



THIRTY-SEVENTH PARLIAMENT

REPORT 3
STANDING COMMITTEE ON LEGISLATION
TAXI AMENDMENT BILL 2005

Presented by Hon Graham Giffard MLC (Chair)

March 2006

STANDING COMMITTEE ON LEGISLATION

Date first appointed:

August 17 2005

Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

“4. Legislation Committee

- 4.1 A *Legislation Committee* is established.
- 4.2 The Committee consists of 5 members.
- 4.3 The functions of the Committee are to consider and report on any Bill referred by the House or under SO 125A.
- 4.4 Unless otherwise ordered -
- (a) the policy of a Bill referred under subclause 4.3 may be considered by the Committee but only to the extent that the Committee is satisfied the provisions of the Bill, as referred, are consistent with that policy and that the legislative intent can be given practical effect;
 - (b) any amendment recommended by the Committee must be consistent with the policy of a Bill.
- 4.5 In this order “**policy of a Bill**” is its scope and purpose ascertained from the Bill’s provisions, but reference may be had to any document or statement or other information that may assist in clarifying the intended legislative effect or construing the application or interpretation of any provision.”

Members as at the time of this inquiry:

Hon Graham Giffard MLC (Chair)

Hon Peter Collier MLC

Hon Giz Watson MLC (Deputy Chair)

Hon Sally Talbot MLC

Hon Simon O’Brien MLC (substitute member)

Hon Ken Baston MLC (participating member)

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RECOMMENDATION FOR THE
REPORT OF THE STANDING COMMITTEE ON LEGISLATION
IN RELATION TO THE
TAXI AMENDMENT BILL 2005

RECOMMENDATION

1 Recommendations are grouped as they appear in the text at the page number indicated:

Page 16

Recommendation 1: The Committee recommends that the Taxi Amendment Bill 2005 be passed without amendment.

REPORT OF THE STANDING COMMITTEE ON LEGISLATION

IN RELATION TO THE

TAXI AMENDMENT BILL 2005

1 REFERENCE

- 1.1 On 1 December 2005, on motion by Hon Simon O'Brien MLC, the Taxi Amendment Bill 2005 (**Bill**) was referred to the Standing Committee on Legislation (**Committee**) for inquiry and report. The Bill was referred after the second reading was agreed to.

2 INQUIRY PROCESS

- 2.1 The Committee advertised for written submissions in *The West Australian* newspaper on 17 December 2005. The Committee also wrote to key stakeholders including 80 multi purpose taxi (**MPT**) owners and 266 MPT drivers inviting them to make a submission.
- 2.2 The Committee received 14 written submissions. A list is attached at Appendix 1.
- 2.3 The Committee held public hearings on 15 February 2006 and 8 March 2006. A list of witnesses who appeared before the Committee is attached at Appendix 2.
- 2.4 The Committee thanks the individuals and organisations that provided evidence and information for the inquiry.

3 BACKGROUND TO THE BILL

- 3.1 A MPT is a particular type of taxi that is intended principally for the transport of persons who have a disability and any wheelchairs or other aids required by those persons. Currently, there is a total of 87 MPTs operating in Perth. Of these, 56 are privately owned, fully transferable plates.
- 3.2 The MPT industry is currently facing a number of issues which are causing decreasing service levels for people with a disability. These issues are outlined in a report prepared for the Department of Planning and Infrastructure in August 2005 by Market Equity, *MPT Industry Issues Qualitative Research with Drivers and Owner-Drivers (Market Equity Report)*. Issues include:
- barriers to entry and retention within the MPT industry for owner-drivers due to high vehicle costs;

- income levels for drivers have dropped due to increased MPT running costs; and
 - there is a poor viability for many individual jobs as drivers are reluctant to take on small MPT jobs which have a higher stationary time and fuel costs.
- 3.3 The Government's policy is based upon a review undertaken in 2003 of the structure and regulation of the Perth metropolitan taxi industry,¹ *Report on Review of the Taxi Industry Regulatory Scheme in the Perth Metropolitan Area by Hon Graham Giffard MLC (Giffard Report)*.² The report on the review was to address the State Government's concern of escalated costs particularly in respect to the taxi plate and licence fees, diminished demand due to partial deregulation and the subsequent low returns to drivers. The review was to make recommendations to the State Government on modifying the structure and regulation of the taxi industry to achieve the following objectives:³
- provide fair returns to drivers and owner-drivers while offering the public an efficient, economic and safe service; and
 - address the requirements of the National Competition Council.
- 3.4 The Giffard Report recommended a new regulatory approach for the metropolitan taxi industry whereby, amongst other things, the Government institute a voluntary buyback of taxi plates.⁴ The Government would then lease plates to the industry at a lower cost than the current open market cost of leasing privately owned taxi plates. *"This would provide an opportunity for improved returns for taxi drivers and would make taxi driving a more attractive job. It would also result in a higher calibre of driver to be attracted to the industry."*⁵
- 3.5 Whilst voluntary buyback was not supported by the taxi industry as a whole, in 2005 the representatives of the majority of owners of the 56 transferable MPT plates approached Government asking to have their plates bought back.

