

SUBMISSION from Auckland Transport:

Future of small passenger services

Background

Auckland Transport (AT) thanks the Ministry of Transport (Ministry) for the opportunity to make this submission in response to the consultation paper, Future of Small Passenger Services.

AT is an Auckland Council controlled organization (CCO) instituted under the Local Government (Auckland Council) Act 2009 (LGACA). Its purpose is “to contribute to an effective, efficient, and safe Auckland land transport system in the public interest¹”. AT has a significant role to play both in enabling Auckland’s growth and in dealing with its externalities. In particular, AT’s activities contribute to better urban outcomes for Aucklanders by:

- Increasing access to a wider range of quality, affordable transport choices
- Enabling people and goods to move efficiently
- Enabling growth in a way that supports communities and a high-quality urban form
- Reducing adverse effects from the transport system
- Making better use of transport investment.

Introduction

There are 33 Approved Taxi Organisations in Auckland with approximately 3,808 drivers and 2,864 taxis. At this stage information is not available as to the numbers of private hire services and shuttles. The small passenger services industry provides an important service in Auckland, operating at times and in areas where other public transport does not, and provides extra assistance to people with reduced mobility.

In future, we anticipate that small passenger services will add value to regular public transport (PT) provision by adding to regular PT service accessibility and individual mobility by providing “first leg, last leg” connections and safe carriage for passengers at the end of a PT route where services do not reach and at night once regular services have ended.

AT believes in an open market approach to personal passenger transport services and acknowledges that the provision of these services is changing and that a wider range of service models has developed since 1980s regulation. We agree that there is a place in the personal transport market for various types of service and that the sector is evolving.

Therefore, as well as reviewing current business models, consideration should be given to the way in which the proposed framework could be adapted to open up new sustainable transport options that may emerge in future.

AT is concerned in particular about the potential effects the removal of current requirements may have for vulnerable users and on passenger and driver safety. We consider too much weight is given to reducing the cost of compliance and, in particular, that removing key requirements for P endorsements and no longer requiring any exterior signage that clearly identifies a vehicle legally available for hire may put passenger safety and security at risk.

¹ (s39 LGACA)

We suggest that the issues discussed in the consultation document should be considered in more detail including consultation with groups likely to be affected before amending the current regulatory framework.

We note some concerns below and then append our answers to the questions.

General comments

1. Road User Rules implications

The effect of the preferred option is that the concept of taxis will not be retained – it is not clear that the full implications of this have been thought through.

Option 4 proposes to no longer retain signage and branding that identifies taxis. The definition of taxi in the Land Transport Act 1998 is as follows:

A motor vehicle that is:

- a. a small passenger service vehicle; and
- b. fitted with a sign on its roof displaying the word “taxi” and any other signs required by the regulations or the rules; and
- c. in use or available for use for hire or reward for the carriage of passengers other than on defined routes

Under option 4, the requirements for signage will no longer be retained so limb (b) is obsolete. Limbs (a) and (c) will likely apply to all vehicles included in the review.

This has implications for road use. The Land Transport (Road User) Rule 2004 and the Land Transport Rule: Traffic Control Devices 2004 are not included in the list of relevant rules and regulations considered in the review. These Rules include some exceptions/specificities that relate to taxis and/or small passenger vehicles to allow road controlling authorities (AT in Auckland, local authorities elsewhere) to manage the road use in their areas.

As a general note, a taxi sign on the roof is universal and allows people to hail the passing vehicle. Transport Network Companies (TNC) vehicles can be hailed only by mobile app. Members of the public value being able to hail an identifiable vehicle as it passes. A recent AT survey of late night customers in Downtown Auckland found that this was a preferred option while others arranged a ride using their phones or by going to a taxi stand in a known location.

AT considers that a form of external identification, or branding must be retained for vehicles that offer hail and ride services and those that use a taxi stand. In place of current signage, a clearly defined registration plate that can be identified by number plate recognition cameras may be sufficient. This may provide a cost effective method of enforcement that could be required for all classes of small passenger vehicles. This is also important for enforcement purposes as noted below.

The paper only considers the issue from a licensing perspective and has not addressed the impacts on road use (including enforcement)

Some key road use implications are as follows.

