85</sup> Submission 65, Taxi Drivers Benefit Association NSW Inc 1701522, p 11.

<sup>86</sup> Submission 82, Ola Australia Pty Ltd, pp 8-9.

<sup>87</sup> Evidence, Mr Brian Wilkins, President, NSW Taxi Industry Association, 25 September 2020, p 10.

reduced from \$7,881 to \$3,730, while the average country taxi premium reduced from \$4,176 to \$2,502.<sup>88</sup>

- 2.18** In addition, the NSW Government noted that from April 2018, taxi operators have been able to access premiums based on distance travelled, while larger rideshare companies that carry out more than 10,000 trips per year, pay additional premiums on behalf of their drivers.<sup>89</sup>
- 2.19** Reflecting on the different approaches, the NSW Government explained that collecting data to calculate payable distance based premiums is different between the two vehicle types because the industry was 'technologically very different at the time this was implemented'. It stated that managing dual systems is costly and 'in some cases has resulted in increased late payment of premiums and barriers to some vehicle owners being able to access cheaper premiums'. Like other participants, the government noted that the State Insurance Regulatory Authority is working with the industry and insurers 'to try to resolve these problems'.<sup>90</sup>
- 2.20** The NSW Government also explained that taxi premiums are higher for taxis than other passenger vehicles due to their likelihood of accidents in which they are considered at fault. The government also noted that it is too early to know the average claims cost for rideshare vehicles:

Taxi premiums are higher than other passenger vehicles because they are more likely to have an accident in which they are at fault. For comparison, as at April 2020, the average premium for a metropolitan class 1 passenger vehicle is \$514 compared to \$3,730 for a metropolitan taxi. This is largely because metropolitan taxis have 12 times the claims frequency of metropolitan passenger vehicles.

Early data for rideshare vehicles is that they are likely to be around 3 times the claims frequency of passenger vehicles, but it is too early to know what the average claims costs are likely to be and whether the claims frequency will evolve as more data is gathered.<sup>91</sup>

- 2.21** Inquiry participants also raised the point that there are added costs for taxi operators to install safety features such as security cameras and other vehicle fit outs such as meters and signage.<sup>92</sup> Milton Ulladulla Taxis, Limousines and Charter Bus Service argued that security cameras should be mandated for all point to point transport vehicles for several reasons: security cameras may help prevent incidents from occurring; the cost to install cameras is an unfair burden for taxi operators to carry alone; and the cost ensures that the operator is inclined to 'stay in the game' and become a professional driver.<sup>93</sup>
- 2.22** Mr Graeme Harris, Delegate (Manly Warringah Taxis), Australian Taxi Drivers Association and Taxi Driver Action, suggested that both taxi and rideshare services should 'have the same safety

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<sup>88</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 34.

<sup>89</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 35.

<sup>90</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 35.

<sup>91</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 35.

<sup>92</sup> See for example, Submission 54, St George Cabs Co-operative Ltd, p 2; Submission 87b, Milton Ulladulla Taxis, Limousines and Charter Bus Service, p 3; Submission 8, Southern Highlands Taxis, Limousines & Coaches, p 2.

<sup>93</sup> Submission 87b, Milton Ulladulla Taxis, Limousines and Charter Bus Service, p 3.

features because both groups are transporting members of the public on public roads and both groups are clocking up large kilometres'.<sup>94</sup>

- 2.23** Mr Gavin Webb, Chief Legal Officer, Transport Workers' Union, cautioned that if there are any additional regulatory requirements to be imposed on rideshare drivers, such as the installation of safety features, 'there needs to be protections as to where that costs come from as well'. He explained that for the majority of drivers in the taxi industry, the costs would be borne by the operator under the bailor-bailee relationship. However, rideshare drivers as owners of their vehicles would have to absorb all costs. He raised this as a concern as there is no underpinning system that allows for cost recovery for these drivers:

From our experience, where there are additional costs passed on to drivers there is generally a correlation between that and things such as driver fatigue because they have to work longer hours to earn back the input costs for their business, and speeding because they are trying to drive quicker on the road to get their things done and to get onto the next job. There is a direct link between road safety, which is a broader public issue than just for drivers as well, and the ability for dependent contractors to recover their costs. While I think it is important that these things need to happen and there needs to be regulatory improvements in both industries, but particularly to bring rideshare up to taxi standards, that will not work without—the point that I have been making all along—having that system underpinning it to allow them to have fair and reasonable rates of pay not just on their own wage that they take home but for cost recovery purposes as well.<sup>95</sup>

- 2.24** In its submission, the NSW Government highlighted the different risk profiles between booked services, where customers are able to choose their service providers and all participants can be identified in the booking system, and anonymous rank and hail services (which can only be provided by licenced taxis) where no record of the trip is available. The NSW Government explained that due to the risk profile of rank and hail services, additional safety standards such as security cameras apply to taxis.<sup>96</sup>

### **Enforcement and compliance in the sector**

- 2.25** Inquiry participants argued that enforcement and compliance activity falls onto the taxi industry more than the rideshare industry, despite rideshare services representing most of the point to point transport industry. Generally, these stakeholders argued that there was a lack of on-street enforcement and difficulty in identifying rideshare vehicles, which enables ride touting and rogue operators. Others expressed concern with rideshare vehicles engaging in rank and hail.
- 2.26** The committee received evidence highlighting that taxis are inspected more than rideshare vehicles. Based on information from the Point to Point Commission's website, the NSW Taxi

<sup>94</sup> Evidence, Mr Graeme Harris, Delegate (Manly Warringah Taxis), Australian Taxi Drivers Association and Taxi Driver Action, 25 September 2020, p 21.

<sup>95</sup> Evidence, Mr Gavin Webb, Chief Legal Officer, Transport Workers' Union, 25 September 2020, p 15.

<sup>96</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, pp 17-18. See also, Evidence, Mr Anthony Wing, Point to Point Transport Commissioner, 25 September 2020, p 65.

Council informed the committee that between April 2019 and April 2020 a total of 1,494 taxis were inspected versus 474 private hire vehicles.<sup>97</sup>

- 2.27** Mr Furlong, Assistant General Manager of Legion Cabs, noted that while there are 20,000 or 30,000 rideshare vehicles, they represent less than 10 per cent of compliance activity. Mr Furlong attributed this to the signage requirements for rideshare services, only having a small sign placed on the rear window of the vehicle on the driver's side. He described this as a 'major flaw in the regulation', arguing that it is 'almost impossible' for a compliance officer to identify the vehicle until it has gone past them.<sup>98</sup>
- 2.28** Mr Furlong pointed to signage requirements in other jurisdictions, such as London, which require vehicles to place 'big magnetic signs on the door that clearly defines that as a rideshare business'. He suggested that this type of requirement in New South Wales could be an advantage in terms of enforcement and compliance action.<sup>99</sup>

### *Ride touting and rogue operators*

- 2.29** Related to the difficulties associated with identifying rideshare vehicles and the lack of on-street enforcement, some stakeholders contended that there is illegal ride touting by rogue operators. For example, Regional Taxilines argued that the lack of an on-street presence by the Point to Point Commission enables rogue operators as 'they know there will be no enforcement of regulations on Friday and Saturday nights in a rural or regional town'.<sup>100</sup>
- 2.30** In evidence, Managing Director of Regional Taxilines, Mr Ferris added that the Point to Point Commission has the powers to address these issues but lacks the appropriate resources, noting that distinguishing legitimate rideshare services from unauthorised operators has become a challenge due to the small signage required of legitimate rideshare operators:

All a legitimate rideshare has to have is a small four-inch sign on the back window, behind a heavily tinted window. At 1.00 a.m. people are not looking for that... We talk to our local police. They are just saying now, "We can't get involved. It's all too hard. We don't know who is a rideshare, who is not". That has dropped off. It is now solely on the Point to Point Transport Commission and while they have the powers they simply do not have the resources to be able to do this. They have got to be outside the pub in the main street of Bathurst at 1.00 a.m. and see them all touting there.<sup>101</sup>

- 2.31** Legion Cabs shared a similar view, arguing that 'little or nothing can be done' to stop rogue operators because rideshare vehicles are 'not easily identifiable'.<sup>102</sup>
- 2.32** Maitland Taxi Service (Red and White Star Cabs) outlined their experience of a rival taxi company ride touting at taxi ranks within the region and engaging in aggressive behavior towards Maitland Taxis Service owners and drivers. Chairman, Mr Neil Crittenden, described the

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<sup>97</sup> Submission 62, NSW Taxi Council, p 24.

<sup>98</sup> Evidence, Mr Lee Furlong, Assistant General Manager, Legion Cabs, 19 August 2020, p 14. See also, Submission 81, Legion Cabs, pp 3-4.

<sup>99</sup> Evidence, Mr Furlong, 19 August 2020, p 14.

<sup>100</sup> Submission 68, Regional Taxilines Pty Limited, p 5.

<sup>101</sup> Evidence, Mr Geoff Ferris, Managing Director, Regional Taxilines (Griffith/Dubbo), p 11.

<sup>102</sup> Submission 81, Legion Cabs, p 4.

network's experience with the regulator as 'one of frustration', explaining that the Commission had been slow to respond. Mr Crittenden further stated that the network did not believe that the Point to Point Transport Commission has the adequate resources to address these issues.<sup>103</sup>

**2.33** Red and White Star Cabs Co-operative Limited argued that there is a need for liaison officers in the Newcastle/Maitland/Hunter region, so that compliance issues can be addressed quickly without the need for staff to travel long distances to investigate incidents.<sup>104</sup>

**2.34** The NSW Taxi Council contended that rogue operators in regional New South Wales are providing unauthorised point to point transport services by hopping from town to town, attending major events, using social media and word of mouth, and handing out cards for unauthorised return journeys. The Council argued that there is a lack of action taken against rogue operators, highlighting the impact these issues have on local taxi service providers:

This illegal activity is having a catastrophic impact on Taxi Service Providers, who are struggling to survive. We are seeing very little enforcement and action taken against these rogue operators, because by the time any action is taken, the damage is well and truly done. Many have figured out the system and worked out how to fly under the radar.<sup>105</sup>

**2.35** The Council recommended that there should be a stronger on-street presence in regional New South Wales for major events, and also more generally.<sup>106</sup>

**2.36** Ola also expressed concern with ride touting at major events, and during peak times such as lockout and closing times on Friday and Saturday nights. Ola commented that the Point to Point Transport Commission 'has been able to monitor some of these illegal practices' but that they would 'like to see more done to stamp it out'. Ola suggested that having dedicated pick up areas and point to point ranks (see also paragraph 2.82) would 'help monitor the system and eliminate illegal activity'. It also suggested that the Commission could 'increase their online surveillance, especially around major events'.<sup>107</sup>

**2.37** More generally, Mr Graeme Harris, Delegate (Manly Warringah Taxis), Australian Taxi Drivers Association and Taxi Driver Action Inc, expressed concern with rideshare drivers not complying with the retroreflective requirements of rideshare signage, noting that a lack of enforcement on this amounts to a safety issue.<sup>108</sup>

***Concerns with rideshare vehicles engaging in rank and hail***

**2.38** Some stakeholders raised concerns that rideshare services are not complying with regulations that prohibit hire vehicles from plying or standing for hire, and that there is no enforcement of this by the regulator.

<sup>103</sup> Evidence, Mr Neil Crittenden, Chairman, Maitland Taxi Service (Red and White Star Cabs), 19 August 2020, pp 6 and 11.

<sup>104</sup> Submission 19, Red and White Star Cabs Co-operative Limited, p 6.

<sup>105</sup> Submission 62, NSW Taxi Council, p 46.

<sup>106</sup> Submission 62, NSW Taxi Council, p 47.

<sup>107</sup> Submission 82, Ola Australia Pty Ltd, p 7.

<sup>108</sup> Evidence, Mr Harris, 25 September 2020, pp 18 and 21.

**2.39** Clause 84 of the *Point to Point Transport (Hire and Taxi Vehicles) Regulation 2017* stipulates:

The driver of a hire vehicle must not:

- ply, stand or park the hire vehicle for hire on any road or road related area, or
- use the hire vehicle to carry out a hiring other than for a booking made before the driver stops the vehicle at the place where the passenger is picked up, or
- stop, stand or queue in a Taxi zone.<sup>109</sup>

**2.40** According to the NSW Taxi Council, rideshare vehicles can only receive bookings while standing on private property and must return to private property after completing a booking to receive the next one:

It is the view of the NSW Taxi Council that to comply with regulation 84(a) a Rideshare vehicle and its operator are to be located on a private property when logged into the app. Once they receive a booking the operator and vehicle are to proceed to pick up the passenger and then drop them off at the requested location. Once the journey has been completed the operator and vehicle are to return to private property to receive their next booking. A rideshare operator and vehicle that is logged into the app on a public road without a booking is in contravention of regulation 84(a).<sup>110</sup>

**2.41** The NSW Taxi Council explained that 'there have been well publicised complaints of vehicles clogging up residential streets, taking up parking spaces, as well as reports of drivers loitering, urinating and noise complaints while they wait for their next booking'.<sup>111</sup>

**2.42** Mr Michael Jools, President, Australian Taxi Drivers Association and Taxi Driver Action Inc, shared a similar view regarding the regulation on plying or standing for hire, arguing that the Point to Point Transport Commission 'is not fulfilling its obligation to ensure that [rideshare vehicles] do not ply for hire, stand or park on a public road'.<sup>112</sup>

**2.43** His colleague, Mr Graeme Harris highlighted the Manly rank as an example of rideshare drivers not adhering to the rank and hail protection reserved for taxis:

You sit on Manly rank ... To the left is the ocean and there are all these rideshare vehicles driven by people who are just coming into Manly and driving off and coming back. You see the same car two or three times a night. Why does that particular person have to go from their home to Manly and then return again several times? They are not acting as rideshare...

Rideshare has become ride hail but there has been no enforcement of the regulations which say rideshare is allowed to be a booking service. Of course you need a booking service because you are sharing rides, but the way they are operating is a hailing service.<sup>113</sup>

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<sup>109</sup> Point to Point Transport (Hire and Taxi Vehicles) Regulation 2017, cited in Submission 62, NSW Taxi Council, p 29.

<sup>110</sup> Submission 62, NSW Taxi Council, p 29.

<sup>111</sup> Submission 62, NSW Taxi Council, p 28.

<sup>112</sup> Evidence, Mr Michael Jools, President, Australian Taxi Drivers Association and Taxi Driver Action Inc, 25 September 2020, p 18.

<sup>113</sup> Evidence, Mr Harris, 25 September 2020, pp 17-18.



*Response from the Point to Point Transport Commissioner*

- 2.44** The concerns around compliance and enforcement in the point to point transport sector were put to the Point to Point Transport Commissioner at a hearing.
- 2.45** In response to questioning about retroreflective signs, the Commissioner explained that both the police and the Commission issue fines, noting that 'many hundreds of fines would have been issued last year'. He expressed the view that people have 'known of the requirement for a while and there is no reason to issue cautions or warnings' before a fine is issued.<sup>114</sup>
- 2.46** On the issue of rideshare services utilising taxi ranks or engaging in rank and hail services, the Commissioner advised that commission staff conduct overt and covert operations at major events, and that the Commission ensures ranks are secure when complaints are made:
- My staff do both overt and covert compliance operations at major events. We will attend major events, especially where you get a lot of traffic. We have started doing pop-up ranks, which is when we start getting complaints about an area we will take an existing rank and make it a secure rank at those complaint times, which means that we will be monitoring that rank at that time.<sup>115</sup>
- 2.47** The Commissioner also highlighted that there is a trial of cameras being used at taxi ranks. If the trial is successful, the Commissioner stated that 'we will look at putting it on major ranks around the place – especially those where there is a real shortage of space where we really do not want to see problems where people are sitting here waiting who are not taxis'.<sup>116</sup>
- 2.48** In terms of the operation of clause 84 in the regulation, which prohibits hire vehicles from plying or standing for hire, the Commissioner explained that the law does not require that hire vehicles return to base in between trips. Rather, he emphasised that hire vehicles cannot pick up a passenger from a spot where they are sitting and waiting:
- [T]his is coming back to a debate over whether a hire vehicle should be required to return to base in between trips. There is nothing under the law that requires that. What they cannot do is sit and make themselves available for fares. They cannot really present themselves to passers-by that they can take a fare. In addition, the commission, to emphasise that, has made a ruling that they also cannot pick up someone from a spot where they are sitting and waiting. So they cannot sit and wait at a spot, take bookings at that spot and collect their person from that spot. But there is no requirement that they go back to base per se.<sup>117</sup>
- 2.49** The Point to Point Transport Commissioner also clarified that the Manly rank is a pick up and drop off zone near the taxi rank. He outlined that rideshare vehicles are not allowed to sit and wait at the pick up and drop off zone and that compliance officers have not seen drivers waiting for fares:

... I should say that Manly council has put what is essentially a drop-off/pick-up zone near the taxi rank. It is separate from the taxi rank and it is a two minute drop-off zone,

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<sup>114</sup> Evidence, Mr Wing, 25 September 2020, p 65.

<sup>115</sup> Evidence, Mr Wing, 25 September 2020, p 66.

<sup>116</sup> Evidence, Mr Wing, 25 September 2020, pp 66 and 67.

<sup>117</sup> Evidence, Mr Wing, 25 September 2020, p 66.

essentially. People are allowed to drop off and pick up, but they are not allowed to sit there and wait on it. My compliance officers have visited ... 30 to 40 times in the past 12 months... They have not seen people sitting there waiting for fares. They have certainly seen it used as a pick-up/drop-off rank, but we will continue to keep it on the circuit of places that we look at.<sup>118</sup>

### **Bailment system and employment conditions**

- 2.50** In addition to the imbalances arising from the point to point regulatory framework, the committee also heard evidence about the difference in labour standards between the taxi industry and rideshare industry, arising as a consequence of taxis being captured by the bailment system.
- 2.51** As explained in chapter 1, the relationship between a taxi driver and operator is characterised as a bailor-bailee relationship under Chapter 6 of the *Industrial Relations Act* as drivers are not considered traditional employees. Taxi drivers bail their taxis from taxi operators for a fee, and are entitled to employee entitlements such as sick leave and annual leave. The rideshare sector is not covered under Chapter 6, nor are drivers considered employees of their rideshare companies. As such, rideshare platforms employee standards and entitlements do not apply to rideshare companies.
- 2.52** The NSW Taxi Council argued that taxis should be removed from the bailment system under Chapter 6 of the *Industrial Relations Act*. In particular the Council noted that Chapter 6:
- imposes prescriptive industrial obligations on taxi operators but on no other participants in the point to point transport industry, even though most bailor taxi operators are micro businesses while their competitors include multinational companies
  - applies commercial contracts that are not replicated overseas or in any other jurisdiction in Australia, and in the case of the contract determination, which applies to bailors in metropolitan Sydney, these provisions do not exist elsewhere in New South Wales
  - is inconsistent with the point to point transport reforms which the government introduced with the 'stated purpose of creating a more level playing field'
  - imposes a heavy regulatory burden that increases the cost of delivering taxi services, thereby limiting the ability of the industry to innovate in response to consumer demand
  - confers termination rights on bailees that are 'in some ways' more generous than those afforded to employees who are unfairly dismissed under the *Fair Work Act 2009* (Cth)
  - does not promote compliance, efficiency and productivity.<sup>119</sup>

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<sup>118</sup> Evidence, Mr Wing, 25 September 2020, p 66.

<sup>119</sup> Submission 62, NSW Taxi Council, pp 30-31.

- 2.53** The NSW Taxi Council recommended that the NSW Government implement the recommendation of a 2016 inquiry into workplace arrangements in the point to point transport industry, which called for the NSW Government to consider removing contracts of bailment out of Chapter 6, thereby taking the contracts out of the jurisdiction of the Industrial Relations Commission.<sup>120</sup> Mr Furlong from Legion Cabs agreed with the NSW Taxi Council's recommendation.<sup>121</sup>
- 2.54** The Chief Executive Officer of the NSW Taxi Council, Mr Rogers, added that there needs to be a fair system across the whole point to point transport industry:
- We need to get to a point where we can support driver earnings. To me it all starts with a good farebox, a good driver earnings. Everything flows back from there. We have got to look at supply. We have got to look at a number of ways to ensure that driver earnings are maximised so operators can get their pay-ins, networks can get their fees and the industry can flourish. We do not have that. The oversupply of vehicles is stopping that. We need to have a process and a system that is fair across all of point to point. If that needs to go federally to the Independent Contractors Act or we need to do something in New South Wales then we need to look at that. At the moment our industry is hamstrung to compete against rideshare because they are not part of the Industrial Relations Act in New South Wales.<sup>122</sup>
- 2.55** Mr Rogers, also advocated for the removal of the bailment system from Chapter 6 of the *Industrial Relations Act* and a move to 'standard contracts'.<sup>123</sup>
- 2.56** Chief Legal Officer at the Transport Workers' Union, Mr Gavin Webb, also supported bailment reform, although he disagreed that the taxi industry should be removed from Chapter 6 of the *Industrial Relations Act*. Reflecting on the labour standards in the rideshare industry, Mr Webb considered that removing the taxi industry from Chapter 6 would be a 'race to the bottom' and 'have disastrous results for labour standards within New South Wales for drivers, regardless of whether they are taxi drivers or rideshare drivers'.<sup>124</sup>
- 2.57** Mr Webb also contended that if the taxi industry were to be removed from Chapter 6, they would not be covered by the *Fair Work Act 2009* (Cth) as taxi drivers and operators 'do not fall within the traditional employer-employee relationship as is defined'. In effect, there would then be no labour protection for taxi drivers as exists currently under Chapter 6.<sup>125</sup>
- 2.58** Instead, the Transport Workers' Union recommended that the employment relationship between rideshare services and drivers be reviewed, and instead Chapter 6 be extended to the rideshare sector.<sup>126</sup>

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<sup>120</sup> Submission 62, NSW Taxi Council, p 32.

<sup>121</sup> Answers to questions on notice, Mr Lee Furlong, Assistant General Manager, Legion Cabs, 16 September 2020, p 1.

<sup>122</sup> Evidence, Mr Rogers, 25 September 2020, p 12.

<sup>123</sup> Evidence, Mr Hazir, 25 September 2020, pp 11-12.

<sup>124</sup> Evidence, Mr Webb, 25 September 2020, p 15.

<sup>125</sup> Evidence, Mr Webb, 25 September 2020, p 15.

<sup>126</sup> Evidence, Mr Webb, 25 September 2020, p 13.

- 2.59** In its submission, the Transport Workers' Union explained that since rideshare platforms are not required to pay employment entitlements, 'this renders taxis and hire car services uncompetitive as rideshare platforms have the ability to undercut traditional markets that abide by existing employment entitlements...'.<sup>127</sup>
- 2.60** Mr Webb contended that this also means that it is uneconomic to reform pay-in rates for taxi drivers (which were last increased in 2012) as it renders the taxi industry uncompetitive.<sup>128</sup>
- 2.61** Reflecting on the employment relationship between rideshare drivers and their platforms, the Transport Workers' Union explained that in 2019 the Fair Work Ombudsman 'affirmed that for these relationship to amount to employment status, at a minimum employees would have to perform work where demanded by employers and there was no obligation for drivers to perform work'.<sup>129</sup>
- 2.62** The Transport Workers' Union disagreed with this based on a determination by the Fair Work Commission that there is an employee/employer relationship between food delivery app, Foodora, and a cyclist who was unfairly terminated. The Commission found that Foodora engaged in a high level of control over workers, making it a traditional employee/employer relationship. The union drew similarities to this, arguing that rideshare platforms have control on remuneration of drivers, price surges, promotions and discounts, the allocation of jobs, and termination without avenues for appeal.<sup>130</sup>
- 2.63** The Transport Workers' Union argued that rideshare drivers should have employment protections such as minimum wages and employee entitlements such as sick leave, annual leave and superannuation. It also argued that drivers should have access to training, including Workplace, Health and Safety training, access to workers compensation, the opportunity for collective bargaining, access to dispute resolution procedures, and transparency of information when working conditions change.<sup>131</sup>
- 2.64** In terms of whether the taxi industry's bailment system is suitable for the rideshare industry, Mr Mitch Cooper, Head of Public Policy and Government Affairs, Uber, indicated that the flexibility for drivers in rideshare would be incompatible with the concept of bailment which is 'really very wedded to a shift and to an asset you are renting or leasing'.<sup>132</sup> Mr Cooper added that it did not mean that Uber does not 'support improvements in the types of protections that can be made available to people who are looking to access flexible work'. Uber's preference was to not be regulated under Chapter 6 and instead have labour regulated at the Commonwealth level.<sup>133</sup>

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<sup>127</sup> Submission 60, Transport Workers' Union of New South Wales, p 6.

<sup>128</sup> Evidence, Mr Webb, 25 September 2020, pp 22-23.

<sup>129</sup> Submission 60, Transport Workers' Union of New South Wales, p 7.

<sup>130</sup> Submission 60, Transport Workers' Union of New South Wales, pp 7-8.

<sup>131</sup> Submission 60, Transport Workers' Union of New South Wales, p 8.

<sup>132</sup> Evidence, Mr Mitch Cooper, Head of Public Policy and Government Affairs, Uber, 25 September 2020, p 35.

<sup>133</sup> Evidence, Mr Cooper, 25 September 2020, p 35.

**2.65** In a similar vein, Mr Smith from Ola, also observed that 'the notion of a fixed buy-in for a shift is completely contrary to the flexibility [Ola] drivers are seeking'.<sup>134</sup>

***Fatigue management and banned drivers***

**2.66** Related to labour standards, fatigue management emerged as a concern for stakeholders, given drivers in the point to point transport industry can work with a number of service providers.

**2.67** Manly Warringah Cabs connected this issue to signage, claiming that due to 'the conspicuous nature' of taxi branding, a taxi vehicle can only operate with one network. This enables 'taxi networks to conclusively monitor whether their owner-drivers are following the driver fatigue management requirements'. It argued that in contrast, due to the small signage requirements that can be easily removed and changed, rideshare drivers 'can choose to flout the driver fatigue rules by working for more than one rideshare company concurrently'. Manly Warringah Cabs further suggested that fatigue management could be monitored through cross-checks of driver licence numbers and driving times between competitor rideshare services.<sup>135</sup>

**2.68** Ola explained that they have 'a comprehensive fatigue management policy' which requires drivers to take at least a 30 minute break after 5 hours of continuous driving or any other work related activity, and a further minimum 8 hour break after 13 hours of work. In addition, there are mechanisms within the app to force breaks.<sup>136</sup>

**2.69** Mr Graeme Harris, Delegate (Manly Warringah Taxis), Australian Taxi Drivers Association and Taxi Driver Action Inc agreed that information should be shared across platforms to limit the number of hours drivers can drive, stating that 'there should be a central receptacle of when people are on and off across the point to point'.<sup>137</sup>

**2.70** However, Ola explained that there are no mechanisms to track drivers' login times on other platforms, meaning there is no way to track when a driver has completed a shift with one service provider before switching to another.<sup>138</sup>

**2.71** The rideshare service indicated that it would 'support an electronic logbook type system' in New South Wales and Australia to monitor drivers across apps. However, Ola also noted that should the government choose to support this, the government should 'seek to minimise costs to the industry'. Ola suggested that a government owned app 'would be a better outcome', and that the government could consider working with other states to develop the app for consistency across the country.<sup>139</sup>

**2.72** In addition to fatigue management, Ola submitted that when drivers are banned from their service, they cannot share that information with other service providers due to privacy concerns. Ola considered that an information sharing portal could be managed by the Point to Point Transport Commission that holds information on banned drivers which does not necessarily

<sup>134</sup> Evidence, Mr Simon Smith, Managing Director, Ola, 25 September 2020, p 35.

<sup>135</sup> Submission 67, Manly Warringah Cabs (Trading) Co-operative Society Ltd, p 8.

<sup>136</sup> Submission 82, Ola Australia Pty Ltd, p 9.

<sup>137</sup> Evidence, Mr Harris, 25 September 2020, p 20.

<sup>138</sup> Submission 82, Ola Australia Pty Ltd, p 10.

<sup>139</sup> Submission 82, Ola Australia Pty Ltd, p 10.

meet the notifiable incident criteria. Ola argued that this would help 'point to point providers lower their risks and ensure driver quality across industry, while committing the industry to a high standard of safety for all users'.<sup>140</sup>

- 2.73** Similarly (as discussed in paragraph 2.110), the NSW Taxi Council suggested that the ability to capture bad drivers to avoid them moving from one service provider to another could be incorporated into the Point to Point Transport Commission's Driver Vehicle Dashboard portal, which provides access to information on driver and vehicle safety.<sup>141</sup>

### **Uneven access to government infrastructure**

- 2.74** Inquiry participants from the rideshare industry claimed that the regulations and other structural factors disadvantage rideshare services, in particular by limiting access to government infrastructure such as bus lanes and curbside space for safe pick up and drop off.