¹ Mr Piercy Porter, Policy Officer, Office of the Minister for Planning and Infrastructure, *Transcript of Evidence*, 15 February 2006, p9. See also Second Reading Speech to the Bill: Hon Adele Farina MLC, Parliamentary Secretary, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 16 November 2005, p7349.

² Hon Graham Giffard MLC, *Report on Review of the Taxi Industry Regulatory Scheme in the Perth Metropolitan Area*, June 2003.

³ Ibid, p9.

⁴ Ibid.

⁵ Statement on the Bill read by Mr Piercy Porter, Policy Officer, Office of the Minister for Planning and Infrastructure, *Transcript of Evidence*, 15 February 2006, p2.

- 3.6 The Government proceeded to negotiate the terms of a buyback scheme with representatives of the MPT plate owners.⁶
- 3.7 The Government has provided the owners of the 56 transferable MPT plates with an offer to buyback their plates and have asked them to indicate their willingness to accept by 10 March 2006.⁷ The buyback price for the MPT plates has been set at \$108 000 exclusive of GST, based on the average price paid in 2004. The price was determined on the price mechanism that was identified in the Giffard Report, being the average transfer price of the plates sold in the previous 12 months. To address issues of fairness and equity, plate owners who have paid more than \$108,000 for their plates will receive the purchase price paid. Recognising the impact of applying the GST to the purchase price reduces the net return to the plate owner, the Government has agreed to pay the GST costs.⁸

4 THE BILL

4.1 The Bill amends the *Taxi Act 1994*. The Bill contains 9 clauses in 3 Parts:

- Part 1 - Preliminary;
- Part 2 - Amendments about multi-purpose taxi plates; and
- Part 3 - Other amendments.

4.2 The Bill establishes the framework for the buyback of up to 56 transferable MPTs. The intended objectives of the buyback scheme are:⁹

- a) to provide owners of transferable MPT plates with an opportunity to reduce their costs by selling their plates to the government; and
- b) to remove the speculative value from operator costs and provide an opportunity for the MPT industry to be restructured for growth in the future.

4.3 The Committee notes that the Bill is one measure which the Government is undertaking to address the issues facing the MPT industry. As stated by Hon Adele Farina MLC, Parliamentary Secretary to the Minister for Planning and Infrastructure representing the Minister for Planning and Infrastructure, during the second reading on the Bill:

⁶ Mr Piercy Porter, Policy Officer, Office of the Minister for Planning and Infrastructure, *Transcript of Evidence*, 15 February 2006, p2.

⁷ *Ibid*, p2.

⁸ Hon Adele Farina MLC, Parliamentary Secretary, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 16 November 2005, p7349.

⁹ *Ibid*.

*The government anticipates that the restructuring of plate ownership to remove the speculative costs associated with transferable plates will, when combined with other measures to improve the viability of MPT operators, benefit MPT users through improved service levels.*¹⁰

- 4.4 The Bill is an enabling piece of legislation. It enables the Government to make an offer to the MPT owners to buyback their transferable MPT plates. Under the existing *Taxi Act 1994* there is no provision for the Government to undertake a buyback.

Overview of the buyback scheme

- 4.5 MPT owner-drivers and MPT investor-owners are offered the opportunity to enter into an agreement with the Director General of the Department for Planning and Infrastructure for payment of compensation for the surrender and cancellation of transferable MPT plates (clause 4, proposed section 30B).¹¹
- 4.6 A pre-condition to the receipt of compensation is that a corresponding set of MPT plates must be issued on lease under section 18 of the *Taxi Act 1994* (clause 4, proposed section 30D(8)).

Who may lease

- 4.7 An MPT plate may be leased by an owner-driver who is a party to a buyback agreement or by an ‘eligible operator’¹² (clause 4, proposed section 30D). (See paragraphs 5.13 to 5.16 below for further discussion on ‘eligible operator’).
- 4.8 The term of the lease is to be for:
- 10 years for an MPT owner driver¹³ (clause 4, proposed section 30D);

¹⁰ Hon Adele Farina MLC, Parliamentary Secretary, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 16 November 2005, p7350.

