

# Fare review for unbooked commercial passenger vehicle services

Consultation paper

28 February 2018



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# Summary

The Essential Services Commission's role in the commercial passenger vehicle industry changed in late 2017. We are now responsible for, among other things, determining the maximum fares<sup>1</sup> for unbooked (also known as rank and hail) commercial passenger vehicle services for the Melbourne metropolitan taxi zone and the urban and large regional taxi zone.

This consultation paper formally commences our first review of maximum fares for unbooked commercial passenger vehicle services. In this paper, we explain our new role. We also outline the approach we intend to adopt for the review, some issues for discussion and our review's timelines.

We are seeking input from stakeholders to inform our decision on whether maximum fares for unbooked services should change. In particular, we pose a number of questions to stakeholders in the chapter on our proposed approach to reviewing maximum fares for unbooked commercial passenger vehicles.

Submissions to this consultation paper will be the first of a number of opportunities for you to share your views on this matter. We encourage you to provide a submission sharing your views on fares for commercial passenger vehicles. Submissions close on 28 March 2018.

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<sup>1</sup> Under section 110F of the Commercial Passenger Vehicle Industry Act 2017 we will determine maximum charges for applicable unbooked services. In this paper, we use the term maximum fares to refer to these maximum charges.

# Our role is to set maximum fares for unbooked services

The Essential Services Commission determines (sets) maximum fares for unbooked commercial passenger vehicle trips in Victoria’s metropolitan and urban and large regional zones.<sup>2</sup> The Commercial Passenger Vehicle Industry Act 2017 governs this new role.

## Our objectives

The legislation states that our objective in determining unbooked fares will be to promote the efficient provision and use of unbooked commercial passenger vehicle services.<sup>3</sup>

## We will set maximum fares for unbooked commercial passenger vehicles

The commercial passenger vehicle market is the hire of point-to-point vehicle transport. This is different to other forms of transport that, for example, run on pre-specified routes.

It is useful to divide the market for commercial passenger vehicles into two sub-markets, depending on the way passengers obtain services:

- Booked: passengers reserve prior to travel through an app, online or over the phone
- Unbooked: passengers hail from a taxi rank or the street.

Under our new role we will no longer determine fares for booked services.

Unbooked commercial passenger vehicles are not just taxis. They could also include hire cars, and ride-share vehicles that have the required safety equipment (for example, cameras and duress alarms) to provide unbooked services.<sup>4</sup> Our review will consider fares for these unbooked services only.

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<sup>2</sup>Before determining fares we typically undertake a fare review. A fare determination is the legislative instrument we use to set maximum fares.

<sup>3</sup> Commercial Passenger Vehicle Industry Act 2017, section 110C.

<sup>4</sup> Currently it is not clear what these requirements will be. This will depend on the regulations that will be issued by the governor in council under section 289 of the Commercial Passenger Vehicle Industry Act 2017 (see section 19 of the Commercial Passenger Vehicle Industry Amendment (Further Reforms) Act 2017). Under part 4 of the current regulations, the Transport (Buses, Taxi-Cabs and Other Commercial Passenger Vehicles Taxi-Cab Industry Accreditation and Other Matters) Regulations 2017, taxis must be fitted with security cameras and emergency warning devices.

## The locations where we set maximum fares

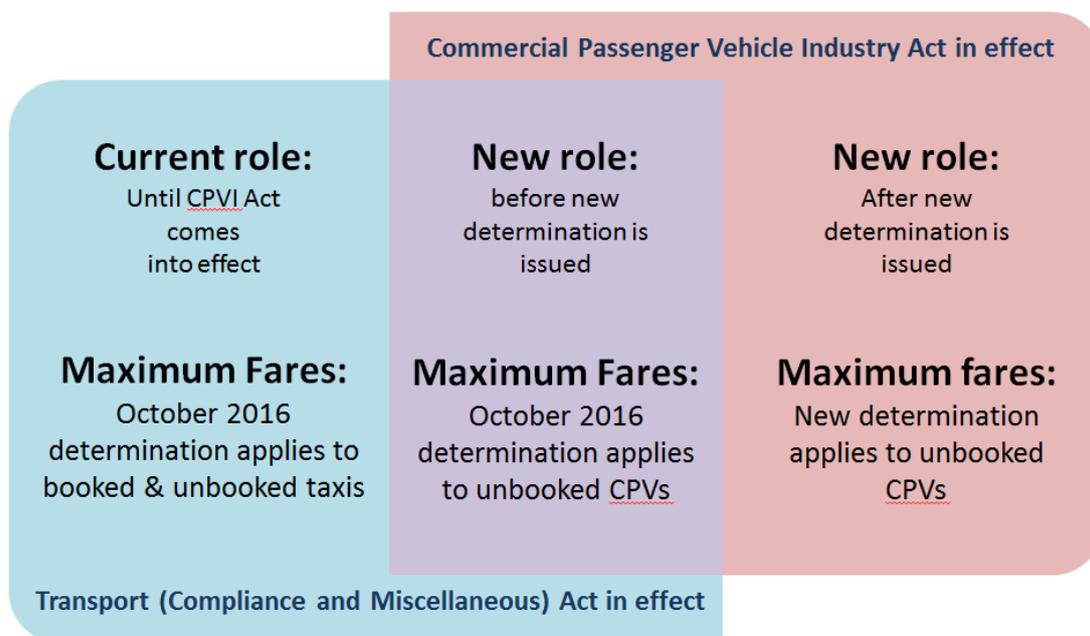
Our determination of maximum fares for unbooked services relates exclusively to the metropolitan and urban and large regional zone.<sup>5</sup> The metropolitan zone covers most of metropolitan Melbourne. The urban and large regional zone includes Geelong, Ballarat, Bendigo, Frankston, Dandenong and the Mornington Peninsula. More detail on taxi zones can be found in Appendix A.

## Our role in legislation

Under section 162C of the Transport (Compliance and Miscellaneous) Act 1983 our current role is to set maximum fares for booked and unbooked **taxis**. This role will be repealed on 7 July 2018<sup>6</sup> and our new role under the Commercial Passenger Vehicle Industry Act will come into effect.

As discussed above, our new role will be to determine maximum fares for all **unbooked commercial passenger vehicle services**. Figure 1 below shows what is regulated under our current role, and what will be regulated under our new role.

**Figure 1: Coverage of our maximum fare determinations**



<sup>5</sup> Commercial Passenger Vehicle Industry Act 2017, section 110A.

