

7 January 2022

Mr E. John Maitland
Maitland Lawyers
Suite 1005, 530 Little Collins Street
Melbourne VIC 3000
By email: admin@maitlandlawyers.com.au

Dear Mr Maitland

RE: TCQ WEEKLY NEWS ARTICLE ON 26 NOVEMBER 2021

We refer to your letter dated 9 December 2021. We note that while addressed to the Taxi Council of Queensland (TCQ), your letter was also provided openly to a large number of industry members as an intended secondary audience and so our reply is similarly supplied as an open letter¹.

We note that your letter:

1. Erroneously describes the plaintiffs as 957 "Queensland Licenced Taxi Operators". Unfortunately, this is not the first time that your clients have been misrepresented, particularly by failing to distinguish between *taxi operators* and *taxi service licence (TSL) holders*².
2. Asserts that 1,356 TSLs are represented in the legal action. We conclude therefore that you only act for a minority of Queensland TSL holders (i.e. a little over 1 in 3) or put another way, the holders of almost 2/3 of the total number of TSLs in Queensland have chosen not to entrust you to represent them (or to join your legal action)³.
3. Unbelievably claims that, "*the steering committee for the plaintiffs developed a draft compensation proposal which has been accepted by the plaintiffs as being workable and viable.*" Enquiries by TCQ with a sample of the 957 plaintiffs could not find even one person outside of the Steering Committee who knew about the compensation proposal to which you refer, yet alone voted for or expressed any acceptance of same as you claim.
4. Confirms that members of the plaintiff group share TCQ's concerns about the gross inadequacy of any Government "buy-back" of TSLs for circa \$50,000/licence. Contrary to the overall tenor of your letter, we conclude that TCQ's comments in the Weekly News on 26 November 2021 were accurate in describing any such prospect as "pitiful", a "sellout" of the industry, and unwanted by Queensland TSL holders.

¹ For the convenience of secondary audiences, your letter of 9 December 2021 and the Weekly News article of 26 November 2021 to which it refers are respectively enclosed as Attachment A and Attachment B.

² E.G. The original Statement of Claim filed in the Queensland Supreme Court on 6 March 2019 similarly misdescribed the plaintiffs. The error was subsequently corrected in the Amended Statement of Claim filed on 11 April 2019. The original Statement of Claim only listed 956 separate plaintiffs and not 957 as asserted in the letter. Lastly, the list of 956 plaintiffs in the original Statement of Claim appears to include some persons or entities more than once (i.e. 956 or 957 presumably presents as an inflated estimate of the actual number of unique plaintiffs).

³ NB There were 3,260 TSLs in Queensland in 2016 and all of them were disadvantaged by the Government's regulatory changes and so eligible to join the action.

5. Unrealistically requests TCQ publish a clarification of the position of the plaintiffs, including the leaders of the legal action, that they have never supported a “*buy-back for \$50,000 or any other pitiful amount*”. Unfortunately, TCQ must reject the request because –
- a. the purported position is contradicted by matters of fact known to TCQ, namely:
 - i. the “comprehensive survey” conducted by/for the action explicitly included question(s) relating to a Government buy-back of TSLs⁴;
 - ii. comments made to TCQ by your lobbyist in favour of the NSW Government’s prospective buy-back of TSLs and speculatively at \$50,000/licence;
 - iii. comments by individual members of the Steering Committee⁵ at various times indicating support for a TSL buy-back and the intentional misleading of TCQ in relation to the action’s position on a TSL buy-back;
 - iv. the lack of openness or transparency about the action’s “*draft compensation proposal*”, and especially how it would materially differ in effect from a TSL buy-back (if for example the Government was to unilaterally attach removal/diminution of key attributes of TSLs, or even extinguishment of TSLs, to its adoption of any such proposal); and
 - v. the sheer irrelevance of public starting positions in relation to TSL buy-backs and/or compensation based on the experience in other States⁶ – i.e. the critical matter for TCQ and our members, both inside and outside the plaintiff group, is what they ultimately receive, not any of the amounts touted by parties along the way for bargaining purposes.
 - b. the Weekly News article on 26 November 2021 did not mention the plaintiffs or the leaders of the legal action, and so could not possibly have misdescribed their position(s) and not in any way warranting further “clarification”.
 - c. your letter provides no details of any actual position held by the plaintiffs, other than purportedly supporting a secret “*draft compensation proposal*”, and so TCQ has no reliable or trustworthy basis upon which to issue the requested “clarification”.
6. Nonsensically asserts that, “*The success or failure of that mediation [scheduled for just 1 day on 15 February 2022] will depend largely upon whether or not the government can be confident that whatever proposals it may make will be embraced by the industry at large.*” As per point 2 above, the majority of TSLs in Queensland are not represented by you by their choice, and as per point 3 above, it is far from certain whether even most of the (residual) 957 plaintiff TSL holders support your secret draft proposal(s). It presents then as patently absurd for you to conjecture that the success or failure of the mediation could possibly depend on the Government somehow believing it is mediating with “the industry at large” or authorised representatives of same. Put bluntly, you and your team have no such authority and TCQ has no interest in supporting any pretence to the contrary.

⁴ Perhaps seeding the ground for entertainment of a TSL buy-back by asking the plaintiffs to nominate buy-back prices for their TSL, but in any event, providing no support for the proposition that buy-backs were of no interest and never on any agenda of parties involved in the legal action

⁵ NB Assumed by TCQ to comprise the persons otherwise known as the “Group of 10”.

⁶ E.G. NSW, VIC or WA but not NT.