¹¹ An MPT owner-driver is a person who a) is the owner, or has an interest in the ownership, of transferable MPT plates; and b) is a driver of the vehicle operated as a multi-purpose taxi using the plates.

An MPT investor-owner is a person who a) is the owner, or has an interest in the ownership, of transferable MPT plates; and b) is not a driver of the vehicle operated as a multi-purpose taxi using the plates.

¹² An ‘eligible operator’ is an operator who operates 10 or more MPTs that use transferable MPT plates owned by an MPT investor-owner who a) is not the operator and b) is a party to a buyback agreement’ (clause 4, proposed section 30A(1)).

¹³ Note that this lease term also applies to a MPT plate leased by a person who has an interest in the ownership of the transferable MPT plate (clause 4, s30D(3)). As stated in the Explanatory Memorandum to the Bill: “*There are circumstances, for example with partnerships, where an ‘MPT owner driver’ might be more than one person. It is possible that one or more of these persons might not wish to take up a lease when the plate is repurchased.*” The Bill provides for the Director General to make an offer to lease an MPT plate to the remaining members of the partnership.

-
- between 3 and 5 years for an eligible operator (clause 4, proposed section 30E); and
 - between 3 and 5 years for a MPT owner-driver who is the owner, or has an interest in the ownership, of taxi plates that are not transferable MPT plates (clause 4, proposed section 30F).
- 4.9 The term of the lease offered includes a minimum lease term of three years. This minimum term is linked to a performance bond to be provided by the plate owner (clause 4, proposed section 30D(5)). (See paragraphs 5.10 to 5.12 below for further discussion.)
- 4.10 The lease of the taxi plates under the buyback agreement is subject to the same provisions that currently apply to the leasing of taxi plates under the *Taxi Act 1994*. Exemptions are made to allow both eligible operators and MPT owner-drivers who own different types of plates and are a party to the buyback, to lease MPT plates for a transitional period of 3-5 years (clause 4, proposed section 30D(9)).

The buyback pool

- 4.11 MPT owner-drivers who wish to participate in the buyback but who want to exit the industry may elect to have their plates placed in a buyback pool (clause 4, proposed section 30G).
- 4.12 MPT investor-owners who wish to participate in the buyback will also have their plates placed in the buyback pool. MPT investor-owners whose plates have been leased by an eligible operator are not part of the pool (clause 4, proposed section 30G).
- 4.13 While their plates are in the pool all owners will be required to continue to operate their MPTs and are subject to all of the rights and obligations of such an owner under the *Taxi Act 1994* (clause 4, proposed section 30G).
- 4.14 Owners do not receive a payment of compensation immediately after the plates are placed in the pool.
- 4.15 Each time a set of plates is leased under sections 16 and 18 of the *Taxi Act 1994* a member of the pool will be selected by ballot to receive a payment of compensation. This process will continue until all the plates in the pool have been bought back (clause 4, proposed section 30G).¹⁴

¹⁴ See Explanatory Memorandum to the Bill, p7.

Overview of other amendments

- 4.16 The Bill also makes other amendments to the *Taxi Act 1994* which are not solely related to MPTs.
- 4.17 Clause 6(1) amends the definition of ‘operate’ to extend to a driver who does not own the taxi plates or the vehicle. This means a driver will now also bear the responsibility for ensuring that a taxi operates in accordance with its operating conditions. This amendment allows the Department for Planning and Infrastructure to take action against drivers should they breach the taxi operating conditions. At present the action is taken against the plate owner (who may not be aware of, nor involved in, the breach of the rules).¹⁵
- 4.18 Currently, there is uncertainty as to whether regulations that govern the leasing of taxi plates by taxi plate owners also apply to plates that are leased from the government; for example, regulation 5A of the *Taxi Regulations 1995*.¹⁶ The uncertainty is dealt with by inserting a definition of “plate owner’s lease” (clause 6(2)).
- 4.19 Clause 7 removes the limitation on current holders of government lease plates:
- a) from submitting another application to lease plates before their current lease comes to an end; or
 - b) applying to lease a different type of plate during the term of their current lease.