<sup>6</sup> Or earlier if the Act is proclaimed before this date in which case the provision becomes operational and takes effect from the date of proclamation. Commercial Passenger Vehicle Industry Act 2017, section 110D. Commercial Passenger Vehicle Industry Amendment (Further Reforms) Act 2017, schedule 1 section 10.8.

Our role is to set maximum fares for unbooked commercial passenger vehicles

## Current fares will apply until we make our determination

The maximum fares<sup>7</sup> we set in October 2016 will continue to apply for **unbooked commercial passenger vehicle services** until we issue a new price determination. They will also continue to apply to booked taxis, but only until our new role comes into effect.

For reference we have summarised the current maximum taxi fares for the Melbourne metropolitan zone below in table 1. A different set of fares apply to most parts of the urban zone, but the maximum fares for Dandenong, Frankston and the Mornington Peninsula (the eastern urban zone) are the same as for Melbourne. This is due to similarities in taxi demand in the metropolitan and the eastern urban zones and to avoid confusion for customers living on the boundary between them.<sup>8</sup> Detailed fare schedules for the metropolitan and urban zones can be found in Appendix C.

**Table 1: Maximum booked and unbooked taxi fares for the metropolitan zone<sup>9</sup>**

	Tariff 1 'Day' (9am-5pm)	Tariff 2 'Overnight' (5pm-9am, excluding peak)	Tariff 3 'Peak' (Fri & Sat nights 10pm-4am)
<b>Standard fare components</b>	<b>Maximum charge up to</b>		
Flagfall (\$)	4.20	5.20	6.20
Distance rate (\$/km) (when speed is above 21 km/hr)	1.622	1.804	1.986
Waiting time (\$/min) (when speed is below 21 km/hr)	0.568	0.631	0.695
<b>Other fare components (applicable to tariffs 1, 2 and 3)</b>			<b>Maximum</b>
High occupancy fee	With 5 passengers or more		\$14.00
Booking fee	For booked trips		\$2.00
Premium service charge	For booked 'premium service scheme' trips		\$11.00
Airport booking fee	For booked trips from Melbourne Airport		\$3.00
Airport rank fee	For trips from the Melbourne Airport rank		\$3.58
Holiday rate	Evenings before and on some public holidays		Tariff 3 rates

<sup>7</sup> Essential Services Commission (2016), *Updating the Schedule of Maximum Taxi Fares Document Determination*, October, pp. 5 - 9.

<sup>8</sup> Essential Services Commission (2016), *Taxi fare review 2016, final report*, June, p.29.

<sup>9</sup> Essential Services Commission (2016), *Updating the Schedule of Maximum Taxi Fares Document Determination*, October, pp. 5 - 9.

Our role is to set maximum fares for unbooked commercial passenger vehicles

## We will review unbooked fares in 2018

We are required by the Commercial Passenger Vehicle Industry Act 2017 to issue our first price determination under the new regime before 7 July 2019.<sup>10</sup> We must also complete a review of the price determination no later than two years after the determination is made.

### **This review is an opportunity for stakeholders to propose maximum fares**

During our review, and in line with our stakeholder charter<sup>11</sup>, we will seek stakeholders' views to inform our decisions. We will consult with stakeholders throughout the review and we encourage all interested parties to contribute their views and advice.

For service providers, this is an opportunity to raise issues we should explore and to propose their preferred maximum fares, and as part of this, the fare structures that would determine these fares.

For passengers, this is an opportunity to provide feedback or suggestions on: the types of services that should be provided (for example luxury vehicles or car-pooling), whether current unbooked services provide value for money, and other issues related to maximum fares that we should consider.

### **Indicative timelines for the review**

For this review we will release a draft report and final report containing our analysis of fares. We will also release a price determination with our final report, which will formalise our final decision on maximum fares.

Stakeholders can make submissions on this consultation paper and our draft decision paper. We will also meet with interested stakeholders throughout the review.

Table 2 below shows an indicative timeline for the review.

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<sup>10</sup> See Appendix B- section 110F

<sup>11</sup> <https://www.esc.vic.gov.au/corporate/charter-of-consultation-and-regulatory-practice/>

**Table 2: Indicative timelines**

Activity	Indicative timeline
Commission consults with stakeholders	February – March 2018
Deadline for submissions on consultation paper	28 March 2018
Commission releases draft report for public consultation	May 2018
Commission conducts consultations	May - June 2018
Commission releases final report and price determination	August 2018
Price determination comes into effect	September 2018

## How to make a submission

Interested parties are invited to make submissions in response to this consultation paper.

Submissions to this consultation paper close 28 March 2018.

Please email submissions to [cpvfares@esc.vic.gov.au](mailto:cpvfares@esc.vic.gov.au). You may also send submissions via fax to 03 9032 1303 or by mail, marked:

Attention: Transport Division  
Essential Services Commission  
Level 37, 2 Lonsdale Street  
Melbourne VIC 3000

Any questions about this consultation paper may be directed to:

Jonathan Roberts  
Acting Project Manager, Transport  
Essential Services Commission  
Email: [cpvfares@esc.vic.gov.au](mailto:cpvfares@esc.vic.gov.au)  
Phone: 03 9032 1300

## Publication of submissions

To promote an open and transparent review process, we will make all submissions publicly available on our website. If there is information that you do not wish to be disclosed publicly on the basis that it is confidential or commercially sensitive, this information should be clearly specified in the submission.<sup>12</sup>

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<sup>12</sup> [www.esc.vic.gov.au/our-submission-policy](http://www.esc.vic.gov.au/our-submission-policy)

We will review unbooked fares in 2018

# Maximum fares should provide consumer protections while promoting competition

## The objectives of maximum fare regulation

The purpose of the Commercial Passenger Vehicle Industry Act is to establish a new and modern regulatory regime for the commercial passenger vehicle industry that focuses on safety and the provision of consumer protections.<sup>13</sup> Our role determining maximum fares for unbooked services is one of these protections.

Our specific objective under the Commercial Passenger Vehicle Industry Act for determining maximum fares is ‘to promote the efficient provision and use of applicable unbooked services’.<sup>14</sup> This objective complements our objective under the Essential Services Commission Act, which is ‘to promote the long term interests of Victorian consumers’.<sup>15</sup> We consider the ‘interests of consumers’ are served by having: attractive fares, good service quality and diverse commercial passenger vehicle service offerings.