- Double parking (prohibited by road user rule 6.11): under road user rule 6.20(3) all small passenger service vehicles may double park to set down and pick up passengers. Going forward, according to the Option 4 proposals, private hire and TNC drivers will be classified as small passenger service vehicles and will be entitled to this privilege.

Auckland has a higher number of TNC vehicles than other areas which will lead to a significant increase in the number of vehicles entitled to double-park.

This has implications in busy areas like the Auckland CBD and could lead to congestion and delay in parking turnover; it will be particularly difficult during major events at stadiums like Eden Park and Mt Smart. If cars without a 'taxi' sign or easily seen and recognisable identification can do this it will be difficult to enforce double parking and when other car drivers who are not small passenger service vehicles see unlabelled vehicles double park, they may get confused as to who is and who isn't allowed which may reduce general compliance with rule 6.11 and increase local traffic congestion and the risk of collisions.

- Stands for exclusive use: Road controlling authorities (RCAs) may provide stands for the exclusive use of taxis specifically or small passenger vehicles generally to wait for fares. As the concept of taxi will be obsolete, all small passenger vehicles are likely to be able to use these stands. These stands are strategically placed, in particular in the CBD and near transport places (like railway stations, bus stations and ferry terminals) and public amenities and event venues.

In Auckland, the majority of stands are reserved exclusively for taxis rather than small passenger vehicles generally. This is to allow AT to balance competing interests including not having too many taxis cruising the streets waiting to be hailed (as this creates congestion and potential safety issues); having a number of vehicles waiting safely but conveniently for the public at pre-determined places (so that the public don't need to always phone or hail a cab); and having an adequate provision of hireable vehicles strategically available around the city.

Without having a clear distinction, too many vehicles may be competing for the limited number of places at taxi stands. This may spill over into taxis and other small passenger service vehicles taking up parking available to the general public and may generally upset the balance achieved by the strategic placement of taxi stands.

In addition, without having identified external identification for small passenger vehicles, it will be difficult to enforce who may stand in taxi stands and may create general confusion as to who may use the stand when car drivers see unidentified vehicles standing there.

- If signs or branding were no longer required, AT may have to consider making a by-law requiring an agreed form of identification for vehicles authorised to use taxi stands. **Child restraints: the Road User rule provides an exemption for the driver of a taxi which is plying for hire (i.e. available to be hailed on street) to carry a child without a child restraint even if that child would normally need to be in such a restraint. Currently this exemption does not appear to apply to vehicles operating under private hire controls as these must be booked in advance and therefore the driver can ensure the vehicle is equipped with a child restraint before picking up the passenger. Consideration will need to be given to whether it is an acceptable safety risk to extend this exemption to all small passenger service vehicles. However, this is a national consideration not a local consideration**
- Currently the Northern Busway that runs parallel to the Northern Motorway is restricted to authorised vehicles that are either heavy passenger service vehicles or airport shuttles. The removal of shuttles as a distinct class of small passenger service vehicles will require amendments to bylaws made by the Zealand Transport Agency and Auckland Transport relating to the use of the busway and the busway stations to ensure that there is no increase in the range of vehicles that are able to use the busway.

There should be some distinction between vehicles that ply for hire on street or are available for immediate booking via an app; these should have to display some sort of clearly visible identification, like a number plate, that distinguishes them from private vehicles. Something more discrete however should be available for fully pre-booked services that do not ply for hire (i.e. chauffeur driven services for the exclusive use of a single client for a set period where both car and driver are supplied). This approach builds in safeguards that allow road controlling authorities to manage road use e.g. by allowing specified vehicles to use taxi stands. Without clear identification, it is unlikely that small passenger service vehicles would be permitted exemptions e.g. to use special vehicle lanes such as transit lanes, as enforcement would be near-impossible.

2. Proposed changes to requirements for P endorsement

AT is concerned about the probable impacts of the suggested changes on the quality and availability of services for Total Mobility (TM) users² and other vulnerable passengers who may need special consideration e.g. non-English speakers, visitors, or people under the influence of alcohol.

The changes of most concern in this area include removal of the following requirements:

- ***An English-language requirement***

This under values the role small passenger services play in enabling the mobility of disabled and elderly people. The ability of drivers to communicate with these passengers is limited if the driver cannot speak English and it would be difficult to deliver good customer service. This is especially relevant when something needs to be clarified or if the passenger is distressed, but also in day-to-day business. Misunderstandings have the potential to lead to more serious confrontations. (Research undertaken by Auckland Transport showed that passengers value friendly drivers who are easy to communicate with).