This amendment is to correct an unforeseen consequence of the drafting of the *Taxi Amendment Act 2003* which prevents current holders of government lease plates from submitting another application to lease plates.¹⁷

- 4.20 Clause 7 also provides the Director General of the Department for Planning and Infrastructure with the facility to define eligibility criteria in the invitation to apply for lease plates.¹⁸ This measure enables the Government to offer leases to the owners of restricted taxi plates on condition that they relinquish their ownership prior to taking up a lease.¹⁹

¹⁵ Mr Piercy Porter, Policy Officer, Office of the Minister for Planning and Infrastructure, *Transcript of Evidence*, 15 February 2006, p3.

¹⁶ Ibid.

¹⁷ Hon Adele Farina MLC, Parliamentary Secretary, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 16 November 2005, p7350.

¹⁸ Explanatory Memorandum to the Bill, p1.

¹⁹ Mr Piercy Porter, Policy Officer, Office of the Minister for Planning and Infrastructure, *Transcript of Evidence*, 15 February 2006, p3.

5 CLAUSES OF THE BILL

5.1 The Committee provides comment on selected clauses of the Bill only.

Clause 4, proposed section 30B - 'Buy-back agreements' inserted

- (1) *The Director General may enter into an agreement, on such terms and conditions as the Minister approves, with a person who is an MPT investor-owner or an MPT owner-driver for the payment to the person of an amount of compensation for the surrender and cancellation of the transferable MPT plates that are the subject of the agreement.*
- (2) *A buy-back agreement has effect only if the Minister has published a notice under section 30C(2).*

Discussion

5.2 Clause 4, proposed section 30B provides that the Director General may enter into a buyback agreement for payment of compensation for the surrender and cancellation of transferable MPT plates. The terms and conditions of the agreement are not specified, however, they must be approved by the Minister.

5.3 The Committee notes the advice of Mr Porter, Policy Officer, Office of the Minister for Planning and Infrastructure:

Essentially, there are 56 plates for which the agreements could be taken up by their owners. It is a complex system. ... The minister needs quite wide discretion to accommodate what might be regarded as manoeuvring until the matter is completed.²⁰

5.4 The Committee was advised that the agreement will be a private contractual arrangement.²¹

Clause 4, proposed section 30C - 'Operation of sections 30D to 30G to be subject to conditions' inserted

- (1) *Sections 30D, 30E, 30F and 30G have effect -*
 - (a) *only if the Minister publishes a notice under subsection (2); and*

²⁰ Ibid, p5.

²¹ Mr Paul Reid, Senior Project and Policy Officer, Passenger Services, Department for Planning and Infrastructure, *Transcript of Evidence*, 15 February 2006, p4.

- (b) *on and after the date of publication of the notice, or any later date specified in the notice.*
- (2) *If the Minister is satisfied that, for the effective operation of this Division, a sufficient number of MPT investor-owners and MPT owner-drivers have accepted an offer to enter into a buy-back agreement within the time approved by the Minister, the Minister is to publish a notice in the Gazette accordingly.*

Discussion

- 5.5 The Bill requires a ‘sufficient number’ of MPT investor-owners and MPT owner-drivers to accept an offer to enter into a buyback agreement. The Committee understands that the exact number has not yet been determined, however, it will be at least a simple majority of the current plate owners.²²
- 5.6 This issue of ‘sufficient number’ was raised with the Committee by the West Australian Taxi Association (WATA). They submitted that they felt misled as the Minister for Planning and Infrastructure had previously stated in a media statement dated 17 August 2005²³ that the buyback will only proceed if 50 of the 56 MPT plate owners take up the offer. WATA queried why the Bill does not define the ‘sufficient number’.²⁴
- 5.7 The Committee notes that whilst the Minister had previously indicated that a ‘sufficient number’ would be 50, the Government has subsequently altered its position on what a ‘sufficient number’ should be. The Committee notes that on 10 November 2005 the Minister publicly stated that the final decision on the exact number would be made by Cabinet if it is less than fifty but more than half.²⁵
- 5.8 In relation to the time period for a person to enter into a buyback agreement the Committee notes the advice of Mr Reid, Senior Project and Policy Officer, Passenger Services, Department for Planning and Infrastructure that:

An offer is presently in circulation among the plate owners, which gives them until 10 March to respond and to state their intention to enter into an agreement. However, the time frame within which the agreements will be entered into post that will be determined by

²² Mr Samnakay, Policy Officer, Transport, Office of the Minister for Planning and Infrastructure, *Transcript of Evidence*, 15 February 2006, p4.

²³ Hon Alannah MacTiernan MLA, Minister for Planning and Infrastructure, *Media Statement*, Government of Western Australia, 17 August 2005.