## Facilitating competition will help achieve our objectives

Historically, both unbooked and booked taxi services have been subject to fare regulation. Recent technological changes have introduced increased competition in booked services. However, these competitive forces may not be as strong in the unbooked services sub-market. For example, there will be times and places where consumers are not in a position to ‘shop around’ for unbooked service providers.

For example, a customer hailing a taxi from the street cannot easily know the fares for each passing vehicle or the quality of service they offer. Similarly, drivers cannot easily signal such information to potential customers.

In addition, passengers of unbooked services sometimes have few choices. For example passengers who do not have access to a smartphone, tourists that have little understanding of what a reasonable fare is, people travelling late at night when there are limited public transport

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<sup>13</sup> Commercial Passenger Vehicle Industry Amendment (Further Reforms) Bill 2017: Explanatory Memorandum, p.1.

<sup>14</sup> Commercial Passenger Vehicle Industry Amendment (Further Reforms) Bill 2017, section 110C.

<sup>15</sup> Essential Services Commission Act 2001, section 8.

options, or passengers that must queue for a vehicle. This lack of choice could put passengers at a disadvantage when seeking point-to-point transport.

The challenge for us is to balance the interests of passengers and unbooked commercial passenger vehicle service providers. Our maximum fares should be attractive to passengers but provide reasonable earnings for unbooked service providers. Ideally, our maximum fares should give service providers some flexibility on how to run their business. Unbooked service providers should be able to try to win customers by providing a high quality service, an economical service or a service that is both high quality and economical.

If we set our maximum fares too low, we may limit unbooked service providers to competing only on price. This may make it harder for unbooked services to compete with booked services that could offer a more reliable or more comfortable service to passengers for a premium. We would like to avoid this outcome as having greater choice in services is likely to best serve the long term interests of consumers.

Maximum fares should provide consumer protections while promoting competition

# How we will assess the case for fare changes

## Our approach to this review

Under legislation, we must make a new determination on the maximum fares for unbooked commercial passenger vehicle services.<sup>16</sup> To prepare for this determination, we will assess market outcomes since our last review as well as operators' costs. Should we or stakeholders identify any potential improvements to the current maximum fares we will analyse those proposals using our assessment approach for maximum fares.

### We will use market outcomes

Market outcomes are the levels of demand and supply that prevail in the commercial passenger vehicle industry. We will use a market outcomes approach to inform our assessment of what should happen to maximum fares. Analysing the balance between supply and demand for commercial passenger vehicles will inform us as to what should happen to the structure of the maximum fares at particular times and places — that is, whether there is a case for fares to go up, go down or stay the same (including at different times of day, week or year).

All of the data we have on market outcomes in the commercial passenger vehicles industry have occurred in response to the current maximum taxi fares. This makes the current fares a good starting point for assessing the value of any proposed maximum fares.

### We will review commercial passenger vehicles' costs

We will also review operators' costs to inform us about whether, at the industry level, the total value of fares (the level of maximum fares) is sufficient to cover service providers' efficient costs for the given levels of service.

To assess efficient costs, among other things, we will need to consider:

- **Current market conditions** – Changes in economic conditions affect the inputs used to provide commercial passenger vehicle services. We will also consider prevailing economic indicators such as fuel costs and the consumer price index.
- **Licence fees** - The new regime has removed licence fees that were once paid to operate commercial passenger vehicles. We will analyse what impact the removal of licences has had on the cost of operating a commercial passenger vehicle.

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<sup>16</sup> Commercial Passenger Vehicle Industry Act 2017, section 110F.

- **Cost sharing between booked and unbooked services** - Many service providers will supply both booked and unbooked services. Any vehicle fitted to accept unbooked services would also be allowed to provide booked services. Our assumptions about how shared costs are split between these activities will influence how we set fares for unbooked services.
- **Costs associated with changing meters** - Making changes to maximum fares imposes costs on service providers. If a service provider changes their fares they must make changes to their signage and meter. Often vehicles cannot be used to provide services while these changes are being made: service providers cannot earn money if their vehicle is not on the road. If we decide to change fares we would also need to be satisfied that the expected benefits exceed these costs.

### Assessment approach for maximum fares

We will consider the following matters when deciding whether any proposed changes to the maximum fares are warranted. Any changes to the current maximum fares should:

1. have benefits that outweigh the associated costs
2. not make it more difficult, and preferably make it easier, for unbooked services providers to compete with each other or booked services providers
3. give incentives to unbooked service providers to provide the service outcomes consumers want
4. give a reasonable opportunity for unbooked service providers to recover the costs that a well-run business would need to run its service
5. result in a fare structure that passengers can easily understand.

Considering these matters will help us meet our legislated obligations.<sup>17</sup>

### Box 1: Our questions on our proposed approach

1. What are your views on our proposed approach?
2. Which matters do you think are most important for our unbooked commercial passenger vehicle fare review?
3. Are there other matters we should consider?

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<sup>17</sup> Essential Services Commission Act 2001, sections 8A and 33.

How we will assess the case for fare changes

## Factors to consider in setting fare structures

Fare structure is important because it will significantly affect the revenues derived from and incentives created by a set of fares. Table 3 shows some of the things we may consider in developing the structure of maximum fares.<sup>18</sup>

**Table 3: Examples of fare structure**

Structural factor	Example
Geographic	Fares can vary by taxi zone – e.g. different fares for the metropolitan zone and urban zones. Fares can also differ within the same zone – e.g., fares in Geelong differ to fares in Frankston even though both are in the urban zone.
Temporal	Fares can vary across different time periods. For example, in the metropolitan zone there are three different rates based on time of day – daytime, night-time and peak.
Trip length	Fares can vary according to the length of the trip in terms of distance, time or both. This currently occurs through two fare components: the distance and time rates. Which component applies depends on the speed at which the vehicle travels.
Fixed charges	There can be a fixed component to fares. This acts as the minimum amount that passengers will pay to use a service. The current maximum fares allow the use of a fixed charge, also known as a flagfall.
Number of passengers	Fares can vary based on the number of passengers. For example, in the metropolitan zone a surcharge of up to \$14 can be charged if there are five or more passengers.
Vehicle type	Fares can be set to vary based on vehicle type. Currently, higher fares apply if a passenger requests a vehicle capable of carrying five or more passengers.

### Box 2: Our questions on maximum fares and associated issues

4. Is there a case for changing the current maximum fare structure for unbooked services? If so, what specific aspects of the structure can be improved?
5. What fare structures are possible given existing metering technology? How might this change in future?