AT considers that communication in English is an essential requirement for any type of passenger service and, from an operational perspective and for safety reasons, the ability to speak English is essential for effective enforcement. It should be a minimum requirement for access to the road corridor and for use of taxi ranks.

The consultation document notes that NZTA considers few drivers are currently tested. That is not a justification for deleting the requirement. If it is obvious that a candidate for a P endorsement appears to not be fluent in English they should be required to demonstrate that they can communicate satisfactorily.

All vulnerable users and blind people especially, need to have confidence that the driver will use the most advantageous route and charge fairly. Without this confidence, they may become increasingly reluctant to make a journey so that their social mobility becomes more limited.

We note that Transport for London has dropped some of its proposed conditions for regulating TNCs in London but is retaining requirements for a spoken English test³. New York city also requires cab drivers to read and speak English.

² Total Mobility is a scheme run by AT and regional councils, NZ-wide, that subsidises taxi travel for people who are unable, by reason of their disability, to use regular public transport, and cannot complete all stages of a journey.

³ <http://www.telegraph.co.uk/technology/uber/12109810/Uber-wins-victory-in-London-as-TfL-drops-proposals-to-crack-down-on-app.html>

3. Other changes

AT considers that the proposed removal of requirements is too sweeping and, if adopted in full, would create problems for users and for compliance monitoring.

- **Remove requirements for signage (including information supplied in Braille)**

The consultation paper states that, “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”. This may not be a possibility.

Removal of the Braille requirement may be an issue for blind people who may have no other source of information, especially if they are dependent on a driver who is no longer required to be able to communicate in English. As Total Mobility services are provided under contract, AT has the ability to specify conditions for service providers that would include the provision of information in Braille. Removing the Braille requirement would, however, limit choice of alternative services for those dependent on it for information.

Branding or some sort of identification should be required, especially where customers need to be able to identify an appropriate vehicle e.g. to hail & ride, or from a taxi rank. Some way of distinguishing a vehicle legally available for hire from private vehicles is needed for enforcement.

Currently there are requirements in the Road User Rule for signs on the outside of a vehicle indicating if child safety locks are installed on the vehicle – this allows a passenger to ensure that these are not engaged when entering a vehicle if they have safety concerns about such locks. This requirement should not be removed.

- **Removal of fare information and requirement to register a fare schedule with NZTA**

Removal of fare information that is visible before a customer enters a vehicle makes it difficult if not impossible for a potential passenger to estimate what their fare will be when taking a taxi from a stand. The cost of compliance is only one factor influencing fares. A recent AT survey of taxi and TNC users indicates that in many cases intending passengers agree a fare before travelling as suggested in the consultation document. This indicates that fare levels will respond to market conditions. A regulatory outcome ideally should allow the market to drive prices down but without removing requirements that contribute to safe travel.

The discussion document notes that passenger fare disputes in situations where meters are no longer used can be managed through consumer protection laws. This assumes that customers are familiar with these laws and have the ability to take action. It is probable that many customers, particularly frequent users of the Total Mobility service, will not have the knowledge or ability to manage any fare disputes they may have and will be unduly disadvantaged as a consequence.

If a meter or app is used to calculate a fare based on a combination of time and/or distance then there should be a requirement for the accuracy of that meter or app to be confirmed and certified to give customers reassurance about charges.

- **Retention of in-vehicle security camera**

We support this but note that provision is made for exemptions. To gain an exemption, it is proposed that a passenger must be registered with an ATO which implies that he/she is a regular passenger, and their details are to be provided to the driver. Driver information has to be provided to the customer. This fails to take account of the fact that other passengers may share the ride with the registered passenger and as these would not be identified by the registration process the driver would not have the same protection as would be afforded by a camera. It is likely that the vehicle would also be used for carrying one-off and non-regular customers where the exemption requirements could not be met. In that case, a security camera should be in use. We consider the exemption requirements would be unworkable especially for a hail and ride or cab off the rank situation. There should be no provision for exemptions from this requirement.

AT considers that the proposed removal of requirements is too sweeping and, if adopted, would create problems for users and for compliance monitoring.