²⁴ Mr Tony D’Ercole, President, Western Australian Taxi Association, *Transcript of Evidence*, 15 February 2006, p2.

²⁵ Hon Alannah MacTiernan MLA, Minister for Planning and Infrastructure, Western Australia, Legislative Assembly, *Parliamentary Debates (Hansard)*, 10 November 2005, p7156.

putting in place the statutory notice and the provisions that will enable buyback agreements to be entered into, and also by negotiating with each individual plate owner as to what best fits his or her circumstances. We clearly do not want a situation in which there is an overhang for a significant period until the buyback agreements are entered into. We would like the buyback agreements to be entered into as expeditiously as possible. However, we have to consider the fact that this is a commercial agreement and that individual plate owners may require some time to consider the specific details of their offer.²⁶

- 5.9 In relation to the notice to be published in the *Gazette*, the Committee has been advised that the advice of the State Solicitor's Office would be sought on what information is required to be disclosed.²⁷

Clause 4, proposed section 30D(5)(b) - 'Certain MPT owner-drivers and eligible operators to be offered leases of taxi plates for multi-purpose taxis' inserted

(5) *An offer to lease under this section is to specify that -*

...

(b) *it is to be a condition of the lease that the lessee -*

(i) *is to operate a vehicle as a MPT using the leased taxi plates for the period of 3 years; and*

(ii) *is to provide a bond or other security in a form and of an amount as is approved by the Minister for the due observance of the condition referred to in subparagraph (i).*

Discussion

- 5.10 The Committee notes that the three year minimum lease period has been set to ensure that MPT users enjoy continuity of service after the buyback has taken place. This period also gives the Government time to increase the supply of MPT lease plates to

²⁶ Mr Paul Reid, Senior Project and Policy Officer, Passenger Services, Department for Planning and Infrastructure, *Transcript of Evidence*, 15 February 2006, p5.

²⁷ *Ibid.*

replace those lease plates that might be returned at the expiry of the minimum period.²⁸

- 5.11 The Committee was advised by Mr Ryan, Acting General Manager, Passenger Services, Department for Planning and Infrastructure, that the bond will be \$5,000 and that it will be forfeited if the lease is terminated within the three years. The rationale behind the bond is to ensure continuity of service.²⁹ As stated by Mr Porter, Policy Officer, Office of the Minister for Planning and Infrastructure:

*It is appropriate for the Government to seek financial security from the plate owner in respect of their commitment to provide a service for a minimum lease period when the plate owner is receiving an immediate payment of compensation from the Government for his plates.*³⁰

- 5.12 In relation to the bond, the Committee was further advised by Mr Reid, Senior Project and Policy Officer, Passenger Services, Department for Planning and Infrastructure, that:

*The bond will be held in trust in a separate account and will accrue interest during the period in which the bond is held. The bond will accrue interest over the three-year period and, subject to satisfactory performance by the lease plate holder, the bond plus the interest will be returned to him.*³¹

Clause 4, proposed section 30D(1)(b) - ‘Certain MPT owner-drivers and eligible operators to be offered leases of taxi plates for multi-purpose taxis’ inserted

- (1) *Taxi plates to be used on a multi-purpose taxi shall, subject to this section, be offered for lease to -*
- (a) *each MPT owner-driver who is a party to a buy-back agreement; and*
- (b) *each eligible operator.*

²⁸ Hon Adele Farina MLC, Parliamentary Secretary, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 16 November 2005, p7350.

²⁹ Mr Peter Ryan, Acting General Manager, Passenger Services Department for Planning and Infrastructure, *Transcript of Evidence*, 15 February 2006, p5.

³⁰ Mr Piercy Porter, Policy Officer, Office of the Minister for Planning and Infrastructure, *Transcript of Evidence*, 15 February 2006, p3.

³¹ Mr Paul Reid, Senior Project and Policy Officer, Passenger Services, Department for Planning and Infrastructure, *Transcript of Evidence*, 15 February 2006, p5.