#### ***Bus lanes***

- 2.75** On the issue of bus lanes, Ola viewed taxis and hire vehicles' exclusive access to bus lanes as an unfair disadvantage to rideshare passengers, arguing that 'regardless of which point to point service people choose to use, there should be a level playing field which does not advantage or disadvantage one part of the sector'.<sup>142</sup>
- 2.76** As people go back to work in the midst of the COVID-19 pandemic, Ola highlighted that congestion is likely to rise as people choose to drive to work. The rideshare service argued that access to bus lanes may 'encourage people to leave their cars at home and use point to point or public transport to meet their needs'.<sup>143</sup>
- 2.77** Ola consequently proposed that access to bus lanes be trialed until the end of 2020, and that taxis and rideshare services should only use the lanes when they are completing a job.<sup>144</sup>
- 2.78** Uber acknowledged that it may not be possible for the government to provide access to bus lanes to all point to point transport vehicles without causing congestion, but argued that the regulation should apply equally to all point to point transport vehicles:

Uber supports bus lanes on our roads and believes that people who use mass transit should be rewarded with faster travel times. We also appreciate that it may not be feasible for the government to give access to all point to point vehicles without causing congestion on these routes. However, the public policy rationale applies equally to all point to point transport vehicles and there is no credible basis for cherry-picking a particular segment for access ...<sup>145</sup>

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<sup>140</sup> Submission 82, Ola Australia Pty Ltd, pp 10-11.

<sup>141</sup> Submission 62, NSW Taxi Council, p 48.

<sup>142</sup> Submission 82, Ola Australia Pty Ltd, p 7.

<sup>143</sup> Submission 82, Ola Australia Pty Ltd, p 8.

<sup>144</sup> Submission 82, Ola Australia Pty Ltd, p 8.

<sup>145</sup> Submission 83, Uber, p 20.

- 2.79** Uber also suggested that 'there is no real enforcement distinction', given that rideshare vehicles can be 'easily identified under sticker requirements'. The rideshare service therefore recommended that the government 'ensure equal treatment of all point to point transport providers in relation to the use of bus lanes'.<sup>146</sup>
- 2.80** In response to questioning about how a rideshare vehicle completing a job can be distinguished from those not completing a job, Mr Smith explained that Ola knows when their cars are on a trip, and that 'there is nothing to stop us cooperating with the regulator to ... ex post ensure that only the rideshare vehicles that are on a trip were the ones accessing the bus lane'.<sup>147</sup>
- 2.81** However, the Point to Point Transport Commissioner advised that there is little scope for permitting rideshare vehicles access to bus lanes due to the number of rideshare vehicles:

Ultimately, I am not the final decision maker on this one but I do have some comment. I am not aware that anyone in Government that I have spoken to has ever contemplated permitting rideshare, or hire vehicles broadly, into the bus lanes, for the simple reason that there are lots of them and the bus lanes are supposed to be to make buses run better. So I am not sure there is any intention of doing that.<sup>148</sup>

*Space for pick up and drop off*

- 2.82** Ola and Uber also spoke to the lack of available curb space for pick up and drop off of rideshare passengers in dense cities such as Sydney. Both rideshare services referred to this as a safety issue, and proposed that the government work with local councils to enable more efficient pick ups and drop offs.<sup>149</sup>
- 2.83** More specifically, Ola proposed that more space be made available for booked services to conduct pick ups and drop offs and/or that existing taxi ranks be converted to point to point transport ranks that are available for use to both unbooked and booked services, at which taxis could continue to provide rank and hail services.<sup>150</sup>
- 2.84** In addition to recommending that more space be available to rideshare services, Uber also suggested that the NSW Government develop new signage that 'enables passenger loading and supports the use of shared forms of transport'.<sup>151</sup>
- 2.85** Ms Amanda Gilmore, Head of Driver and Compliance, Uber, highlighted that pick up and drop off zones near public transport hubs are available for private transport pick ups and drop offs but also for booked services.<sup>152</sup>
- 2.86** In addition to general curb side access to pick up and drop zones, Uber and Ola also advocated for improved pick up and drop off zones for rideshare services at the airport and major events where traffic can be problematic.

<sup>146</sup> Submission 83, Uber, p 20.

<sup>147</sup> Evidence, Mr Smith, 25 September 2020, p 28.

<sup>148</sup> Evidence, Mr Wing, 25 September 2020, p 67.

<sup>149</sup> Submission 82, Ola Australia Pty Ltd, p 5; Submission 83, Uber, p 21.

<sup>150</sup> Submission 82, Ola Australia Pty Ltd, p 5.

<sup>151</sup> Submission 83, Uber, p 21.

<sup>152</sup> Evidence, Ms Amanda Gilmore, Head of Driver and Compliance, Uber, 25 September 2020, p 29.

- 2.87** In its submission, Ola explained that rideshare services do not have access to holding points and ranks such as taxi and bus zones at major events, meaning that rideshare passengers must walk long distances in heavy traffic to access rideshare vehicles. The rideshare service requested that the government consider lifting rank restrictions at large events arguing that doing so would help ease traffic and pedestrian issues, and address illegal ride-touting at major events.<sup>153</sup>
- 2.88** Uber explained that as of 2018, the Point to Point Commission imposed a condition on booking service providers which 'does not allow bookings to be made after a vehicle has already stopped at the place where the passenger is to be picked up', preventing Uber's use of its technology for major events and airports.<sup>154</sup>
- 2.89** Uber informed the committee that its technological product for major events is 'not allowed under the existing NSW regulations'. In 2016, Uber developed a PIN-matching system to streamline pick ups at major events. Instead of being matched with a driver, the passenger receives a 6-digit PIN, queues up at an Uber pick up zone and waits for the next available vehicle. The passenger shares their PIN with the driver enabling the passenger to verify the vehicle and driver before beginning their trip.<sup>155</sup>
- 2.90** Finally, Ola also proposed that consideration be given to rideshare access at Sydney airport. The rideshare service explained that while Sydney airport has created a pick up point, improvements can be made to allow rideshare services to be waiting for passengers:

While Sydney Airport has been accommodating in setting up a pick up point, it can be difficult to access at peak times given the volume of traffic movement and the inability for rideshare to “rank”. A small change to the system could allow the airport pick up point to be a designated holding area to allow rideshare vehicles to be in position and waiting to speed up the process for moving weary travellers out of the area. It would also lessen some of the traffic issues.<sup>156</sup>

## The shift in red tape

- 2.91** As discussed in chapter 1, according to the NSW Government, the point to point regulatory reforms strengthened safety laws for the industry by placing key safety responsibilities with service providers such as taxi networks and rideshare companies. The NSW Government identified that service providers now have flexibility in how they manage their safety obligations, particularly through the development of a safety management system.<sup>157</sup>
- 2.92** There was general consensus among taxi networks, however, that in making these changes, the government merely shifted red tape from the regulator onto taxi networks. Generally, these stakeholders argued that this added a costly administrative burden onto their networks.
- 2.93** The NSW Taxi Council contended that the point to point reforms 'failed to deliver a reduction in red tape' but instead shifted this red tape, previously administered by the regulator, onto the

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<sup>153</sup> Submission 82, Ola Australia Pty Ltd, p 6.

<sup>154</sup> Submission 83, Uber, p 24.

<sup>155</sup> Submission 83, Uber, p 23.

<sup>156</sup> Submission 82, Ola Australia Pty Ltd, p 7.

<sup>157</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, pp 17-18.



taxi industry.<sup>158</sup> Similarly, Mr Lee Furlong, Assistant General Manager at Legion Cabs, stated that he was 'bitterly disappointed' when he realised that the costs associated with red tape had been passed onto taxi networks.<sup>159</sup>

**2.94** Mr Geoff Ferris, Managing Director, Regional Taxilines (Griffith/Dubbo), summarised the added administrative burden onto his network:

The introduction of the changes to the regulations for the point to point industry has seriously affected our ability to operate an efficient country taxi network in each location due to the so-called removal of red tape by Government, which has put those obligations back onto us. We now see that we are now the policemen that have to onboard drivers and issue ID. We have to enforce with the other operators who work with us the removal of agents on vehicle. We moved away from a single body to manage driver eligibility, where I could go to Service NSW or Transport for NSW and get my driver authority and my licence. Now we have to go to another party.<sup>160</sup>

**2.95** The NSW Taxi Council provided examples of tasks and costs associated with on boarding drivers and safety compliance that are now the responsibility of taxi networks:

- On boarding drivers:
  - eligibility checks
  - disqualifying checks
  - English language requirements
  - printing and issuing ID cards to drivers
  - training drivers.
- Safety compliance:
  - developing a safety management system
  - updating a policy or procedure in the safety management system
  - ongoing legal costs
  - cost of additional staff to administer the safety management system
  - preparing for an audit
  - responding to regulator queries that do not directly address safety issues.<sup>161</sup>

**2.96** According to the NSW Taxi Council, this shift in red tape has placed 'immense burden' on taxi businesses forcing a number of businesses to shut down or reduce their services.<sup>162</sup>

**2.97** The NSW Taxi Council further suggested that some accountability should rest at the operator level rather than the service provider level for areas they have 'direct control on a day to day basis'. This includes the safety and roadworthiness of vehicle, driver fitness and eligibility, checking that drivers are authorised and displaying their identification, wheelchair accessible taxi

<sup>158</sup> Submission 62, NSW Taxi Council, pp 16-17.

<sup>159</sup> Evidence, Mr Furlong, 19 August 2020, p 14.

<sup>160</sup> Evidence, Mr Ferris, 19 August 2020, p 4.

<sup>161</sup> Submission 62, NSW Taxi Council, pp 16-17.

<sup>162</sup> Submission 62, NSW Taxi Council, p 16.

driver competency and disqualifying offences. The NSW Taxi Council noted that at present the only responsibility that sits with operators in relation to safety is around vehicle safety.<sup>163</sup>

- 2.98** Many taxi networks expressed similar views to the NSW Taxi Council. St George Cabs argued that the regulatory system 'requires an overhaul because it places too much emphasis on the taxi service provider to be accountable for driver and customer safety'. The taxi network suggested that safety compliance should rest with the taxi operators and drivers, while taxi networks should be responsible for policies and procedures that 'have direct bearing on its operations'.<sup>164</sup>
- 2.99** Mr Ashwin Sharma, Acting Chief Executive Officer of Manly Warringah Cabs, and Mr Mark Marland, Director Secretary at Maitland Taxi Service (Red and White Star Cabs), both informed the committee that their taxi networks had hired additional staff to assist with compliance in this area.<sup>165</sup>
- 2.100** The NSW Taxi Council argued that emphasis in the regulation must shift from the service provider 'being the policeman and revert more responsibility on the regulator to enforce the rules of the game'. The Council explained that the onus of on road enforcement tends to fall back onto service providers rather than the drivers themselves:

A common outcome of any on road compliance currently undertaken, is the focus around asking the Service Provider what they have done or will do in relation to issues in the field e.g. a driver not displaying their id card. This seems to place all the onus on the Service Provider despite the regulations indicating the obligations sits with the driver. There also seems to be a need to undertake extensive inquiries before a fine may / may not be issued. Drivers are aware of their obligations. If more time was spent in acting quickly and decisively, greater compliance would occur.<sup>166</sup>

- 2.101** In contrast to the taxi stakeholders, Uber expressed their support for regulations that allow service providers to 'establish and demonstrate "safety management systems" as opposed to prescriptive covenants that prescribe safety standards'. The rideshare service argued that 'safety outcomes can be best achieved when operators [service providers] have regulatory flexibility to continue using technology to achieve better safety outcomes'.<sup>167</sup>

## **A drop in service and quality standards**

- 2.102** As part of the reforms, the NSW Government repealed a number of requirements pertaining to the presentation, quality, training and on boarding of drivers. Inquiry participants from the taxi industry argued that this has resulted in a drop in service and quality standards across the industry, and in some cases safety concerns.

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<sup>163</sup> Submission 62, NSW Taxi Council, p 22.

<sup>164</sup> Submission 54, St George Cabs, p 2.

<sup>165</sup> Evidence, Mr Ashwin Sharma, Acting Chief Executive Officer, Manly Warringah Cabs, 19 August 2020, p 15; Evidence, Mr Mark Marland, Director Secretary, Maitland Taxi Service (Red and White Star Cabs), 19 August 2020, p 13.

<sup>166</sup> Submission 62, NSW Taxi Council, p 24.

<sup>167</sup> Submission 83, Uber, p 14.

- 2.103** The NSW Taxi Council described the removal of these standards as 'one of the biggest mistakes of the NSW Government, and an example of how they got it wrong'.<sup>168</sup> The removed standards referred to by stakeholders include:
- the requirement for drivers of booked services to carry or display ID
  - vehicle age limits
  - one single accreditation body for driver eligibility
  - uniform requirements for drivers
  - the NSW Government Training Accreditation regime for On Boarding of Drivers and Operator Accreditation
  - four monthly vehicle safety inspection regime (changed to an annual inspection)
  - testing drivers in relation to geographic and regulatory knowledge
  - quality and comfort standards
  - reporting of key performance indicators
  - management of customer feedback and lost property.<sup>169</sup>
- 2.104** In addition to a drop in standards, Mr Sharma, Acting Chief Executive Officer of Manly Warringah Cabs explained that the removal of these requirements 'affects how networks can compete against each other'. He gave the example of some networks allowing vehicles to run for six years while others might allow their vehicles to run for 10 to 12 years.<sup>170</sup>
- 2.105** In his capacity as Managing Director of Regional Taxilines (Griffith/Dubbo), Mr Geoff Ferris suggested that it was 'much easier' when these standards were government regulated, as it can cause 'internal friction' for a taxi network to enforce these standards of their own accord.<sup>171</sup>
- 2.106** Consequently, the NSW Taxi Council, as well as other stakeholders in the taxi industry, called for the standards around presentation, quality, onboarding and safety to be re-instated.<sup>172</sup> In particular, Legion Cabs called for the reinstatement of the vehicle limit to six years and six months as 'a matter of urgency' due to it being a safety issue. The taxi network highlighted that it is 'not uncommon to see taxis on the road that are twice this former age limit'.<sup>173</sup>

<sup>168</sup> Submission 62, NSW Taxi Council, pp 17-18.

<sup>169</sup> See for example, Submission 62, NSW Taxi Council, p 18. See also, Submission 87, Milton Ulladulla Taxis, Limousines and Charter Bus Services, p 2; Evidence, Mr Sharma, 19 August 2020, p 16.

<sup>170</sup> Evidence, Mr Sharma, 19 August 2020, p 16.

<sup>171</sup> Evidence, Mr Ferris, 19 August 2020, p 10.

<sup>172</sup> Submission 62, NSW Taxi Council, p 18; Evidence, Mr Furlong, 19 August 2020, p 19; Evidence, Mr Ferris, 19 August 2020, p 12.

<sup>173</sup> Submission 81, Legion Cabs, p 6.

- 2.107** As a related issue, some stakeholders lamented the loss of the centralised complaints handling system which was in place prior to the reforms.<sup>174</sup> Mr Furlong explained that if a passenger had a complaint, they could contact a call centre run by Transport for NSW. Once a complaint was lodged against a driver, the complaint would be sent to the appropriate network. This meant that networks could see whether drivers had a history of complaints before onboarding them.<sup>175</sup> This was a particular issue raised for advocates of people with a disability (see paragraph 3.49).
- 2.108** St George Cabs argued that driver standards have fallen because new drivers are no longer required to maintain a logbook, including complaints, from their time on the road in their first year of driving before progressing to driving an elite fleet.<sup>176</sup>
- 2.109** The NSW Taxi Council stated that customers and industry 'are regularly confused' about the processes for complaints, and recommended that a centralised feedback system be re-established.<sup>177</sup>
- 2.110** The NSW Taxi Council praised the Point to Point Transport Commission's Driver Vehicle Dashboard Portal as a tool that has 'helped taxi service providers manage the safety and reporting aspects under their responsibility.'<sup>178</sup> The council suggested that the portal could be enhanced by incorporating a customer feedback management system, the ability to capture bad drivers to avoid them moving from one service provider to another, and that all service providers, and not just metropolitan taxi service providers as is the current case, upload all their vehicle details onto the portal to make it easier for authorised officers to determine through number plates if a vehicle is a rideshare vehicle.<sup>179</sup>

## Costs to enter the point to point sector

- 2.111** Some stakeholders argued that entry into the point to point transport sector as a driver or service provider has become too easy under the point to point regulatory framework.
- 2.112** For example, Mr Brian Wilkins referred to the \$260 annual fee per licence that operators had to pay before the reforms, which has since been removed. Mr Wilkins argued that the annual fee would have acted as a deterrent:

[W]hat has happened is 20,000 people have come in to the market and have not had to pay anything. If the Government had looked at it sensibly, they would have realised that if they had put the fee of \$260 on everybody who wanted to be a service provider then they would have had a good income coming in and it would have been a deterrent for a lot of these people who are only using it to jump out for a few hours on a Friday and Saturday night, at their leisure, to pick up an easy \$500 or \$600.<sup>180</sup>

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<sup>174</sup> See for example, Submission 62, NSW Taxi Council, p 28; Submission 54, St George Cabs Co-operative Ltd, p 1; Evidence, Mr Furlong, 19 August 2020, p 20.

<sup>175</sup> Evidence, Mr Furlong, 19 August 2020, p 20.

<sup>176</sup> Submission 54, St George Cabs Co-operative Ltd, p 1.

<sup>177</sup> Submission 62, NSW Taxi Council, p 28.

<sup>178</sup> Submission 62, NSW Taxi Council, p 48.

<sup>179</sup> Submission 62, NSW Taxi Council, p 48.

<sup>180</sup> Evidence, Mr Wilkins, 25 September 2020, p 5.

- 2.113** Similarly, one taxi owner, Mr Peter Louridas, also argued that it is 'far too easy to put a rideshare vehicle on the road'. He suggested that adding regulatory requirements such as mandatory security cameras, defensive driving courses and basic online road knowledge tests 'impose a little bit more of an expense and an effort' that will help bring down the number of rideshare vehicles on the road.<sup>181</sup>
- 2.114** The NSW Taxi Council raised a similar point in relation to taxi and booking service providers. They noted that it costs \$120 fee to register as a taxi service provider or booking provider, or \$160 to register as both. The Council argued that 'there is limited barrier to entry, which means a service provider could easily register and start operating ... , without a safety management system in place'. The NSW Taxi Council recommended that the NSW Government amend the service provider authorisation requirements to include a requirement to demonstrate a safety management system prior to being able to operate the business. They also recommended that service providers be audited yearly to maintain authorisation.<sup>182</sup>
- 2.115** In addition, the NSW Taxi Council highlighted that the regulatory framework has made it more 'time-consuming and complex' for taxi drivers who may wish to drive for multiple service providers as they are required to apply and verify their credentials, including a criminal background check, for each one. The Council argued that this was costly and has left many drivers with 'no choice, but to either leave the industry, or drive for rideshare'.<sup>183</sup>
- 2.116** In response to questioning on costs and flexibility particularly during the COVID-19 pandemic, Mr Cooper agreed with the need to remove the requirement for taxis to be active even during the threat of market failure during such events like the COVID-19 pandemic and subsequent lockdown:
- In terms of that question of economic regulation or a requirement to keep putting the car on the road, especially in this unusual set of times of COVID-19, it seems like a very sensible relief opportunity for folks on the road.<sup>184</sup>
- 2.117** Consequently, the NSW Taxi Council recommended that there be one single authorising body for taxi drivers, such as the NSW Taxi Council.<sup>185</sup>

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### **Recommendation 1**

That the NSW Government amend the point to point transport regulations and examine the universal service obligations to allow for flexibility.

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<sup>181</sup> Evidence, Mr Peter Louridas, Taxi Owner, 25 September 2020, p 43.

<sup>182</sup> Submission 62, NSW Taxi Council, pp 3-4.

<sup>183</sup> Submission 62, NSW Taxi Council, pp 18-19.

<sup>184</sup> Evidence, Mr Cooper, 25 September 2020, p 33.

<sup>185</sup> Submission 62, NSW Taxi Council, p 19.

**Should there be a cap on the rideshare sector?**

- 2.118** Taking into account the ease with which drivers or service providers can enter the sector, and the concerns raised in relation to the financial viability of the taxi industry, a question was raised as to whether there should be a cap put on the rideshare market.
- 2.119** The NSW Taxi Council highlighted that there is an imbalance between the business models of the taxi industry and rideshare industry because there is a cap on taxi licences, whereas the rideshare industry is uncapped. The NSW Taxi Council considered that while an uncapped market should provide increased choice to consumers, there will be an increase in service providers competing for fleet. In addition, regional markets may not be large enough to support an uncapped market.<sup>186</sup>
- 2.120** The Council recommended that the number of vehicles required to provide an effective point to point transport market be monitored and reviewed, and that the metropolitan Sydney market move to an uncapped market while the outer urban (encompassing Wollongong, the Central Coast and Newcastle) and regional New South Wales move to a capped market.<sup>187</sup>
- 2.121** Mr Furlong, Assistant General Manager of Legion Cabs, argued that 'there seems to be an oversupply [of rideshare vehicles] at times when there are plenty of traditional taxis available'. He referred to New York as a jurisdiction which has placed a restriction on the number of rideshare vehicles.<sup>188</sup> In its submission, Legion Cabs suggested that a restriction on rideshare vehicles would help relieve congestion on Sydney roads.<sup>189</sup>
- 2.122** In evidence before the committee, representatives from both Uber and Ola did not support a cap on rideshare vehicles, both citing the dynamic nature of demand in the industry and flexibility for drivers as key reasons.<sup>190</sup>
- 2.123** When asked about whether a cap on rideshare vehicles is necessary, Mr Anthony Wing, Point to Point Transport Commissioner, explained that it would require a change in legislation that 'is a significant policy decision':

It would be quite different from the current law, so that would be a policy discussion to be had. The current requirement is, essentially, that you must meet certain safety standards when you put on a vehicle, and a driver must also meet certain standards, but there is nothing in the law about a cap. That is a policy debate about industry structure.<sup>191</sup>

- 2.124** Reflecting on the experience of rideshare caps in New York, Mr Wing stated that his understanding of the cap in Manhattan was in relation to concerns about congestion. In addition, he said that 'there has not been any suggestion here, though, that we have quite the same issues as in Manhattan'.<sup>192</sup>

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<sup>186</sup> Submission 62, NSW Taxi Council, pp 52-53.

<sup>187</sup> Submission 62, NSW Taxi Council, p 53.

<sup>188</sup> Evidence, Mr Furlong, 19 August 2020, p 20.

<sup>189</sup> Submission 81, Legion Cabs, p 7.

<sup>190</sup> Evidence, Ms Gilmore, 25 September 2020, p 33; Evidence, Mr Smith, 25 September 2020, p 33.

<sup>191</sup> Evidence, Mr Wing, 25 September 2020, pp 67-68.

<sup>192</sup> Evidence, Mr Wing, 25 September 2020, p 68.

## Committee comment

- 2.125** There is no doubt that the taxi industry has faced significant disruption with the entry of rideshare services into the market. While there is a place for rideshare services in the point to point transport industry, the committee is concerned that the changes have failed to level the playing field and that the reforms, coupled with other structural factors, have ultimately disadvantaged the taxi industry over the rideshare sector.

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### Finding 2

That the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016* has failed to level the playing field between taxis, hire vehicles and rideshare operators.

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- 2.126** The committee appreciates that the reforms sought to provide more flexibility and less prescriptive standards onto the industry, particularly in terms of safety. We are concerned, however, that many within the taxi industry have found it challenging to take on the additional responsibilities required under the legislation. We acknowledge that the taxi industry consists of many participants, many of which are small businesses, competing in some cases with multinational companies in the rideshare space. While rideshare companies may be able to shoulder additional burdens such as developing and maintaining a safety management system, and organising onboarding of drivers, smaller taxi networks cannot.
- 2.127** The committee believes that the government must work towards levelling the playing field to ensure that the taxi industry can effectively compete in the market. In our view, there are steps that can be taken to provide a fairer balance to all those operating within this space.
- 2.128** For example, in terms of operating costs, it is clear that the disparities in Compulsory Third Party insurance costs between those working in the point to point transport sector needs to be addressed. While we understand that the State Insurance Regulatory Authority is aware of these issues, it is our view that work in this area needs to be prioritised, both to help support those who are financially struggling within the sector and to remedy the imbalance. It is important that no industry participants are unfairly disadvantaged, including rideshare drivers who are on the road for a small number of hours a week.

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### Recommendation 2

That the NSW Government review how Compulsory Third Party insurance costs are calculated for all key stakeholders operating within the point to point transport industry, with a view to ensuring equal costs and competitive neutrality for taxis, hire vehicles and rideshare.

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- 2.129** The committee acknowledges that taxi industry stakeholders bear higher costs in relation to vehicle fit outs and safety features such as security cameras. We hear calls from the taxi industry for more parity in this area and we recognise that the safety of passengers and drivers must be paramount whether it be in a rideshare vehicle or taxi vehicle. We also accept the need for more safety features in taxis given they engage in anonymous trips through rank and hail services.

- 2.130** While the removal of red tape in relation to quality and service standards may be seen as a step towards levelling the playing field, taxi stakeholders were adamant that this has resulted in a drop in standards. In this regard, the loss of a centralised complaints management system is unfortunate. It is the committee's view that with more stakeholders in the point to point transport industry now, there is more of a need for a centralised system that allows all participants in the industry to share useful information. In particular, there is an immediate need for a centralised fatigue management system and the capability to share information on banned drivers throughout the industry. The committee heard positive evidence about the Point to Point Transport Commission's Driver Vehicle Dashboard portal, and considers that this could be expanded to incorporate an accessible complaints handling system, a fatigue management system and an information sharing portal on banned drivers.

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**Recommendation 3**

That the NSW Government improve quality and service standards within the point to point transport industry by:

- reinstating a centralised complaints handling system, and developing a fatigue management system and information sharing portal on banned drivers
  - incorporating these mechanisms in the Driver Vehicle Dashboard portal managed by the Point to Point Transport Commission
  - ensuring that any complaints handling system is accessible to consumers with a disability
  - developing either internally or through external tender a mother app that provides New South Wales public users with the ability to access booking and payment for all taxi and rideshare platforms.
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- 2.131** On the issue of vehicle numbers, the committee was surprised to learn that taxis are inspected more than rideshare vehicles despite rideshare vehicles making up the majority of the market. The committee notes that the statistics provided by the Point to Point Transport Commissioner highlight that a disparity in compliance and enforcement has developed between taxi and rideshare. This is a clear disparity that unfairly falls onto taxi services. The committee also believes that more on-street enforcement is necessary to help stamp out rogue operators and ride-touting, particularly in regional New South Wales. We were encouraged to learn of the camera trials at taxi ranks and look forward to seeing the results of this strategy. The committee recommends that the NSW Government increase on-street enforcement efforts in the point to point transport industry, particularly in regional New South Wales, and investigate why a disparity currently exists between enforcement of rideshare and taxi vehicles.

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**Recommendation 4**

That the NSW Government increase on-street enforcement efforts in the point to point transport industry, particularly in regional New South Wales and investigate why a disparity currently exists between enforcement of rideshare and taxi vehicles.

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- 2.132** The committee agrees with stakeholders that a small retroreflective sign on the rear window of rideshare vehicles is not enough and could be hindering the ability of compliance officers to identify vehicles. The committee therefore recommends that the NSW Government change the signage requirements for rideshare vehicles to a more visible, easily identifiable format.

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**Recommendation 5**

That the NSW Government change the signage requirements for rideshare vehicles to a more visible, easily identifiable format.

- 2.133** While rideshare services have noted the difference in bus lane access between taxis and rideshare vehicles, it is impossible to see how providing access to rideshare vehicles could work without causing congestion in these lanes. Further, the committee notes the difficulty in enforcement given the current state of rideshare signage. The committee sees no need for changes in bus lane access at the current time. However, with clear demand for rideshare services, passengers should have safe access to pick up and drop off zones at events and in busy cities more generally. We therefore recommend that the NSW Government work with local government to facilitate safe pick up and drop off zones for passengers of rideshare services, and increase enforcement of these zones.

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**Recommendation 6**

That the NSW Government work with local government to facilitate safe pick up and drop off zones for passengers of rideshare services and increase enforcement of these zones so they do not breach current rank and hail conditions.

- 2.134** One of the key structural issues that emerged as a factor in preventing taxis from competing effectively in the market was the uneven employment conditions across the sector. The committee strongly disagrees that the taxi industry should be removed from Chapter 6 of the *Industrial Relations Act 1996*. Doing so could negatively impact labour standards for taxi drivers, by removing important employment protections which have been in place for some time.
- 2.135** More work needs to be done to determine how best to protect rideshare drivers. While bailment reform may be one option, we recommend that the NSW Legislative Council's Select Committee on the Technological Change on the Future of Work conduct an independent review into the employment relationship between rideshare services and their drivers to determine how best to apply employment entitlements to rideshare drivers.