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<sup>18</sup> Commercial Passenger Vehicle Industry Act 2017, s. 110E.

## Dynamics of the commercial passenger market

In setting the maximum fares for unbooked services, we will review how recent regulatory changes will affect the commercial passenger vehicle market.

Under the new regulatory regime, the cost of entering the market has decreased significantly. Previously, operators were required to rent a licence from a licence holder or the government at significant cost. Low cost licences<sup>19</sup> are now available for an annual fee of \$52.90.

Booked vehicles will also be able to set their own fares. In many situations, booked vehicles (especially 'ready to ride' bookings where passengers request an immediate pick up) will be a close substitute for unbooked vehicles. It is therefore important that the maximum fares that we set for unbooked services do not constrain competition in the commercial passenger vehicle market.

We also do not want to encourage service providers to actively avoid certain sub-markets. For example, if fares for unbooked services are too low, the supply of unbooked vehicles may decline significantly because providing booked services would be more profitable for vehicle operators. Furthermore, as zones will no longer exist for licensing purposes, if there is an excessive imbalance in fares between the metropolitan and urban zones there is the potential for oversupply in one zone and undersupply in the other.

### Box 3: Our questions on maximum fares and associated issues

6. Should there be any change in maximum fares for unbooked commercial passenger vehicles due to the recent reforms to the commercial passenger vehicle industry? Why, why not?
7. How could maximum fares change to help unbooked services compete better with booked services?
8. Under the new regulatory environment, are there reasons why maximum fares for unbooked services for the Melbourne metropolitan taxi zone and the Urban and large regional taxi zone should be different?
9. What other issues should we consider in setting maximum fares for unbooked services?

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<sup>19</sup> see Taxi Services Commission <http://taxi.vic.gov.au/about-us/news/taxis/new-low-cost-licences>

How we will assess the case for fare changes

## Appendix A: Industry context

This Appendix provides context for the review, including a brief overview of the commercial passenger vehicle industry. We also recap the key outcomes of our 2016 taxi fare review and outline some of the most significant industry reforms since our last review.

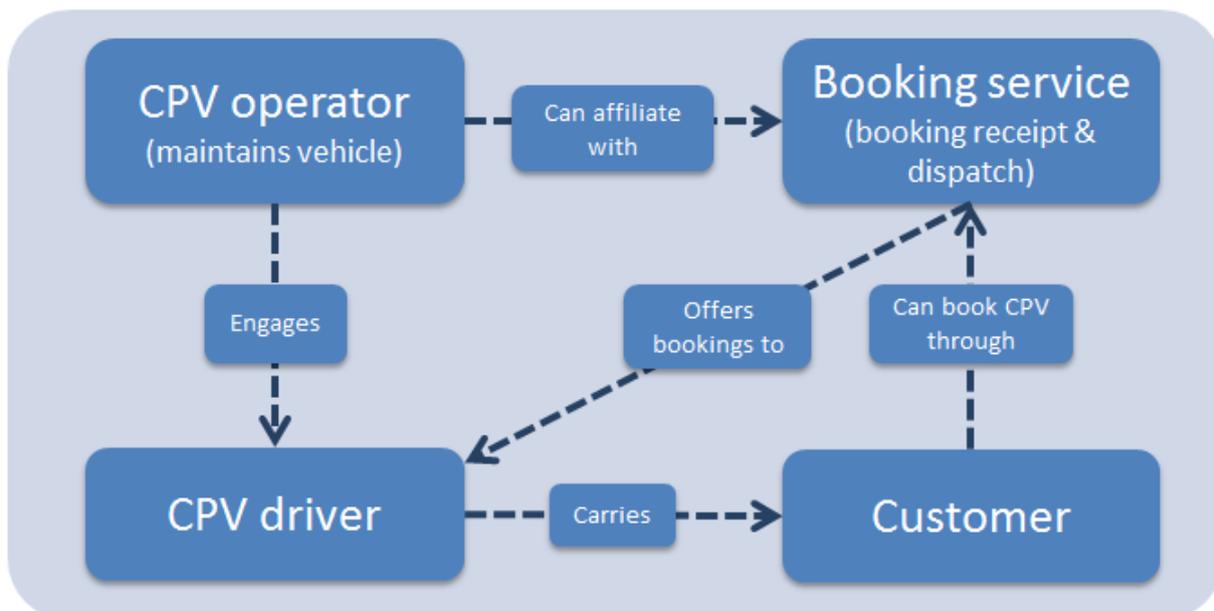
### The commercial passenger vehicle market

The commercial passenger vehicle industry provides flexible motor vehicle transport services where passengers choose their points of departure and destinations. This differs from other commercial modes of transport which generally have fixed routes.

#### Commercial passenger vehicle industry participants

There are three types of commercial passenger vehicles: Hire cars, taxis, and ride-share service providers. All of these services are operated by three main types of industry participants: vehicle operators, vehicle drivers and booking services. The main functions of these participants are shown in Figure A.1. Individual entities may assume multiple roles within the supply chain. For example, some operators drive their vehicles and some booking services operate vehicles.

