

Sunset reviews of the *Civil Liability Regulation 2014* and the *Personal Injuries Proceedings Regulation 2014*, and review of Notice of Claim forms under the *Personal Injuries Proceedings Act 2002*

Submission to the Department of Justice,
Queensland Government

6 May 2025

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Who we are

The **Australian Lawyers Alliance (ALA)** is a national association of lawyers, academics and other professionals dedicated to protecting and promoting access to justice and equality before the law for all individuals.

Our members and staff advocate for reforms to legislation, regulations and statutory schemes to achieve fair outcomes for those who have been injured, abused or discriminated against, as well as for those seeking to appeal administrative decisions.

The ALA is represented in every state and territory in Australia. We estimate that our 1,500 members represent up to 200,000 people each year across Australia.

Our head office is located on the land of the Gadigal people of the Eora Nation. As a national organisation, the ALA acknowledges the Traditional Owners and Custodians of the lands on which our members and staff work as the First Peoples of this country.

More information about the ALA is available on our website.¹

¹ www.lawyersalliance.com.au.

Introduction

1. The ALA welcomes the invitation from Queensland Attorney-General, Minister for Justice and Minister for Integrity the Hon. Deb Frecklington MP to have input to the Department of Justice ('Department') on the:
 - a. sunset review of the *Civil Liability Regulation 2014* ('CL Regulation');
 - b. sunset review of the *Personal Injuries Proceedings Regulation 2014* ('PIP Regulation');
and
 - c. review of Notice of Claim (NoC) forms under the *Personal Injuries Proceedings Act 2002* (Qld) ('PIP Act').
2. While the reviews of these regulations are welcomed by the ALA, it is important to not lose sight of why these regulations exist.
3. In 2002, Federal, State and Territory Governments commissioned the Negligence Review Panel, chaired by the Hon Justice David Ipp AO KC, to recommend changes to personal injury laws.² The stated aim was to reduce the number of litigated claims and the size of compensation payouts in response to the so-called "insurance crisis" of 1999–2002, during which public liability and professional indemnity insurance costs rose sharply.
4. There remains significant debate about the true cause of this crisis. While the insurance industry attributed it to an "explosion" in litigation and "overly generous" courts, many commentators pointed instead to the 1999 collapse of HIH Insurance, a tightening global insurance market, rising reinsurance costs, and unrealistically low premiums in an overly competitive domestic market.
5. The resulting reforms created a fragmented and inconsistent legal framework across jurisdictions and significantly weakened the common law rights of people injured due to others' negligence. These changes also led to significant profits for insurers, following a dramatic reduction in compensable claims in areas such as public liability, motor accidents, and workers' compensation.

² See: Law Council of Australia, *Tort Law Reform* (Web Page, 22 June 2023) <<https://lawcouncil.au/policy-agenda/access-to-justice/tort-law-reform>>.

6. Over the last two decades these reforms have from time to time been criticised by judges, the legal profession, consumer advocates, unions, and disability rights organisations. Notably, Justice Ipp himself later admitted the reforms went too far, stating in a 2007 speech:³ *“Certain of the statutory barriers that plaintiffs now face are inordinately high.”*
7. The ALA remains committed to improving outcomes for injured people. We advocate for fairer access to common law rights and a more equitable and consistent approach to personal injury laws across Australia. While the current framework sees place for the regulations, the ALA encourages lawmakers to reflect on the underlying rationale for the development of both the *CL Regulation* and the *PIP Regulation*.
8. The ALA would welcome further discussion on the originating premise, should that be helpful to the Department.

Sunset review of the *Civil Liability Regulation 2014*

9. This section of the ALA’s submission will address the questions raised in the Department’s Consultation Paper for the sunset review of the *CL Regulation*.

Question 1: Should the entities prescribed in schedules 1 and 2 continue to be protected from civil liability?

10. Yes, the ALA supports the entities prescribed in schedules 1 and 2 continuing to be protected from civil liability under the *CL Regulation*.
11. We have not identified any changes required in this respect.