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**Recommendation 7**

That the NSW Legislative Council's Select Committee on the Technological Change on the Future of Work conduct an independent review into the employment relationship between rideshare services and their drivers to determine how best to apply employment entitlements to rideshare drivers.

- 2.136** Finally, the committee also recommends that the NSW Government work with all stakeholders in the point to point transport industry to regulate the industry, with a view to establishing a level playing field that addresses all inequities outlined through this inquiry process.

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**Recommendation 8**

That the NSW Government work with all stakeholders in the point to point transport industry to regulate the industry with a view to establishing a level playing field that addresses all inequities outlined through this inquiry process.

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## Chapter 3 The consumer experience

This chapter examines point to point transport services from the point of view of the consumer. First, the chapter explores customer satisfaction and usage since the introduction of the point to point transport reforms. It then moves on to discuss the impact of the entry of rideshare services on the viability and availability of 24/7 taxi services in regional towns. Finally, the chapter concludes by exploring access to point to point transport by consumers with a disability.

### Customer satisfaction and usage

- 3.1** In its submission, the NSW Government provided data on customer satisfaction and point to point usage since the commencement of the point to point reforms.
- 3.2** In relation to customer satisfaction, the NSW Government provided data from the Transport for NSW Point to Point Customer Satisfaction Index released in May 2019. Based on 3,000 responses, satisfaction with taxis was at 86 per cent. The NSW Government noted that this was the same as the year before and the highest in the time that the Customer Satisfaction Index has been conducted. Satisfaction with rideshare services was stable at 91-92 per cent since November 2017, while satisfaction with hire car vehicles was down to 86 per cent from 91 per cent a year before.<sup>193</sup>
- 3.3** More specifically, for taxis, customers were most satisfied with safety, ease of payment, booking, finding a taxi at a rank and cleanliness and comfort of the vehicle. More than 10 per cent of customers were dissatisfied with fares and surcharges, and availability of information on fares and at ranks.<sup>194</sup>
- 3.4** In contrast, for rideshare services, customers were most satisfied with ease of booking and payment, safety of driving, and presentation, cleanliness and comfort of the vehicle. Under six per cent of respondents were 'dissatisfied with some aspect of their rideshare services'.<sup>195</sup> For traditional hire cars, customers were most satisfied with vehicle comfort, knowledge and presentation of the driver and safety of driving, with dissatisfaction at 'less than seven per cent'.<sup>196</sup>
- 3.5** The NSW Government also reported on the results from the Independent Pricing and Regulatory Tribunal's 2018 Point to Point Transport Survey commissioned by Orima Research. This reported:

Overall satisfaction with taxi services in Sydney was between 83 and 84 per cent across the state, while satisfaction with rideshare was higher at 94 per cent in Sydney, 92 per cent in other urban and 89 per cent in the rest of NSW. Traditional hire vehicles had the highest overall satisfaction at 95 per cent in Sydney and the rest of NSW, and 91 per cent in other urban area.<sup>197</sup>

<sup>193</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 60.

<sup>194</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 60.

<sup>195</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 60.

<sup>196</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 60.

<sup>197</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, pp 60-61.

- 3.6** The results also showed that 'taxis are perceived as convenient (though only half as much as rideshare in Sydney, and on par outside Sydney), safe and superior in navigation, driving skills and route knowledge', while 'waiting times, value for money (particularly in comparison to rideshare) and customer service were weaknesses'. The NSW Government also reported that in this research, 'both rideshare and hire vehicles far outstripped taxis on most aspects of service quality'.<sup>198</sup>
- 3.7** In relation to point to point transport usage, the NSW Government referred to Independent Pricing and Regulatory Tribunal's annual survey of New South Wales residents on their use and perceptions of point to point transport. The NSW Government highlighted the following statistics from the last survey:
- use of rideshare services grew in 2019 compared to 2018 but the growth 'appears to be levelling off, following rapid growth since the first services were introduced in NSW'
  - 'demand for traditional taxi services remains strong', with 49 per cent of residents in Sydney reporting that they had caught a taxi at least once in the six months prior to being surveyed
  - taxi use is more widespread than rideshare outside of Sydney
  - rideshare use in urban areas (Newcastle, Wollongong, Gosford and Wyong) remained stable at just under 30 per cent between 2018 and 2019
  - perceptions of taxis 'generally improved in 2019 compared to 2018'
  - perceptions of safety, navigation and driver skills were more positive for taxis than rideshare services, while perceptions of rideshare services were more positive than taxis in relation to value for money, waiting times and availability.<sup>199</sup>

### **Fares**

- 3.8** One of the aims of the point to point reforms was to provide 'better competition and choice for customers'.<sup>200</sup> An area the committee was particularly interested in was point to point transport fares, and whether deregulation of fares has resulted in an increase or decrease of fares for consumers.
- 3.9** In response to questions about whether fares have increased or decreased since the introduction of the point to point transport reforms, Head of Public Policy and Government Affairs at Uber, Mr Mitch Cooper commented:

The IPART research also looks at value, so while we do not have a perception of what the average fare across the industry is, it is obviously a competitive marketplace. We try and figure out how our competitors are pricing so that, like any competitive market, we have a sharp offer to consumers, but it is not a price-regulated market.<sup>201</sup>

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<sup>198</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 61.

<sup>199</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, pp 60-61.

<sup>200</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 17.

<sup>201</sup> Evidence, Mr Mitch Cooper, Head of Public Policy and Government Affairs, Uber, 25 September 2020, p 32.

- 3.10** Witnesses from both Uber and Ola highlighted that prices are publicly available on their apps. For example, Ms Amanda Gilmore, Head of Driver and Compliance at Uber stated:

The other part about pricing, which I think has helped with transparency with consumers, is that they can see the price of a trip up-front in the Uber app and that helps them make a decision around if they are willing to accept that fare, and as you mentioned we do have dynamic pricing and that is all reflected up-front so that they can make that choice in a transparent manner.<sup>202</sup>

- 3.11** Ola's Managing Director, Mr Simon Smith, also commented on Ola's standard tariffs being publicly available on their app:

Our standard tariff is actually publicly available information on the app—both per minute and per kilometre fixed booking fees—as is the standard taxi tariff. I think, by casual observation, a taxidriver never gives you a discount so we can assume that people will drive on that tariff, which does go up on the weekend, public holidays and the evening. Our fares do go up according to our peak demand algorithm... I would say that the vast majority of the time the fares are the standard fares on our app.<sup>203</sup>

- 3.12** In relation to the difference in taxi fares versus rideshare fares, Mr Smith advised that Ola trips are around 20 to 25 per cent cheaper than a taxi:

It obviously depends on the length of the journey, but we use a rule of thumb of around 20 to 25 per cent cheaper on our platform than a taxi. We invest a significant amount of money in incentivising drivers, so giving them over and above bonuses for doing certain activities, and we also invest a significant amount of money in customer incentives, so there is, as far as we are concerned, very real price competition in the industry.<sup>204</sup>

- 3.13** Some stakeholders from the taxi industry, however, questioned whether rideshare services are actually cheaper than taxis, and raised concerns about potential price gouging.

- 3.14** For example, Legion Cabs explained that rideshare services claim that taxi fares are higher than rideshare fares when taxis are often cheaper: 'Rideshare companies routinely advertise taxi prices to be substantially more than they are in their apps to entice customers to use their services even though taxis are often cheaper than rideshare now, again, nothing is done to address this concern'.<sup>205</sup>

- 3.15** Legion Cabs also raised concerns with the practice of surge pricing in rideshare services describing it as 'price gouging':

The abhorrent practice of Rideshare companies to “Surge Price” is nothing short of state sponsored acceptance of price gouging ... There are many examples in the press of rideshare passengers being stung hundreds, sometimes thousands of dollars, the deregulation of the booked market is again an example of the regulations being changed to ensure rideshare can continue to operate as they want.<sup>206</sup>

<sup>202</sup> Evidence, Ms Amanda Gilmore, Head of Driver and Compliance, 25 September 2020, p 32.

<sup>203</sup> Evidence, Mr Simon Smith, Managing Director, Ola, 25 September 2020, p 32.

<sup>204</sup> Evidence, Mr Smith, 25 September 2020, p 32.

<sup>205</sup> Submission 81, Legion Cabs, p 4.

<sup>206</sup> Submission 81, Legion Cabs, p 4.

- 3.16** The committee questioned the Point to Point Transport Commissioner on fares since the implementation of the reforms. The Commissioner advised that the Commission has not conducted 'detailed analysis', but noted that there is more choice for consumers now, particularly with the different fare structures available. In terms of looking into this issue further, the Commissioner felt that the Independent Pricing and Regulatory Tribunal would be best placed to do further analysis.<sup>207</sup>
- 3.17** Mr Wing also acknowledged that there is no information on whether customers perceive a positive impact on prices with the entry of rideshare services. Nevertheless, the Commissioner reiterated that there are more offerings at different price levels so those who 'want to have a cheaper service can get a cheaper service' and 'those who do want to pay for a more upmarket service can get that'.<sup>208</sup>
- 3.18** In answers to questions on notice, the NSW Government further stated that in a 2019 survey conducted by the Independent Pricing and Regulatory Tribunal, 'Sydney users of rideshare services reported a lower average fare than did users of taxi services, for trips of the same estimated length'.<sup>209</sup>
- 3.19** In its Review of Taxi Fares in NSW and Taxi Licences outside Sydney from 1 July 2018, IPART recommended that 'The Point to Point Transport Commissioner collect trip data for taxis and hire vehicles, annually for three years, from 1 July 2018 to 30 June 2021 from all taxi and booking service providers with over 100,000 passenger service transactions per year'. IPART considered that collection of such data would be useful 'to monitor the development and impact of the policy changes from the Point to Point Transport Act and our recommendations' and 'would better inform any future decisions and recommendations'.<sup>210</sup>
- 3.20** IPART highlighted that collecting this data would help the government and IPART analyse the following matters:
- "market shares of taxi service providers and booking service providers by operating area
  - market concentration of taxi service providers and booking service providers
  - levels of supply-side substitution by drivers and vehicles working for different taxi service providers and booking service providers
  - changes in total demand for taxis and point to point transport
  - the impacts of changes to regulated fares on typical customers and taxi drivers and operators
  - waiting time for booking service providers and taxi service providers, and
  - the impact of price changes (through fare notification) on point to point transport demand (eg, for a price and cross-price elasticity study where fares change)".<sup>211</sup>

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<sup>207</sup> Evidence, Mr Anthony Wing, Point to Point Transport Commissioner, 25 September 2020, p 61.

<sup>208</sup> Evidence, Mr Wing, 25 September 2020, p 61.

<sup>209</sup> Answers to questions on notice, Transport for NSW, 13 November 2020, p 11.

<sup>210</sup> Independent Pricing and Regulatory Tribunal, *Review of Taxi Fares in NSW and Taxi Licences outside Sydney from 1 July 2018*, March 2018, p 33.

<sup>211</sup> Independent Pricing and Regulatory Tribunal, *Review of Taxi Fares in NSW and Taxi Licences outside Sydney from 1 July 2018*, March 2018, p 33.

**3.21** On whether the Commissioner has accepted a recommendation from the Independent Pricing and Regulatory Tribunal about collecting more data about fares, Mr Wing advised: 'We do not collect detailed information about fares. It would really be a policy decision if we were to start making that kind of non-safety impost on the industry'.<sup>212</sup> The NSW Government also noted that neither the current Commissioner nor his predecessor have had discussions with Transport for NSW about this matter.<sup>213</sup>

### Taxi services in regional New South Wales

**3.22** The committee heard concerns relating to the viability of taxi services in regional New South Wales, following the entry of rideshare services into regional communities.

**3.23** The NSW Taxi Council pointed to a number of issues challenging taxi services in regional New South Wales:

- the operation of rideshare services in regional towns
- competition with 'government funded operations' including on demand services, community transport and patient transport
- competition with courtesy buses offered to patrons by local clubs 'who may also receive government grants'.<sup>214</sup>

**3.24** In relation to the operation of rideshare services in regional towns, the NSW Taxi Council explained that rideshare drivers 'are simply cherry picking where and when they choose to operate' meaning that 'they are only operating during the busy and peak periods, and not available during the quieter periods of late night trade'.<sup>215</sup>

**3.25** The NSW Taxi Council highlighted that 'cherry-picking' by rideshare services is diminishing the viability of taxi services which typically rely on Friday and Saturday night trade to make up for slower periods during the rest of the week:

In many Country towns, up to 80% of fleets are experiencing significantly increased idle time, particularly during the evenings. In these instances, we are seeing examples of earnings of \$60 for a 12 hour period for some nights of the week. Traditionally, Taxi businesses rely on Friday and Saturday nights for survival; the other nights of the week are their service to the community, with little financial gain. The cherry-picking by Ridesharing operators of peak times is further diminishing the viability of the Taxi industry. As a result, Taxi businesses are being forced to shrink their fleet to ensure reasonable earnings and to control operating costs.<sup>216</sup>

<sup>212</sup> Evidence, Mr Wing, 25 September 2020, p 61.

<sup>213</sup> Answers to questions on notice, Transport for NSW, p 11.

<sup>214</sup> Submission 62, NSW Taxi Council, p 57.

<sup>215</sup> Submission 62, NSW Taxi Council, p 57.

<sup>216</sup> Submission 62, NSW Taxi Council, p 59.

- 3.26** The NSW Taxi council also explained that the 'quieter periods or late night trade' is when customers might be 'more vulnerable and need the availability of transport services'. Examples of this include late night patrons choosing taxis as a plan B, domestic violence victims needing transport and members of the community with a disability who require transport services.<sup>217</sup>
- 3.27** Other stakeholders raised a similar point. For example, Southern Highlands Taxis, Limousines & Coaches stated:

We now have Uber and Rideshare in country areas and they put their cars away the moment business slows down, which is certainly early during most week nights, while most Taxi Operators continue to keep cars on the road to provide that necessary service should there be an emergency such as Domestic Violence or a sick person requiring transport to the hospital or even keeping drunks off the road.<sup>218</sup>

- 3.28** Tamworth Cabs shared their experience, explaining that additional point to point transport providers and 'cherry-picking' by rideshare services has resulted in 'a steady erosion of demand for taxi transport along with the incomes available for individuals'. It added that this has had 'an ever increasing pressure upon the ability of Tamworth Cabs and other regional networks to provide the full 24/7 service 365 days per year for all members of the community'.<sup>219</sup>
- 3.29** The NSW Taxi Council noted that the majority of taxi service providers in regional New South Wales are small businesses who have been operating in their communities for many years and understand their customers really well. In addition to the proliferation of rideshare services, the Council contended that 'taxi businesses have had to absorb the increased costs and burdens that have been placed on them, since the introduction of the Point to Point Transport reforms'.<sup>220</sup>
- 3.30** The NSW Taxi Council argued that this has meant for some taxi businesses that they are 'just getting by'. For others, it has meant closing the business and in some cases leaving a town with no taxi service.<sup>221</sup>
- 3.31** The NSW Taxi Council emphasised that there is a need to address the viability of taxi services in regional New South Wales:

There is a critical need to address the fragile nature of Regional Business. The risk of oversupply of services may have catastrophic consequences for Taxi businesses, putting in jeopardy the 24/7 operation that Taxis supply, which is vital to and sometimes the only transport option for many Regional communities.<sup>222</sup>

- 3.32** To this effect, stakeholders made two key recommendations:
- that the NSW Government redirect funds for government funded services such as community transport, on demand services, courtesy buses, school transport and patient transport to the taxi industry

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<sup>217</sup> Submission 62, NSW Taxi Council, pp 57-58.

<sup>218</sup> Submission 8, Southern Highlands Taxis, Limousines & Coaches, p 2.

<sup>219</sup> Submission 45, Tamworth Cabs, pp 5-6.

<sup>220</sup> Submission 62, NSW Taxi Council, pp 57-58.

<sup>221</sup> Submission 62, NSW Taxi Council, p 58. See also, Submission 68, Regional Taxilines Pty Limited, pp 5-6.

<sup>222</sup> Submission 62, NSW Taxi Council, p 59.



- that the NSW Government redirect more contract work towards taxi services.<sup>223</sup>

**3.33** The NSW Taxi Council and Regional Taxilines argued that these initiatives would be effective in ensuring the viability of 24/7 taxi services in regional New South Wales which are currently struggling to compete.<sup>224</sup>

**3.34** In addition, Mr Scott Wilkins, Operations Manager, Milton Ulladulla Taxis, Limousines and Charter Bus Service, and Mr Geoff Ferris, President of the Country Taxi Operators Association, contended that some of these services could be offered by taxis at a cheaper cost to government.<sup>225</sup>

**3.35** In relation to rideshare services in regional New South Wales, both Uber and Ola indicated their interest in expanding their reach.<sup>226</sup> However, the issue of access to reliable transport was put to Uber at a hearing. Head of Driver and Compliance, Ms Amanda Gilmore responded:

From our perspective, even when demand is low there are people looking for work who are able to provide rides.

...

... making sure that we can provide a reliable service even in those smaller centres is top of mind for us. I cannot comment on whether taxis should be made available. They are obviously more than welcome to be available to provide another transport option. We think a lot about how we can continue to provide a good, reliable service to people as we expand into these areas that have lower density.<sup>227</sup>

## Disability access

**3.36** Inquiry participants from the disability sector spoke to the impact of the point to point transport regulation on people with a disability. Stakeholders argued that while there have been some improvements in terms of access to services, some barriers still remain for people with a disability when accessing point to point transport.

**3.37** According to the Physical Disability Council of NSW, the customer experience for people with a physical disability has improved following deregulation. In particular, the organisation highlighted an increase in wheelchair accessible taxis, an increase in subsidies that have made taxis made affordable, and the proactive approach taken by the Point to Point Transport Commission to ensure regulatory compliance regarding wheelchair accessible taxis.<sup>228</sup>

<sup>223</sup> Submission 62, NSW Taxi Council, pp 60-61; Submission 68, Regional Taxilines Pty Limited, p 6; Submission 87, Milton Ulladulla Taxis, Limousines and Charter Bus Service, p 2.

<sup>224</sup> Submission 62, NSW Taxi Council, pp 60-61; Submission 68, Regional Taxilines Pty Limited, p 6.

<sup>225</sup> Evidence, Mr Scott Wilkins, Operations Manager, Milton Ulladulla Taxis, Limousines and Charter Bus Service, 19 August 2020, p 5; Evidence, Mr Ferris, 25 September 2020, p 5.

<sup>226</sup> Submission 82, Ola Australia Pty Ltd, p 12; Submission 83, Uber, p 25.

<sup>227</sup> Evidence, Ms Gilmore, 25 September 2020, p 36.

<sup>228</sup> Submission 64, Physical Disability Council of NSW, p 5. See also, Evidence, Ms Hayley Stone, Senior Policy Officer, Physical Council of NSW, 19 August 2020, p 22.

- 3.38** Nevertheless, despite the overall improvements, Senior Policy Officer, Ms Hayley Stone from the Physical Disability Council of NSW, expressed concern that people with disabilities are 'still constrained in the choices that they make around how and when they travel under the current scheme'.<sup>229</sup>
- 3.39** Vision Australia also acknowledged that there have been some benefits such as greater availability of taxis during peak times. However it suggested that there are still barriers to accessing point to point transport which have not been addressed, lessening the positive impact of these benefits.<sup>230</sup>

### **Barriers to accessing point to point transport**

- 3.40** Lead Policy Advisor, Mr Bruce Maguire, Vision Australia, argued that the regulations have largely failed for people who are blind or have low vision, in that they do not guarantee safety, deliver inclusion, reduce discrimination and provide an effective mechanism for resolving complaints.<sup>231</sup> Mr Maguire outlined a number of areas which have worsened for people who are blind or have low vision, including:
- the proliferation of booking apps that fail to meet international standards and guidelines for accessibility
  - an increase in the number of taxis which do not have tactile numbers on the front door as per the Disability Standards for Accessible Public Transport 2002
  - a lack of training in both taxi and rideshare drivers about how to best assist people who are blind or have low vision
  - a lack of effective complaints-handling mechanisms in both taxis and rideshare services.<sup>232</sup>
- 3.41** In relation to the accessibility of booking apps, Mr Maguire explained that because there is no requirement for the point to point transport industry to develop apps that comply with accessibility guidelines, 'it varies from company to company as to how much they demonstrate a commitment to inclusion in their apps'.<sup>233</sup>
- 3.42** Vision Australia noted that they had less feedback about the accessibility of booking apps for rideshare services as the Taxi Transport Subsidy Scheme is not available for those services (see paragraph 3.71), but that Uber 'seems to be much more compliant with accessibility guidelines' than the taxi apps they have examined and 'probably also more than other non-taxi booking apps'.<sup>234</sup>

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<sup>229</sup> Evidence, Ms Stone, 19 August 2020, p 22.

<sup>230</sup> Submission 66, Vision Australia, p 2.

<sup>231</sup> Evidence, Mr Bruce Maguire, Lead Policy Advisor, Vision Australia, 19 August 2020, p 22.

<sup>232</sup> Evidence, Mr Maguire, 19 August 2020, p 23.

<sup>233</sup> Evidence, Mr Maguire, 19 August 2020, p 26.

<sup>234</sup> Submission 66, Vision Australia, p 5.

**3.43** Vision Australia previously recommended to the NSW Government that booking apps be required to comply with accessibility guidelines. The organisation believed that these recommendations have been 'ignored' due to the assumption that 'the market would sort things out':

Our recommendations in this area were ignored, and our impression at the time was that legislators assumed that “the market” would sort things out: if one app proved to be noncompliant with accessibility guidelines, then people would choose another company that had developed a compliant app, and this would put pressure on the company with the non-compliant app to move towards compliance. However, this assumption has proved to be completely wrong. The reality is that people who are blind or have low vision do not have a meaningful choice, because none of the major taxi companies operating in NSW have demonstrated a commitment to accessibility by developing a booking app that is fully compliant with accessibility guidelines.<sup>235</sup>

**3.44** Vision Australia described this as 'evidence of market failure', suggesting that:

- there is 'an urgent need' for the government to mandate accessibility guidelines for booking apps across the point to point transport industry
- this requirement must be made a condition to operate as a licensed point to point transport provider
- all point to point transport providers must be strongly encouraged to engage meaningfully with the disability sector to help identify needs and develop more accessible service.<sup>236</sup>

**3.45** Another issue raised in terms of accessibility was a decrease in compliance with tactile numbers on the passenger doors of taxis. As taxis are considered a form of public transport under the Disability Standards for Accessible Public Transport 2002, they are required to have tactile numbers outside the passenger doors to ensure that people who are blind or have low vision can independently identify the taxi before entering.<sup>237</sup>

**3.46** Mr Maguire believed that there have been changes in the design of the tactile numbers that make them harder to feel or see. In addition, he observed that there are no tactile numbers on vehicles associated with newer and smaller taxi companies. He suggested that this may be because the newer industry participants may not be aware of the requirement.<sup>238</sup>

**3.47** Vision Australia strongly advocated that compliance with the Disability Standards for Accessible Public Transport 2002 be made a pre-condition for obtaining a taxi licence. It also recommended that the Point to Point Transport Commission or other relevant body develop and implement a training program to ensure that taxi drivers are aware of their obligations.<sup>239</sup>

**3.48** Similarly, Blind Citizens Australia argued that passengers should be able to identify their taxi or rideshare vehicle independently such as through tactile numbers on vehicle doors.<sup>240</sup>

<sup>235</sup> Submission 66, Vision Australia, p 5.

<sup>236</sup> Submission 66, Vision Australia, p 5.

<sup>237</sup> Submission 66, Vision Australia, p 7.

<sup>238</sup> Evidence, Mr Maguire, 19 August 2020, p 28.

<sup>239</sup> Submission 66, Vision Australia, pp 7-8.

<sup>240</sup> Submission 52, Blind Citizens Australia, p 14.

- 3.49** Stakeholders also raised concerns with the service standards in the point to point transport industry, pointing to a lack of training and complaint-handling mechanisms as key issues.
- 3.50** Mr Maguire observed that training for point to point transport drivers is 'now less formalized and less rigorous than perhaps it was prior to deregulation'.<sup>241</sup> In its submission, Vision Australia highlighted a decrease in driver training and English communication skills since deregulation.<sup>242</sup>
- 3.51** Vision Australia also contended that there has been little collaboration between the point to point transport industry and disability sector with regard to training compared to pre-deregulation:
- We know that prior to deregulation, major taxi companies worked with organisations in the disability sector to provide disability awareness training for drivers. That collaboration does not appear to have survived deregulation, and, with the exception of Uber, newer entrants to the point to point transport industry appear to be giving little if any attention to how their drivers can learn how to assist people who are blind or have low vision.<sup>243</sup>
- 3.52** Vision Australia therefore recommended that all point to point transport providers be required to collaborate with the disability sector to develop and implement driver training to assist passengers with a disability, including those who are blind or have low vision.<sup>244</sup>
- 3.53** Highlighting the need for this, stakeholders provided examples of poor service and discrimination. For example, in a survey conducted by Vision Australia and Blind Citizens Australia, respondents reported a number of issues such as passengers dropped off at the wrong location, drivers taking a longer route, booked taxis not showing up, and refusal of service due to assistance dogs, or attempts to charge a cleaning fee.<sup>245</sup>
- 3.54** Likewise, the Physical Disability Council of NSW highlighted similar issues, such as refusals to take passengers on shorter jobs as well as drivers hesitating to accept jobs despite regulations which require drivers of wheelchair accessible taxi vehicles to prioritise a wheelchair pickup over a passenger not using a wheelchair.<sup>246</sup>
- 3.55** Blind Citizens Australia suggested that any training and education should highlight drivers' responsibilities to accept assistance dogs in their vehicles.<sup>247</sup> Vision Australia advocated for a 'much stronger' approach to the enforcement of laws about the carriage of assistance animals in point to point transport vehicles.<sup>248</sup>
- 3.56** The Physical Disability Council of NSW recommended that the Point to Point Transport Commission take responsibility for whole of sector education and training on service obligations under the Point to Point Transport (Taxis and Hire Vehicles) Regulation 2017 and the *Anti-*

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<sup>241</sup> Evidence, Mr Maguire, 19 August 2020, p 23.

<sup>242</sup> Submission 66, Vision Australia, p 12.

<sup>243</sup> Submission 66, Vision Australia, p 12.

<sup>244</sup> Submission 66, Vision Australia, p 12.

<sup>245</sup> Submission 66, Vision Australia, p 10; Submission 52, Blind Citizens Australia, pp 6-8.

<sup>246</sup> Submission 64, Physical Disability Council of NSW, p 14.

<sup>247</sup> Submission 52, Blind Citizens Australia, p 13.

<sup>248</sup> Submission 66, Vision Australia, p 10.

*Discrimination Act 1977 (Cth)*.<sup>249</sup> In addition it suggested that information be published on the Point to Point Transport Commission's website that explains what passengers should expect in terms of conduct so they could more readily identify and report misconduct.<sup>250</sup>

**3.57** In addition to training in the sector, there were also concerns about complaint handling processes, particularly from the perspective of people with a disability.

**3.58** Vision Australia contended that the complaints-handling systems offered by point to point transport providers and the NSW Government are 'simply not working' to resolve issues:

[The complaints handling systems] afford minimal recourse for resolving issues related to discrimination or poor service, offer no meaningful sanctions for unacceptable driver behaviour, and are ineffective for addressing systemic barriers that are experienced by people who are blind or have low vision when using point to point transport.<sup>251</sup>

**3.59** According to Blind Citizens Australia, there is a consistent lack of follow up and resolution after lodging a complaint with taxi or rideshare services.<sup>252</sup> In addition, it noted that accessibility is a 'major issue' when lodging complaints via apps or online, and therefore recommended that there should be multiple options to lodge complaints, such as via phone, email and web forms compliant with accessibility guidelines.<sup>253</sup>

**3.60** Vision Australia recommended that a more effective complaints mechanism be developed for the point to point transport industry.<sup>254</sup>

**3.61** On a broader level, Vision Australia expressed disappointment with the Point to Point Transport Commission, given its attempts to discuss accessibility concerns, which the Commission referred back to industry mechanisms:

Vision Australia and other organisations in the blindness and low vision sector have attempted to discuss our concerns with the Point to Point Transport Commission, but, to our frustration, have been referred back to industry. ... [I]ndustry mechanisms are largely inadequate. We are disappointed that the Commission does not seem inclined to engage with the blindness and low vision sector or to explore its role in helping to reduce barriers that are being experienced by people who are blind or have low vision.<sup>255</sup>

**3.62** Mr Maguire from Vision Australia advocated for a point to point transport consultation forum to be established, to enable the government and disability sector to work together to discuss and address some of the issues raised:

[W]e ask that priority be given to the establishment of an effective and ongoing consultation mechanism, such as a point to point transport disability forum, that will bring industry and the disability sector together to discuss issues, agree on solutions and

<sup>249</sup> Submission 64, Physical Disability Council of NSW, p 14.

