

QLD CTP INDUSTRY STAKEHOLDERS SUBMISSION

Submission to the Motor Accident Insurance
Commission re: current factors and trends
influencing the cost of insurance under the
statutory insurance scheme

[November 2020]

Who we are

The Australian Lawyers Alliance (ALA) is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The ALA is represented in every state and territory in Australia. More information about us is available on our website.¹

The ALA office is located on the land of the Gadigal of the Eora Nation.

Our submission

1. The ALA welcomes the opportunity to provide this submission to the Queensland Motor Accident Insurance Commission's (MAIC) ongoing series of consultations with stakeholders on current factors and trends influencing the cost of Compulsory Third Party ("CTP") insurance.
2. We note that the last comprehensive submission was made in September 2020. Following that submission, we do not propose to make extensive further comment – the ALA continues to believe that Queensland's CTP scheme is stable, affordable, well-run and possesses a design which treats people with respect by maintaining good access to common law benefits.
3. Thus, we principally rely on our submission from September.
4. However, we make the following supplementary points:
 - a. The Queensland election was held on 31 October, and the results of that election are now known. It is critical to note that unequivocal written commitments to the present architecture of the CTP scheme were received, before the election, from the LNP, Labor and the Greens. In our submission, those commitments were a sensible, multi-party reflection of the matters we and other stakeholders have consistently advanced: a well-designed, stable

¹ www.lawyersalliance.com.au.

and affordable scheme which stands in contrast to several interstate schemes.

- b.** The MAIC 2019/20 Annual Report was released in October 2020. The report supports the views expressed earlier and above about scheme design and governance. One matter of major significance is the circa 35% reduction in claim numbers compared to the preceding financial year. In our submission, Covid-related factors are likely to have only played a small part in that major reduction, as Covid was only in play from around March 2020. In our view, the reduction is more likely to have been primarily due to claims farming legislation, something the ALA has long supported. Again, commendation is due to the regulator and government for getting ahead of the scourge of claims farming without removing vital and long-held legal rights. ALA trust there will be ongoing monitoring, investigations and strong enforcement, as the anecdotal evidence is that whilst such activity has abated, there are still some claims farming activities in the Queensland market.
- c.** The duration of claims is increasing due to poor insurer claims management practices. Substantial issues which have arisen in claims management include piecemeal requests for information, delayed requests for medico-legal assessments, and delay in agreeing to compulsory conference dates. Most egregious conduct is the tendency of two particular insurers to make unrealistically low offers of settlement at a compulsory conference and agreeing to mediations with no intention of moving from a mandatory final offer made at a compulsory conference. Such behaviour delays claims, increases costs and prejudices the interests of injured people.
- d.** MAIC had previously investigated data from insurers that suggested psychological injury claims were increasing. The ALA notes that insurers changed the coding of claims involving a psychological injury component and their data reporting. Therefore, the ALA believes that there is no significant change in the rate of psychological injury claims.
- e.** The ALA has, over numerous submissions in this series, commented on the substantial prejudice suffered by injured people as a result of the indexation of the costs thresholds. This is now a serious which needs immediate attention, especially in light of the strong performance of the Queensland CTP scheme. The ALA believes stakeholder engagement, via discussion, should be held as a matter of importance.

Should you have any questions about any of the issues identified above, please do not hesitate to make contact.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'G. Spinda', written on a light-colored background.

Greg Spinda
Queensland President
Australian Lawyers Alliance