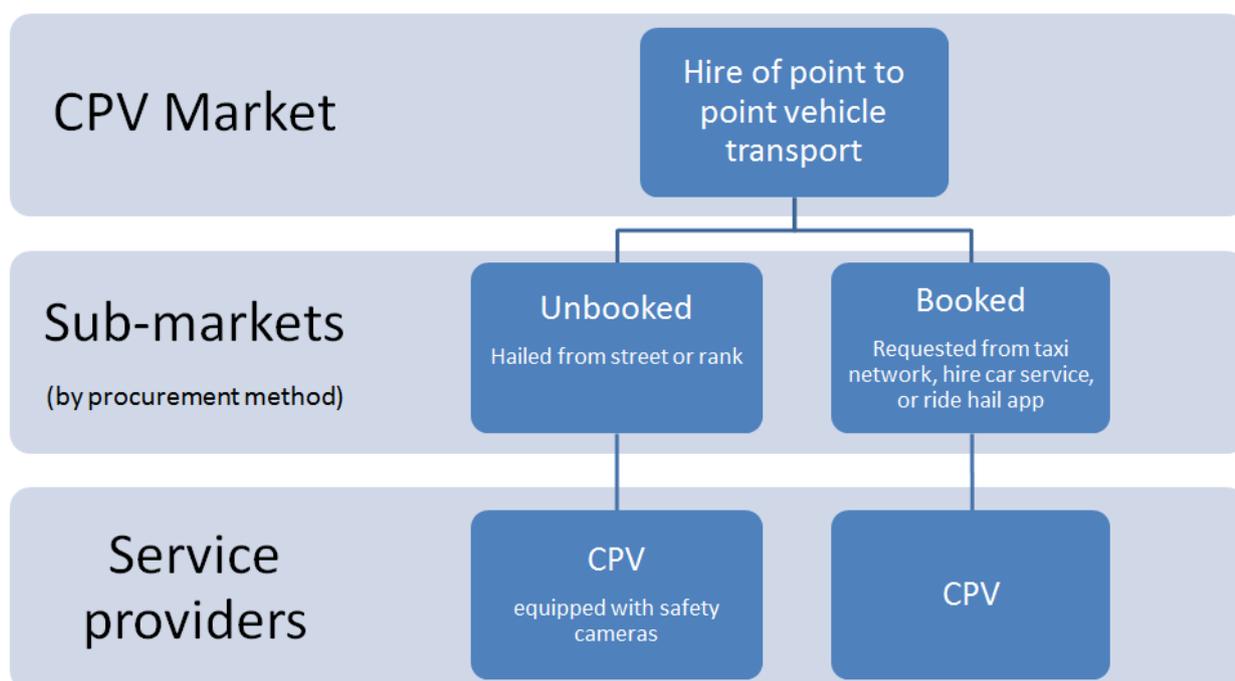
Figure A.1 Commercial passenger vehicle industry participants



## Sub markets and service providers

To reflect the way services are procured, the commercial passenger vehicle market may be segmented into two sub markets: the booked market and the unbooked market. The booked market refers to all trips that have been provided through a booking service provider such as Silver Top or GoCatch. Unbooked trips are all other commercial passenger vehicle trips. In practice this means unbooked trips occur when a commercial passenger vehicle is hailed from the street or from a rank. Any commercial passenger vehicle may provide unbooked trips provided it is equipped with the proper safety equipment.<sup>20</sup> Figure A.2 illustrates the differences between booked and unbooked commercial passenger vehicles.

**Figure A.2 Sub-markets for commercial passenger vehicle services**



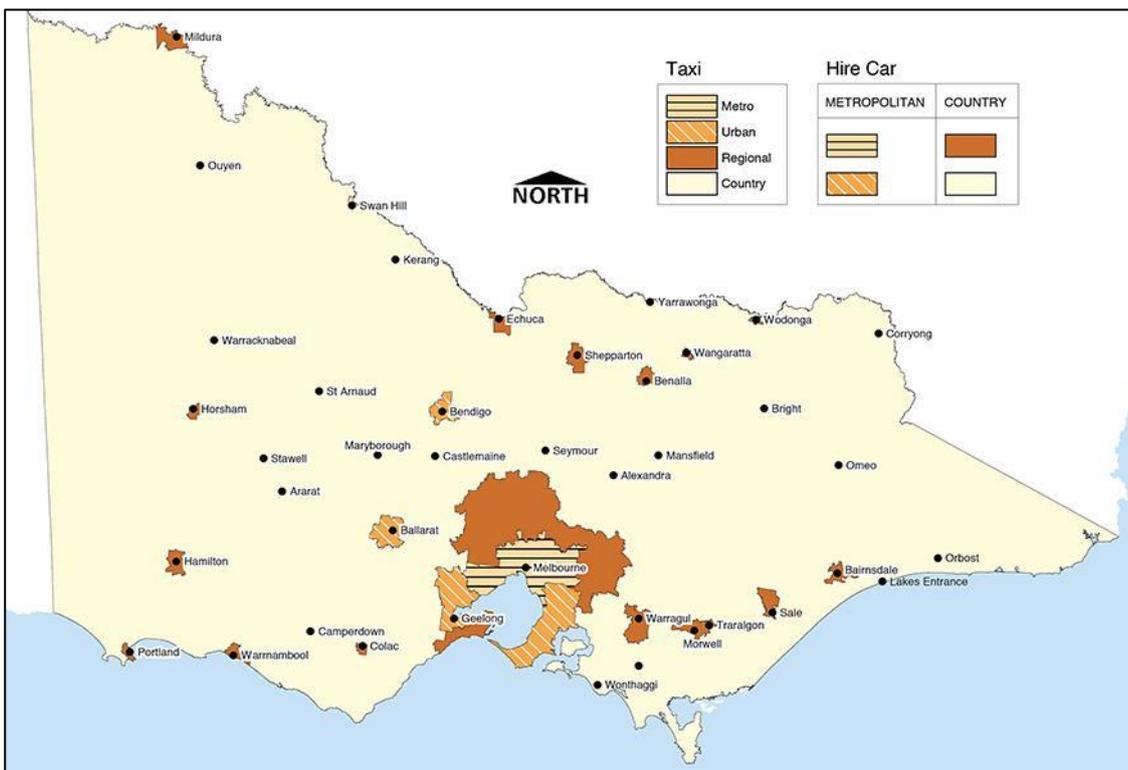
In the unbooked sub-market, negotiation of fares between service providers and customers may be difficult or impractical. Customers do not have complete information on the availability of services and fares offered by other service providers. In the booked market, customers are typically better placed to negotiate prices. It is easier to seek a fare estimate up-front and compare service providers over the phone or the internet. As a result, hire cars and ride-share vehicles which operate exclusively in the booked market will not be subject to fare regulation.

<sup>20</sup> Currently it is not clear what these requirements will be, but under the current regulations taxis must be fitted with security cameras and emergency warning devices (see footnote 4 for further detail).

## Commercial passenger vehicle zones

The maximum fares that we set for unbooked commercial passenger vehicles only apply in Melbourne and large regional centres. These areas are based on zones developed by the taxi services commission that defined where taxis were allowed to operate before taxi licences were abolished. There are four zones in Victoria: the metropolitan zone, the urban zone, the regional zone and the country zone (see Figure A.3). The areas that our maximum fares apply in were formerly known as the metropolitan and urban zones.

**Figure A.3** Historical taxi zones of Victoria



## Recap of our 2016 review of taxi fares

Our last taxi fare review was completed in June 2016. Following our review we released a determination making some changes to maximum fares. Those fares came into effect from 1 July 2016 and can be found in Appendix C.

At the time of our 2016 review, the industry was going through significant changes. New ride-share services were entering the market and putting increasing competitive pressure on existing taxi and hire car services.

