

## **RESPONSE FORM: *FUTURE OF SMALL PASSENGER SERVICES – CONSULTATION PAPER***

There are no questions for Sections 1, 3 and 6–10.

You do not need to fill out every section.

### **How we will use your submission**

We will consider your responses, along with other responses from the public, the small passenger service sector, and other interested organisations, to develop recommendations for the Government's consideration.

A summary of submissions will be published on the small passenger services page on [www.transport.govt.nz](http://www.transport.govt.nz). This summary may include the names of the organisations or individuals that made submissions. It will not include their contact details.

### **Your submission may be made public**

Once you make your submission, anyone can ask for it under the Official Information Act 1982.

If you don't want anything in your submission released, you should let us know what material you want withheld, and why, at the time you make your submission.

Under the Official Information Act, we decide whether to release or to withhold material and can only withhold information in accordance with the provisions set out in that Act. Further information is available at [www.legislation.govt.nz](http://www.legislation.govt.nz).

### **Request to withhold material**

I request that the Ministry consider withholding the release of some or all of my submission:

☐ Yes

☒ No

If yes - describe the reasons why:

--

## Your details

---

What is your interest in future of the small passenger services sector? Are you:

- ☒ A private individual
- ☐ Part of the small passenger services sector

☒ Your name (optional): Louise Baker

☒ Your address (optional): Level 3, The Westhaven, 100 Beaumont Street, Auckland 1010

Your email (optional): louise.baker@opus.co.nz

If your submission is made on behalf of an organisation, please name that organisation here:  
Opus International Consultants

Would you like us to email you with the results of the consultation process?

- ☒ Yes – please provide email address
- ☐ No

## Section 2 – The need for change

---

**Question 1** – *What are the important factors driving the need for change for the small passenger services sector?*

Tick the factors below you think are driving the need for change

- ☒ Technology is changing the transport sector
- ☒ The current rules are no longer fit for purpose and flexible for the future
- ☒ The need for a more innovative sector that delivers improved customer service

If there are other factors you think are important, enter them below:

-The sharing economy & collaborative consumption: advances in technology mean that communities can now be networked and are able to share their transport assets or rides in ways that they couldn't before. This is an economic opportunity because it offers a source of income to people, driving for their community, driving tourists etc.

-New Zealand needs to keep pace with other countries, particularly when it comes to our largest city, and we have a reputation for being a small, technophile country, we need change to allow us to offer world-class transport options in our cities and town, both for residents and visitors. If we are seen as leaders, then we will create economic opportunities not only for operational roles, but also in research and development

-TNCs and ridehailing offer an opportunity to address accessibility problems in provincial towns, rural communities and in areas that are poorly served by public transport in our cities: change is needed to remove regulatory barriers that are preventing companies from rolling out their operations in NZ, or establishing in our markets

## Section 4 – Features important in the future sector

---

**Question 2** – *What are the important features you would want to see from the small passenger services sector in the future?*

Tick the features below you think are important for the future sector

- ☒ Responsive to supply and demand
- ☒ The compliance burden is as low as it can be while achieving regulatory objectives
- ☒ Transparent fees and charges
- ☒ Effective choice so people can travel where they wish in a timely manner

- ☐ Incentivises improved customer services
- ☒ Mitigates safety risks for passengers and drivers

If there are other factors you think are important, enter them below:

“Incentivises customer service” isn’t ticked because it is in the interest of business to keep their customers happy, otherwise they will lose them to competitors. Our view is that government should concentrate on:

- Open data
- Open payment systems
- Equity
- Legality & compliance
- Service
- Protecting citizens

Allowing Business to:

- Innovate
- Be flexible
- Shift & pivot with market trends
- Win the customer
- Provide more access options, not less

(Source: *Smarter Auckland Research Series: Smart Transport- Opportunities for Auckland- Opus*, 2015, page 15).

Government’s role might be to support the development of a General Ridehailing Feed Specification (and real-time) and then regulate around requirements for ridehailing companies/ TNC’s to release their data so that customers can find out about their transport choices (i.e. because this data will then appear in journey planner apps). We understand that the operators are not going to enjoy this because their competitors may take advantage of the information, but we see it as important for the consumer: they need to know where and when rides are available & about service coverage, particularly if, for example, a provincial town has chosen to replace a bus service with ridehailing to reduce costs and grown a coverage area, or in a sprawling city, so that people can plan a multi-modal journey. Also, for transport planning services, many repeated ridehailing journeys might indicate a need for a bus service, planners need access to this data to plan the city, write traffic impact assessments etc.