Discussion

- 5.13 An eligible operator is someone who does not have an interest in the ownership of the transferable MPT plates but rather manages the operation of the MPT on behalf of the MPT investor-owner.³²
- 5.14 The Committee was advised that currently one company, Combined Taxi Management Pty Ltd, meets the definition of eligible operator for the purposes of the proposed clause.³³ The Committee was further advised that the company manages 15 MPT plates owned by 8 individual plate owners, employs 37 drivers and is responsible for more than 1400 wheelchair lifts a month.³⁴ The Committee notes that this management company has expressed interest in ensuring continuity of service for each plate it currently manages by leasing a replacement plate for each of the plates in question repurchased under the buyback scheme.³⁵
- 5.15 Proposed section 30E provides that an eligible operator can continue to operate for a period of 3-5 years. The Committee was advised that the 3-5 year period is essentially one of transition for the eligible operator and is aimed at preventing decrease in service to consumers and loss of employment for drivers.³⁶
- 5.16 As stated by Mr Porter, Policy Officer, Office of the Minister for Planning and Infrastructure:

*The minister accepted that particular company was a special case and in the interests of continuity of service created a special category for that operator to operate over a period of up to five years. It is essentially a transitional period and its raison d'être is such that the 15 plates operated by that company are not subject to a jeopardy that they may all of a sudden just be taken off the road. The situation is that the company also employs, I understand, in excess of 35 drivers. Apart from the primary consideration being the service to the consumers, those jobs also may have been in some jeopardy.*³⁷

³² An eligible operator is defined in the Bill as an operator who operates 10 or more multi-purpose taxis that use transferable MPT plates owned by an MPT investor-owner who a) is not the operator and b) is a party to a buy-back agreement (clause 4 - s30A(1)).

³³ Mr Piercy Porter, Policy Officer, Office of the Minister for Planning and Infrastructure, *Transcript of Evidence*, 15 February 2006, p5.

³⁴ Mr Bruce Davies, Managing Director, Combined Taxi Management Pty Ltd, *Transcript of Evidence*, 15 February 2006, p1.

³⁵ Hon Adele Farina MLC, Parliamentary Secretary, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 16 November 2005, p7350.

³⁶ Mr Piercy Porter, Policy Officer, Office of the Minister for Planning and Infrastructure, *Transcript of Evidence*, 15 February 2006, pp5-6.

³⁷ *Ibid.*

Clause 4, proposed section 30G ‘Payment of compensation to certain parties to buy-back agreements’ inserted

- 5.17 Proposed section 30G provides for the creation of a buyback pool. MPT owners who wish to participate in the buyback but who want to exit the industry may elect to have their plates placed in a buyback pool. While their plates are in the pool, the owners will be required to continue to operate their MPTs. As new lease plates are issued, these can replace any transferable plates in the buyback pool. At this point compensation will be paid to the owner. (Refer to paragraphs 4.11 to 4.15).
- 5.18 The Government has stated it is essential that MPT users receive continuity of service.³⁸ As stated in the Explanatory Memorandum to the Bill:

*The objective of the buy-back arrangements is to ensure that a MPT lease plate replaces each transferable MPT plate that is the subject of a buy-back agreement.*³⁹

- 5.19 The Committee received submissions stating that the agreement should provide for an owner-driver to leave the industry immediately on sale of plate.⁴⁰

Clause 4, proposed section 30H ‘Consolidated Fund charged with payment for plates’ inserted

Money payable under a buy-back agreement is to be charged to the Consolidated Fund, which is, to the necessary extent, appropriated accordingly.

Discussion

- 5.20 The Committee notes that the Explanatory Memorandum to the Bill states that the buyback of all 56 transferable MPT plates will cost the Government \$6.2 million and that this is to be appropriated from the Consolidated Fund. That money will be used to purchase the plates either at the minimum price identified by the Minister of \$108,000 or where the person has paid a higher value that higher value will be paid to the MPT plate owner.⁴¹

³⁸ Hon Adele Farina MLC, Parliamentary Secretary, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 16 November 2005, p7350.

³⁹ Explanatory Memorandum to the Bill, p7.

⁴⁰ Submissions No 6 and 15.

⁴¹ Mr Peter Ryan, Acting General Manager, Passenger Services Department for Planning and Infrastructure, *Transcript of Evidence*, 15 February 2006, p6.