Our 2016 review concluded that although there was some evidence that the overall fare level could decrease slightly, fares in the metropolitan area should remain unchanged. We also highlighted that in an increasingly competitive commercial passenger vehicle market, it is the responsibility of taxi service providers (rather than the taxi fare regulator) to respond to market circumstances by discounting fares, improving the services on offer, or both. Importantly, if taxi service providers do not respond to greater competition, alternative service providers will see an opportunity to enter the commercial passenger vehicle market and consumers will benefit from this development.

In terms of costs, such as fuel prices, we noted taxi operators' costs, had significantly decreased. However, we recognised that if we set maximum fares too low there was a risk that we might prevent new and innovative taxi services from emerging. This could stop taxis from being able to compete effectively with growing ride-share services.

In addition, for the areas of Geelong, Ballarat and Bendigo we changed maximum fares to let operators in those areas charge holiday rates the night before public holidays. We also extended the periods during which operators can charge the late night fee in those areas.

The maximum fares that currently apply for booked and unbooked taxis in the Metropolitan and urban zones can be found in Appendix C.

## **Significant industry reform**

The commercial passenger vehicle industry has undergone significant reform since our last review. Between August and December 2017 the Victorian Government passed two acts of parliament reforming the commercial passenger vehicle industry:

- The Commercial Passenger Vehicle Industry Act 2017
- The Commercial Passenger Vehicle Industry Amendment (Further Reforms) Act 2017.

Reforms with particular relevance to our current review include:

- the removal of barriers to entry (e.g. licensing) into the commercial passenger vehicle industry
- deregulation of booked taxi fares
- regulation of unbooked fares for all commercial passenger vehicles

Each of these major reforms is discussed below.

### **The removal of barriers to entry into the commercial passenger vehicle industry**

Before the Commercial Passenger Vehicle Act 2017 was implemented, a taxi or hire car licence was required to legally operate a commercial passenger vehicle in Victoria. Most licences issued over time were perpetual (of no fixed term) and owners of licences were permitted to trade them for

profit. Taxi licence owners were also able to lease their licences to taxi operators for a negotiated fee. In financial year 2017, lease fees paid for licences by metropolitan taxi operators averaged around \$18,000 per year.<sup>21</sup>

Following the reforms, commercial passenger vehicle operators have the option of obtaining low cost licences from the Taxi Services Commission. In order to apply for a licence the applicant must be the owner of the vehicle and only one vehicle is permitted to operate per taxi licence. There is no restriction on the number of low cost licences that can be issued. The annual fee for the newly introduced low cost licences is \$52.90.<sup>22</sup>

The number of taxi licences being operated has increased since low cost licences became available. In the metropolitan zone, taxi licence numbers have increased by 37 per cent – from 4,625 in September 2017 immediately prior to the release of low cost licences reforms, to 6,342 in November 2017.

In the urban zone, taxi licence numbers increased by 34 per cent over the same period – from 498 to 669.

Given these changes to the licensing regime, ride-share services will increase the competitive pressure faced by taxi and hire car services.

### **Deregulation of booked fares**

Fares for booked taxis will no longer be regulated. The Commercial Passenger Vehicle Industry Amendment (Further Reforms) Act 2017 will repeal the sections of the Transport (Compliance and Miscellaneous) Act 1983 that gave us the power to set maximum fares for booked taxis.<sup>23</sup>

Our powers to set fares for booked taxis will be repealed on the date that The Commercial Passenger Vehicle Industry Amendment (Further reforms) Act comes into effect. This will either be 7 July 2018 or an earlier date proclaimed by the Governor in Council.<sup>24</sup>

As a result all booked commercial passenger vehicle services will be able to choose the fares that they charge their customers from 7 July 2018 at the latest.

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<sup>21</sup> Taxi Services Commission 2017, *Annual Report 2016-17*, p. 25.

<sup>22</sup> Taxi Services Commission, Industry reforms, available at: <https://taxi.vic.gov.au/owners-and-operators/taxi-owners-and-operators/industry-reforms> (accessed on 24 January 2018).

<sup>23</sup> Commercial Passenger Vehicle Industry Amendment (Further reforms) Act 2017, Schedule 1, item 10.8.

<sup>24</sup> Commercial Passenger Vehicle Industry Amendment (Further reforms) Act 2017, s. 2.

## Regulation of unbooked fares for all commercial passenger vehicles

Fares for unbooked services will remain regulated. While the Commercial Passenger Vehicle Industry Amendment (Further Reforms) Act will repeal our powers to set maximum fares for taxis<sup>25</sup>, the Commercial Passenger Vehicle Industry Act will give us new powers to set maximum fares for unbooked commercial passenger vehicles.<sup>26</sup> This new role does not just cover taxis. Our fare determination will apply to any unbooked trips provided by any commercial passenger vehicle.<sup>27</sup>

We will be required to make a determination on the maximum fares for unbooked commercial passenger vehicle services within one year of the Commercial Passenger Vehicle Industry Amendment (Further reforms) Act becoming operational.<sup>28</sup> With no action by the Governor in Council the amendments will become operational automatically on 7 July 2018. Therefore the latest we will be required to make a determination will be sometime between February 2019 and 7 July 2019.

Once we have made a fare determination, we will be required to review that determination no later than two years after it is made.<sup>29</sup> Effectively this means that following our first determination we will be required to review fares for unbooked commercial passenger vehicle services every two years.

## Market developments

Since our last review, new platforms based on smartphone technology have become even more widely used.

As described earlier in this appendix, the commercial passenger vehicle market can be classified into unbooked and booked sub-markets. Within the booked market, the use of smartphone booking applications (booking apps) has increased the level of competition between existing taxi operators, hire car firms, taxi networks, and newer ride-share networks.

Smart phone technology has significantly changed the way that passengers can book a commercial passenger vehicle. Taxi booking networks, such as Oiii<sup>30</sup>, 13CABS and Silver Top,

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<sup>25</sup> Commercial Passenger Vehicle Industry Amendment (Further reforms) Act 2017, Schedule 1, item 10.8.

<sup>26</sup> Commercial Passenger Vehicle Industry Act 2017, s. 110B.

<sup>27</sup> Commercial Passenger Vehicle Industry Act 2017, s. 110B.

<sup>28</sup> Commercial Passenger Vehicle Industry Act 2017, s. 110F(1).

<sup>29</sup> Commercial Passenger Vehicle Industry Act 2017, s. 110F(2).