## Section 5 – Summary of options for the future

**Question 3** – *Which of the five options do you think will be best for New Zealand’s small passenger services sector in the future?*

The Ministry of Transport’s review team concluded that option 4 would be best for New Zealand’s small passenger services sector in the future. Do you agree?

- ☐ Yes
- ☒ No – If you do not agree, tick the option below that you think would be best
- ☐ Option 1 – status quo – modified

- ☐ Option 2 – reinforce separate taxi/private hire markets and their regulatory burdens
- ☐ Option 3 – drivers responsible under new single class system (reduced regulatory burden)
- ☐ Option 5 – existing taxi requirements apply to all operators (higher regulatory burden in new single class system)

Why do you prefer this option over option 4?

We would prefer to see TNC's and ridesharing companies regulated separately to taxis and private hire.

Our view is that the current legislation is geared towards individuals meeting certain requirements, it is our view that the government should be seeking to regulate the business/ company/ start up rather than the individual.

This incremental change may delay or prevent the transformational change that we believe is possible in this sector.

Perhaps what is needed is: one piece of legislation covering individuals who wish to operate as private hire or taxi drivers and a new piece of legislation to cover the companies that match drivers with their passengers via ridehailing services, TNC's, pop-up transit or (indiscriminate) carpooling services.

## Section 11 – Definitions for exemptions

---

### Carpooling would be exempt under all options

**Question 4** – *Do you agree the exemption for carpooling should apply where:*

- the people in the vehicle already know of each other (for example, they are friends, members of the same sports team or work for the same company). The driver and passenger may agree to share the responsibility of driving or the passenger will contribute money towards the driver's costs for the trip (that is, the operating costs of the vehicle such as petrol and depreciation, but not any payment for the driver's time).



Yes



No – if you disagree that carpooling should be exempted in the above circumstance, please explain why

In our view this distinction is moot.

The current Let's Carpool software that the government supports allows users to match with strangers, users can chose to share only with "friends, members of the same sports team or work for the same company" but every member can currently chose to match with any other people that are registered nearby. The national partners are looking to replace the technology at the heart of the programme by July 2016, and, when the Request for Information is released, suppliers that provide both "private community" carpooling will be asked to respond alongside those providing dynamic carpooling software.

We also think this is going to be difficult to enforce: for example, if someone asks for a lift on an open Facebook community group that is not geo-fenced, does that count as "already knowing each other"?

Source: Let's Carpool Programme and Software Review, Opus, 2015

and –

**Question 5** – *Do you agree the exemption for carpooling should apply where:*

- the people in the vehicle (who may not know each other) are travelling to similar destinations at similar times and use a third party to connect them. The passenger(s) will contribute money towards the driver's costs for the trip (that is, the operating costs of the vehicle such as petrol and depreciation, but not any payment for the driver's time).



Yes



No – if you disagree that carpooling should be exempted in the above circumstance, please explain why below

In our view, making a profit is not the dividing line between a citizen being safe and risk coming into play.

We believe that carpool providers should be regulated in the same way as the ridehailing businesses- next-gen carpool software is actually working in a very similar way. <https://www.getchariot.com/> is going to allow its users to match based on start and end destinations, that's not so different to Uber's model where the passenger states their destination and is matched with a local driver. Does Uber require additional regulation because the driver is making a profit, or does Chariot need to be regulated because the driver and passenger are taking similar risks?

We believe that both need to be regulated, but at the company level. This might be a "light touch" i.e. providing guidance on who to accept a lift from (e.g. only people you have already met) etc.

We also see that, for safety reasons, drivers may need protection from passengers, even if no money is changing hands, and that a carpool supplier should have similar obligations and diligence to the likes of Uber or Lyft in removing passengers or drivers from its system for unacceptable, inappropriate or dangerous behaviour, or allowing drivers or passengers to block particular people.

## Exempting companies providing communications functions only

**Question 6** – *Do you agree the exemption for companies providing communications functions should apply where:*

- a company (for example, a call centre company) providing back office communication functions for a completely unrelated small passenger service company.

And would not include:

- a company providing technology or communications, but actually participates in the small passenger services market in a manner similar to other operators (this company would be required to comply with the relevant rules).

☒ Yes

☐ No – if you disagree that communications companies be defined in this way, please explain why

## Applying the rules to ridesharing services

**Question 7** – *Do you agree that the requirement for ridesharing services to meet the same rules as the rest of the small passenger services sector should apply where:*

- third parties (often a technology-based company using apps) connect people who are driving to a destination with other people who want to travel to a similar place. The third party that connects a driver and passenger receives revenue from the transaction, commonly by taking a percentage of the money paid by the passenger to the driver.