4. Approved taxi organisations (ATO) become Approved transport organisations

At present an ATO is ultimately responsible for ensuring that its drivers comply with requirements. NZTA notes that *"The chain of responsibility recognises that everyone who influences a driver's behaviour and compliance should, and must, be held accountable if that influence results in non-compliance⁴."*

Option 4 appears to suggest that an individual driver may become an Approved Transport Organisation. This, coupled with the proposal that a P endorsement no longer requires an ATO or driver to hold a Certificate of Knowledge of Law and Practice raises the question of where responsibility will lie and how well would any compliance issues be monitored and reported. Given the compliance and reporting requirements, it is essential that a responsible person in an ATO is aware of the law, the (remaining) Rules and how its drivers are supposed to operate and that drivers are aware of their responsibilities. We support the retention of the requirement for NZTA to approve an ATO's operating rules.

5. Other matters

- We support the definition of carpooling and seek that this is expanded to enable van pooling. As proposed in Option 4, an organization (that is, including through the use of mobile technology i.e. apps) that facilitates carpooling (without payment to reimburse driver's time) should be exempt from the proposed small passenger service vehicle rules.
- We suggest that the definition of Rideshare is clarified to differentiate it from the service provided by TNCs so that these are considered as having the same requirements as those for TNCs unless they meet the criteria defined for carpooling.
- We also suggest that car sharing is defined and that its role is clarified

⁴<http://www.nzta.govt.nz/commercial-driving/taxis-shuttles-buses-and-other-passenger-services/becoming-an-approved-taxi-organisation/>

- As a TNC receives a payment of part of the fare for a trip it has facilitated we consider that it is at least in part responsible for that trip and therefore should meet the same requirements as an ATO (approved taxi/transport organisation)
- TNCs and their contractors should meet the requirements proposed and should not be exempt
- Shuttle services are defined in part by the locations they must operate to or from – a common destination or origin for a group of passengers. AT suggests consideration is given to exempt a shuttle from this requirement when it has facilities for wheelchair access and is providing a service for Total Mobility members.

Car sharing

- AT is in discussion with the Ministry of Transport, NZ Transport Agency and other regional and city councils considering the development of a comprehensive national policy for car share schemes. AT is also encouraging a supportive policy framework that enables car share to be established as part of new (higher density) developments under proposed Auckland Unitary Plan rules. Any revision of the rules should allow for this new development and consider whether regulation is required.

6. Omissions

We support the inclusion of a requirement for all drivers to provide for non-cash payments i.e. either electronic payments through apps/online services or card (eftpos) payments. This would provide the following benefits:

- Safer for passengers/drivers as they don't have to carry cash
- Passengers are less likely to run out on a fare due to a lack of cash
- Drivers don't have to drive around looking for ATMs so their passengers can withdraw cash.

7. Non-motorized passenger service vehicles

In many western cities around the world there has been the introduction of pedicabs – usually configured as tricycle rickshaws powered primarily by the driver pedaling. These operations are similar to other forms of passenger service in that passengers are carried by a driver for hire or reward. Currently the only difference in New Zealand law is that because they are not a motor vehicle they are not classed as being a passenger service operation.

Operators of these vehicle have not yet flourished in Auckland but a few have operated here in the past and it is possible that more will seek to ply for hire on our streets in the future. Additionally recently a pedal powered “beercycle” has commenced operations in Auckland. This one has ten pedaling positions and seats for five other passengers plus the driver so it would not be classed as a small passenger service vehicle if it were motorized. It is possible that smaller versions of this type of vehicle might be imported or constructed which would equate to a small passenger service vehicle. A review of small passenger services operations should consider what rules should apply to these situations and also to horse and carriage rides.

Conclusion

In general AT supports changes that could provide a more open market and drive prices down but is concerned in particular about potential negative impacts such as:

- Risks to passenger safety and security linked to the lack of clear identification of SPVs that are legally available for hire and the proposed dropping of the English language requirement
- Enforcement issues resulting from lack of clear identification and driver inability to communicate in English
- Impact on taxi stands if any small passenger vehicle could use them at will and if legitimate users cannot be identified and the downstream costs for AT in enforcement and modifications to taxi stands and other infrastructure that would be necessary

We would appreciate an opportunity for discussion about the proposed timing of the of legislation changes