<sup>30</sup> <http://www.smh.com.au/small-business/startup/oiii-new-taxis-are-hitting-the-road-in-melbourne-20180118-h0kdrb.html> (accessed on 18 January 2018)

have developed booking apps in addition to their existing telephone and internet booking services. Other 'third party' taxi booking networks, such as GoCatch and Ingogo, also offer taxi bookings exclusively through apps.

There are now also an increasing number of apps allowing passengers to book trips for ride-share and hire car services. These include services such as GoCar, Taxify, and Uber. Fares for these trips are calculated through the app, varying with trip time and distance travelled. A base fare rate is set by the booking service provider. Some service providers vary their rates using an algorithm that increases the base rate during times of peak demand and limited supply. This provides for dynamic pricing in response to supply and demand.

The increasingly wide variety of booking apps has had two notable impacts. First, it has made bookings of taxis and hire cars where the customer requests an immediate pick up much easier. As a result, booked services are an increasingly closer substitute for unbooked services.

Second, booking apps have introduced some degree of flexibility to fares for booked services. This means that once booked fares become deregulated we may see taxi service providers, which currently have their fares regulated, provide increasingly innovative services.

These developments present both challenges and opportunities for the regulation of unbooked fares. As booked services become a more viable substitute for unbooked services, it is important that unbooked fare regulation does not constrain unbooked services' ability to compete with booked services.

## **Current limitations of metering technology**

The technical limitations of fare meters currently in use in Victoria are an important consideration for the types of fares we can determine as part of this review.

Currently taxis are required to operate taximeters to calculate fares and transparently display them to passengers.<sup>31</sup> These specifications extend beyond the primary function of calculating fares. For example, meters used by taxis must be linked with mandatory equipment, such as safety cameras and an EFTPOS terminal approved for processing Multi-Purpose Taxi Program subsidy information.

Once the Commercial Passenger Vehicle Industry Amendment (Further Reforms) Act becomes operational these requirements may change. The regulations that will apply once the Commercial

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<sup>31</sup> Transport (Buses, Taxi-Cabs and Other Commercial Passenger Vehicles) Regulations 2016, s. 48(1)

Passenger Vehicle Industry Amendment (Further Reforms) Act becomes operational have not yet been published. However, the explanatory memorandum to the Commercial Passenger Vehicle Industry Amendment (Further Reforms) Act states that service providers will be required “to use a meter or a fare calculation device (e.g. a smartphone app) when the total amount of the fare is not fixed or agreed to before the trip commences”.<sup>32</sup>

There are several different fare meters currently in use in Victoria. However, among some models currently in use, limitations exist on the number tariffs that can be programmed to calculate fares. Some models have a limited memory capacity and are limited to carrying nine different tariffs.<sup>33</sup>

There are also limitations on the types of fare structures that can be programmed. In our 2016 fare review, we noted some ideas for new and innovative fare structures. Previous discussions with meter manufacturers suggest that some of these ideas may not be possible for all existing meters.

While many existing meters will constrain our ability to set new and innovative maximum fare structures, we are interested to hear stakeholders’ views on innovative fare structures that would be possible.

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<sup>32</sup> Commercial Passenger Vehicle Industry Amendment (Further Reforms) Act 2017 Explanatory Memorandum, p. 4

<sup>33</sup> An example of a tariff is the current metropolitan day rate, which incorporates: a flagfall of \$4.20; a distance rate of \$1.622 per kilometre; and a minimum time rate of \$0.568 per minute

## Appendix B: Legislative framework

**Table B.1: Relevant sections of the Essential Services Commission Act 2001**

Section detail	
s. 8 (1)	<p><b>Objective of the Commission</b></p> <p>In performing its functions and exercising its powers, the objective of the Commission is to promote the long term interests of Victorian consumers.</p>
s. 8 (2)	<p>Without derogating from subsection (1), in performing its functions and exercising its powers in relation to essential services, the Commission must in seeking to achieve the objective specified in subsection (1) have regard to the price, quality and reliability of essential services.</p>
s. 8A (1)	<p><b>Matters the Commission must have regard to</b></p> <p>In seeking to achieve the objective specified in section 8, the Commission must have regard to the following matters to the extent that they are relevant in any particular case—</p> <ul style="list-style-type: none"><li>(a) efficiency in the industry and incentives for long term investment;</li><li>(b) the financial viability of the industry;</li><li>(c) the degree of, and scope for, competition within the industry, including countervailing market power and information asymmetries;</li><li>(d) the relevant health, safety, environmental and social legislation applying to the industry;</li><li>(e) the benefits and costs of regulation (including externalities and the gains from competition and efficiency) for—<ul style="list-style-type: none"><li>(i) consumers and users of products or services (including low income and vulnerable consumers);</li><li>(ii) regulated entities;</li></ul></li><li>(f) consistency in regulation between States and on a national basis;</li><li>(g) any matters specified in the empowering instrument.</li></ul>
s. 8A (2)	<p>Without derogating from section 8 or subsection (1), the Commission must also when performing its functions and exercising its powers in relation to a regulated industry do so in a manner that the Commission considers best achieves any objectives specified in the empowering instrument.</p>

*Continued next page*

## Section detail

### s. 33(3) **Price determinations**

In making a determination under this section, the Commission must have regard to—

- (a) the particular circumstances of the regulated industry and the prescribed goods and services for which the determination is being made;
- (b) the efficient costs of producing or supplying regulated goods or services and of complying with relevant legislation and relevant health, safety, environmental and social legislation applying to the regulated industry;
- (c) the return on assets in the regulated industry;
- (d) any relevant interstate and international benchmarks for prices, costs and return on assets in comparable industries;
- (e) any other factors that the Commission considers relevant.