7. Dubiously asserts that the TCQ's weekly news article of 26 November 2021 may be divisive for the industry and may undermine "all the good work" to date of the legal action. Clearly, the first part of the assertion is conflicted by the fact that the legal action has itself been divisive of the industry, and intentionally so, being established and conducted as a closed group exclusively representing a defined minority of Queensland's TSL holders – rather than as an open class action representing all Queensland TSL holders. Similarly, the second part of the assertion is conflicted by the sheer lack of any success in the legal action to date and so begs the question, *"What is the good work that has been achieved and that could somehow be at risk of supposedly being undermined?"*
8. Wrongly asserts that the TCQ's weekly news article of 26 November 2021 was an "erroneous" story. Clearly, the assertion is contradicted by the fact that the article presents as an accurate report of meetings held by TCQ with members wherein they expressed unequivocal opposition to a TSL buy-back at \$50,000/licence or any other pitiful amount.

In reply to your letter then, we advise that TCQ intends to continue being the voice for the whole Queensland taxi industry, and, standing up strongly for TSL holders against threats to their businesses and/or their well-being. In the present matter, this includes continuing to warn TSL members about foreseeable dangers and risks associated with pursuing TSL buy-backs and/or compensation packages that present as ill-conceived, ill-timed and/or reckless. It is what TCQ has been doing for over 50 years. By way of contrast, we consider that you and your Steering Committee have been appointed only by a minority of TSL holders and only to represent them in a legal action against the Queensland Government which appears to be finally drawing to conclusion.

In our view, recent attempts by some in your camp to re-image the legal action as representing all or most TSL holders is simply manufactured fiction. Similarly, TCQ considers the recent deployment of the legal action's funds on political lobbying activities and your letter's discussion of wanting to influence the development of future Government policy for industry (at large) present as matters of concern. The holders of the majority of Queensland TSLs chose not to be represented by you and they were excluded (by you) from every part of the legal action. In TCQ's view, you and your Steering Committee must respect the decisions of TSL holders who chose not to be represented by you and also respect that they are in the majority.

Lastly, and notwithstanding the matters of disagreement noted above, we would like to take the opportunity to wish that 2022 may be a kinder year for you than 2021.

Yours faithfully



Blair Davies
CEO
Taxi Council of Queensland

ATTACHMENT "A"



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9 December 2021

The Taxi Council of Queensland
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By Email: info@tcq.org.au

Dear Sirs

**Queensland Licenced Taxi Operators v The State of Queensland
Supreme Court of Queensland proceeding No. 2381/19
Mediation 15 February 2022**

We act for 957 Queensland Licenced Taxi Operators, representing 1356 taxi licences in the above proceeding, many of whom are also current members of the TCQ. The claim was brought in the Supreme Court of Queensland at Brisbane against the State of Queensland seeking damages arising from the devaluation of their taxi licences resulting from the introduction of "ride sharing".

The claim as amended is listed for a Court-ordered mediation in Brisbane on 15 February 2022.

In preparation for the mediation, the plaintiffs conducted a comprehensive survey of the licence holders comprising the group of plaintiffs to determine what terms of settlement would be acceptable. Subsequent to the survey, the steering committee for the plaintiffs developed a draft compensation proposal which has been accepted by the plaintiffs as being workable and viable.

Details of the proposed compensation proposal have been kept confidential at this time, save for private discussions between the steering committee and select members of parliament to gauge the response from those MPs. The response from all MPs thus far has been positive.

It has been brought to our attention that there is talk of a reported "buy-back", of licenses by the Queensland Government for \$50,000 which has been reported in the TCQ Weekly recently. We have received numerous calls from the plaintiffs in our group who have expressed their concern with this.

We write to advise in very clear terms that neither the plaintiffs in the above proceeding nor their legal representatives have ever stated, touted or suggested that a "buy-back" of the taxi licenses for \$50,000 was considered to be acceptable at any time. In short, it was never said.

We request that you please clarify the position of the plaintiffs and their legal advisors in your next publication of the TCQ News that we do not support and have never supported any suggested "buy-back" for \$50,000 or any other "pitiful amount" as described in the TCQ publication dated 26 November 2021.

ATTACHMENT "A"

The plaintiffs in this proceeding represent a significant percentage of the overall number of licence holders in Queensland. They have been instrumental in pursuing these proceedings to the point where we now have a mediation with government. That provides us with an opportunity to influence government policy.

The success or failure of that mediation will depend to a large degree upon whether or not the government can be confident that whatever proposals it may make will be embraced by the industry at large. To that end, any ideas are welcomed.

Erroneous stories such as those circulated by TCQ however, have the unfortunate consequence of dividing the industry and undermining all of the good work that the participants in this proceeding have achieved to date.

We sincerely hope that this will not be repeated.

We thank you for your assistance.

Yours faithfully,
MAITLAND LAWYERS



E. JOHN MAITLAND

ATTACHMENT "B"

26/11/21



weekly NEWS

keep up-to-date with the latest industry news

Mission Impossible? - not for TCQ

The Taxi Council of Queensland (TCQ) has been meeting with members from Gympie all the way up the coast to Cairns over recent weeks and one message consistently came through loud and clear from taxi licence holders. They don't want a buyback of their licences by the Government for \$50,000 or any other pitiful amount. And why would they when a licence (+ vehicle) in Mackay recently sold for \$250,000 and the going lease rate for a licence in Townsville is \$2,000/month (\$24,000/year)? Members told TCQ CEO, Blair Davies, that they expected the Council as their peak representative body to stand up strongly against wannabe groups pushing particular interests that sell out rather than promote the industry as a whole. TCQ accepts this mission ... and it's not impossible.

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