<sup>250</sup> Submission 64, Physical Disability Council of NSW, p 14.

<sup>251</sup> Submission 66, Vision Australia, p 12.

<sup>252</sup> Submission 52, Blind Citizens Australia, p 12.

<sup>253</sup> Submission 52, Blind Citizens Australia, p 14.

<sup>254</sup> Submission 66, Vision Australia, p 12.

<sup>255</sup> Submission 66, Vision Australia, p 12.

be partners in making progress towards a more liveable community with people with a disability, including people who are blind or have low vision.<sup>256</sup>

- 3.63** Mr Maguire elaborated that while Uber has had regular discussions with the disability sector and that there have been discussions with the taxi industry over the years, 'there is nothing formalised'. He speculated that as the deregulated environment has created many new challenges for the point to point transport industry, 'accessibility has not always been – rarely has been, perhaps – front of mind'. He further argued that 'having a more formalised mechanism for that consultation would go a long way towards at least discussing issues that could be dealt with informally, rather than through a process of regulation'.<sup>257</sup>

### **Taxi Transport Subsidy Scheme**

- 3.64** The Taxi Transport Subsidy Scheme (TTSS) is available to New South Wales residents who are unable to use public transport due to a severe and permanent disability. Those who are eligible receive a subsidy of 50 per cent of a taxi fare, up to a maximum of \$60. The TTSS is a paper-based docket system - applicants are sent dockets via mail that they can use to receive the subsidy.<sup>258</sup>
- 3.65** The Physical Disability Council of NSW endorsed the TTSS as 'a mechanism for reducing the costs of point to point transport for persons with physical disability, particularly those on limited income or who rely on point to point transport as their primary method of transport'.<sup>259</sup>
- 3.66** Despite endorsement for the scheme, Ms Hayley Stone, Senior Policy Officer, Physical Disability Council of NSW, highlighted that there are practical limitations when accessing and using the TTSS. For example, many people with a physical disability may not have the motor skills to manipulate paper dockets, the dockets are prone to getting lost and destroyed, and many taxi drivers do not know how to use the dockets, requiring passengers to instruct the drivers on how to fill them out.<sup>260</sup>
- 3.67** In addition, Ms Stone explained that the dockets are not readily accessible and inhibit spontaneous travel for people with a disability as the dockets have to be ordered online and sent to applicants via mail. She also noted that a similar issue arises when people with a disability travel interstate as they have to apply for a different docket which can take up to 14 days to be sent to applicants.<sup>261</sup>
- 3.68** Ms Stone advocated for a smart card system as a more efficient way to administer the TTSS.<sup>262</sup> In its submission, the Physical Disability Council of NSW listed a number of features that should be incorporated into the smart card system:

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<sup>256</sup> Evidence, Mr Maguire, 19 August 2020, p 22.

<sup>257</sup> Evidence, Mr Maguire, 19 August 2020, p 27.

<sup>258</sup> Transport for NSW, *Transport Subsidy Scheme*, <https://transportnsw.info/travel-info/ways-to-get-around/taxi-hire-vehicle/taxi-subsidy-scheme>. See also, Submission 63, NSW Government, p 34.

<sup>259</sup> Submission 64, Physical Disability Council of NSW, p 6.

<sup>260</sup> Evidence, Ms Stone, 19 August 2020, p 26.

<sup>261</sup> Evidence, Ms Stone, 19 August 2020, p 26.

<sup>262</sup> Evidence, Ms Stone, 19 August 2020, p 26.

- the capacity to operate as a 'tap and go' card
- the capacity to use the card in booked services (whether this be via phone or an app), and rank and hail travel
- the ability to generate electronic receipts
- an accessible online portal to access travel information and expenditure
- personalisation of the card to the user
- the ability to upload the card to a phone or watch app
- audible card readers for those with vision impairment
- the capacity to be charged similar to an Opal card, including via cash at accessible venues.<sup>263</sup>

**3.69** Relevant to this, the committee notes that in July 2020, the NSW Government announced a new TTSS smart card to be delivered in partnership with Cabcharge. The cards will be rolled out across the state in phases, beginning with regional New South Wales.<sup>264</sup>

**3.70** Mr Scott Wilkins, Operations Manager, Milton Ulladulla Taxis, Limousines and Charter Bus Services, expressed concern that with the contract for the smart card being awarded to Cabcharge, recipients of the TTSS will not be able to use the card in taxi vehicles that do not have a Cabcharge payment system.<sup>265</sup>

***Debate as to whether the Taxi Transport Subsidy Scheme should be provider neutral***

**3.71** The TTSS can only be used in taxis. Stakeholders in the disability sector told the committee that rideshare services are not financially viable to many people without the TTSS.<sup>266</sup> Both Vision Australia and the Physical Disability Council of NSW advocated for the expansion of the TTSS for use with any point to point transport provider.<sup>267</sup>

**3.72** In evidence before the committee, Ms Stone explained that there are many features of rideshare services that appeal to many people with a disability including the ability to anonymously rate and view the rating of drivers, track routes against the best route, book services, receive an estimated fare and pay electronically. Ms Stone also highlighted niche rideshare services such as Shebah which allows passengers to opt into a female driver as desirable to women with a disability who may feel 'particularly vulnerable'.<sup>268</sup>

<sup>263</sup> Submission 64, Physical Disability Council of NSW, pp 6-7.

<sup>264</sup> Media release, Transport for NSW, 'Smart card to make trips easier for subsidised taxi users', 24 July 2020.

<sup>265</sup> Evidence, Mr Wilkins, 19 August 2020, p 5. See also, Submission 87b, Milton Ulladulla Taxis, Limousines and Charter Bus Service, p 5.

<sup>266</sup> See for example, Submission 66, Vision Australia, p 9; Submission 64, Physical Disability Council of NSW, p 7.

<sup>267</sup> Submission 66, Vision Australia, p 9; Submission 64, Physical Disability Council of NSW, p 7.

<sup>268</sup> Evidence, Ms Stone, 19 August 2020, pp 24 and 25.

- 3.73** Similarly, Mr Maguire from Vision Australia 'strongly' supported the call for 'providing a neutral approach' to the TTSS. In particular, he pointed to regional areas where this would be particularly useful given people have less choice in accessing point to point transport options.<sup>269</sup>
- 3.74** Uber also advocated for the expansion of the TTSS to include rideshare services, noting that their research 'has found it would generate a social return on investment of \$85 million for the state while making the TTSS dollar go further for customers'.<sup>270</sup>
- 3.75** Some stakeholders from the taxi industry expressed the view that the TTSS should remain solely with the taxi industry. For example, Mr Lee Furlong, Assistant General Manager at Legion Cabs, asserted that the taxi industry has 'invested an incredible amount of time and money looking after passengers with disability'.<sup>271</sup> He also argued that 'the rideshares model tends to be a little bit less compatible to the disability sector' with regards to surge pricing.<sup>272</sup>
- 3.76** Similarly, Mr Geoffrey Wong, General Manager at St George Cabs, noted that taxi drivers have worked with people with disabilities for a long time and have had the adequate training to do so in contrast to rideshare drivers.<sup>273</sup>
- 3.77** Representatives from both Ola and Uber confirmed that they would not object to mandated training as a criterion of accessing the TTSS if it were expanded to rideshare providers.<sup>274</sup>

#### **Access to accurate fare information**

- 3.78** While Ms Stone supported the expansion of the TTSS to rideshare operators, she expressed concern around the different fee structures across the industry. In turn, she advocated for a price guide that enables consumers to make informed decisions about the costs of different services:

If there was some form of comparison guide that was managed in a way where a person could identify what would be the cheapest rate across a number of suppliers and where they could get an approximation of the difference between the rates, there would be value in something like that. People could have that capacity to make an informed decision about what transport they opt for. Many would opt for the cheaper version—that would be our experience—but education about that is obviously a primary consideration.<sup>275</sup>

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<sup>269</sup> Evidence, Mr Maguire, 19 August 2020, p 25.

<sup>270</sup> Evidence, Ms Gilmore, 25 September 2020, p 25.

<sup>271</sup> Evidence, Mr Lee Furlong, Assistant General Manager, Legion Cabs, 19 August 2020, p 19.

<sup>272</sup> Evidence, Mr Furlong, 19 August 2020, p 19. See also, Evidence, Mr Ashwin Sharma, Acting Chief Executive Officer, Manly Warringah Cabs, 19 August 2020, p 14.

<sup>273</sup> Evidence, Mr Geoffrey Wong, General Manager, St George Cabs, 19 August 2020, pp 18-19.

<sup>274</sup> Evidence, Ms Gilmore, 25 September 2020, p 34; Evidence, Mr Smith, 25 September 2020, p 34.

<sup>275</sup> Evidence, Ms Stone, 19 August 2020, p 24.



- 3.79** Vision Australia expressed frustration that 'there has been no attempt made to provide passengers who are blind or have low vision with accurate, real-time information' about fares to be charged. The organisation explained that they had recommended talking taxi meters to the government multiple times to no avail.<sup>276</sup>
- 3.80** In evidence before the committee, Mr Maguire highlighted that his organisation has received 'incredibly positive feedback' about talking taxi meters in Queensland.<sup>277</sup>
- 3.81** Ms Stone agreed that there is a need for talking taxi meters in New South Wales. She highlighted experiences of people 'being overcharged, not being able to understand exactly what they were supposed to be charged and not being able to rely on the driver to accurately explain what the cost was'.<sup>278</sup>

### **Wheelchair Accessible Taxis**

- 3.82** A wheelchair accessible taxi is a vehicle that has been modified to safely accommodate at least one and up to three wheelchairs. There are 1,016 registered wheelchair accessible taxis in New South Wales, with 730 in Sydney and 286 outside of Sydney.<sup>279</sup>
- 3.83** In its submission, the NSW Government explained that providers of wheelchair accessible taxis have a duty of care to ensure the safety of their services and an obligation to ensure that all drivers are competent in the safe loading, restraint, carriage and unloading of a customer in a wheelchair.<sup>280</sup>
- 3.84** The Point to Point Transport Commissioner added that drivers of wheelchair accessible taxis must give preference to customers in wheelchairs, and that wheelchair accessible taxis are regularly monitored for compliance. The Commissioner may cancel or suspend a wheelchair accessible taxi licence if 'terms and conditions are not met'.<sup>281</sup>
- 3.85** The Commissioner stated that: 'In February 2020, the Commissioner cancelled two WAT [wheelchair accessible taxi] licences for not meeting the requirement of giving preference to customers in wheelchairs, bringing the total number of WAT licences cancelled by the Commissioner to seven'.<sup>282</sup>
- 3.86** Stakeholders in the taxi industry expressed concern that there has been a change in regulation in relation to the issue of wheelchair accessible taxi licences. The NSW Taxi Council explained that the reforms 'allowed for the NSW Government to issue an unlimited number of WAT licences across metropolitan Sydney and regional New South Wales. The Council argued that with no eligibility criteria and no requirement to demonstrate a need when applying for a

<sup>276</sup> Submission 66, Vision Australia, p 6.

<sup>277</sup> Evidence, Mr Maguire, 19 August 2020, p 24.

<sup>278</sup> Evidence, Ms Stone, 19 August 2020, p 24.

<sup>279</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 34.

<sup>280</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 34.

<sup>281</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 77.

<sup>282</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 77.

wheelchair accessible taxi licence, this has led to an oversupply of wheelchair accessible taxis in some areas.<sup>283</sup>

**3.87** Appearing in his capacity as the President of the Country Taxi Operators Association, Mr Geoff Ferris elaborated on this point:

If I want to go and get a taxi licence—or maybe five, because I do not have to put a business case up—I can then go and dump those five into a town, particularly on race weekend or during country music week, wine festival weekend or the Blessing of the Fleet—and take the cream away from the locals. It upsets the equilibrium and nobody makes any money. We need to have these wheelchair accessible tax [WAT] licences controlled and we need to put a business case to say that there is a requirement for them... To put on a WAT's vehicle costs 100 per cent more than putting a sedan on, but if that is going to give you a free go into someone's area of operation where there is an existing customer base then it gives you a very good leg-up ahead of the existing operator.<sup>284</sup>

**3.88** The NSW Taxi Council suggested that there be a freeze on the issue of wheelchair accessible taxi licences until a review is conducted.<sup>285</sup>

**3.89** On the issue of whether there is an oversupply of wheelchair accessible taxi licences, the Point to Point Transport Commissioner explained that an application for a wheelchair accessible taxi licence cannot be refused on grounds of competition or service under the legislation:

The process under the Act is that a person may apply for a wheelchair-accessible taxi licence and may receive that licence unless there is some special reason why not. For example, if they have a criminal history we suggest they would not comply with the law. But there is nothing—and I have no discretion under the Act—to refuse them on the grounds that there is some assessment of competition or service in an area. Each person makes their own decision about what they want to do. My understanding is that the policy behind that part of the Act is very much to encourage the rollout of these services to a group of people who are quite vulnerable and who would not otherwise have service.<sup>286</sup>

**3.90** Despite the increase in wheelchair accessible taxi licences over the last three years, the Physical Disability Council of NSW remained 'concerned that even with the Government incentives, there is still a shortage of wheelchair accessible taxis for those who need them'.<sup>287</sup>

**3.91** The NSW Taxi Council argued that the NSW Government needs to examine ways to support operators and incentivise them to operate a wheelchair accessible taxi vehicle. The Council recommended that the wheelchair accessible taxi loan scheme be available all year round and/or that all items over and above the cost of a normal taxi sedan be funded by the government.<sup>288</sup>

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<sup>283</sup> Submission 62, NSW Taxi Council, pp 62-63.

<sup>284</sup> Evidence, Mr Geoff Ferris, President, Country Taxi Operators Association, 25 September 2020, p 4.

<sup>285</sup> Submission 62, NSW Taxi Council, p 62.

<sup>286</sup> Evidence, Mr Wing, 25 September 2020, p 64.

<sup>287</sup> Submission 64, Physical Disability Council of NSW, p 11.

<sup>288</sup> Submission 62, NSW Taxi Council, pp 62-63.

- 3.92** The Physical Disability Council of NSW suggested opening up wheelchair accessible taxi incentives to the broader point to point transport industry including rideshare services and community transport. Incentives could include interest free loans to purchase wheelchair accessible taxis, free licencing for wheelchair accessible taxi drivers and an incentive scheme.<sup>289</sup>

### Committee comment

- 3.93** The committee acknowledges that there is more choice for consumers in the point to point transport industry since the reforms and that customers have reported high satisfaction levels with the taxi and rideshare sectors.
- 3.94** While fares for booked services have been deregulated, the committee did not receive clear evidence about whether fares have increased or decreased since the reforms. Considering one of the central aims of the reforms was to ensure that the industry is competitive, it is essential that the NSW Government is able to demonstrate that consumers have benefited from the changes to the industry.
- 3.95** The committee supports IPART's recommendation that further data be collected in order to demonstrate what has happened to fares. The committee was concerned by the response from the Point to Point Commissioner when questioned about this recommendation. The Commissioner did not agree that such work was required and seemed unaware of the recommendation. Accordingly, the committee feels that such work should be completed elsewhere in Government, perhaps by the Productivity Commissioner or by IPART.

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### Recommendation 9

That the NSW Government commission research by the Independent Pricing and Regulatory Tribunal to determine the impact of point to point transport reforms on fares for consumers, with this to assess the impact of the reforms since they have been introduced, and include a recommendation about arrangements for assessing the impact of fares on consumers in the future.

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- 3.96** As we mentioned in chapter 2, the taxi industry has faced significant disruption since the entry of rideshare services into the sector and the implementation of point to point transport reforms. In particular, the committee can see that this disruption has particularly been felt by stakeholders from regional New South Wales. With limited transport options in regional towns compared with metropolitan Sydney, the viability of taxi services is particularly important.
- 3.97** The committee understands that the Baker-Finch review has looked at regional services as part of its terms of reference. Regardless of the outcome, the NSW Government should work towards supporting the taxi industry in regional New South Wales to avoid the loss of these services. As suggested by stakeholders, the committee sees value in directing funds and contract work in areas such as community transport to regional taxi services. The committee

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<sup>289</sup> Submission 64, Physical Disability Council of NSW, p 12.

recommends that the NSW Government consider utilising the taxi industry in regional New South Wales for government funded initiatives and contracts such as community transport.

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**Recommendation 10**

That the NSW Government consider utilising the taxi industry in regional New South Wales for government funded initiatives and contracts, such as community transport.

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- 3.98** The committee notes that Ms Baker-Finch provided her review to the Minister for Transport and Roads and the Minister for Regional Transport and Roads in July 2020. The committee recommends that the Minister immediately publicly release the report.
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**Recommendation 11**

That the Minister for Transport and Roads immediately publicly release the Point to Point Independent Review 2020 (conducted by Ms Sue Baker-Finch).

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- 3.99** While it is encouraging to hear that some aspects of disability access in the point to point transport industry have improved, the committee was concerned that for some people with a disability the reforms have made their experience with point to point transport services worse. In the committee's view, the NSW Government must address this as a matter of priority.
- 3.100** It is concerning that consumers with a disability may have limited access to choice compared to other consumers, on the basis that booking apps are not always accessible. It is equally concerning that this has been left for the market to sort out, without government intervention. It is also concerning that some vehicles in the taxi industry are not complying with legislated tactile number requirements. This requirement should apply equally to rideshare vehicles.
- 3.101** Like any other consumer, people with a disability should be afforded the same access to services, and a choice between service providers. For that reason, the committee sees merit in expanding the Taxi Transport Subsidy Scheme to rideshare services. However, the paper docket system of the Taxi Transport Subsidy Scheme is clearly an outdated mechanism. The committee is pleased that the government has taken steps to trial a smart card system. However, the committee emphasises that this should be provider neutral to allow all service providers access to the system, enabling more choice for consumers with a disability.
- 3.102** The committee hears and takes very seriously concerns by stakeholders in the disability sector that the reforms appear to have enabled a slip in driver training and education about how to manage specific needs when transporting passengers with a disability. We believe there is a need for all rideshare and taxi drivers to complete a training and education program before service providers can access the Taxi Transport Subsidy Scheme. This training must incorporate education about drivers' obligations under the law including the obligation to accept assistance dogs in their vehicles.
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**Recommendation 12**

That the NSW Government improve access to the point to point transport industry for people with a disability by:

- requiring all booking apps to comply with accessibility guidelines
- incorporating tactile number requirements in licencing requirements for all taxi and booked services
- expanding the Taxi Transport Subsidy Scheme to rideshare services and moving to a provider-neutral smart card system
- developing a mandatory education and training program, in consultation with the disability sector, that rideshare and taxi drivers must complete.

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**3.103** The committee also acknowledges that there is a need for a more effective complaints handling mechanism that is accessible to people with a disability. We have accounted for this in Recommendation 3 which asks the government to develop an industry wide complaints handling system and to ensure that it is accessible to people with a disability.

**3.104** In addition, given the complexities of issues surrounding disability access, it is important that the industry and the government work with the disability sector to understand and address issues as soon as possible. We therefore recommend that the NSW Government develop a point to point transport disability forum, with representatives from the government, the point to point transport industry and the disability sector, to provide a formal forum to discuss and address disability access issues in the industry.

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**Recommendation 13**

That the NSW Government develop a point to point transport disability forum with representatives from the government, the point to point transport industry and the disability sector, to provide a formal forum to discuss and address disability access issues in the industry.

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## Chapter 4 Industry assistance

This chapter focuses on the financial impact to the taxi industry as a result of the point to point transport reforms. It starts by looking at how taxi plate values have significantly changed, before discussing the financial assistance provided to the taxi and hire car industry to help them adjust to the point to point transport reforms. In particular it focuses on the additional assistance scheme, including concerns about the application process, eligibility and a lack of transparency. Finally, it examines the collection of the passenger service levy, and industry calls for a buyback scheme.

### Taxi plate values

- 4.1 One of the key themes that emerged in this inquiry was the impact of the point to point transport reforms on the value of taxi plates, which decreased following the reforms.
- 4.2 The NSW Taxi Council summarised the situation, explaining that by removing the requirement for a licence to operate in the booked space, taxi plate values in metropolitan Sydney have diminished by up to \$300,000:

A Taxi Licence value was made up from a combination of being able to access, Rank, Hail and Booked markets. A significant portion of this value evaporated the moment the NSW Government removed the requirement for a licence to operate in the Booked Market. In some places, in particular in regional parts of NSW this was significant, as up to 95% of their market was booked. As a minimum, metropolitan Taxi Licences saw values decrease by over \$200,000 at that point in time, now closer to \$300,000 decrease per Taxi Licence.<sup>290</sup>

- 4.3 Regional Taxilines spoke to the value of taxi plates in regional New South Wales. For example, taxi plates in Dubbo worth \$300,000 in April 2014 'now cannot be sold for any value in regional NSW'. Regional Taxilines explained that 'the confidence in the future of the country taxi industry is non-existent to prospective purchasers'.<sup>291</sup>
- 4.4 In addition, the NSW Taxi Council also touched on the impact of the reforms on income from taxi licences being leased. According to the Council, lease values averaged \$25,000 per year prior to the reform, which 'dramatically declined' to an average of \$13,000 per year. During the COVID-19 pandemic, this has further declined with 'many taxi licence owners receiving as little as \$1 per month for the lease of their licence'.<sup>292</sup>
- 4.5 The NSW Taxi Council observed that, as a result of the drop in value of taxi licences, many licence owners are 'stuck' with many who have become unwell or suffering from mental health issues:

The Licence Owner, who in most cases is a self-funded retiree, has been left with no exit plan, a mortgage that they cannot maintain and stuck in a way, with nowhere to go. Many of these Licence owners are elderly members of our Community. There are many cases of Licence owners who have become unwell, or suffering mental health issues

<sup>290</sup> Submission 62, NSW Taxi Council, p 4.

<sup>291</sup> Submission 68, Regional Taxilines Pty Limited, p 68.

<sup>292</sup> Submission 62, NSW Taxi Council, p 39.

because of the situation they have been left in. We have grave concern for these individuals.<sup>293</sup>

- 4.6** Tamworth Cabs described the impact of the point to point transport reforms on the value of taxi plates as 'massive with long lasting consequences'. Explaining the impact on superannuation and retirement plans, it stated:

[T]he legislation resulted in the destruction of self funded retirement schemes of those who bought into the industry in good faith that it was secure with Government regulation. The taxi plate value itself was initially believed to be a viable nest egg comparable to modern superannuation schemes. A large number of taxi plates were in fact purchased with accrued superannuation fund monies and also redundancy monies as technology changed the employment landscape and working ability remained. And, once the initial debt was paid off, the interim period of operating the taxi plate provided a sustainable business for those willing to put in the time and effort. Prior to the negative effects of this legislation coming into being, lenders had previously considered taxi plate as viable equity when seeking a loan to invest further into the industry.<sup>294</sup>

- 4.7** Many taxi plate owners shared their stories with the committee, highlighting the impact of the reforms and in particular, the impact on their lives stemming from the drop in their taxi plate values. A common thread in these stories was the loss of retirement funds.

- 4.8** For example, Mr Kevin Cole explained that his plate was worth \$215,000 in December 2015 with a lease fee of \$400. Today, the plate value 'may be \$0-\$30,000 and a lease fee of \$90'. Mr Cole stated that 'the stark difference ... cannot be overestimated, and the devastating impact that has had on me and my family and my future retirement prospects'.<sup>295</sup>

- 4.9** One taxi licence owner, Mr Stephen Harapin, who drove his taxi for 30 years, stated that he purchased 'the Government plates knowing I could derive an income in later life as well, and planned for the plate value and regular income to act as my superannuation in my retirement'.<sup>296</sup> Similarly, Mr and Mrs Paul and Frances Lenehan purchased two taxi plates in the 70s and 80s in the hopes of securing their financial future. On the next page are details of Mr Harapin, and Mr and Mrs Lenehan's stories.

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<sup>293</sup> Submission 62, NSW Taxi Council, p 39.

<sup>294</sup> Submission 45, Tamworth Cabs, p 4.

<sup>295</sup> Submission 14, Mr Kevin Cole, p 5.

<sup>296</sup> Submission 10, Mr Stephen Harapin, p 1.



**Case study: Stephen Harapin**

Stephen is an 85 year old taxi licence owner. He started in the point to point transport industry in 1965 by driving limousine hire cars and purchased a taxi plate in 1979. Stephen drove his own taxi for 30 years, supporting his family with the income. In terms of the value of the taxi plate, Stephen's taxi plate had been worth over \$420,000 prior to the reforms. Today it is worth approximately \$80,000.

Stephen's income has been 'severely' impacted as a result of the point to point transport reforms. In 2016, Stephen was receiving \$1,859 per month from the lease of his taxi plate. Stephen has seen a 67 per cent drop in monthly income as his income from the lease of his plates has continued to reduce over the last four years - \$1,525 in 2018, \$1,114 in 2019 and as of January 2020, prior to the impact of the COVID-19 pandemic, his monthly income from the lease was \$619. Stephen told the committee that 'as an 85 year old, with this as my primary source of retirement income, the impact on my life and ability to manage financially has been overwhelming'.

\* *Submission 10, Mr Stephen Harapin.*

**Case study: Paul and Frances Lenehan**

Paul and Frances purchased their first taxi plate in 1977 for \$25,000 and their second taxi plate in 1988 for \$150,000.

Paul and Frances felt that they had made a good business decision by purchasing these taxi plates based on the government advertising taxi plates as a 'licence to make money'.

Due to health reasons, Paul and Frances sold one of their licences for \$360,000 in 2012, and leased the second to ABC Taxis. Before the reforms, the couple were receiving \$2,300 a month in lease payments. In May 2020, they received just \$1.

Paul explained that the plate was handed back by the lessee which means it is now unsaleable and has no value, representing a loss of his investment of \$150,000.

After 43 years in the industry, Paul and Frances have been left with no retirement funds. Both are on the pension and receive occasional monetary gifts from their children to assist with simple living expenses. Paul declared that 'for a man in his 80s who has devoted more than 60 years to a so-called "thriving industry", this is nothing less than appalling'.

\* *Submission 57, Mr Paul Lenehan and Mrs Frances Lenehan.*

## **Transitional Assistance Payment and Additional Assistance Hire Vehicles Payment schemes**

- 4.10** The Transitional Assistance Payment (TAP) and Additional Assistance Hire Vehicles Payment (AAHVPS) schemes sought to provide financial assistance to taxi licence holders and hire car licence holders, to assist in adjusting to the point to point transport reforms. This section explores the two schemes and how the schemes were received by the industry.

**Transitional Assistance Payment scheme eligibility and applications**

- 4.11** Under the TAP scheme, applicants could apply for a \$20,000 payment for each eligible ordinary taxi licence held in the same name, up to a maximum of two eligible ordinary licences. The NSW Government explained that these included 'taxi licences which were transfereable (or tradeable), but did not include short term annual licences (which may not be traded)'.<sup>297</sup>
- 4.12** To be eligible, applicants must have acquired their licence prior to 1 July 2015 and held that licence up to the date of the TAP scheme payment.<sup>298</sup>
- 4.13** The TAP scheme was conducted in two phases – the first from July 2016 to July 2017, and the second from July 2018 to March 2019. The NSW Government stated that the 'main purpose' of the second phase was to allow people who were eligible under phase 1, but who did not apply in that round, to apply.<sup>299</sup>
- 4.14** The NSW Government also explained that phase 1 'provided an opportunity for persons from the following groups to apply':
- eligible applicants who received a TAP payment for one licence but were entitled to apply for a second eligible ordinary taxi licence and could establish that they held the second licence continuously before 1 July 2015 up to 13 January 2017
  - persons who were the beneficiary of an eligible ordinary taxi licence under a will or probate or were granted ownership of the licence as a result of a property settlement period in the period 1 July 2015 to 13 January 2017, and continued to hold the licence up to 13 January 2017
  - eligible taxi training courses that provided training courses to the taxi industry who could demonstrate that they were detrimentally affected by the point to point transport reforms.<sup>300</sup>
- 4.15** In its submission, the NSW Government explained that TAP payments were exempt from the social security income test and were treated as income for tax purposes:

TfNSW was successful in obtaining a ruling from the Department of Social Services (DSS) that payments under the TAP scheme are an exempt lump sum payment for the purposes of the social security income test.

In accordance with long standing policy, the Australian Taxation Office (ATO) deemed TAP scheme payments as income support and as such they are treated as income for tax purposes.<sup>301</sup>

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<sup>297</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 46.

<sup>298</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 46.

<sup>299</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 46.

<sup>300</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, pp 46-47.

<sup>301</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, pp 47.