☐ Yes

☒ No – if you disagree that ridesharing service be defined in this way, please explain why

We believe that a new set of rules are required to cover TNCs, pop-up transit & ridehailing



## Section 12 – Common requirements under options 3 and 4

**What are the right core passenger safety rules we need for the future small passenger services system?**

**Question 8** – *Do you agree that the core requirements for passenger safety can be achieved through:*

- *P endorsement* – all drivers would have to hold a ‘P endorsement’ issued by the NZ Transport Agency. A person applying for a P endorsement would have fewer requirements to meet than now. To obtain a P endorsement, a driver would have to pass a criminal record and driving record check, be medically fit to drive, and have held a full New Zealand driver licence for at least two years. A P endorsement identification card would have to be displayed in the vehicle.

☐ Yes

☒ No – if no, please explain why

If the current driver licensing system is considered adequate for people to meet and share rides on next-gen carpooling software on a not-for-profit basis, it should be adequate for TNC’s, private hire and ridesharing/ridehailing

If they will be driving a different class of vehicle then additional testing would be warranted, but the current driver licensing system should be adequate in our opinion, supplemented by a background check (police, ministry of justice etc.) We don’t believe that additional testing should be a requirement, but we would like for the TNC/ridehailing/carpooling app operator to have a programme of driver health checking (self-declaration) driver performance checking, training/ refresher information to support their drivers and make sure they are up to date, along with a rating system.

**Question 9** – *Do you agree that the core requirements for passenger and driver safety can be achieved through:*

- *work time limits* – to ensure that drivers were not fatigued, they would have to comply with work time limits that set a maximum number of work hours and require rest breaks. Drivers would need to maintain logbooks covering all of the time that they worked. All drivers could work to the existing time limits for taxis, of up to 7 hours before a rest break is required.

☒ Yes

☐ No – if no, please explain why

Yes, but new technology means that log books shouldn’t be needed for TNCs/ ridehailing/ carpooling operators, and actually that government should encourage the use of technology to capture this data, as opposed to log-books, and specify the format & regularity of reporting. Perhaps government could

support smaller operators by encouraging business to create software for smaller operators to use.

Any regulatory changes need to acknowledge that a driver might only work a few days or hours a week, but those few hours could provide a useful service, or even a lifeline for some members of the community.

**Question 10** – *Do you agree that the core requirements for passenger safety can be achieved through:*

- *reporting serious complaints to the NZ Transport Agency* – to ensure a P endorsement holder remains fit and proper, the person or company responsible for providing the service\* would be required to notify the NZ Transport Agency of any complaints received alleging serious improper behaviour by a driver. The person or company responsible would also be required to support the NZ Transport Agency or the NZ Police in undertaking any regulatory or compliance action.

\*This would be a driver under option 3 or an approved transport operator under option 4

- ☐ Yes
- ☒ No – if no, please explain why

This doesn't achieve resolution fast enough. If a passenger or driver is dangerous, they need to be prevented from using/ providing a service with immediate effect. This is possible using today's technology.

**What are the right core driver safety rules we need for the future small passenger services system?**

**Question 11** – *Do you agree that the core requirements for driver safety can be achieved through:*

- *power to refuse to accept some passengers* – this enables drivers to refuse to accept passengers if drivers consider that their personal safety could be at risk.

- ☒ Yes
- ☒ No – if no, please explain why

Also see answer to Question 10

**Question 12** – *Do you agree that the core requirements for driver safety can be achieved through:*

- *duty to promote driver safety* – this requires drivers (under option 3) or approved transport operators (under option 4) to make business choices from the range of mechanisms available to them. Such measures would be in addition to the mandated safety requirements.

☐ Yes

☐ No – if no, please explain why

--

**What are the right core in-vehicle security camera rules we need for the future small passenger services system?**

**Question 13** – *Do you agree that the core requirements for in-vehicle security cameras can be achieved through:*

- *in-vehicle security cameras* – all passenger service (all taxi, private hire, shuttle, dial-a-driver, and rideshare) vehicles would have to meet the existing rules for in-vehicle security cameras that currently apply to taxis.

☒ Yes

☐ No – if no, please explain why

Yes for taxis and private hire. Our view is that cameras are not required in low risk situations i.e. : no cash in vehicle, passengers are known (i.e. book via an app, not a street hail).