**Table B.2: Relevant sections of the Commercial Passenger Vehicle Industry Act 2017**

## Section detail

### s. 110A **Definitions**

*In this Division—*

*"applicable unbooked service" means an unbooked commercial passenger vehicle service in respect of carriage on a journey that begins in—*

- (a) the Melbourne Metropolitan Zone; or*
- (b) the Urban and Large Regional Zone;*

*"Melbourne Metropolitan Zone" means the Melbourne Metropolitan Zone established under section 143B(1)(a) of the Transport (Compliance and Miscellaneous) Act 1983 (as in force immediately before the commencement of item 10.7 of Schedule 1 to the Commercial Passenger Vehicle Industry Amendment (Further Reforms) Act 2017 ;*

*"Urban and Large Regional Zone" means the Urban and Large Regional Zone established under section 143B(1)(b) of the Transport (Compliance and Miscellaneous) Act 1983 (as in force immediately before the commencement of item 10.7 of Schedule 1 to the Commercial Passenger Vehicle Industry Amendment (Further Reforms) Act 2017.*

### s. 110B **Application to the Essential Services Commission Act 2001**

*(1) For the purposes of the Essential Services Commission Act 2001 —*

- (a) this Division is relevant legislation; and*

*Continued next page*

## Section detail

*(b) the commercial passenger vehicle industry is a regulated industry in relation to applicable unbooked services .*

*(2) If there is any inconsistency between this Division and a provision of the Essential Services Commission Act 2001 , the provision of this Division prevails.*

### s. 110C **Objective of the ESC**

*The objective of the ESC in relation to the commercial passenger vehicle industry is to promote the efficient provision and use of applicable unbooked services.*

### s. 110D **Powers in relation to fares regulation**

*for the purposes of Part 3 of the Essential Services Commission Act 2001 —*

*(a) applicable unbooked services are prescribed services; and*

*(b) the maximum charges for the services covered by paragraph (a) are prescribed prices.*

### s. 110E **Price determinations**

*Without limiting s. 33(5) of the Essential Services Commission Act 2001, the manner in which the ESC may regulate prescribed prices includes determining different prices according to—*

- (a) the time of day at which, or day of the week or kind of day on which, an applicable unbooked service is provided;*
- (b) the speed at which the commercial passenger vehicle used in the provision of the applicable unbooked service is travelling;*
- (c) the distance travelled by the commercial passenger vehicle used in the provision of the applicable unbooked service;*
- (d) the type of commercial passenger vehicle used in the provision of the applicable unbooked service;*
- (e) the occupancy of the commercial passenger vehicle used in the provision of the applicable unbooked service, including where there is more than one passenger;*
- (f) where a journey in respect of which the applicable unbooked service is provided begins or ends;*
- (g) the prevailing economic conditions, including the price of fuel and the consumer price index; and*

*any other matter the ESC considers to be relevant.*

*Continued next page*

## Section detail

s. 110F **Exercise of regulatory functions**

*(1) The ESC must make a determination under this Division of the maximum charges for applicable unbooked services before the first anniversary of the day on which this section comes into operation.*

*(2) The ESC must complete a review of a price determination no later than 2 years after it is made.*

s. 110G **Offence to charge or ask for a fare for an unbooked service in excess of the maximum fare**

*A person who drives a commercial passenger vehicle for the purpose of providing an applicable unbooked service must not charge or ask for a fare for the service that is in excess of the fare or hiring rates permitted by a determination of the ESC under this Division.*

*Penalty: 60 penalty units.*

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## Appendix C: Current maximum fares

### Metropolitan zone and Eastern Urban area

The maximum fares in Table C.1 below currently apply to the metropolitan zone and the eastern part of the urban and large regional zone. The eastern urban area includes the part of the urban zone including Dandenong and the Mornington peninsula.

**Table C.1: Maximum taxi fares for the metropolitan zone<sup>34</sup>**

	Tariff 1 'Day' (9am-5pm)	Tariff 2 'Overnight' (5pm-9am, excluding peak)	Tariff 3 'Peak' (Fri & Sat nights 10pm-4am)
<b>Standard fare components</b>	<b>Maximum charge up to</b>		
Flagfall (\$)	4.20	5.20	6.20
Distance rate (\$/km) (when speed is above 21 km/hr)	1.622	1.804	1.986
Waiting time (\$/min) (when speed is below 21 km/hr)	0.568	0.631	0.695
<b>Other fare components (applicable to tariffs 1, 2 and 3)</b>	<b>Maximum charge up to</b>		
High occupancy fee <sup>(a)</sup>			\$14.00
Booking fee	For booked trips		\$2.00
Premium service charge	For booked 'premium service scheme' trips		\$11.00
Airport booking fee	For booked trips from Melbourne Airport		\$3.00
Airport rank fee	For trips from the Melbourne Airport rank		\$3.58
Holiday rate <sup>(b)</sup>			Tariff 3 rates

(a) For taxis carrying 5 to 11 passengers, or a non-wheelchair hiring where the hirer specifically requests a larger than standard taxi regardless of the number of passengers carried. Does not apply for trips with fewer than 5 passengers if one or more passengers uses a wheelchair or other mobility aid. (b) For trips commencing on Christmas Day, Boxing Day, New Year's Day and from 6pm on New Year's Eve.

<sup>34</sup> Essential Services Commission (2016), *Updating the Schedule of Maximum Taxi Fares Document Determination*, October, pp. 5 - 9.

## Western urban area (Geelong, Ballarat, Bendigo)

The maximum fares in Table C.2 below currently apply all other parts of the urban and large regional zone (Geelong, Ballarat and Bendigo).

**Table C.2: Maximum taxi fares for Geelong, Ballarat and Bendigo 2016<sup>35</sup>**

Fare component		Maximum charge
<b>Standard fare components</b>		
Flagfall (\$)		3.60
Distance rate (\$/km) (applies when speed is above 21 km/hr)		1.838
Waiting time (\$/min) (applies when speed is below 21 km/hr)		0.643
<b>High occupancy trips</b>		
For trips with 5-11 passengers or when high occupancy vehicle specifically requested		
Not applicable for wheelchair passenger trips		
Flagfall (\$)		3.60
Distance rate (\$/km) (applies when speed is above 21 km/hr)		2.757
Waiting time (\$/min) (applies when speed is below 21 km/hr)		0.965
<b>Other fare components</b>		
Late night fee	For trips commencing between 7pm on Friday and Saturday nights through to 6am the following morning; and from midnight to 6am on all other days	\$3.40
Booking fee	For booked trips	\$2.10
Premium service charge	For booked trips where vehicle is participating in a 'premium service scheme'	\$11.00
Airport booking fee	For trips booked for pick up from Melbourne Airport	\$3.00
Holiday rate <sup>(a)(b)</sup>		\$4.20

(a) For trips commencing between 7pm on evenings prior to all public holidays, through to 6am the following mornings and trips commencing on Christmas Day, Boxing Day, New Year's Day and from 6pm on New Year's Eve. (b) The 'late night fee' does not apply during times that the holiday rate applies.

<sup>35</sup> Essential Services Commission (2016), *Updating the Schedule of Maximum Taxi Fares Document Determination*, October, pp. 10 - 16.