6 ISSUES RAISED IN SUBMISSIONS

- 6.1 A number of issues were raised in submissions that were outside the scope of the Committee's inquiry. The Committee notes these issues below and draws them to the attention of the Government.
- 6.2 Divergent views on the proposed buyback scheme were expressed in submissions. A number of submissions expressed support for the current buyback proposal,⁴² whilst other submissions opposed the buyback proposal.⁴³
- 6.3 The Committee notes that the submissions that expressed support for the current buyback proposal were from people or organisations that were directly involved in the MPT sector of the taxi industry. For example the MPT Owners Group, People With Disabilities (WA) Inc, Combined Taxi Management Pty Ltd and the Disability Services Commission.
- 6.4 Organisations and individuals opposing the current buyback proposal fell into two distinct groups:
- i) organisations representing the broader taxi industry who are opposed to State ownership. As stated by Mr D'Ercole, President, WATA:⁴⁴
The bill will extend the level of state ownership, which the association is dead against. My members are opposed to state ownership and do not believe that this is the role of government.
 - ii) MPT owner-drivers who raised a number of issues with the buyback offer, including, amongst other things, that the buyback price of \$108,000 is too low and does not match the investment placed into the plate.⁴⁵
- 6.5 The majority of submissions opposing the current buyback proposal were not against the general concept of the buyback. Opposition was to the terms and conditions of the buyback proposal.
- 6.6 The Committee has reviewed the methodology used to determine the buyback price. As stated above (at paragraph 3.7) the buyback price is the market price based on the average transfer price of a MPT plate sold in 2004. The Committee understands that the average annual MPT plate price in 2004 was \$95,000 which is lower than the

⁴² Submissions No 2, 3, 8, 9 and 11.

⁴³ Submissions No 4, 6, 10, 13 and 15.

⁴⁴ Mr Tony D'Ercole, President, Western Australian Taxi Association, *Transcript of Evidence*, 15 February 2006, p2.

⁴⁵ Submission Nos 4, 7 and 15.

buyback price of \$108,000. As stated by Mr Reid, Senior Project and Policy Officer, Passenger Services, Department for Planning and Infrastructure:

The figure of \$108 000 was arrived at by including in the pool of plates the other classes of plates. The answer to the question answered [sic] by Mr Dove was in relation to the 46 fully transferable plates. Ten other plates have three-year transfer restrictions on them. For completeness, we included the additional transactions that took place regarding those plates during 2004. That had the impact of boosting the value of the plates from \$95 000 to \$108 000. We remain consistent in the method of measuring the value of the plates during the 12 months of 2004; however, we included all plates that were party to the consideration of the buyback when calculating that value.⁴⁶

- 6.7 The Committee further notes that the plate owners who have paid more than \$108,000 for their plates will receive the purchase price paid and that the Government has agreed to pay the GST costs.
- 6.8 It was submitted that the agreement should provide that a driver is able to be released from any and all contractual obligation if he or she is bona fide incapacitated.⁴⁷ The Committee is of the view that this is a valid concern that should be clarified by the Government.
- 6.9 It was also raised with the Committee that many of the vehicles will be due for replacement within the next three to five years. MPT owner-drivers anticipate difficulty with affording a replacement vehicle and were of the view that the agreement should contain provisions addressing this issue.
- 6.10 Other issues raised in submissions include:
- i) that the lease should be subject to oversight by the State Administrative Tribunal;⁴⁸
 - ii) that the agreement should provide that no lease fee is to be charged for three years from date of settlement if the owner wishes to help with continuity of service;⁴⁹

⁴⁶ Mr Paul Reid, Senior Project and Policy Officer, Passenger Services, Department for Planning and Infrastructure, *Transcript of Evidence*, 15 February 2006, p9.

⁴⁷ Submissions No 5 and 15.

⁴⁸ Submission No 6.

⁴⁹ Submission No 15.

- iii) that the agreement should provide for the simultaneous implementation of a wheelchair lifting fee of ten dollars be made a condition of the Bill;⁵⁰
- iv) that the Bill does not achieve its objective to improve MPT service and returns to MPT drivers and owner-drivers, but rather serves to transfer private ownership to the State Government and increase the commercial profitability of Combined Taxi Management Pty Ltd;⁵¹
- v) that there is a great deal of similarity between transferable MPTs and transferable Peak Period Restricted Taxis, and that there should also be an investigation into the latter's situation;⁵²
- vi) that assistance by subsidising taxi expenditure be made available, for example: registration, fuel, insurance and inspection costs;⁵³ and
- vii) that improvements to MPT driver income are made to ensure sufficient take up of MPT licences, through the introduction of a 'minimum' fare and a lifting fee. It is submitted that this would provide an incentive for drivers to service these types of passengers and would provide fair compensation.⁵⁴

7 OBSERVATIONS

7.1 The Committee considers that the Bill:

- a) provides owners of transferable MPT plates with the opportunity to recover the cost of their capital investment;
- b) removes the speculative value from operator costs; and
- c) improves the returns for operators whilst at the same time continuing to offer a reliable and safe service.

7.2 The Committee is of the view that the Bill is consistent with the purpose outlined in the second reading speech to the Bill.⁵⁵

7.3 The Committee recognises the value of the service that the MPT sector provides to people with disabilities. It is cognisant of the tension that exists between providing

⁵⁰ Submission No 15.