**Question 14** – *Do you agree that the core requirements for in-vehicle security cameras can be achieved through:*

- *exemption from camera requirement* – the NZ Transport Agency would exempt a vehicle from the camera requirement where a driver (under option 3) or an approved transport operator (under option 4) met all of the following criteria:
  - *providing services to registered passengers only* – the service is only provided where the passenger is registered with company or driver
  - *collection of driver and passenger information* – when registering with the company or driver, a passenger and driver must provide their name, photo, address, and phone number
  - *availability of driver and passenger information* – before each trip starts, the company or driver makes the name and photo of the passenger and driver available to each other
  - *retaining a record of each trip* – the company or driver keeps a record of each trip, including the start and end points.

☐ Yes

☒ No – if no, please explain why

Our view is that operators/ drivers that are collecting via street hails and accepting cash payments (i.e. carrying cash on board or taking payments at the end of a ride via EFTPOS) are at more risk and therefore the camera regulations should apply.

## What are the right fatigue management rules we need for the future small passenger services system?

**Question 15** – *Do you agree that the core requirements to mitigate driver fatigue can be achieved through:*

- *work time and log books* – current requirements permit taxi drivers to drive for up to 7 hours before taking a break, and the rest of the sector up to 5.5 hours before a break. The review proposes applying the work time requirements for taxi services to the whole sector under the single class approach.

☒ Yes

☐ No – if no, please explain why

Log books should be replaced with software to collect the data in real-time

## What are the right vehicle safety rules we need for the future small passenger services system?

**Question 16** – *Do you agree that the core requirements for vehicle safety can be achieved through:*

- *Certificate of Fitness* – this is a general safety check. It is more robust than a Warrant of Fitness for private cars and is required every six months.

☐ Yes

☒ No – if no, please explain why

A WOF should be sufficient because a WOF declares a car as fit to be on the road. Perhaps six-monthly would be appropriate for drivers completing a certain number of driving hours/ distances.

## What are the right consumer protection rules we need for the future small passenger services system?

**Question 17** – *Do you agree that the core requirements for consumer protection can be achieved through:*

- *agree the basis of the fare* – drivers would have to agree the basis of the fare with the passenger before the trip starts. This could be a set fare or a per km rate. The fare could also be agreed between the passenger and the company at the time of booking.

☒ Yes

☐ No – if no, please explain why

Yes, although the legislation needs to be enabling e.g. if a passenger chose to change a trip from a solo trip to a shared trip e.g. if the driver suggested that for them to reduce their costs, a reduction in fare would be allowable (to clarify, passengers should be allowed to decide en route if their Lyft could become a Lyft Line).

**Question 18** – *Do you agree that the core requirements for consumer protection can be achieved through:*

- *driver to take most advantageous route* – this would require the driver to take the route that is most advantageous to the passenger (unless agreed otherwise for example where multiple passengers are going to different locations within the same trip).

☒ Yes

☐ No – if no, please explain why

**Question 19** – *Do you agree that the core requirements for consumer protection can be achieved through:*

- *Driver to accept first hire offered* – this imposes a duty on the driver to accept the first hire offered (subject to exceptions for driver safety) so a driver could not refuse to take passengers only travelling short distances.

☐ Yes

☐ No – if no, please explain why

**What rules are no longer needed to control specific outcomes, leaving companies to their own business decisions?**

**Question 20** – *Do you agree that the following is no longer required?*

- *registered fares* – the Ministry of Transport’s review proposes removing the rules governing pricing that require taxis to register their fares with the NZ Transport Agency and charge using a meter. Instead, the Ministry of Transport’s review proposes that all small passenger service drivers should have a duty to agree the basis of pricing with the passenger prior to the commencement of the trip or when the booking is made. This would mean the NZ Transport Agency would no longer have a role to intervene in fare disputes between passengers and drivers, and existing consumer protection law (Consumer Guarantees Act 1993 and the Fair Trading Act 1986) would be relied on.

☒ Yes

☐ No – if no, please explain why

Yes, but encourage some standardisation to make it easier for the customer to understand. It would be useful for consumers to be able to understand pricing via a multi-modal journey planning app that amalgated their options, so encouraging or regulating release of coverage areas and pricing in a standard format would be useful.

**Question 21** – *Do you agree that the following is no longer required?*

- *regulated signage (including Braille)* – the current rules set out specific signage requirements for taxi services that relate to the operator’s brand, taxi roof sign, contact details, and fares. We propose removing these requirements. Operators would be able to make a choice about what signage they used and the information provided in it. The current rules require information in Braille: the name of the taxi organisation, its contact telephone number and the vehicle’s fleet number. The Ministry of Transport’s review proposes removing this requirement. Blind passengers can use alternative ways to obtain the information currently provided in Braille, such as enquiring at the time of booking, and using smartphone apps that provide a record of the trip.