- 4.16** According to the NSW Government, 'the TAP scheme successfully distributed over \$94.2 million to more than 4000 licence holders', representing '99 per cent of possible applicants'.<sup>302</sup> More than \$92.4 million was paid in phase 1.<sup>303</sup>
- 4.17** The NSW Government also advised: 'A small number of TAP scheme applications were denied because the taxi licence was not an eligible licence holder or the person did not hold the licence during the eligibility period'.<sup>304</sup>

#### **Additional Assistance Hire Vehicles Payment scheme eligibility and applications**

- 4.18** Under the AAHVP scheme, applicants must be a holder of an eligible hire vehicle licence. As with the TAP scheme, this included transferable or tradeable licences but not short term or annual licences which could not be transferred. According to the NSW Taxi Council, there was 'no cap on the number of licences that were bought back by the government'.<sup>305</sup>
- 4.19** The NSW Taxi Council explained that for owners who had purchased their hire car licence, they were eligible for the purchase price of the hire car licence plus consumer price index. For 10 year government leases, licence holders were eligible for ten times the annual lease amount, equating to \$80,000 for licences in metropolitan Sydney and \$30,000 in regional New South Wales.<sup>306</sup>
- 4.20** The NSW Government outlined that there were 99 successful applications for 150 eligible hire vehicle licences, with the scheme distributing \$8.3 million in total to successful applicants. Four applications for nine licences were declined as they were ineligible.<sup>307</sup>
- 4.21** The NSW Government advised that payments to the hire car industry were made in recognition to regulatory changes affecting the need for hire car licences:
- These payments were made in recognition of the fact that changes to the regulation of hire vehicles meant that hire car licences were no longer required. As a consequence of these changes holders of 150 transferable hire car licence lost their transferable interest in that licence.<sup>308</sup>
- 4.22** Like the TAP scheme, AAHVP payments were treated as an exempt lump sum payment under the social security income test. In addition, the Australian Taxation Office deemed the payments as income support and were treated as income for tax purposes.<sup>309</sup>

<sup>302</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 45.

<sup>303</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 46.

<sup>304</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 46.

<sup>305</sup> Submission 64, NSW Taxi Council, p 34.

<sup>306</sup> Submission 64, NSW Taxi Council, p 34.

<sup>307</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 48.

<sup>308</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 47.

<sup>309</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 48.

### Stakeholder views

- 4.23** There was consensus among inquiry participants that the assistance to the taxi industry following the reforms was insufficient. In particular, stakeholders were dissatisfied that these payments were taxable and that taxi operators could only apply for assistance for a maximum of two licences. For example, Tamworth Cabs stated:

The original transition assistance package of \$20,000.00 was initially well received. However, once further details became clear on this package, including the fact that it was deemed taxable income at the level of Federal Government and resulted in a real value of only \$14,000.00, as well as the fact that only two claims could be lodged in the event that a person or entity possessed multiple taxi plates, [t]he assistance that was supposed to result did not live up to expectations.<sup>310</sup>

- 4.24** Regional Taxilines raised a similar point, questioning why they could only apply for assistance for two licences when they owned 26:

The NSW government did provide some assistance to a section of the NSW Taxi Industry, firstly by offering under a transitional assistance payment scheme \$20,000 for each Taxi Licence, up to a maximum of two licences. At that time RT had 26 x taxi licences for which we received \$40,000 (maximum two licences), did the government believe the other 24 taxi licences that we operated were not affected by the changes to the taxi business with the introduction of ride share industry, both illegally to begin with and then under Point to Point reforms?<sup>311</sup>

- 4.25** Stakeholders also questioned the disparity in assistance afforded to the taxi industry versus the hire car industry. Regional Taxilines described the difference in payments as an 'unfair anomaly':

... The State Government gave the Sydney and metro Hire Car industry approximately \$80,000.00 per licence as compensation. Some Hire Car licence owners received \$235,000.00 for a licence. In Rural NSW a minimum payment of \$30,000.00 per licence was made. The taxi industry received just \$20,000.00 per licence to a maximum of two licences. This was a most unfair anomaly!<sup>312</sup>

- 4.26** Similarly, Mr Lee Furlong, Assistant General Manager at Legion Cabs, reflected on the difference in payments to the hire car industry and taxi industry and described the payments to the taxi industry as 'a bit of a kick in the guts':

We have seen the hire car industry compensated at sub-price plus consumer price index and the industry members given \$20,000, the majority of which went to the Federal Government in tax. It is a bit of a kick in the guts for these guys who have worked very hard for 30 or 40 years to build up an asset.<sup>313</sup>

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<sup>310</sup> Submission 45, Tamworth Cabs, p 3.

<sup>311</sup> Submission 68, Regional Taxilines Pty Limited, p 3.

<sup>312</sup> Submission 8, Southern Highlands Taxis, Limousines & Coaches, p 3.

<sup>313</sup> Evidence, Mr Lee Furlong, Assistant General Manager, Legion Cabs, 19 August 2020, p 14.

## Additional Assistance Payment Scheme

- 4.27** As part of the \$250 million taxi and hire vehicle industry assistance package, the NSW Government announced that there would be \$142 million made available for industry members facing hardship under the Additional Assistance Payment Scheme (AAPS).
- 4.28** The committee examined the operation of this scheme, including how much has been paid to industry members, especially in light of the personal stories put forward in submissions to this inquiry, where many taxi owners and operators highlighted the severe financial situation they are now in following the point to point transport reforms.

### Funding of and design of the scheme

- 4.29** A number of inquiry participants questioned how much had been paid out via the scheme, and in effect, whether the eligibility criteria was too strict. Some inquiry participants contended that there was a lack of transparency in relation to this, and a level of disparity in how payments were disbursed.
- 4.30** In terms of a lack of transparency, the NSW Taxi Council stated that it had been unable to find out how many applications were successful, how many applicants received nil payment, how much of the \$142 million had been paid out and what the residual amount was.<sup>314</sup> Mr Rogers, Chief Executive Officer of the NSW Taxi Council, stated: 'We asked Transport for NSW how many successful applicants there were and how much of the \$142 million was spent, and we have yet to receive a response'.<sup>315</sup>
- 4.31** Similarly, the President of the NSW Taxi Industry Association, told the committee that he had been unable to find out what was paid out from the \$142 million set aside as the hardship package.<sup>316</sup>
- 4.32** At a hearing, however, Dr Joost De Kock, Deputy Secretary, Customer Strategy & Technology, Transport for NSW, outlined the total spend via this scheme and the number of successful applications:
- To date we have been able to help those individuals who were detrimentally impacted by the reforms to the total tune of \$42 million and we actually received 1,258 applications of which payments were made to 531 individuals.<sup>317</sup>
- 4.33** Dr De Kock clarified that the \$42 million paid out via the scheme included payments that were provided over a few years.<sup>318</sup>

<sup>314</sup> Submission 62, NSW Taxi Council, p 35.

<sup>315</sup> Evidence, Mr Martin Rogers, Chief Executive Officer, NSW Taxi Council, 25 September 2020, p 7.

<sup>316</sup> Evidence, Mr Brian Wilkins, President, NSW Taxi Industry Association, 25 September 2020, p 5.

<sup>317</sup> Evidence, Dr Joost De Kock, Deputy Secretary, Customer Strategy & Technology, Transport for NSW, 25 September 2020, p 47.

<sup>318</sup> Evidence, Dr De Kock, 25 September 2020, p 49.

- 4.34** Further, Dr De Kock advised that of the total 1,258 applicants, nil payments were made in 727 cases. He agreed that this represented more than half the total number of applications.<sup>319</sup>
- 4.35** In relation to the reasons in which a person received a nil payment, the NSW Government explained 'the common' three reasons:
- the applicant did not submit a completed application form, noting that an applicant would have received at least three and up to six requests to complete their application form
  - an application was missing key information that was necessary to verify an applicant's financial circumstances
  - an applicant's reported assets and income were above the thresholds approved by the Panel.<sup>320</sup>
- 4.36** In answers to questions on notice, the NSW Government confirmed that 'applicants were advised of these reasons when they were notified that their AAPS application was unsuccessful'.<sup>321</sup>
- 4.37** When questioned as to why only \$42 million of the \$142 million was disbursed, Dr De Kock pointed to the role of the Taxi and Hire Vehicle Assistance Panel in setting up the scheme and the criteria for payments:
- As part of the 2015 review, a panel was set up, the Taxi and Hire Vehicle Industries Assistance Panel was set up to advise the Minister how to best distribute those funds, the \$142 million Additional Assistance Payment Scheme funds. That panel made a number of recommendations in terms of what the procedures were to apply for the funds, what the criteria were to make assistance decisions. So Transport for NSW applied those procedures and criteria with all the applications that they received and at the end of that process there were about \$42 million of payments awarded. It was very important that when we went through that process we took the criteria and process that was recommended by the industry assistance panel very carefully and that the payments were made to people who needed it most.<sup>322</sup>
- 4.38** In this regard, the committee noted that the membership of the Taxi and Hire Vehicle Industry Assistance Panel included a nominee from the Secretary of Transport for NSW, the Secretary of the NSW Department of Premier and Cabinet, the Secretary of NSW Treasury and the Chief Executive Officer of the NSW Taxi Council.<sup>323</sup> According to the NSW Government, the panel 'continues to be constituted' under the point to point transport legislation and last met on 27 June 2019. The NSW Government also confirmed that the Transport for NSW delegate was the Executive Director, Transport Policy.<sup>324</sup>

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<sup>319</sup> Evidence, Dr De Kock, 25 September 2020, p 50.

<sup>320</sup> Submission 63, NSW Government and Point to Point Commissioner, pp 55-56.

<sup>321</sup> Answers to questions on notice, Transport for NSW, 13 November 2020, p 5.

<sup>322</sup> Evidence, Dr De Kock, 25 September 2020, pp 48-49.

<sup>323</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 44.

<sup>324</sup> Answers to questions on notice, Transport for NSW, p 6.

**4.39** There was some contention though over the role of the industry representative on this panel. When appearing before the committee, Dr De Kock on several occasions highlighted that the NSW Taxi Council 'was the voice of the industry' on the Panel.<sup>325</sup>

**4.40** However, Mr Martin Rogers, Chief Executive Officer of the NSW Taxi Council, explained the limitations that applied to the industry representative member:

Representation on the panel by industry at the time of establishing the hardship criteria was not by the CEO of the NSW Taxi Council. Representing was through the deputy CEO. In that role the NSW Taxi Council on the panel through the deputy CEO was as an observer, with no ability to vote or decide. The deputy CEO was under a non-disclosure agreement [NDA] and could not discuss with the board or myself.<sup>326</sup>

**4.41** In response to this statement, the committee sought a specific response from Dr De Kock. In correspondence to the committee, Dr De Kock advised that in accordance with clause 9 of schedule 3 of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*, 'the nominee of the Chief Executive of the NSW Taxi Council is entitled to be present at, and participate in, meetings of the Panel but is not entitled to vote at a meeting'.<sup>327</sup> Further, he added:

The NSW Taxi Council was actively and energetically represented on the Panel and the views and concerns of the NSW Taxi Council were, at all times, carefully considered by the Panel.

All members of the Panel were required to sign a Confidentiality Deed Poll.

The Confidentiality Deed Poll was required due to the fact that, in the course of their functions, panel members had access to confidential and sensitive information about the AAPS as well as confidential information of applicants to the scheme.

Under the terms of that Confidentiality Deed Poll a member of the Panel can disclose confidential information where they have the written consent of the Chair of the Panel.

Any such approved disclosure must be related to the member's functions on the Panel and the member must take all necessary precautions to prevent unauthorised access to or copying of confidential information.<sup>328</sup>

**4.42** Turning to the eligibility criteria for a payment for additional assistance, as determined by the Panel, the NSW Government explained that an applicant had to establish that they were involved in or connected with the taxi or passenger hire vehicle industry and detrimentally affected by changes made by regulation of those industries under the legislation.<sup>329</sup>

**4.43** Essentially, the Panel identified four key groups it considered most likely to be detrimentally impacted by the point to point transport reforms:

<sup>325</sup> Evidence, Dr De Kock, 25 September 2020, p 55.

<sup>326</sup> Correspondence from Mr Martin Rogers, Chief Executive Officer, NSW Taxi Council, to committee, 25 September 2020.

<sup>327</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 44.

<sup>328</sup> Correspondence from Dr Joost De Kock, Deputy Secretary, Community Engagement, Department of Premier and Cabinet, to committee, 20 October 2020.

<sup>329</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, pp 44 and 49.

- taxi licence holders who were dependent on the income from their taxi licence lease to meet their day to day living expenses
- taxi licence holders who hold a high level of debt directly associated with their licence, possibly secured by a mortgage on their property and may not be able to service their debt from income from their licence or other income sources
- taxi licence holders and operators at or near retirement age with few other assets or sources of income
- applicants who demonstrated the greatest financial hardship.<sup>330</sup>

**4.44** However, several inquiry participants contended that this criteria was too strict. One submission author, who was unsuccessful in applying for additional assistance, argued that the scheme was 'a cruel, farcical process, in so far as it was fundamentally [flawed] and manifestly unfair setting the criteria to a prohibitively narrow scope...'.<sup>331</sup> Another participant, who was also advised that they were not eligible for assistance, suggested that the criteria applied 'was not fair or equitable as it did not take into account the direct impact' of the reforms on the entity's financial position.<sup>332</sup>

**4.45** Another individual stated that the 'additional assistance package amounted to nothing, zero, for most...'.<sup>333</sup> One name suppressed submission author advised that they had received written notification that their application for assistance was unsuccessful but 'there was no reasonable explanation as to why they had not met the formulative criteria'. Upon writing to the scheme manager, this individual explained the response they received:

We received a response from the Scheme Manager on 22 August 2019 pointing out the narrow scope of financial hardship, part of which recommended that the income and asset test for eligibility for the aged pension (as set by the Commonwealth Department of Social Services) be used as a guide when determining financial hardship, hardly applicable to a family of four with young children, somewhat off pension retirement age. The correspondence further noted that our family had some life savings for cost of family living and superannuation retirement funds. We assumed from this, that we were required to exhaust those life savings before consideration.<sup>334</sup>

**4.46** The 'Transport Workers' Union of New South Wales contended that the scheme did not sufficiently cater for taxi drivers specifically, as compared to taxi licence holders. It stated:

Whilst the hardship panel rightfully identified these groups are detrimentally impacted, the TWU is unsurprised little interest has been shown to hardship encountered by taxi drivers themselves. The TWU strongly believes that the interests of those working in the taxi industry have not been met, whereas the interests of license holders have been disproportionately advanced.<sup>335</sup>

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<sup>330</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, pp 51-52.

<sup>331</sup> Submission 39, Name suppressed, pp 2-3.

<sup>332</sup> Submission 43, Name suppressed, p 1.

<sup>333</sup> Submission 72, M Paul Fletcher, p 2.

<sup>334</sup> Submission 39, Name suppressed, p 2.

<sup>335</sup> Submission 60, Transport Workers' Union of New South Wales, p 13.



- 4.47** Mr Michael Jools from the Australian Taxi Drivers Association noted that the Minister's second reading speech on the point to point transport legislation 'specifically mentioned taxi drivers' in relation to industry participants who were affected by the point to point transport reforms. Mr Jools further contended that with \$100,000,000 of the PSL left, this should be distributed to stakeholders such as operators and drivers who have not received any assistance.<sup>336</sup>
- 4.48** Some stakeholders also suggested that there was disparity in how applications for additional assistance were assessed. Tamworth Cabs noted that only two out of ten taxi plate owners in the Tamworth region were successful in applying for assistance.<sup>337</sup> By contrast, the committee heard how one taxi owner, Mr Kevin Cole, was awarded \$100,000, with \$33,549 to be paid over three years. Mr Cole explained that he felt 'like a leper' because in his view, 'people far more deserving' than him got nothing, and he 'had friends who were threatening self-harm over it'.<sup>338</sup>
- 4.49** Another individual contended that there was 'inequity' in the scheme: 'Some lucky (and deserving) people who have owned their cab for decades, have rental properties etc got over \$100,000 and yet others who are in dire fiscal circumstances got nothing'.<sup>339</sup>
- 4.50** Examining these issues at the hearing, the committee questioned the Deputy Secretary of Transport for NSW and the Point to Point Transport Commissioner about the eligibility criteria and in particular, whether there was any review of the approach once it became clear only a portion of the allocated \$142 million was being paid out.
- 4.51** Dr De Kock emphasised that the criteria was set by the Panel, and that the payments were aimed at assisting those who were 'most detrimentally impacted by the reforms. For example, people who were close to or at retirement, people who had large loans or who had limited assets and income'.<sup>340</sup>
- 4.52** Dr De Kock reiterated that the applications were evaluated based on the criteria established from the Panel, and 'it turned out that fewer people qualified for that'.<sup>341</sup> In response to whether the criteria was too stringent, Dr De Kock replied 'It was not for me to say. Those criteria were determined by that industry assistance panel in 2016'.<sup>342</sup>
- 4.53** The NSW Government also confirmed that the then Minister for Transport and Infrastructure approved the framework for the scheme including the eligibility criteria recommended by the panel on 22 February 2018.<sup>343</sup> Implementation was then delegated to Transport for NSW.<sup>344</sup>
- 4.54** The committee asked Dr De Kock why the criteria was not expanded when it was clear people felt they were experiencing hardship and had made the effort to apply. Dr De Kock noted that

<sup>336</sup> Answers to questions on notice, Mr Michael Jools, Australian Taxi Drivers Association, 1 November 2020, pp 1-2.

<sup>337</sup> Submission 45, Tamworth Cabs, p 3.

<sup>338</sup> Evidence, Mr Kevin Cole, Taxi Owner, 25 September 2020, p 42.

<sup>339</sup> Submission 49, Mr Michael Ptolemy, p 1.

<sup>340</sup> Evidence, Dr De Kock, 25 September 2020, p 50.

<sup>341</sup> Evidence, Dr De Kock, 25 September 2020, p 50.

<sup>342</sup> Evidence, Dr De Kock, 25 September 2020, p 50.

<sup>343</sup> Answers to questions on notice, Transport for NSW, p 4.

<sup>344</sup> Evidence, Dr De Kock, 25 September 2020, p 51.

'some applications were from people who were not eligible'. He also explained that the industry panel 'leveraged some of the criteria from the Federal Government'. He added that 'The hardship payments were actually means tested, including individuals' incomes, loans and so forth'.<sup>345</sup>

**4.55** Expanding on this, Dr De Kock stated:

The industry assistance panel recommended to make these payments means tested and they leveraged the Commonwealth Government Department of Social Services eligibility criteria for the aged pension, and those criteria include income as well as net assets. They are different for someone who is a home owner or a non-home owner, and a couple or an individual.<sup>346</sup>

**4.56** When asked whether applicants were told that they would be assessed according to the criteria of the age pension, Dr De Kock replied:

As part of the application process, individual applicants were asked to provide financial information and other information to Transport for NSW to make a proper assessment according to all the criteria. They would have had to provide information on all their financial circumstances so that the department could make an accurate determination on whether or not they were eligible for assistance and by how much.<sup>347</sup>

**4.57** Dr De Kock explained that each application was assessed on its own merit by the Customer Strategy and Technology division in Transport for NSW. This included first being assessed for whether they meet the criteria for an assistance package and then 'if they met that hurdle, the amount of assistance funds to be provided'.<sup>348</sup>

**4.58** Only in complex cases did Transport for NSW consult with the panel. In this regard, Dr De Kock reiterated that the role of the panel, among other responsibilities, was to set the criteria for payments, whereas the applications were actually determined by staff within Transport for NSW.<sup>349</sup>

**4.59** When asked about whether there had been any communication with the Minister about the amount of the fund being spent and whether the criteria should be amended, the NSW Government advised:

All applications under the AAPS were assessed under the criteria recommended by the Panel and approved by the Minister. The hardship criteria was not amended during the period where applications were being assessed.

Extensive information and guidance about the approved hardship criteria was published on the TfNSW website.

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<sup>345</sup> Evidence, Dr De Kock, 25 September 2020, p 50.

<sup>346</sup> Evidence, Dr De Kock, 25 September 2020, p 50.

<sup>347</sup> Evidence, Dr De Kock, 25 September 2020, p 52.

<sup>348</sup> Evidence, Dr De Kock, 25 September 2020, p 52.

<sup>349</sup> Evidence, Dr De Kock, 25 September 2020, pp 52-54.

At the time the hardship criteria and assessment process were determined by the Panel and recommended to the Minister, it was not known how many people may apply for the AAPS nor how many applicants were likely to meet the criteria.

The total number of successful applications under the AAPS was not finalised until June 2019.

The Minister for Transport and Road's office was advised of the outcomes of the AAPS in a briefing on 2 July 2019.<sup>350</sup>

**4.60** The committee further asked whether the Minister was briefed about the \$100 million of the fund that had not been spent. In response, the NSW Government advised that the 'Minister for Transport and Road's Office was briefed on the outcomes of the AAPS on the 2 July 2019'.<sup>351</sup>

**4.61** In addition, on whether the industry had been informed that the majority of funds had not been spent and whether this inquiry is the first time this had been made public, the NSW Government stated:

Details about the outcomes of the AAPS including the total number of applicants, total number of payments and total funds to be paid was published on the NSW Parliament website in response to a question taken on notice at budget estimates for Portfolio Committee No. 6 Transport and Customer Service on 28 October 2019.<sup>352</sup>

### **Complexity of the application process**

**4.62** One of the significant concerns raised by inquiry participants was that the application process for an additional assistance payment was too complex, onerous and stressful for applicants.

**4.63** The NSW Taxi Council argued that the application process was 'extremely onerous for many industry participants, particularly those from non-English speaking backgrounds'. It added that the process was complex and that this 'resulted in many eligible applicants choosing not to apply because it all seemed too difficult'.<sup>353</sup>

**4.64** The Taxi Owners Small Business Association (TOSBA) shared a similar view, stating that the 'application and distribution of the so called "hardship package" to "eligible" taxi owners was unjust to many, particularly the aged, the infirm and those with limited literary or computer skill'.<sup>354</sup>

**4.65** Emphasising that the process was complex for those applying, the Taxi Owners Small Business Association (TOSBA) added:

The fact that it took 31 pages of advice material, a 26 page information kit, a set of control conditions comprising 46 requirements, personal information even on health issues for not just the applicant but household members as well, current household

<sup>350</sup> Answers to questions on notice, Transport for NSW, p 4.

<sup>351</sup> Answers to questions on notice, Transport for NSW, p 8.

<sup>352</sup> Answers to questions on notice, Transport for NSW, p 3.

<sup>353</sup> Submission 62, NSW Taxi Council, p 34.

<sup>354</sup> Submission 85, Taxi Owners Small Business Association (TOSBA), p 14.

living expenses, tax records for three years for applicants as well as their partners and a list of other issues is unconscionable and needs to be read to be believed.

It is difficult to imagine that the ludicrous conditions for application were not purposely set to restrict the number of applicants.

As stated, many of the elderly and those with limited computer or literary skills simply found the application process impossible.<sup>355</sup>

**4.66** One individual told the committee that the application process involved them completing in excess of 45 pages of 'extensive and highly personal documentation'. After first submitting, this person was required to supply an additional twenty pages in support of their application. While ultimately unsuccessful, the individual stated that 'This exhaustive application process alone was prohibitive to many owners and operators'.<sup>356</sup>

**4.67** Mr Geoff Ferris, President of the Country Taxi Operators Association, highlighted the difficulties individuals faced when making an application:

....But that hardship package was the hardest thing in the world for anyone to try to assess whether they were or were not eligible. If you owned your own home and did not have any debt you had your chance in Buckley's of getting anything, so many people did not even bother to fill it out.<sup>357</sup>

**4.68** Mr Peter Louridas, a taxi owner, explained: 'I assisted three taxi owners with their submissions for additional assistance and it was extremely stressful for everyone involved. It was not only that, it was just about asking all details—personal and financial. The ability to show your hardship was very difficult for a lot of people'.<sup>358</sup> In Mr Louridas' view, the scheme 'was a total debacle and extremely stressful and onerous on people and not enough was done to assist those, in particular, the elderly and the mums and dads'.<sup>359</sup>

**4.69** In terms of the assistance provided to applicants through the process, the NSW Government noted that Business Connect was engaged to provide support and advisory services to those making applications under the scheme. It acknowledged that 'working with this cohort presented some engagement challenges as many were older, had low digital literacy and a first language other than English'. It noted that 'many required support to find, read and complete the application form'.<sup>360</sup>

### **Time to apply**

**4.70** In addition to concerns that the application process was complex, there were also concerns that the timeframe in which to apply was inadequate.

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<sup>355</sup> Submission 85, Taxi Owners Small Business Association (TOSBA), p 14.

<sup>356</sup> Submission 39, Name suppressed, p 2.

<sup>357</sup> Evidence, Mr Geoff Ferris, President, Country Taxi Operators, 25 September 2020, pp 5-6.

<sup>358</sup> Evidence, Mr Peter Louridas, Taxi Owner, 25 September 2020, p 42.

<sup>359</sup> Submission 48, Mr Peter Louridas, p 1.

<sup>360</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 51.

- 4.71 On this, the NSW Government advised that applications for the scheme opened on 2 July 2018 and closed on in December 2018.<sup>361</sup>
- 4.72 However, the Taxi Owners Small Business Association (TOSBA) contended that its members were not advised that the scheme had commenced for several weeks after it opened on 2 July 2018, thereby shortening the application period.<sup>362</sup>
- 4.73 At a hearing, the Point to Point Transport Commissioner and representatives of the NSW Government were questioned about the timeframes, in particular the fact that applications were only open for three months. Mr Anthony Wing, the Point to Point Transport Commissioner, explained that before these payments \$20,000 per licence was distributed. He stated: 'I guess what I am saying is assistance payments started opening quickly. There was a transitional assistance payment first and the hardship fund came a bit later after that'.<sup>363</sup>
- 4.74 The committee was also told by Dr De Kock that late applications in special circumstances were accepted until 15 May 2019.<sup>364</sup> The NSW Government also advised that Transport for NSW received 20 late applications.<sup>365</sup>

#### **Time taken to determine applications**

- 4.75 Several stakeholders also expressed dissatisfaction with the amount of time taken for applications for additional assistance to be determined.
- 4.76 The NSW Taxi Council advised that the 'majority of applicants did not know the outcome of their application until some ten months after applying'. In its view, 'applicants were left in the dark right up until the end, living on the hope that there may be a positive outcome'.<sup>366</sup>
- 4.77 Similarly, the Taxi Owners Small Business Association (TOSBA) questioned the delays associated with individuals being distributed their payments. It claimed that payments were distributed 'two years later than originally advertised', following a series of delays and extensions to the timeframes.<sup>367</sup>
- 4.78 The NSW Government addressed these delays in processing and assessing applications, stating:

TfNSW and the then Minister for Transport and Infrastructure received a broad range of correspondence from stakeholders regarding the AAPS including when money allocated would be paid

TfNSW acknowledges that the complex nature of processing AAPS applications. TfNSW wrote to all AAPS applicants on 5 March 2019 to apologise for delays in

<sup>361</sup> Evidence, Dr De Kock, 25 September 2020, p 60.

<sup>362</sup> Submission 85, Taxi Owners Small Business Association (TOSBA), p 14.

<sup>363</sup> Evidence, Mr Anthony Wing, Point to Point Commissioner, 25 September 2020, p 54.

<sup>364</sup> Evidence, Dr De Kock, 25 September 2020, p 49.

<sup>365</sup> Answers to questions on notice, Transport for NSW, p 2.

<sup>366</sup> Submission 62, NSW Taxi Council, p 34.

<sup>367</sup> Submission 85, Taxi Owners Small Business Association (TOSBA), p 15

processing and assessing AAPS applications. At this time, TfNSW committed additional resources to the processing of applications in order to address these delays.<sup>368</sup>

### **Lack of an appeal mechanism**

- 4.79** Another concern was that the Additional Assistance Payment Scheme was designed with no appeal avenue, especially given the number of people who were unsuccessful in making an application.
- 4.80** Indeed, several submission authors expressed dissatisfaction with the lack of an appeal or review process being available for unsuccessful applicants, including Tamworth Cabs.<sup>369</sup>
- 4.81** Dr Joost De Kock, Deputy Secretary, Customer Strategy & Technology, Transport for NSW, confirmed that there was no appeal process, stating that 'the industry assistance panel did not create a route for appeal in their processes and procedures at the time'. He told the committee that this process was signed off by the Minister.<sup>370</sup>
- 4.82** When asked was it the responsibility of the Panel to design an appeal mechanism, Dr De Kock replied:

I can give you a bit more background to what the functions of that panel were: To determine the procedures for applications for assistance of funds; make recommendations on the criteria to apply for additional assistance payments; advise the Minister on the disbursement of the assistance funds; report to the Minister on the activities of the panel; make recommendations in relation to the AAPS payments at the request of the Minister; determine the period to which the AAPS payments may be made; and issue guidelines in relation to the procedures for assessing and determining applications for assistance, including procedures for dealing with late applications.<sup>371</sup>

- 4.83** When asked whether the Minister signed off on the approach to not include an appeal mechanism and whether Transport for NSW provided advice in relation to establishing one, the NSW Government responded: 'TfNSW contacted applicants on multiple occasions seeking necessary information that hadn't been provided as part of the original application.'<sup>372</sup>

### **Impact of payments on Centrelink eligibility**

- 4.84** Another concern put forward in relation to the Additional Assistance Payment Scheme was that any payments made affected a person's social security eligibility.
- 4.85** The NSW Taxi Council stated that of the applicants who received a payment, 'many were let down once they found out that the AAP payment would impact their Centrelink entitlements'. It added: 'They lost a significant amount of their payment to the Federal Government in income

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<sup>368</sup> Answers to questions on notice, Transport for NSW, p 7.