⁵¹ Submissions No 10 and 13.

⁵² Submission No 3.

⁵³ Submission No 4.

⁵⁴ Submissions No 6, 13 and 15.

⁵⁵ Hon Adele Farina MLC, Parliamentary Secretary, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 16 November 2005, p7349.

continuity and standard of service to the consumer, and maintaining a viable and competitive economic environment within the MPT sector.

7.4 The Committee received evidence on a wide range of issues currently impacting on the profitability of the MPT sector and service levels for its client group. The Committee was constrained by its terms of reference from making any extensive inquiry into these issues (refer to section 6 above).

7.5 The Committee notes the current Government initiatives to address issues in the MPT sector including:

- the regular release of MPT plates on a lease basis (12 per year until 2008);
- the introduction of an MPT operator cadetship scheme;
- appointment of two dispatch services to co-ordinate MPTs; and
- \$5 fuel subsidy to operators of diesel-powered MPTs.

7.6 The Committee anticipates the Government will continue addressing the wider issues raised.

8 RECOMMENDATION

Recommendation 1: The Committee recommends that the Taxi Amendment Bill 2005 be passed without amendment.



Hon Graham Giffard MLC

Chair

Date: 23 March 2006

APPENDIX 1

WRITTEN SUBMISSIONS RECEIVED

No	Name	Organisation
1	Mr Philip Redhead Committee Member	Multi Purpose Taxi Owners Group
2	Mr Geoffrey Gear Mr Philip Redhead Mr Jiri Pasovsky Mr Henry Korda Committee Members	Multi Purpose Taxi Owners Group
3	Mr John Golawski	Multi Purpose Taxi Owners Group
4	Mrs Carol Randall	Multi Purpose Taxi Owner - Driver
5	Mr Ole Mikkelsen	Multi Purpose Taxi Owner
6	Mr David Winter	Multi Purpose Taxi Owner - Driver
7	Mr Antonius Kerkvliet	Multi Purpose Taxi Owner - Driver
8	Ms Kaye Regan and Mr Luke Garswood Joint Executive Officers	People with Disabilities (WA) Inc
9	Mr Bruce Davies Managing Director	Combined Taxi Management Pty Ltd
10	Ms Joanna Ammon Chief Executive Officer	Taxi Council of Western Australia
11	Dr Ruth Shean Director General	Disability Services Commission
12	The Committee did not receive submission number 12.	
13	Mr Anthony D'Ercole, President	West Australian Taxi Association (Inc)
14	Mr William Palmer	Member of the public
15	Mr Timothy Roberts and Mr Peter Dove	Multi Purpose Taxi Owners - Drivers

APPENDIX 2

WITNESSES WHO APPEARED BEFORE THE COMMITTEE

Name	Organisation	Date
Mr Peter Ryan Acting General Manager Passenger Services	Department for Planning and Infrastructure	15 February 2006
Mr Paul Reid Senior Project and Policy Officer, Passenger Services	Department for Planning and Infrastructure	15 February 2006
Mr Iqbal Samnakay Policy Officer, Transport	Office of the Minister for Planning and Infrastructure	15 February 2006
Mr Piercy Porter Policy Officer	Office of the Minister for Planning and Infrastructure	15 February 2006
Mr Philip Redhead Committee Member	Multi Purpose Taxi Owners Group	15 February 2006
Mr Henry Korda Committee Member	Multi Purpose Taxi Owners Group	15 February 2006
Mr Geoffrey Gear Committee Member	Multi Purpose Taxi Owners Group	15 February 2006
Mr Jiri Pasovsky Committee Member	Multi Purpose Taxi Owners Group	15 February 2006
Mr Antonius Kerkvliet	Multi Purpose Taxi Owner - Driver	15 February 2006
Mr David Winter	Multi Purpose Taxi Owner - Driver	15 February 2006
Mr Bruce Davies Managing Director	Combined Taxi Management	15 February 2006
Mr Tony D'Ercole President	Western Australian Taxi Association	15 February 2006
Ms Joanna Ammon Chief Executive Officer	Taxi Council of Western Australia	15 February 2006
Mr John Golawski Spokesperson	Peak Period Taxi Operators Group	15 February 2006
Dr Gregory Wheatley Committee Member	Peak Period Taxi Operators Group	15 February 2006
Mr Timothy Roberts Mr Peter Dove Mr Geoff Kirkwood	MPT Plate Owner Taxi Owner MPT Owners Group	8 March 2006
Mr Paul Joyce	Policy Officer	8 March 2006