☐ Yes

☒ No – if no, please explain why

Passengers need to be able to identify taxis when they flag them down on the street, signage is key to this.

**Question 22** – *Do you agree that the following is no longer required?*

- *area knowledge* – taxi drivers in urban areas are required to have passed an area knowledge test. The purpose of the requirement is to ensure that drivers are able to take passengers on a direct route to their destination. The Ministry of Transport's review proposes removing the area knowledge requirement and leaving companies to make their own decisions. Technology, such as GPS systems, provides alternative means to achieve the objective. Passengers are also able to use this type of technology to track the route that the driver is using.

☒ Yes

☐ No – if no, please explain why

**Question 23** – *Do you agree that the following is no longer required?*

- *English language* – taxi drivers are required to have a sufficient knowledge of the English language. The Ministry of Transport's review proposes removing the English language requirement and leaving companies to make their own decisions about the language competency of their drivers. The NZ Transport Agency considers that few drivers are currently tested.

☐ Yes

☐ No – if no, please explain why



**Question 24** – *Do you agree that the following is no longer required?*

- *panic alarms* – currently, taxis are required to have in-vehicle panic alarms. There are no mandated driver safety requirements for private hire vehicle drivers. The Ministry of Transport’s review proposes removing the mandatory requirement for panic alarms. Drivers should be able to refuse to accept a passenger where they consider their personal safety could be compromised and passenger service operators should have a duty to promote driver safety. Passenger service operators should make their own business decisions on how they promote driver safety (which could include the use of panic alarms or other technologies).

☐ Yes

☒ No – if no, please explain why

This is necessary for street hails and operations where the driver is carrying cash or accepting payment on board.

**Question 25** – *Do you agree that the following is no longer required?*

- *passenger service licence (PSL)* – regulatory compliance is currently managed through a range of mechanisms including approved taxi organisations, passenger service licence and driver obligations. The Ministry of Transport’s review proposes requiring all passenger service operators to be an approved transport operator. A key responsibility of approved transport operators would be making sure all of their drivers had a P endorsement, worked within work time limits, and drove vehicles with a valid Certificate of Fitness.

☒ Yes

☒ No – if no, please explain why

Agree in principle to removing the PSL, but P endorsement should be simpler (i.e. just background check) and should not require an additional test if the driver has a current NZ driving licence

**Question 26** – *Do you agree that the following requirement is no longer required?*

- *24/7 service* – taxis are currently required to provide services 24/7 in large cities. There is no similar requirement for private hire operators (or carpooling or ridesharing). The Ministry of Transport's review proposes removing the regulatory requirement for taxis to provide a 24/7 service, and leaves operators to provide levels of service in response to their understanding of demand.

☒ Yes

☐ No – if no, please explain why

**Question 27**– *Do you agree that the following is no longer required?*

- *restrictions on private hire services connecting with customers* – currently, private hire services can only take pre-booked customers. Taxis can take pre-booked or hailed customers. Shuttles can only take passengers travelling between specific destinations. The Ministry of Transport's review proposes removing the restrictions on how passenger service operators can connect with customers. This will promote enhanced competition and improved customer service.

☒ Yes

☐ No – if no, please explain why

**Question 28** – *Do you agree that the following is no longer required?*

- *driver passed driving test in last five years* – all P endorsement holders have to have passed a full licence test in the five years preceding their applying for their P endorsement. The Ministry of Transport's review proposes removing this requirement. A fully licensed New Zealand driver is deemed competent to be on the road without having to sit ongoing tests (certain circumstances excluded). The existing provision of having passed a test in the last five years imposes a cost on the driver, with little benefit.

☒ Yes

☐ No – if no, please explain why

Current driving license should be sufficient for carrying passenger, with responsibility places with the company to ensure that the driver meets their

customer satisfaction standards.

For an individual operator not employed by/ contracted to a larger company, perhaps additional checking is required, but it needs to be fast.

**Question 29** – *General comments on the proposals in the Future of small passenger services — consultation paper*

Please add any general comments here:

TNC's and ridehailing and next-gen carpooling represent a step change towards efficiency in our transport system: making use of all those empty seats so that we can decouple travel demand from traffic growth, start to reduce emissions and making more efficient use of the infrastructure that we do have rather than building more.

We welcome change and wish to encourage the government to look to Australia for good examples of effective policy change in this area. To reiterate, we believe that TNCs, ridehailing and carpooling companies require separate regulations because they are offering a fundamentally different service to taxis and private hires.

The proposed incremental change to the current policy will create regulatory barriers that will slow up or stop the roll out of ridehailing services to some of the areas in NZ that stand to benefit the most, both in terms of accessibility and economic growth.