<sup>369</sup> Submission 45, Tamworth Cabs, p 3; Submission 49, Mr Michael Ptolemy, p 1; Submission 39, Name suppressed, p 3.

<sup>370</sup> Evidence, Dr De Kock, 25 September 2020, p 54.

<sup>371</sup> Evidence, Dr De Kock, 25 September 2020, p 54.

<sup>372</sup> Answers to questions on notice, Transport for NSW, p 6.

tax and loss of the pension. Many of these applicants feel they would have been better off not applying for AAP'.<sup>373</sup>

**4.86** The NSW Taxi Council stated that the Federal Government's response to the Centrelink impact and ATO ruling 'was attributed to the way the NSW Government classified these payments'.<sup>374</sup>

**4.87** In the Taxi Owners Small Business Association's view, the 'grave injustice perpetrated' was that for those deemed eligible for payments, including elderly pensioners, the fact payments were taxable and affecting Centrelink entitlements 'ripped the guts out of any real hardship support'.<sup>375</sup>

**4.88** Mr Louridas, a taxi owner, told the committee that after he received a hardship payment, both his and his wife's pension were cut immediately for a period of 12 months. Explaining that he also had to pay \$38,000 of his payment in tax, he stated: 'This left us with very little income to live on and made life very difficult and stressful for both of us. It was a financial catastrophe'.<sup>376</sup>

**4.89** Also on this point, Legion Cabs, when reflecting on the level of support provided by the industry assistance package, stated:

An unintended consequence of the structure of these payments is that many taxi licence owners are now financially worse off as their pensions have been reduced or other entitlements revoked because of the payment being classed as extra income.<sup>377</sup>

**4.90** The committee was informed that Transport for NSW did apply for an exemption in relation to these payments but was advised in 2018 that this would not be granted. This left any payments to be regarded as income, which could then impact a person's entitlement and allowances. Subsequently, the Minister for Transport and Roads and the Minister for Regional Transport and Roads wrote to the Federal Minister for Families and Social Services in August 2019, again seeking to have these payments classified as exempt under the social security income test. This was, however, unsuccessful. In light of this, applicants were advised to seek advice from an accountant, legal representative or other specialist to determine what impacts any payment may have on them.<sup>378</sup>

## Passenger Service Levy

**4.91** To fund the \$250 million industry assistance package, the NSW Government established a short-term passenger service levy (PSL) of \$1 on all point to point transport trips. Some stakeholders questioned whether the government should continue collecting the PSL, while others expressed frustration with the added administrative burden of collecting the PSL.

**4.92** Collection of the levy commenced on 1 February 2018, and is payable by service providers. The levy is a tax, collected by Revenue NSW. The NSW Government explained that it is up to the

<sup>373</sup> Submission 62, NSW Taxi Council, p 34.

<sup>374</sup> Submission 62, NSW Taxi Council, p 34.

<sup>375</sup> Submission 85, Taxi Owners Small Business Association Inc (TOSBA), p 16.

<sup>376</sup> Submission 59, Mr Louis Louridas, p 1.

<sup>377</sup> Submission 81, Legion Cabs, p 6.

<sup>378</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 57.

service provider to choose whether and how to pass on the charge to customers, or whether they absorb the cost.<sup>379</sup>

- 4.93** According to the NSW Government, the PSL 'is not intended to operate indefinitely' as the purpose of the levy is to fund the \$250 million industry assistance package.<sup>380</sup> In evidence, Dr De Kock confirmed that this is the sole purpose of the levy and that it 'cannot be used for other purposes'.<sup>381</sup> The NSW Government later also confirmed that the levy is paid into consolidated revenue.<sup>382</sup>
- 4.94** Dr De Kock stated that \$150 million has been collected through the PSL.<sup>383</sup> In correspondence to the committee, Revenue NSW indicated that a total of \$168,326,073 has been collected to date.<sup>384</sup>
- 4.95** The NSW Government noted that its intention was that the levy 'would not continue for more than five years'.<sup>385</sup> Dr De Kock informed the committee that the PSL would continue until it collected \$250 million, which is expected to be 'finished around the middle of 2022'.<sup>386</sup>
- 4.96** However, the committee questioned why the government is still collecting the PSL when there is \$100 million of the \$142 million hardship package that will not be spent (as discussed in paragraph 4.37). In response, Dr De Kock stated that part of the terms of reference for the Baker-Finch review is 'whether further assistance to the industry is required'.<sup>387</sup>
- 4.97** The committee wrote to the Chief Commissioner of State Revenue, Mr Scott Johnston seeking a breakdown of the PSL collection from taxi services and rideshare services. The Chief Commissioner advised that the requested information is prohibited from being disclosed as it pertains to specific taxpayers:

The *Taxation Administration Act 1996* prohibits the disclosure of information obtained under the administration of a taxation law (section 81), except in certain circumstances. As the information you seek pertains to specific taxpayers and none of the exceptions to the general prohibition on disclosure appear to apply, I am not able to provide you with the breakdowns requested.<sup>388</sup>

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<sup>379</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 32.

<sup>380</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 32.

<sup>381</sup> Evidence, Dr De Kock, 25 September 2020, p 53.

<sup>382</sup> Answers to questions on notice, Transport for NSW, p 5.

<sup>383</sup> Evidence, Dr De Kock, 25 September 2020, p 56.

<sup>384</sup> Correspondence from Mr Scott Johnston, Deputy Secretary, Chief Commissioner of State Revenue, Revenue NSW, to committee, 20 October 2020.

<sup>385</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 32.

<sup>386</sup> Evidence, Dr De Kock, 25 September 2020, p 56.

<sup>387</sup> Evidence, Dr De Kock, 25 September 2020, p 56.

<sup>388</sup> Correspondence from Mr Scott Johnston, Deputy Secretary, Chief Commissioner of State Revenue, Revenue NSW, to committee, 6 November 2020.



### Industry concerns with the Passenger Service Levy

- 4.98** While the NSW Government introduced mechanisms to make it easier for service providers to comply with levy collection requirements, a number of taxi networks spoke to the administrative burden of collecting the PSL.
- 4.99** In its submission, the NSW Government outlined a number of measures introduced to 'reduce the administrative burden of complying with the levy in response to concerns expressed by some stakeholders about its administration and operation'. These included:
- the commencement of the levy three months after all other provisions of the regulation to ensure service providers had enough time to put in place appropriate arrangements
  - the Commissioner establishing administrative procedures that make it easier for service providers to comply such as online levy returns, monthly assessments to assist with cash flow, and direct debit of amounts assessed as owing by Revenue NSW
  - a dedicated call centre, detailed fact sheets and information sessions conducted by the Commissioner in 2017 and 2018.<sup>389</sup>
- 4.100** In addition, the NSW Government advised that amendments were made to the regulation after the levy commenced to expand the grounds on which a service provider may seek to have the levy waived. This included circumstances where the third party fails to collect the levy amount where it has been directed to do so by the service provider, and after the service provider has taken all reasonable steps to recover it. Furthermore, service providers in remote areas and those providing 150 or fewer passenger service transactions in a 12 month period are exempt from the levy, while service providers who undertake 150 to 600 trips in a 12 month period are entitled to a rebate.<sup>390</sup>
- 4.101** While stakeholders from the taxi industry were in favour of the PSL, they informed the committee that collection of the PSL has been an administrative and costly burden on service providers.
- 4.102** The NSW Taxi Council described the PSL as a 'positive strategy' to fund the industry assistance package but raised concerns with the fact that service providers are responsible for collecting the levy. The Council explained that there have been 'significant costs imposed on service providers to develop a system to be able to collect' the PSL. For some taxi networks this has been 'in excess of \$40,000' to set up a system in addition to the cost for ongoing collection which for some service providers is 'in excess of \$1,000 per week'.<sup>391</sup>
- 4.103** Several taxi networks raised similar concerns in relation to their experience collecting the PSL.<sup>392</sup> For example, Mr Geoffrey Wong, General Manager of St George Cabs, shared with the committee his network's experience with the PSL collection:

<sup>389</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 32.

<sup>390</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 33.

<sup>391</sup> Submission, 64, NSW Taxi Council, pp 36-37.

<sup>392</sup> See for example, Submission 45, Tamworth Cabs, p 3; Submission 54, St George Cabs, p 3; Submission 68, Regional Taxilines Pty Limited, p 3; Submission 81, Legion Cabs, p 5; Submission 87, Milton Ulladulla Taxis, Limousines and Charter Bus, p 2.

We have had to make adjustments to our system which included changing the software to account for the passenger service levy. It is an ongoing cost to collect the money from drivers. Sometimes drivers will not even come in and pay the passenger service levy so the network itself has had to fund these drivers until we collect the money from them. It is an ongoing battle between the network drivers. We have suspended quite a few drivers off the air until they pay the passenger service levy. But the burden is still on the network. You have to report your trips and from those trips we then have to report to Point to Point saying, "This is the number of trips based on \$1.10 per trip. We owe you \$X". We get a reminder the following month, "You owe us the money. Please pay." It is an ongoing cost. It is an ongoing headache...<sup>393</sup>

- 4.104** Mr Lee Furlong, Assistant General Manager of Legion Cabs, similarly provided details of the costs involved in collecting the levy:

That process uses a third-party service because that is the only way we can do it, and that costs us around \$20,000 a year to do that. The administrative cost of the software was, I think, around \$12,000 or \$13,000 and, of course, we have got to have somebody to follow it up. It is an extraordinary cost to a small business like us.<sup>394</sup>

- 4.105** Mr Furlong suggested that the 'best way' of collecting the PSL would be for the government to collect it directly from the driver.<sup>395</sup>

- 4.106** In its submission, Legion Cabs added that this was another example of the regulation being 'geared towards ridesharing' (see chapter 2):

When added to the already burdensome cost of dealing with compliance this makes for a very unfair competitive landscape, again, the regulation is geared towards ridesharing as the money flows differently in their ecosystem allowing them to "clip the ticket" directly from the passenger and the money flows down to the driver. Taxis are at a distinct disadvantage because the driver collects the money from the passenger and as a result, the money basically flows the opposite direction back up to the Taxi Network.<sup>396</sup>

- 4.107** In addition, Legion Cabs stated that it is of 'great concern that Revenue NSW declined a request to operate as collectors of the passenger service levy stating that it would cost them 51c in the dollar to do so yet we are expected to do this at significant cost to our organisation'.<sup>397</sup>

- 4.108** The NSW Taxi Council advised the committee that they submitted a proposal on behalf of its members to seek assistance to collect the levy by way of a three per cent rebate. The proposal was 'rejected by Transport for NSW, stating they don't pay external agencies for collection costs'. The Council further recommended to the committee that the government provide financial support to the industry for collecting the PSL.<sup>398</sup>

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<sup>393</sup> Evidence, Mr Geoffrey Wong, General Manager, St George Cabs, 19 August 2020, p 17.

<sup>394</sup> Evidence, Mr Lee Furlong, Assistant General Manager, Legion Cabs, 19 August 2020, p 18.

<sup>395</sup> Evidence, Mr Furlong, 19 August 2020, p 18.

<sup>396</sup> Submission 81, Legion Cabs, p 5.

<sup>397</sup> Submission 81, Legion Cabs, p 5.

<sup>398</sup> Submission 64, NSW Taxi Council, p 37. See also, Submission 81, Legion Cabs, p 5.

- 4.109** Stakeholders from the rideshare sector questioned whether there is still a need for the levy, arguing that the levy has already collected a significant amount of money and that removing the levy would be a benefit to consumers, particular in light of the COVID-19 pandemic. To this end, Uber stated:

The levy has already collected a significant amount of money and in light of the significant downturn in both taxi and rideshare trips following the COVID-19 pandemic, Uber recommends the NSW Government ends the levy now. It would be a way to support an industry which is doing it tough, as well as greatly improve the affordability of transport and cost of living to NSW riders.<sup>399</sup>

- 4.110** Ola also argued that the levy should be abolished 'in light of the impact of COVID-19' and that doing so would 'decrease costs for operators and consumers in these difficult times, and may contribute to the increased use of point to point transport as people return to work following the crisis ...'<sup>400</sup>

- 4.111** In addition, Ola contended that while there was a need for industry assistance to the taxi industry during the transition to the point to point transport regulation, this support 'has run its course'. Ola suggested that ending government support would be of benefit to consumers and taxpayers:

At some point, the Government needs to end its support for the industry and let the market and consumer choice drive the future. Not only will this benefit consumers by forcing competition, fostering innovation, increasing choice and lowering costs for consumers, but it will also save taxpayers' money which can be reallocated to other priority areas.<sup>401</sup>

- 4.112** When asked at a hearing whether the PSL is a cost affecting whether consumers choose to use taxis or rideshare services, Mr Wing stated:

I would make the point that, despite the existence of the levy, the number of trips that consumers have taken in this industry has risen from—I think the department put some information in its submission—approximately 55 million before the reforms to about 75 million trips a year now. It cannot be a massive disincentive, I suppose.<sup>402</sup>

- 4.113** In contrast to the rideshare services, the Transport Workers' Union suggested there would be merit in collecting the levy beyond its \$250 million target:

The TWU submits that there may be merit in the levy surpassing the adjustment package amount of two-hundred and fifty million dollars (\$250,000,000) (if the levy projection continues at the rate indicated in the first six (6) months) and ceasing the levy at the five-year (5) mark instead.

This would offer the New South Wales Government the opportunity to review the adjustment package and ascertain whether further adjustments are required, particularly for taxi and hire car drivers who were not accounted for under the *Point to Point (Taxi and Hire Vehicle) Act 2016* adjustment package.<sup>403</sup>

<sup>399</sup> Submission 83, Uber, p 19.

<sup>400</sup> Submission 82, Ola Australia Pty Ltd, p 4.

<sup>401</sup> Submission 82, Ola Australia Pty Ltd, p 4.

<sup>402</sup> Evidence, Mr Anthony Wing, Point to Point Transport Commissioner, 25 September 2020, p 62.

<sup>403</sup> Submission 60, Transport Workers' Union of New South Wales, p 9.

## COVID-19 pandemic assistance

- 4.114** In its submission, the NSW Government outlined a number of measures implemented to support the taxi industry during the COVID-19 pandemic.
- 4.115** In May 2020, the NSW Government announced a \$12.6 million support package to support the taxi industry during the COVID-19 pandemic.<sup>404</sup> As part of this package, owners of taxis including wheelchair accessible taxis operating as of 1 May 2020 were eligible for \$2,900 for each vehicle, a six month subsidy of CTP insurance, registration and other on-road costs.<sup>405</sup>
- 4.116** The government estimated that the subsidy would support 'around 3,500 taxis to stay on the road during the six month period'. To be eligible, taxis had to be registered by 30 June 2020, with applications managed through the Service NSW website.<sup>406</sup>
- 4.117** The NSW Government also advised that 'an additional \$1.55 million has been reserved to support holders of annual renewable taxi licences'. This subsidy is to provide \$7,000 assistance to each licence holder, 'covering up to six months of the licensing fee'. In addition, the NSW Government provided a waiver for the first \$500 of 2018-2019 authorisation fees for all authorised taxi and booking service providers.<sup>407</sup>
- 4.118** Mr Martin Rogers, Chief Executive Officer, NSW Taxi Council, welcomed the COVID-19 support package, noting that the package arose out of a meeting with the Minister for Transport and Roads to 'express some issues around the COVID-19 impact on the industry'.<sup>408</sup> Similarly, Tamworth Cabs highlighted the COVID-19 pandemic assistance as a 'positive example'.<sup>409</sup>
- 4.119** Mr Lee Furlong, Assistant General Manager, Legion Cabs, also reflected positively on the COVID-19 support package. However, he also believed that the industry will 'need more help in the future to get those vehicles, the rest that are off the road, back on the road'. He noted that pre-pandemic there were approximately 7,000 registered taxis in the Sydney metropolitan area, which has reduced to 3,000 vehicles.<sup>410</sup>

## Calls for a buyback scheme

- 4.120** Reflecting on the drop in value of taxi plates, and dissatisfied generally with the level of assistance provided to the taxi industry following the introduction of the point to point transport reforms, many inquiry participants called for a government buyback of taxi licences. Stakeholders discussed how this scheme could potentially work and provide benefits to the industry.

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<sup>404</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 58. See also, Evidence, Dr De Kock, 25 September 2020, pp 46 and 57.

<sup>405</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 58.

<sup>406</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 58.

<sup>407</sup> Submission 63, NSW Government and Point to Point Transport Commissioner, p 58.

<sup>408</sup> Evidence, Mr Martin Rogers, CEO, NSW Taxi Council, 25 September 2020, p 10.

<sup>409</sup> Submission 45, Tamworth Cabs, p 7.

<sup>410</sup> Evidence, Mr Furlong, 25 September 2020, p 16.

- 4.121** For example, Milton Ulladulla Taxis, Limousines and Charter Bus advocated for a buyback, noting the difference in assistance received by the taxi industry versus the hire car industry:

We believe there should be a plate buyback in NSW for both metropolitan & regional plate owners to compensate them because of the substantial write-down in the value of their assets. We don't consider the previous arrangement was in any way, shape or form equitable. Taxi plate owners received an assistance package of \$20,000 capped at a maximum of two plates. Compare this to the hire car operator who received full compensation for the loss of value to their asset and the compensation package was uncapped, so if a hire car operator owned ten plates they were compensated for all ten plates...<sup>411</sup>

- 4.122** According to Regional Taxilines, 'the NSW Government should instigate a buyback scheme of taxi licences, at a fair and just price'.<sup>412</sup> The NSW Taxi Council made a similar comment, recommending that the NSW Government buy back all New South Wales taxi licences 'for a fair and just value, in line with pre-reform prices'.<sup>413</sup>

- 4.123** The Hunter Taxi Radio Network similarly argued that taxi drivers should be compensated with a buyback of their licences, suggesting it be based on the value of licences in 2016. The taxi network also pointed to examples of the government having done this, in the dairy and fishing industries where buyback schemes were implemented:

All Taxi License operators should be compensated with the buy-back of their licenses based on value in 2016. Those that wish to remain in the industry then have the option of reinvesting in the on demand transport industry or going elsewhere. This was done for quota and license holders in the dairy and fishing industries so where is the fairness for taxi operators.<sup>414</sup>

- 4.124** Based on the industry's experience with the assistance packages, the NSW Taxi Council added that the government should consider ways to 'minimise tax and Centrelink implications', and that a cap should not be placed on the number of plates bought back from an individual/entity.<sup>415</sup>

- 4.125** The NSW Taxi Council proposed that after a buyback, the NSW Government could introduce a licence/permit for both taxi and rideshare vehicles that are renewable on an annual basis, subject to a fee and adherence to the point to point transport regulations, including the safety management system. The Council reflected on the system in Victoria where all commercial passenger vehicles, which includes rideshare vehicles, are required to have a permit to operate and to register with the regulator. In Victoria, the application fee is \$55.10 with an ongoing annual fee of \$55.10.<sup>416</sup>

<sup>411</sup> Submission 87, Milton Ulladulla Taxis, Limousines and Charter Bus Service, p 1.

<sup>412</sup> Submission 68, Regional Taxilines Pty Limited, p 8.

<sup>413</sup> Submission 62, NSW Taxi Council, pp 42-43.

<sup>414</sup> Submission 86, Hunter Taxi Radio Network, p 3.

<sup>415</sup> Submission 62, NSW Taxi Council, pp 42-43.

<sup>416</sup> Submission 62, NSW Taxi Council, p 43.

- 4.126** The Council noted that 'while the cost should not be at current lease rates, it should be reflecting some value for the rank and hail and booked market. The Council added that the 'cost should be large enough' to ensure that the licence/permit holder is 'going to make a commitment to the industry and adhere to the regulatory requirements to operate'. The Council believed that the cost in Victoria 'is far too low'.<sup>417</sup>
- 4.127** Regional Taxilines also suggested that licences could be leased back to industry participants 'at a reasonable lease rate that would reflect the rank and hail component of the business'. Regional Taxilines remarked that the number of licences in regional New South Wales should be capped at present numbers 'until a demonstrated need is provided on why a town/region would need an additional license(s)'.<sup>418</sup>
- 4.128** To fund the buyback, the NSW Taxi Council suggested that the PSL, along with fees from a licence/permit system, 'can be used to offset the cost of the buyback with an 'end result being no net cost to the NSW Government'. The Council suggested that the collection of the PSL can continue until the Minister sets a repeal date, 'which can be after the cost of the taxi licence buyback has been repaid'.<sup>419</sup>
- 4.129** Regional Taxilines made a similar suggestion noting that the 'buyback can be funded over seven years or so, by continuing to charge the \$1.00 PSL on all point to point trips'.<sup>420</sup>
- 4.130** Similarly, Tamworth Cabs 'strongly recommended' that the NSW Government continue the PSL to fund 'a full buyback' of all taxi plates in New South Wales, in the event that the point to point transport industry 'does not return to being a properly regulated market with appropriate barriers to entry that help safeguard both participants and consumers'.<sup>421</sup>
- 4.131** Legion Cabs also advocated for a buyback based on the recommendation in the Sturgess review, suggesting, like other stakeholders, that the buyback could be funded by the PSL and a lease back:

The failure to adopt the cornerstone recommendation in the Sturgess review of buying back the taxi plates has left taxi plate owners in a limbo. This is easily remedied by paying out taxi licence plate owners at the fair and just value described in the Sturgess report and funding this with the Passenger Service Levy and the money the NSW Government would make from leasing taxi plates, eventually turning a lazy asset into a cash positive one, and, importantly, at zero cost to the NSW Taxpayer.<sup>422</sup>

- 4.132** Another point raised by stakeholders in relation to a buyback is the idea that it would free up capital within the industry to allow for innovation. The Chief Executive Officer of the NSW Taxi Council, Mr Martin Rogers, stated:

So in a sense the best thing is for a buyback because that will free up the industry as well in terms of the business models around, as I mentioned in my opening statement,

<sup>417</sup> Submission 62, NSW Taxi Council, p 43.

<sup>418</sup> Submission 68, Regional Taxilines Pty Limited, p 8.

<sup>419</sup> Submission 62, NSW Taxi Council, p 44.

<sup>420</sup> Submission 68, Regional Taxilines Pty Limited, p 9.

<sup>421</sup> Submission 45, Tamworth Cabs, p 7.

<sup>422</sup> Submission 81, Legion Cabs, p 6.

the cash flow side of things for business. That would allow us to then move into a new model where we can actually be innovative, competitive, and the cashflow is there to support industry.<sup>423</sup>

- 4.133** Similarly, appearing in his capacity as President of the Country Taxi Operators Association, Mr Geoff Ferris stated:

[I]t is important that we get that taxi buyback, we allow those who need to retire, who need to get out to get out and we now allow the people who wish to stay in the industry to stay in the industry and free up their capital to be able to invest back into the industry, to be able to invest into better technology, better customer-focused apps and other booking platforms that will allow them to move into the twenty-first century, which has not been possible with the money they have been earning prior.<sup>424</sup>

- 4.134** At an earlier hearing, appearing in his capacity as Managing Director of Regional Taxilines (Griffith/Dubbo), Mr Ferris expanded on this, highlighting the benefits of a statewide app for regional taxis to allow passengers arriving at Sydney airport to be connected via an app to a local taxi operator. He noted that this 'takes an investment in technology and an investment in cost'.<sup>425</sup>

- 4.135** Mr Lee Furlong, Assistant General Manager at Legion Cabs added that the investment opportunities such as the app noted by Mr Ferris is the 'sort of investment ability to innovate' that the industry is 'desperate for':<sup>426</sup>

If we can free that part of the industry, and I think it was mentioned before the regional networks thinking about making a fact that somebody from Sydney can jump off a plane in Orange or somewhere and press a button and get the local taxi service—the same in Albury, Bathurst or wherever they go. That sort of investment ability to innovate in the industry is something that we are desperate for. Obviously there is very little investment coming in at the moment because of COVID and a complete lack of confidence that many of us have had in the industry for many years. But I think that is probably the most important part of it.<sup>427</sup>

- 4.136** Regional taxi networks emphasised that without a buyback scheme, and continuing difficulties in meeting requirements of the point to point transport regulatory framework, the viability of taxi networks that provide 24 hour service in these towns is threatened. Mr Ferris explained that taxi networks, particularly in smaller regional towns, close up if they cannot continue to operate, which means there is no 24/7 service for the community:

... small towns are just shutting up shop and going home. We talk about what happens to the taxi network. If I cannot make a living by running my taxi and earning so many thousands of dollars a week, or whatever the cost is, because I have lost some of my core work to other rideshare operators, I cannot operate and I close the doors and go

<sup>423</sup> Evidence, Mr Rogers, 25 September 2020, p 9.

<sup>424</sup> Evidence, Mr Geoff Ferris, President, Country Taxi Operators Association, 25 September 2020, p 4.

<sup>425</sup> Evidence, Mr Geoff Ferris, Managing Director, Regional Taxilines (Griffith/Dubbo), 19 August 2020, p 9.

<sup>426</sup> Evidence, Mr Furlong, 19 August 2020, p 17.

<sup>427</sup> Evidence, Mr Furlong, 19 August 2020, p 17.

home. Then there is no service at 2.00 a.m. on Monday morning or 3.00 a.m. on Tuesday morning. Rideshare only picks up the cream in peak hour.<sup>428</sup>

## Committee comment

- 4.137** It is clear that the entry of the rideshare sector and the reforms have had a huge financial impact on the taxi industry. The committee can see that the significant drop in taxi plate values and lease values has affected the livelihoods and retirement funds of many taxi licence owners. We thank stakeholders from the taxi industry, in particular, for sharing their personal stories, and for highlighting the financial devastation left as a result of the point to point transport reforms to the industry.
- 4.138** The committee acknowledges the \$250 million industry assistance package announced by the NSW Government to help the taxi and hire car industries adjust to the reforms, as well as the \$12.6 million COVID-19 pandemic assistance package. From evidence to this inquiry, it is the committee's view that the industry assistance package has been insufficient to date, failing to address the industry's needs and providing genuine support.

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### Finding 3

That the industry assistance package was insufficient, failing to alleviate the financial distress experienced across the taxi industry as a result of the implementation of the point to point reforms.

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### Finding 4

That the Additional Assistance Payment Scheme (AAPS) package, meant to provide assistance to industry members facing hardship, has been dramatically underspent. Of the \$142 million allocated, only \$42 million has been spent. Further, that of 1,258 applications, nil payments were made in 727 cases, which is more than half the total number of applications.

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- 4.139** Many of the schemes that formed part of the industry assistance package were limited in scope, failing to provide the level of financial assistance desperately needed. For example, with the transition payments, the committee heard firsthand the frustration felt by the taxi industry that they only received \$20,000 in transitional assistance payments for up to two eligible ordinary licences, when the hire car industry received a much more substantial assistance package. While the committee appreciates that the hire car industry has been affected by the removal of the requirement to hold a hire car licence, the taxi industry has also been severely impacted and it is our view that this is not reflected appropriately in the transitional assistance package.
- 4.140** We agree with stakeholders in the taxi industry that a buyback of ordinary taxi licences is necessary to allow owners to retire, help the viability of the taxi industry and release capital to innovate and effectively compete in the point to point transport sector. As suggested by

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<sup>428</sup> Evidence, Mr Ferris, 19 August 2020, p 8.



stakeholders, the government could then lease these licences back to the industry. The committee therefore recommends that the NSW Government develop and implement a buyback scheme of ordinary taxi licences. For this purpose, we recommend that the NSW Government form a working group, including industry and the 'Transport Workers' Union, with this group and government also developing a policy for bailment reform in conjunction with the development of a buyback scheme.

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#### **Recommendation 14**

That the NSW Government develop and implement a buyback scheme of ordinary taxi licences.

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#### **Recommendation 15**

That to pursue Recommendation 14, the NSW Government form a working group which includes industry and the 'Transport Workers' Union.

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#### **Recommendation 16**

That the NSW Government and working group (as outlined in Recommendation 15) develop a policy for bailment reform in conjunction with the development of a buyback scheme.

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- 4.141** The committee is also concerned about the evidence we heard in relation to the additional assistance payments. We note that the \$142 million was the bulk of the announced \$250 million support package. As such, it is particularly concerning to hear about the lack of transparency in the application process, including the difficulties individuals faced to apply. So too we note, the disparity in payment amounts, the lack of an appeals mechanism and the length of time it took for applicants to hear the outcome of their applications.
- 4.142** Significantly, with only \$42 million of the \$142 million disbursed, the committee believes that the criteria for hardship was too strict. The committee understands that the Baker-Finch review may have considered whether further assistance is needed in the industry. Regardless of that review's outcomes, the NSW Government should revisit the criteria of the additional assistance package. In doing so, assistance should also be afforded to taxi operators and drivers who are not licence owners. Therefore, the committee recommends that the NSW Government reinstate and expand the criteria of the additional assistance package to ensure that all taxi industry participants, including taxi drivers, who have been affected by the reforms can apply. We would also strongly encourage the government to review the level of support it provides to potential applicants throughout this process.

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**Recommendation 17**

That the NSW Government reinstate and expand the criteria of the additional assistance package, to ensure that all taxi industry participants including taxi drivers who have been affected by the reforms can apply.

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- 4.143** The committee considers the passenger service levy to be crucial in collecting funds for the assistance package. However, there is clearly an administrative burden that falls unfairly onto taxi networks in relation to collecting the levy, particularly when compared with larger rideshare companies. We recommend that the NSW Government consider ways to lessen the administrative burden on taxi networks when collecting the passenger service levy.
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**Recommendation 18**

That the NSW Government consider ways to lessen the administrative burden on taxi networks when collecting the passenger service levy.

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## Appendix 1 Submissions

No.	Author
1	Name suppressed
1a	Name suppressed
2	Name suppressed
3	Ms Monira Fahmy
4	Confidential
5	M & R Investments Superfund Pty Ltd
6	Name suppressed
7	Name suppressed
8	Southern Highlands Taxis, Limousines & Coaches
9	Mr Mike Burrage
10	Mr Stephen Harapin
11	Name suppressed
11a	Name suppressed
12	Name suppressed
13	Mr Gerasimos Koutsioukis
14	Mr Kevin Cole
15	Australian Taxi Drivers Association and Taxi Driver Action Inc
16	Mr Kyriakos (Kerry) Koliadis
17	Name suppressed
18	Mr Jon C Daley
19	Red and White Star Cabs Co-operative Limited
19a	Red and White Star Cabs Co-operative Limited
20	Name suppressed
21	Mr Peter Oldfield
22	Mr Dennis Southwell
23	Name suppressed
24	Name suppressed
25	Name suppressed
26	Mrs Margaret Arkus
27	Mr Peter Polgar
28	Name suppressed
29	Mr George Mazzitelli

<b>No.</b>	<b>Author</b>
30	Name suppressed
31	Katoomba Taxis
32	Mr Jim Dowd
33	Mr Peter Lubrano and Ms Annette Fordham
34	Dimitrios and Chruseus Tsihlis
35	Name suppressed
36	Name suppressed
37	Confidential
38	Name suppressed
39	Name suppressed
40	Name suppressed
41	Name suppressed
42	Name suppressed
43	Name suppressed
44	Confidential
45	Tamworth Cabs
46	Mr Tristan Rainey
47	Name suppressed
48	Mr Peter Louridas
49	Mr Michael Ptolemy
50	Mr James Madden
51	Confidential
52	Blind Citizens Australia
53	Name suppressed
54	St George Cabs Co-operative Ltd
55	Name suppressed
56	Name suppressed
57	Mr Paul Lenehan and Mrs Frances Lenehan
58	Mr Richard Gregory
59	Mr Louis Ilias Louridas
60	Transport Workers' Union of New South Wales
61	Confidential
62	NSW Taxi Council
63	NSW Government and Point to Point Transport Commissioner
64	Physical Disability Council of NSW

<b>No.</b>	<b>Author</b>
65	Taxi Drivers Benefit Association NSW Inc 1701522
66	Vision Australia
67	Manly Warringah Cabs (Trading) Co-operative Society Ltd
68	Regional Taxilines Pty Limited
69	Mr Dean Matthews
70	Mr Raymond Stapleton
71	Mr Eric Bentley
72	Mr Paul Fletcher
73	Dr Christopher Burrell, UniCab Australia Pty Ltd and All Access Alliance (AAA+)
73a	Dr Christopher Burrell, UniCab Australia Pty Ltd and All Access Alliance (AAA+)
74	Mr Roger Lianos
75	Dr Graeme Harris
76	Name suppressed
77	Name suppressed
78	Name suppressed
79	Name suppressed
80	Name suppressed
81	Legion Cabs
82	Ola Australia Pty Ltd
83	Uber
84	S.G. Rissel and A.S. McKenzie
85	Taxi Owners Small Business Association Inc. (TOSBA)
86	Hunter Taxi Radio Network Pty Ltd
87	Milton Ulladulla Taxis, Limousines and Charter Bus Service
87a	Milton Ulladulla Taxis, Limousines and Charter Bus Service
87b	Milton Ulladulla Taxis, Limousines and Charter Bus Service
88	Confidential
89	Mr John Indra
90	Mr Kenneth Cottell
91	Mr Mark Salamba
92	Mr Moussa Mahfouz
93	Mr Theo Lansdown
94	Mr Glenn Ralph
95	Name suppressed
96	Name suppressed

<b>No.</b>	<b>Author</b>
97	Confidential
98	Mr Warren Biddle
99	Confidential
100	Confidential
101	Confidential

## Appendix 2 Witnesses at hearings

<b>Date</b>	<b>Name</b>	<b>Position and Organisation</b>
<b>Wednesday 19 August 2020 Videoconference</b>	Mr Geoff Ferris	Managing Director, Regional Taxilines (Griffith/Dubbo)
	Mr Scott Wilkins	Operations Manager, Milton Ulladulla Taxis, Limousines and Charter Bus Service
	Mr Neil Crittenden	Chairman, Maitland Taxi Service (Red and White Star Cabs)
	Mr Mark Marland	Director Secretary, Maitland Taxi Service (Red and White Star Cabs)
	Mr Lee Furlong	Assistant General Manager, Legion Cabs
	Mr Ashwin Sharma	Acting Chief Executive Officer, Manly Warringah Cabs
	Mr Geoff Wong	General Manager, St George Cabs
	Mr Bruce Maguire	Lead Policy Advisor, Vision Australia
	Ms Hayley Stone	Senior Policy Officer, Physical Disability Council of NSW
	Ms Alice Dixon-Wilmshurst	Policy Officer, Physical Disability Council of NSW
<b>Friday 25 September 2020 Macquarie Room Parliament House, Sydney</b>	Mr Martin Rogers	CEO, NSW Taxi Council
	Mr Brian Wilkins	President, NSW Taxi Industry Association
	Mr Geoff Ferris	President, Country Taxi Operators Association
	Mr Vic Hazir	Association Secretary, Taxi Owners and Small Business Association (TOSBA)
	Mr Gavin Webb	Chief Legal Officer, Transport Workers' Union
	Ms Isabella Wisniewska	Legal Officer, Transport Workers' Union

<b>Date</b>	<b>Name</b>	<b>Position and Organisation</b>
	Mr Michael Jools	President, Australian Taxi Drivers Association and Taxi Driver Action
	Mr Graeme Harris	Delegate (Manly Warringah Taxis), Australian Taxi Drivers Association and Taxi Driver Action
	Mr Mitch Cooper	Head of Public Policy and Government Affairs, Uber
	Ms Amanda Gilmore	Head of Driver and Compliance, Uber
	Mr Simon Smith	Managing Director, Ola
	Ms Ann Tan	Head of Legal and Business Excellence, Ola
	Mr Stephen Harapin	Taxi owner
	Mr Kevin Cole	Taxi owner
	Mr Peter Louridas	Taxi owner
	Mr Paul Lenehan	Taxi owner
	Mr Anthony Wing	Point to Point Transport Commissioner
	Dr Joost De Kock	Deputy Secretary, Customer Strategy & Technology, Transport for NSW
	Ms Kate Foy	Deputy Secretary, Community Engagement, Department of Premier and Cabinet
	Mr Charlie Heuston	Executive Director, Employee Relations, Department of Premier and Cabinet



## Appendix 3 Minutes

### Minutes no. 13

Wednesday 6 November 2019

Portfolio Committee No. 6 – Transport and Customer Service

Macquarie Room, Parliament House, 9.48 am

#### 1. Members present

Ms Boyd, *Chair*

Mr Banasiak, *Deputy Chair* (until 4.00 pm)

Ms Cusack (from 10.12 am until 3.30 pm)

Mr D'Adam (*substituting for Mr Primrose*)

Mr Fang (*substituting for Mr Farraway*)

Ms Jackson (*substituting for Mr Mookbey*)

Mr Mallard

#### 2. Correspondence

The committee noted the following items of correspondence:

##### **Received:**

- 22 August 2019 – Email from Mr Roydon Ng, Convenor, Restore Inner West Line, to Chair, regarding the terms of reference for the inquiry.
- 29 October 2019 – Email from Mr Luke Turner, Western Sydney Leadership Dialogue, declining the invitation to appear as a witness.
- 31 October 2019 – Email from Mr James Carey, Canterbury Bankstown Council, declining the invitation to appear as a witness.

#### 3. Consideration of terms of reference

The Chair tabled a letter proposing the following self-reference:

That, on completion of the inquiry into the Sydenham-Bankstown line conversion, Portfolio Committee No. 6 – Transport and Customer Service, inquire into and report on the operation of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016* and in particular:

- (g) the operation of the regulatory system applying to the taxi industry,
- (h) specifically, the system of bailment that operates in relation to the taxi industry, any changes pursued by the NSW Government to the system of bailment since enactment of the legislation, and any changes that should be made,
- (i) the implementation of the industry assistance package for the taxi industry, including the Passenger Service Levy and how it has been applied,
- (j) the impact of the legislation on the value of taxi plates,
- (k) the role and function of the Point to Point Transport Commissioner, and
- (l) any other related matter.

Resolved, on the motion of Mr D'Adam: That the committee adopt the terms of reference as drafted.

Resolved, on the motion of Mr Banasiak: That this inquiry not be publicised by the secretariat (on an inquiry webpage or via a media release) until its commencement after the inquiry into the Sydenham-Bankstown line conversion is finalised.

#### 4. Inquiry into Sydenham-Bankstown Line Conversion

##### 4.1 Submissions

###### *Public submissions*

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 1-3, 10, 11, 13, 14, 18, 19, 25-33, 36-40, 44-49, 51, 53, 54, 57, 58, 60, 62, 63-77, 79-81, 83, 84, 86-88, 91-92, 94-98, 100, 101, and 103-105.

###### *Partially confidential submissions*

Resolved, on the motion of Mr Banasiak: That the committee authorise the publication of submission nos: 4-9, 12, 15-17, 20, 21, 23, 24, 34, 35, 41, 42, 50, 56, 61, 89, 90, 93, and 99, with the exception of the author's name, which is to remain confidential, as per the request of the author.

Resolved, on the motion of Mr Banasiak: That the committee authorise the publication of submission nos 59 and 82, with the exception of the author's name and/or identifying information and potential adverse mention, which is to remain confidential, as per the request of the author.

Resolved, on the motion of Mr Banasiak: That the committee authorise the publication of submission no. 102 with the exception of identifying information of a third party which is to remain confidential, as per the recommendation of the secretariat.

###### *Confidential submissions*

Resolved, on the motion of Mr Banasiak: That the committee keep submission nos 22, 43, 52, 55, 78, and 85 confidential, as per the request of the author.

###### *Pro forma submissions*

Resolved, on the motion of Ms Jackson: That a sample of each pro forma be published on the inquiry website, including the number of responses to each pro forma, and that all pro forma responses be kept confidential.

##### 4.2 Allocation of questioning

Resolved on the motion of Mr D'Adam: That the sequence of questions to be asked at the hearings on Wednesday, 6, and Thursday, 7 November 2019, be left in the hands of the Chair.

##### 4.3 Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The Chair declared the public hearing for the inquiry into the Sydenham-Bankstown line conversion open for examination.

The following witness was sworn and examined:

- Mr Ken Welsh, Team Lead Strategic Transport Planning, Inner West Council.

The evidence concluded and the witness withdrew.

The following witnesses was sworn and examined:

- Mr Peter Olive, Interim Convenor, Sydenham to Bankstown Alliance
- Mr Roydon Ng, Co-Convenor, Restore Inner West Line and Save T3 Bankstown Line.

Mr Ng tendered the following documents:

- Document entitled 'Sydney Rail Network'
- Document entitled 'Sydney Trains Network'
- Document entitled 'Sydney Trains Network'
- Document entitled 'CityRail Network'
- Video link entitled 'Locals for Metro South West', dated 3 November 2019
- Document by John Brew, Ron Christie, Bob O'Loughlin and Dick Day on the Sydenham-Bankstown line conversion project, dated 3 July 2015

- Document entitled ‘Sydenham to Bankstown Metro Preferred Infrastructure Report Submissions Tally’
- Document containing contact details for Restore Inner West Line and associated community groups and campaigns
- Document by Mr Roydon Ng entitled ‘Andrew Constance’s special video for “Locals for Metro Southwest”’, including attachment nos 1 to 5
- Document by Mr Roydon Ng entitled ‘Freedom of Information request to Hong Kong’, including attachment nos 1 to 4
- Media Release of Restore Inner West Line entitled ‘Better Rail Service 95 Years Ago’, dated Sunday, 13 October 2019
- Media Release of Restore Inner West Line entitled ‘Cumberland Residents Against Metro Southwest’, dated Thursday, 10 October 2019
- Document by Mr Roydon Ng entitled ‘Questions regarding Transport for NSW’s submission’
- News article by The Sydney Morning Herald entitled ‘Sydney Rapid Network to cut direct city service for commuters west of Bankstown’, dated 24 November 2015
- Document by Mr Roydon Ng entitled ‘Breaking up the Bankstown Line’
- Document of Transport for NSW entitled ‘2013 Customer Timetable: Stakeholder Engagement Plan’, dated August 2013 (Draft)
- Document of Save T3 Bankstown Line entitled ‘Organisation’s submission to the Sydney Metro City & Southwest: Preferred Infrastructure Report (Application No SSI 17\_8256)’ including attachment no. 1.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Wally Mehanna, Chief Executive Officer, Canterbury Bankstown Chamber of Commerce
- Mr Jason Arraj, Board Member, Canterbury Bankstown Chamber of Commerce
- Mr Wes Brown, Member, Locals for Metro South West
- Dr Robert Czernkowski, Member, Locals for Metro South West.

Mr Arraj tendered the following document:

- Correspondence from Tony Abboud, Snowden Parkes Real Estate Agents to Mr Wally Mehanna, Canterbury Bankstown Chamber of Commerce, regarding the North West Metro.

Ms Boyd tendered the following document:

- Correspondence from Belmore Shopkeepers Association to Portfolio Committee No. 6 – Transport and Customer Service regarding the Sydenham-Bankstown line conversion.

Ms Cusack left the meeting at 1.08 pm.

Mr Banasiak left the meeting at 1.20 pm.

The evidence concluded and the witnesses withdrew.

The following witnesses was sworn and examined:

- Mr Greg Robinson, Director – Campus Infrastructure & Services, University of Sydney
- Mr Christian Watts, Divisional Manager – Property & Development, Campus Infrastructure & Services, University of Sydney
- Ms Emma Jones, Executive Officer – Campus Infrastructure & Services, University of Sydney.

Mr Banasiak rejoined the meeting at 2.10 pm.

Ms Jackson left the meeting at 2.35 pm.

Ms Cusack rejoined the meeting at 2.45 pm.

The evidence concluded and the witnesses withdrew.

The following witnesses was sworn and examined:

- Ms Heather Davie, Member, Marrickville Residents Action Group

- Associate Professor Kelsie Dadd, Spokesperson, Save Murrumbidgee
- Dr Marie Healy, Committee member, Hurlstone Park Association (via teleconference).

Ms Cusack left the meeting at 3.30 pm.

Ms Jackson rejoined the meeting at 3.30 pm.

The evidence concluded and the witnesses withdrew.

Mr Banasiak left the meeting at 4.00 pm.

The following witness was sworn and examined:

- Ms Barbara Coorey, Keep Our Area Suburban.

Ms Coorey tendered the following documents:

- A supplementary submission, including attachments A to S
- Correspondence from Ms Barbara Coorey to Mr Rod Staples, Transport for NSW regarding the Sydenham-Bankstown line conversion
- Document containing images of houses located along the Sydenham to Bankstown rail corridor
- Document containing an image of a model of potential medium to high density development at Belmore station
- Document containing an image of a model of potential medium to high density development at Lakemba station.

The evidence concluded and the witness withdrew.

The public hearing concluded at 4.34 pm.

The public and media withdrew.

#### **4.4 Tabled documents**

Resolved, on the motion of Mr D'Adam: That consideration of all documents tendered during the public hearing of Wednesday, 6 November 2019, be deferred.

### **5. Adjournment**

The committee adjourned at 4.45 pm until 9.15 am, Thursday, 7 November 2019, Macquarie Room, Parliament House (public hearing).

Allison Stowe

**Committee Clerk**

### **Minutes no. 23**

Thursday 2 April 2020

Portfolio Committee No. 6 – Transport and Customer Service

Via teleconference, 10.00 am

#### **1. Members present**

Ms Boyd, *Chair*

Mr Banasiak, *Deputy Chair*

Mr D'Adam (substituting for Mr Graham)

Mr Fang (substituting for Mr Farraway)

Mr Farlow

Mr Mallard

Mr Mookhey

**2. Electronic participation**

Resolved on the motion of Mr Banasiak: That the draft minutes for meeting no. 23 be circulated to members electronically and be confirmed by members by agreement via email.

**3. Previous minutes**

Resolved on the motion of Mr Mallard: That draft minutes nos. 16, 18 and 22 be confirmed.

**4. Correspondence**

The committee noted the following items of correspondence:

***Received:***

- 9 December 2019 – Email from Ms Laura Strawbridge to the committee, regarding the conversion of the Sydenham to Bankstown line.
- 12 February 2020 – Email from Mr John Austen to the committee, providing further evidence to the Sydenham-Bankstown line conversion inquiry.
- 20 February 2020 – Correspondence from Mr Rodd Staples, Secretary of Transport for NSW, in response to committee request for information: document entitled 'NSW Medium Term Rail Development Plan – Suburban & Intercity 2017'.
- 26 February 2020 – Email from Mr Roydon Ng, Convenor, Restore Inner West Line and Save T3 Bankstown Line, to the committee, providing further evidence to the Sydenham-Bankstown line conversion inquiry.

***Sent:***

- 10 January 2020 – Email from the secretariat, to Mr Roydon Ng, providing video footage of his appearance at the public hearing held on Wednesday, 6 November 2019.
- 10 February 2020 – Correspondence from the Chair, to Mr Rodd Staples, Secretary, Transport for NSW, requesting information: document entitled 'NSW Medium Rail Development Plan – Suburban & Intercity 2017'.

Resolved on the motion of Mr Fang: That the committee authorise the publication of correspondence from Mr Roydon Ng, Convenor, Restore Inner West Line and Save T3 Bankstown Line, dated 26 February 2020, with the exception of identifying information and potential adverse mention regarding third parties, which is to remain confidential.

**5. Inquiry into the Sydenham to Bankstown line conversion****5.1 Submissions*****Public submission***

The committee noted that supplementary submission no. 30b was published by the committee clerk under the authorisation of the resolution appointing the committee.

***Submission to be considered for confidentiality (as identified by the secretariat)***

Resolved on the motion of Mr Mallard: That the committee authorise the publication of submission no. 102a, with the exception of identifying information and potential adverse mention regarding third parties, which is to remain confidential, as per the recommendation of the secretariat.

***Attachments to submissions***

Resolved on the motion of Mr Mallard: That the committee authorise the publication of the following documents, referred to in the report:

- Submission 51, Canterbury Bankstown Chamber of Commerce, Appendix 1
- Submission 62, Inner West Council, Appendix 1 and Appendix 2
- Submission 81a, KOAS (Keep Our Area Suburban), Attachment G

## 5.2 Answers to questions on notice and supplementary questions

The committee noted that the following answers to questions on notice and supplementary questions were published under the authorisation of the resolution appointing the committee:

- Answers to questions on notice, Mr Matthew Hounsell, received 16 December 2019
- Answers to questions on notice and supplementary questions, Transport for NSW, received 8 January 2020.

## 5.3 Consideration of the Chair's draft report

The Chair submitted her draft report entitled '*Sydenham-Bankstown line conversion*', which, having been previously circulated, was taken as being read.

### Chapter 1

Mr Mallard moved: That paragraph 1.17 be amended by omitting '\$15.5 billion'.

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Mallard.

Noes: Mr Banasiak, Ms Boyd, Mr D'Adam, Mr Mookhey.

Question resolved in the negative.

Resolved on the motion of Mr D'Adam: That paragraph 1.17 be amended by inserting at the end: 'However, this amount was contested by the NSW Government.' [FOOTNOTE: Evidence, Budget Estimates 2019-2020, The Hon. Andrew Constance, Minister for Transport and Roads, 11 March 2020, pp 12-18]

### Chapter 2

Mr Mallard moved: That the following paragraph 2.35 be omitted:

'The committee also received evidence that previous comparative assessments did not support conversion of the T3 Bankstown Line. For example, Mr Hounsell drew the committee's attention to the 2009 *Metro Network Strategy – Corridor Assessment Report* which 'assessed strategic corridors identified previously by the department'. Mr Hounsell informed the committee under this assessment, conversion of the Bankstown line to metro was not supported:

Sydney Metro assessed strategic corridors identified previously by the department then scored the corridor's suitability for investment based on need, possible patronage, and city shaping opportunity. Sydney Metro rightly excluded those corridors where the load could be handled by improving the existing railway.

Sydney Metro ... concluded that the Bankstown Line did not merit conversion to a metro.'

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Mallard.

Noes: Mr Banasiak, Ms Boyd, Mr D'Adam, Mr Mookhey.

Question resolved in the negative.

Mr Mallard moved: That the following paragraph 2.42 be omitted:

'However, some stakeholders questioned the comparisons to international jurisdictions. For example, Mr Austen, who reflected on the implications of the poor decisions of the Paris Metro, stating:

The inquiry should not underestimate the gravity of the situation Sydney and NSW now face as a result of the Metro decisions to date.

The decisions will permanently divide and reinforce geographic inequities in Sydney.

They will reduce access of most people in the metropolitan area and beyond to central Sydney much as the similar Paris Metro decisions did from the late 19th century in that city. The inquiry should note the efforts of the French Government over the last sixty years to attempt to remediate that unfortunate legacy.'

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Mallard.

Noes: Mr Banasiak, Ms Boyd, Mr D'Adam, Mr Mookhey.

Question resolved in the negative.

Mr Fang moved: That paragraph 2.42 be amended by inserting 'unsupported' after 'Mr Austen, who,'.

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Mallard.

Noes: Mr Banasiak, Ms Boyd, Mr D'Adam, Mr Mookhey.

Question resolved in the negative.

Mr Mallard moved: That the following paragraph 2.51 be omitted:

'Some stakeholders were concerned about this approach. For example, the Marrickville Residents' Action Group stated:

Part of the NSW Governments strategy has been to link residential up-zoning along rail corridors in order to fund rail projects. If the process becomes distorted and the conversion of rail lines, or the selection of routes or location of stations becomes a matter of how to deliver profitable projects to major corporations, rather than the provision of the best, most needed rail services to make Sydney a 30 minute city then there is a problem.'

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Mallard.

Noes: Mr Banasiak, Ms Boyd, Mr D'Adam, Mr Mookhey.

Question resolved in the negative.

Resolved on the motion of Mr Mallard: That the secretariat prepare a new paragraph after paragraph 2.51 quoting evidence received from the NSW Government regarding transport network planning and land use, which is to be circulated to members electronically and confirmed by members by agreement via email.

Resolved on the motion of Mr Mallard: That the following paragraph 2.53 be omitted:

'EcoTransit Sydney was also concerned that the location of stations along the line is being determined by potential development opportunities and not existing transport need.'

Mr Mallard moved: That the following paragraph 2.116 be omitted:

'Both the Hurlstone Park Association and Sydenham to Bankstown Alliance pointed to the 'negative cost-benefit' of the Newcastle light rail project and the city east light rail cost 'blow out', to explain why people are concerned about the cost of the Metro Southwest project and the government's management of it.'

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Mallard.

Noes: Mr Banasiak, Ms Boyd, Mr D'Adam, Mr Mookhey.

Question resolved in the negative.

Mr Mallard moved: That paragraph 2.120 be amended by omitting at the end: 'the privatisation of the line was an area of concern for other stakeholders'

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Mallard.

Noes: Mr Banasiak, Ms Boyd, Mr D'Adam, Mr Mookhey.

Question resolved in the negative.

Resolved on the motion of Mr D'Adam: That paragraph 2.120 be amended by inserting 'operation of the' before 'line was an area of concern'.

Mr Mallard moved: That paragraph the following 2.122 be omitted:

'Several inquiry participants pointed to the private operation of bus services in Sydney and rail networks in Newcastle and Melbourne as examples where 'private operation has not worked'.

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Mallard.

Noes: Mr Banasiak, Ms Boyd, Mr D'Adam, Mr Mookhey.

Question resolved in the negative.

Mr Mallard moved: That the following paragraph 2.140 be omitted:

'Some stakeholders also felt that gaining access to information about the project has been difficult. Dr Marie Healy, Committee member, Hurlstone Park Association, commented:

Unfortunately, the Government has been so secretive about this project that we have had to get a lot of our information from the media. We heard from about previous rail executives speaking against some of the Government's justifications. So it is very difficult for us to believe the Government when we hear so many counterarguments. The Government redacts all of its feedback and business cases. There has been so much secrecy that we are really distrustful of the justification. ... we really do not have the facts.'

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Mallard.

Noes: Mr Banasiak, Ms Boyd, Mr D'Adam, Mr Mookhey.

Question resolved in the negative.

Mr Mallard moved: That the following paragraph 2.151 be omitted:

'The committee does not believe that the NSW Government has won community support for the Metro Southwest project. The case and rationale for conversion of the line to metro has not been adequately made out and has failed to convince affected communities of the purported benefits for the T3 line or the wider network.'



Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Mallard.

Noes: Mr Banasiak, Ms Boyd, Mr D'Adam, Mr Mookhey.

Question resolved in the negative.

Mr Mallard moved: That the following paragraph 2.156 be omitted:

'The committee questions whether the NSW Government, in making the decision to convert the Sydenham to Bankstown line, has put undue weight on the purported benefits of privatisation to the short-term financial position of the government over and above the long-term interests of commuters in having affordable and accessible public transport across all areas of Greater Sydney.'

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Mallard.

Noes: Mr Banasiak, Ms Boyd, Mr D'Adam, Mr Mookhey.

Question resolved in the negative.

Mr Mallard moved: That the following paragraph 2.158 be omitted:

'It also recommends that for projects with private partners, the NSW Government ensure that it outlines more explicitly its assessment of the benefits of privatisation in comparison with a project which would result in the relevant public transport assets and services being held in public hands.'

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Mallard.

Noes: Mr Banasiak, Ms Boyd, Mr D'Adam, Mr Mookhey.

Question resolved in the negative.

Mr Mallard moved: That the following recommendation 2 be omitted:

**'Recommendation**

That the NSW Government ensure that any future projects with private partners outline more explicitly the benefits that the government foresees from privatisation in comparison with a project which would result in the relevant public transport assets and services being held in public hands.'

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Mallard.

Noes: Mr Banasiak, Ms Boyd, Mr D'Adam, Mr Mookhey.

Question resolved in the negative.

Mr Mallard moved: That the following paragraph 2.160 be omitted:

'Consequently, the committee recommends that the Metro Southwest project not proceed, leaving the Sydney Metro to terminate at Sydenham. The committee further recommends that project funds are instead spent on connecting new communities to rail services and improving existing rail services (for example, through digital signalling).'

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Mallard.

Noes: Mr Banasiak, Ms Boyd, Mr D'Adam, Mr Mookhey.

Question resolved in the negative.

Mr Mallard moved: That the following recommendation 3 be omitted:

**'Recommendation**

That the NSW Government not proceed with the Metro Southwest project, leaving the Sydney Metro to terminate at Sydenham, and that project funds are instead spent on connecting new communities to rail services and improving existing rail services (for example, through digital signalling).'

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Mallard.

Noes: Mr Banasiak, Ms Boyd, Mr D'Adam, Mr Mookhey.

Question resolved in the negative.

**Chapter 3**

Mr Mallard moved: That the following paragraph 3.48 be omitted:

'While noting that crowding levels were a 'contentious issue', Mr Wardop expressed the view that the claimed capacity of metro would result in crowding levels that exceeded what he considered to be appropriate. He explained:

... It is thus suggested that Level of Service E, at four persons per square metre, be taken as the practical limit on how crowded a peak hour train should be throughout its length. This level of crowding would leave some space for passengers to filter through when entering or exiting a train.

... It should be noted that [Transport for NSW] TfNSW has claimed a capacity of 1200 passengers in a metro train, which is approaching lift-like crowding [Level of Service F (five persons per square metre)]. This raises questions as to how metro station stops might be managed when passengers have difficulty filtering through on-board crowds.'

Question put and negatived.

Mr D'Adam moved: That the following new recommendation be inserted after paragraph 3.136:

**Recommendation X**

That the NSW Government restore regular direct services to the city via Lidcombe for those stations west of Bankstown affected by the conversion.

Mr Mallard moved: That the motion of Mr D'Adam be amended by omitting 'restore' and inserting instead 'investigate the restoration of'.

Question on the amendment of Mr Mallard put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Mallard.

Noes: Mr Banasiak, Ms Boyd, Mr D'Adam, Mr Mookhey.

Question on the amendment resolved in the negative.

Original question on the motion of Mr D'Adam put.

The committee divided.

Ayes: Mr Banasiak, Ms Boyd, Mr D'Adam, Mr Mookhey.

Noes: Mr Fang, Mr Farlow, Mr Mallard.

Original question resolved in the affirmative.

Resolved on the motion of Mr Mallard: That recommendation 6 be amended by inserting 'Sydney Metro and' after 'That'.

Mr D'Adam moved: That

- The draft report, as amended, be the report of the committee and that the committee present the report to the House;
- The transcripts of evidence, submissions, pro formas, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry be tabled in the House with the report;
- Upon tabling, all unpublished attachments to submissions be kept confidential by the committee;
- Upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- The report be tabled by Thursday, 9 April 2020.

Question put.

The committee divided.

Ayes: Mr Banasiak, Ms Boyd, Mr D'Adam and Mr Mookhey.

Noes: Mr Fang, Mr Farlow and Mr Mallard.

Question resolved in the affirmative.

Resolved on the motion of Mr Mallard: That dissenting statements be provided to the secretariat by 5.00 pm, Monday, 6 April 2020.

## 6. **Conduct of the inquiry into the operation of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016***

### 6.1 **Proposed timeline**

Resolved, on the motion of Mr Banasiak: That the committee adopt the following timeline for the administration of the inquiry:

- Submission close: End May 2020
- Hearings (one hearing date, one reserve date): TBC
- Report tabling: End October 2020

### 6.2 **Stakeholder list**

Resolved, on the motion of Mr D'Adam: That the secretariat circulate to members the Chairs' proposed list of stakeholders to provide them with the opportunity to amend the list or nominate additional stakeholders, and that the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

### 6.3 Online questionnaire

Resolved on the motion of Mr Mallard: That an online questionnaire be conducted, and that draft questions be circulated to the committee via email for approval, with a meeting called if members wish to discuss in detail.

## 7. Adjournment

The committee adjourned at 11.50 am, *Sine die*.

Allison Stowe

**Committee Clerk**

## Minutes no. 25

Wednesday 19 August 2020

Portfolio Committee No. 6 – Transport and Customer Service

Via videoconference, 9.34 am

### 1. Members present

Ms Boyd, *Chair*

Mr Farlow

Mr Faraway (until 12.15 pm)

Mr Graham

Mr Mallard

Mr Mookhey (until 12.15 pm)

### 2. Apologies

Mr Banasiak, *Deputy Chair*

### 3. Previous minutes

Resolved, on the motion of Mr Farlow: That draft minutes no. 24 be confirmed.

### 4. Correspondence

The committee noted the following items of correspondence:

#### *Received:*

- 5 August 2020 – Email from Mr John Dulgaro, General Manager, 13Cabs to the secretariat, declining to attend the virtual hearing on 19 August 2020 for the inquiry into the operation of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*
- 18 August 2020 – Email from Ms Anju Sharma, Senior Parliamentary Officer, Parliamentary Services, Transport for NSW to the secretariat requesting that the committee reschedule the Point to Point Commissioner to appear with Government witnesses at the hearing for the taxis inquiry on 25 September 2020.

## 5. Inquiry into the operation of the *Point to Point (Taxis and Hire Vehicles) Act 2016*

### 5.1 Public submissions

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 3, 5, 10, 13-16, 18, 19a, 26, 27, 31, 33, 45, 46, 49, 50, 52, 54, 58-60, 63-74, 81-84, 86-87a, 89-94 and 98.

### 5.2 Partially confidential submissions

Resolved, on the motion of Mr Farlow: That the committee keep the following information confidential, as per the request of the author: names and/or identifying information in submissions nos. 1, 1a, 2, 6, 7, 11, 11a, 12, 20, 25, 28, 30, 35, 36, 38, 41-43, 47, 53, 55, 56, 62, 77-80 and 95.

Resolved, on the motion of Mr Farlow: That the committee keep the following information confidential, as per the recommendation of the secretariat: potential adverse mention in submission no. 19.

Resolved, on the motion of Mr Mallard: That the committee authorise the publication of submission no. 8 with the exception of identifying/sensitive information and potential adverse mention which are to remain confidential, as per the request of the author

Resolved, on the motion of Mr Mallard: That the committee authorise the publication of submission nos. 9, 17, 21-24, 29, 32, 34, 39, 40, 48, 57, 76, 96 with the exception of identifying and/or sensitive information which are to remain confidential, as per the recommendation of the secretariat

Resolved, on the motion of Mr Mallard: That the committee authorise the publication of submission nos. 75 and 85 with the exception of potential adverse mention which is to remain confidential, as per the recommendation of the secretariat.

### **5.3 Confidential submissions**

Resolved, on the motion of Mr Graham: That the committee keep submission nos. 4, 37, 44, 51, 61, 88, 97, 99, 100 and 101 confidential, as per the request of the author as they contain identifying and/or sensitive information.

### **5.4 Online questionnaire**

Resolved, on the motion of Mr Mallard: That the committee authorise the publication of the online questionnaire report on the committee's website.

### **5.5 Extension of reporting date**

Resolved, on the motion of Mr Graham: That the committee extend the reporting date to the end of November 2020.

### **5.6 Witness invitation to Point to Point Commissioner**

Resolved, on the motion of Mr Mallard: That the committee invite the Point to Point Commissioner to the hearing on 25 September 2020 to appear in a session alongside the other Government departments, in addition to appearing individually in a separate session.

### **5.7 Briefing on virtual hearing proceedings**

The Chair briefed the committee on virtual hearing arrangements.

### **5.8 Allocation of questions**

Resolved, on the motion of Mr Mallard: That the allocation of questions be left in the hands of the Chair.

### **5.9 Virtual public hearing**

Witnesses were admitted via video link.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Geoff Ferris, Managing Director, Regional Taxi Lines (Griffith/Dubbo)
- Mr Scott Wilkins, Operations Manager, Milton Ulladulla Taxis, Limousines and Charter Bus Service
- Mr Neil Crittenden, Chairman, Maitland Taxi Service (Red and White Star Cabs)
- Mr Mark Marland, Director Secretary, Maitland Taxi Service (Red and White Star Cabs).

The evidence concluded and the witnesses withdrew.

Witnesses were admitted via video link.

The following witnesses were sworn and examined:

- Mr Lee Furlong, Assistant General Manager, Legion Cabs
- Mr Ashwin Sharma, Acting CEO, Manly Warringah Cabs
- Mr Geoff Wong, General Manager, St George Cabs.

The evidence concluded and the witnesses withdrew.

Witnesses were admitted via video link.

The following witnesses were sworn and examined:

- Mr Bruce Maguire, Lead Policy Advisor, Vision Australia
- Ms Hayley Stone, Senior Policy Officer, Physical Disability Council of NSW
- Ms Alice Dixon-Wilmshurst, Policy Officer, Physical Disability Council of NSW.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 1.16 pm.

## 6. **Adjournment**

The committee adjourned at 1.16 pm until Friday 25 September 2020, 9.15 am, Macquarie Room, Parliament House (socially distanced public hearing).

Shaza Barbar

**Committee Clerk**

## **Minutes no. 26**

Friday 25 September 2020

Portfolio Committee No. 6 – Transport and Customer Service

Macquarie Room, Parliament House, 9.15 am

### 1. **Members present**

Ms Boyd, *Chair*

Mr Banasiak, *Deputy Chair*

Mr Farlow

Mr Farraway (*until 12.52 pm*)

Mr Graham (*until 4.47 pm*)

Mr Mallard

Mr Mookhey (*from 9.17 am*)

### 2. **Apologies**

Mr Mallard

### 3. **Previous minutes**

Resolved, on the motion of Mr Farlow: That draft minutes no. 25 be confirmed.

### 4. **Correspondence**

The committee noted the following items of correspondence:

#### ***Received:***

- 26 August 2020 – Email from Mr Bruce Maguire, Lead Policy Advisor, Vision Australia to the secretariat, requesting access to a recording of the hearing on 19 August 2020 for the inquiry into the operation of the Point to Point (Taxis and Hire Vehicles) Act 2016 (see item 5.2)
- 15 September 2020 – Email from Mr Matthew Morcom, Executive Officer to the Secretary, Department of Customer Service, advising that there would be limited value for a representative of the department to attend the hearing for the inquiry into the operation of the Point to Point (Taxis and Hire Vehicles) Act 2016
- 16 September 2020 – Email from Mr Bruce Maguire, Lead Policy Advisor, Vision Australia to the secretariat, clarifying evidence provided at the hearing into the operation of the Point to Point (Taxis and Hire Vehicles) Act 2016 (see item 5.4).

## 5. Inquiry into the operation of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*

### 5.1 Public submission

The committee noted that the following submission was published by the committee clerk under the authorisation of the resolution appointing the committee: submission no 87b.

### 5.2 Request for footage

The committee noted that it resolved via email to provide the recording of the hearing on 19 August 2020 to Mr Bruce Maguire, Lead Policy Advisor, Vision Australia who appeared as a witness at the hearing.

### 5.3 Answers to questions on notice

The committee noted that the following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice from Mr Lee Furlong, Assistant General Manager, Legion Cabs, received 16 September 2020
- answers to questions on notice from Mr Geoff Wong, General Manager, St George Cabs, received 18 September 2020
- answers to questions on notice from Ms Hayley Stone, Senior Policy Officer and Ms Alice Dixon-Wilmshurst, Policy Officer, Physical Disability Council of NSW, received 18 September.

### 5.4 Clarification of evidence

Resolved, on the motion of Mr Graham: That the committee authorise:

- the publication of correspondence from Mr Bruce Maguire, dated 16 September 2020 clarifying evidence he provided at the hearing on 19 August 2020
- the addition of a footnote to the evidence of Mr Bruce Maguire, 19 August 2020, reflecting his clarification of evidence.

### 5.5 Report deliberative

Resolved, on the motion of Mr Banasiak: That the committee's report deliberative on Monday 23 November 2020 be held via Webex.

### 5.6 Public hearing

Witnesses and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was examined on his former oath:

- Mr Geoff Ferris, President, Country Taxi Operators Association.

The following witnesses were sworn and examined:

- Mr Martin Rogers, CEO, NSW Taxi Council
- Mr Brian Wilkins, President, NSW Taxi Industry Association
- Mr Vic Hazir, Association Secretary, Taxi Owners and Small Business Association (TOSBA).

Mr Vic Hazir tendered the following document:

- Document entitled: *If only they told the truth.*

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Gavin Webb, Chief Legal Officer, Transport Workers Union
- Ms Isabella Wisniewska, Legal Officer, Transport Workers Union
- Mr Michael Jools, President, Australian Taxi Drivers Association and Taxi Driver Action
- Mr Graeme Harris, Delegate (Manly Warringah Taxis), Australian Taxi Drivers Association and Taxi Driver Action.

The evidence concluded and the witnesses withdrew.

The Chair left the meeting at 11.45 am.

In the absence of the Chair, the Deputy Chair took the Chair for the purpose of the meeting.

The following witnesses were sworn and examined:

- Mr Mitch Cooper, Head of Public Policy and Government Affairs, Uber
- Ms Amanda Gilmore, Head of Driver and Compliance, Uber
- Mr Simon Smith, Managing Director, Ola
- Ms Ann Tan, Head of Legal and Business Excellence, Ola.

The evidence concluded and the witnesses withdrew.

The Chair re-joined the meeting at 1.45 pm.

The following witnesses were sworn and examined:

- Mr Stephen Harapin, Taxi owner
- Mr Kevin Hole, Taxi owner
- Mr Peter Louridas, Taxi owner
- Mr Paul Lenehan, Taxi owner.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Anthony Wing, Point to Point Transport Commissioner
- Dr Joost De Kock, Deputy Secretary, Customer Strategy & Technology, Transport for NSW
- Ms Kate Foy, Deputy Secretary, Community Engagement, Department of Premier and Cabinet
- Mr Charlie Heuston, Executive Director, Employee Relations, Department of Premier and Cabinet.

Mr De Kock, Ms Foy and Mr Heuston withdrew at 4.00 pm.

The public hearing continued.

The evidence concluded and the witness withdrew.

The public hearing concluded at 5.00 pm.

### **5.7 Tendered documents**

Resolved, on the motion of Mr Mookhey: That the committee defer consideration of the following document tendered during the public hearing:

- Document entitled *If only they told the truth*, tendered by Mr Vic Hazir, Association Secretary, Taxi Owners and Small Business Association (TOSBA).

### **5.8 Correspondence from NSW Taxi Council**

The committee considered the following correspondence:

- 25 September 2020 – Email from Mr Martin Rogers, CEO, NSW Taxi Council, regarding evidence by Dr Joost De Kock, Deputy Secretary, Customer Strategy & Technology, Transport for NSW about the NSW Taxi Council's involvement on the Taxis and Hire Vehicle Industry Assistance Panel.

Resolved, on the motion of Mr Farlow: That the committee:

- authorise the publication of correspondence, dated 25 September, from Mr Martin Rogers, CEO, NSW Taxi Council, to committee, regarding evidence by Dr Joost De Kock, Deputy Secretary, Customer Strategy & Technology, Transport for NSW about the NSW Taxi Council's involvement on the Taxis and Hire Vehicle Industry Assistance Panel,
- write to Dr De Kock for a response to the concerns raised by Mr Martin Rogers in his correspondence dated 25 September.

### **5.9 Request for information from Revenue NSW**

Resolved, on the motion of Mr Mookhey: That the committee write to Revenue NSW requesting details on the amount of Passenger Service Levy collected through rideshare and taxi services, and if this information is not available, a breakdown on the collection of the levy from the individual rideshare services such as Uber, Ola and Didi, as compared to taxi services.



**6. Adjournment**

The committee adjourned at 5.11 pm until Monday 23 November, 9.30 am, via videoconference (report deliberative).

Shaza Barbar  
Committee Clerk

**Minutes no. 27**

Monday 23 November 2020  
Portfolio Committee No. 6 – Transport and Customer Service  
Via videoconference, 9.32 am

**1. Members present**

Ms Boyd, *Chair*  
Mr Farlow (from 9.35 am)  
Mr Faraway  
Mr Graham  
Mr Mookhey

**2. Apologies**

Mr Mallard

**3. Previous minutes**

Resolved, on the motion of Mr Graham: That draft minutes no. 26 be confirmed.

**4. Correspondence**

The committee noted the following items of correspondence:

***Received:***

- 20 October 2020 – Letter from Dr Joost De Kock, Deputy Secretary, Customer Strategy & Technology, Transport for NSW, to the Chair, responding to correspondence from the NSW Taxi Council
- 20 October 2020 – Letter from Mr Scott Johnston, Chief Commissioner of State Revenue, Revenue NSW to the Chair, responding to a request for information on the collection of the Passenger Service Levy from rideshare services and taxi services
- 29 October 2020 – Emails from Ms Ashleigh Cormack, Public Policy and Government Affairs – Australia and NZ, Uber, seeking assurance that answers to questions on notice in relation to the average Uber fare will be kept confidential by the committee
- 2 November 2020 – Email from Mr Robert Walters, Taxi Owners and Small Business Association (TOSBA), providing further information
- 6 November 2020 - Letter from Mr Scott Johnston, Chief Commissioner of State Revenue, Revenue NSW to the Chair, responding to a request for further information on the collection of the Passenger Service Levy from rideshare services and taxi services
- 6 November 2020 – Email from Ms Anju Sharma, Parliamentary Services, Transport for NSW to the secretariat, requesting an extension on the answers to questions on notice from Transport for NSW.

***Sent:***

- 6 October 2020 – Letter from the Chair to Dr Joost De Kock, Deputy Secretary, Customer Strategy & Technology, Transport for NSW, seeking a response to correspondence received from the NSW Taxi Council
- 6 October 2020 – Letter from the Chair to Mr Scott Johnston, Chief Commissioner of State Revenue, Revenue NSW, requesting information on the collection of the Passenger Service Levy from rideshare services and taxi services

- 26 October 2020 – Letter from the Chair to Mr Scott Johnston, Chief Commissioner of State Revenue, Revenue NSW, requesting further information on the collection of the Passenger Service Levy from rideshare services and taxi services.

## 5. Inquiry into the operation of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*

### 5.1 Answers to questions on notice and supplementary questions

The following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice and supplementary questions from Mr Michael Jools, Australian Taxi Drivers Association, 1 November 2020
- answers to questions on notice and supplementary questions from Mr Graeme Harris, Australian Taxi Drivers Association, 1 November 2020
- answers to questions on notice and supplementary questions from Uber, received 2 November 2020
- answers to questions on notice and supplementary questions from Transport Workers Union of NSW, received 3 November 2020
- answers to questions on notice from the Department of Premier and Cabinet, received 3 November 2020
- answers to questions on notice and supplementary questions from Transport for NSW, received 13 November 2020.

Resolved, on the motion of Mr Farroway: That the committee keep confidential an answer to question on notice from Uber, received 9 November 2020, at the request of the author, as it contains sensitive information.

### 5.2 Tabled document

Resolved, on the motion of Mr Mookhey: That the committee accept and publish the document entitled, 'If only they told the truth', tendered by Mr Vic Hazir, Association Secretary, Taxi Owners and Small Business Association during the public hearing on 25 September 2020 with the exception of identifying information.

### 5.3 Extension of reporting date

Resolved, on the motion of Mr Mookhey: That the committee hold a report deliberative on Thursday 3 December 2020.

Resolved, on the motion of Mr Mookhey: That the committee extend the reporting date to Wednesday 9 December 2020.

The Chair noted that members should circulate amendments to the report in advance of the meeting.

## 6. Adjournment

The committee adjourned at 9.37 am, until 9.30 am, Thursday 3 December 2020, via videoconference (taxis inquiry – report deliberative).

Shaza Barbar  
**Committee Clerk**

**Draft minutes no. 28**

Thursday 3 December 2020

Portfolio Committee No. 6 – Transport and Customer Service

Via videoconference, 9.33 am

**1. Members present**Ms Boyd, *Chair*Mr Banasiak, *Deputy Chair*

Mr Farlow

Mr Farraway (from 9.45 am)

Mr Graham

Mr Mookhey

**2. Previous minutes**

Resolved, on the motion of Mr Banasiak: That draft minutes no. 27 be confirmed.

**3. Correspondence**

The committee noted the following items of correspondence:

***Received***

- 23 November 2020 – Letter from Mr Isaac Jeffrey, Head of Government Relations, Ola Australia and New Zealand, regarding Ola's future engagement with the committee.

**4. Inquiry into the operation of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*****4.1 Answers to questions on notice and supplementary questions**

Resolved, on the motion of Mr Farlow: That the committee publish answers to questions on notice and supplementary questions from Ola, received 26 October 2020, with the exception of sensitive information which is to be kept confidential, at the request of the author

Resolved on the motion of Mr Banasiak: That the committee publish answers to questions on notice and supplementary questions from the NSW Taxi Council, received 13 November 2020, with the exception of sensitive information which is to be kept confidential, at the request of the author.

**4.2 Consideration of Chair's draft report**The Chair submitted her draft report entitled '*Operation of the Point to Point Transport (Taxis and Hire Vehicles) Act 2016*', which, having been previously circulated, was taken as being read.**Chapter 1**

Resolved, on the motion of Mr Bansiak: That paragraph 1.7 be amended by inserting at the end: 'This meant that Uber was operating illegally and capitalised on this advantage at the expense of taxi and hire vehicles'.

Resolved, on the motion of Mr Bansiak: That the following new paragraph be inserted after paragraph 1.23:

'The safety features required for taxis are vastly different to rideshare vehicles and the justification of rank and hail cannot solely account for that disparity.'

Resolved, on the motion of Mr Banasiak: That paragraph 1.27 be amended by inserting at the end: 'Transport for NSW and the Point to Point Transport Commissioner seemed to have no way of tracking the activity or lack thereof of the Passenger Transport Licence Codes', and a footnote to reference this, if available.

Resolved, on the motion of Mr Graham: That paragraph 1.37 be amended by inserting at the end: 'The committee also received evidence from industry participants on values which was by and large less positive'.

Resolved, on the motion of Mr Banasiak: That the following new finding be inserted after paragraph 1.38:

**'Finding X**

That the transfer and lease value of taxi licences have incurred a net loss of at least 80 per cent since 2015 as a direct result of this government's handling of rideshare illegal entry and operation in the market and subsequent regulation through the 2016 Act.'

Resolved, on the motion of Mr Banasiak: That the following new paragraph be inserted after paragraph 1.54:

'No evidence was given in relation to Ms Baker-Finch's previous experience in the point to point industry'.

**Chapter 2**

Resolved, on the motion of Mr Banasiak: That paragraph 2.55 be amended by omitting: 'Mr Vic Hazir, Association Secretary, Taxi Owners and Small Business Association' and inserting instead 'Mr Rogers'.

Resolved, on the motion of Mr Banasiak: That the following new paragraph be inserted after paragraph 2.115:

'In response to questioning on costs and flexibility particularly during the COVID-19 pandemic, Mr Cooper agreed with the need to remove the requirement for taxis to be active even during the threat of market failure during such events like the COVID-19 pandemic and subsequent lockdown:

In terms of that question of economic regulation or a requirement to keep putting the car on the road, especially in this unusual set of times of COVID-19, it seems like a very sensible relief opportunity for folks on the road.

[FOOTNOTE: Evidence, Mr Mitch Cooper, Head of Public Policy and Government Affairs, Uber, 25 September 2020, p 33.]

Resolved, on the motion of Mr Banasiak: That the following new recommendation be inserted after paragraph 2.116:

**'Recommendation X**

That the NSW Government amend the point to point regulations and examine the universal service obligations to allow for flexibility. '

Resolved, on the motion of Mr Banasiak: That the following new finding be inserted after paragraph 2.124:

**'Finding X**

That the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016* has failed to level the playing field between taxis, hire vehicles and rideshare operators'.

Resolved, on the motion of Mr Banasiak: That Recommendation 1 be amended by inserting at the end: 'with a view to ensuring equal costs and competitive neutrality for taxis, hire vehicles and rideshare'.

Resolved, on the motion of Mr Banasiak: That Recommendation 2 be amended by inserting at the end: 'developing either internally or through external tender a mother app that provides New South Wales public users with the ability to access booking and payment for all taxi and rideshare platforms'.

Resolved, on the motion of Mr Banasiak: That paragraph 2.130 be amended by inserting after the first sentence: 'The committee notes that the statistics provided by the Point to Point Transport Commissioner highlight that a disparity in compliance and enforcement has developed between taxi and rideshare'.

Resolved, on the motion of Mr Banasiak: That Recommendation 3 be amended by omitting at the end 'split more evenly between taxi vehicles and rideshare vehicles' and inserting instead 'and the NSW Government investigate why a disparity currently exists between enforcement of rideshare and taxi vehicles'.

Resolved, on the motion of Mr Graham: That Recommendation 4 be omitted: 'That the NSW Government consider changing the signage requirements for rideshare vehicles to large magnetic signs on vehicle doors', and the following new Recommendation be inserted instead:

**'Recommendation X**

That the NSW Government change the signage requirements for rideshare vehicles to a more visible, easily identifiable format'.

Resolved, on the motion of Mr Banasiak: That paragraph 2.132 be amended by inserting after the first sentence: 'Further, the committee notes the difficulty in enforcement given the current state of rideshare signage'.

Resolved, on the motion of Mr Banasiak: That Recommendation 5 be amended by inserting at the end: 'and increase enforcement of these zones so they do not breach current rank and hail conditions'.

Resolved, on the motion of Mr Mookhey: That paragraph 2.134 be amended by:

- a) omitting 'The committee also appreciates that due to the flexibility of rideshare services, incorporating the sector into Chapter 6 may not be the best option. Rather,' before 'more works needs to be done'
- b) omitting 'NSW Government' and inserting instead 'the NSW Legislative Council's Select Committee on the Technological Change on the Future of Work' before 'conduct an independent review'.

Resolved, on the motion of Mr Mookhey: That Recommendation 6 be amended by omitting 'NSW Government' and inserting instead 'the NSW Legislative Council's Select Committee on the Technological Change on the Future of Work'.

Resolved, on the motion of Mr Banasiak: That the following new recommendation be inserted after Recommendation 6:

**'Recommendation X**

That the NSW Government work with all stakeholders in the point to point industry to regulate the industry with a view to establishing a level playing field that addresses all inequities outlined through this inquiry process'.

**Chapter 3**

Resolved, on the motion of Mr Graham: That a reference to the IPART recommendation to collect data be inserted before paragraph 3.19.

Resolved, on the motion of Mr Graham: That paragraph 3.92 be amended by omitting 'Considering one of the aims of the reforms was to ensure that the industry is competitive, it would be useful for the NSW Government to do more work in this area to see whether there has been difference' and inserting instead 'Considering one of the central aims of the reforms was to ensure that the industry is competitive, it is essential that the NSW Government is able to demonstrate that consumer have benefited from the changes to the industry'.

Resolved, on the motion of Mr Graham: That the following new paragraph be inserted after paragraph 3.92:

'The committee supports IPART's recommendation that further data be collected in order to demonstrate what has happened to fares. The Committee was concerned by the response from the Point to Point Commissioner when questioned about this recommendation. The Commissioner did not agree that such work was required and seemed unaware of the recommendation. Accordingly, the committee feels that such work should be completed elsewhere in Government, perhaps by the Productivity Commissioner or by IPART.'

Resolved, on the motion of Mr Graham: That Recommendation 7 be omitted: 'That the NSW Government consider commissioning research into the cost of point to point transport services, to determine the impact of point to point reforms on fares' and inserting instead:

**'Recommendation X**

That the NSW Government commission research by IPART to determine the impact of point to point reforms on fares for consumers. This should assess the impact of the reforms since they have been introduced, and include a recommendation about arrangements for assessing the impact of fares on consumers in future.'

Resolved, on the motion of Mr Graham: That the following new paragraph be inserted after paragraph 3.94:

'The committee notes that Ms Baker-Finch provided her review to the Minister for Transport and Roads and the Minister for Regional Transport and Roads in July 2020. The committee recommends that the Minister immediately publicly release the report.'

Resolved, on the motion of Mr Graham: That the following new recommendation be inserted after paragraph 3.94:

**'Recommendation X**

That the Minister immediately publicly release the Baker-Finch review.'

**Chapter 4**

Resolved, on the motion of Mr Graham that the following new finding be inserted after Finding 1:

**'Finding X**

That the Additional Assistance Payment Scheme (AAPS) package, meant to provide assistance to industry members facing hardship, has been dramatically underspent. Of the \$142 million allocated, only \$42 million has been spent. Further that of 1,258 applications, nil payments were made in 727 cases, that is in more than half the total number of applications.'

Resolved, on the motion of Mr Mookhey: That paragraph 4.140 be amended by omitting 'at pre-reform prices' after 'We agree with stakeholders in the taxi industry that a buyback of ordinary taxi licences'.

Mr Mookhey moved: That the following recommendations be inserted after Recommendation 11:

**'Recommendation X**

That to pursue Recommendation 11, the NSW Government form a working group which includes industry and the Transport Workers' Union.

**Recommendation X**

That the NSW Government and working group develop a policy for bailment reform in conjunction with development of a buyback scheme.'

Question put.

The committee divided.

Ayes: Mr Banasiak, Ms Boyd, Mr Graham, Mr Mookhey.

Noes: Mr Farlow, Mr Farraway.

Question resolved in the affirmative.

Resolved, on the motion of Mr Banasiak: That:

The draft report as amended be the report of the committee and that the committee present the report to the House;

The transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, summary report of the online questionnaire and correspondence relating to the inquiry be tabled in the House with the report;

Upon tabling, all unpublished attachments to submissions and individual responses to the online questionnaire be kept confidential by the committee;

Upon tabling, all unpublished transcripts of evidence, submissions, responses to the online questionnaire and summary report of these responses tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;

The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;

The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;

Dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting;

The report be tabled on Tuesday 8 December 2020;

The Chair to advise the secretariat and members if they intend to hold a press conference, and if so, the date and time.

**5. Adjournment**

The committee adjourned at 10.41 am, *sine die*.

Shaza Barbar  
**Committee Clerk**