³ Justice David Ipp AO, ‘Themes In The Law Of Torts’ (Speech, Judges’ Review Conference 2007: Past, Present and Future Perspectives on the Law, 16 March 2007)
<https://supremecourt.nsw.gov.au/documents/Publications/Speeches/Pre-2015-Speeches/Assorted---A-to-K/ipp_speeches.pdf>.

Question 2: Are there additional entities not currently prescribed that should be protected (if yes, please include information about the entity and reason why they should be prescribed)?

12. The ALA recommends adding to the entities: LifeFlight Australia Limited ACN 010 316 462 ('LifeFlight'). LifeFlight provides critical aeromedical services in life-threatening situations, much the same as CareFlight, which is a prescribed entity already.
13. The ALA would also like the opportunity to provide comment in relation to any other entity that may be recommended to be included.

Question 3: Are the matters currently prescribed in schedule 3 for assessing an ISV still appropriate? Should any changes be made?

14. The ALA recommends the removal of subsection 4(3)(b) in Division 1 of this schedule.
15. In particular, the use of the word "rarely" in subsection 4(3)(b) diminishes the importance of an uplift for those severely injured and with multiple injuries. For example, someone with a life-changing physical injury will often also suffer substantial psychological injury. The combination of such injuries can create a destructive loop, which a Court ought to be given flexibility to consider in the individual circumstances of each case.
16. The ALA submits that, otherwise, the Courts have sufficient guidance within the remainder of the schedule regarding how to deal with multiple injuries. For example, section 1 provides overarching objectives to ensure consistency across assessments of general damages.
17. Decisions of the Courts have been consistent, balanced and fair in determining the considerations relevant to any uplift for multiple injuries, and prescriptive regulation in this regard is unnecessary.
18. Further, the simplicity of Schedule 3 otherwise ought to be maintained. The provisions allow sufficient guidance to the Courts (and to parties in pre-court processes), as well as judicial discretion exercised considering the individual circumstances of injured people and the objective of consistent and fair assessments.

Question 4: Should AMA 6 replace AMA 5 as the preferred guide to the evaluation of permanent impairment?

19. The question as to the suitability of either the AMA 5 or AMA 6 is complex and requires multi-disciplinary consideration. It should be noted that the AMA 5th edition is some 618 pages and the DSM 5 is some 1,050 pages.
20. The ALA supports a review and consideration of current best practice in assessment of impairment, and whether Queensland ought to adopt any of the newer assessment tools. However, it is not appropriate for such matters to be considered in written submissions without a multi-disciplinary stakeholder forum.
21. It would be the ALA's view that a stakeholder forum should include: key persons from medical bodies, such as the Australian Medical Association Queensland, Royal Australasian College of Physicians, Australasian College of Independent Medical Evaluators; the Queensland Law Society; the ALA; and the Insurance Council of Australia. The purpose would not be to debate detail in the AMA guides, rather as a forum for information exchange, so key stakeholders have a more holistic appreciation and understanding of the AMA 5 and AMA 6.
22. Although, it is the ALA's understanding that the AMA 5 is widely understood by medical assessors as promoting uniformity and reducing the risk of interpretative errors that can arise with the more complex, diagnosis-based structure of AMA 6.

Question 5: Should DSM 5 replace DSM 4 as the preferred manual of mental disorders?

23. We highlight our above comments calling first for a stakeholder forum before fulsome consideration can be given to any changes to the diagnostic tools to be used in assessments of permanent impairment.
24. While both DSM 4 and DSM 5 are widely used tools for diagnosing mental health conditions, neither is specifically designed for medico-legal purposes. Both manuals make it clear that they are not intended for use in legal contexts, and this limits their utility when it comes to assessing impairment or disability for claimants.⁴

⁴ See DSM-5-TR, page 29.

Question 6: Are the types of injuries, relevant provisions for the injury, and ranges of ISVs prescribed in schedule 4 still appropriate? Should any changes be made?

25. The ALA considers that any consideration to ISVs be thoroughly discussed with both the legal and medical professions.
26. It would be appropriate that a roundtable discussion was held, if this discussion was to advance. The ALA would welcome an invitation to participate in such discussion.

Question 7: Are the matters relevant to a PIRS assessment by a medical expert set out in schedule 5 still appropriate? Should any changes be made?

and

Question 8: Is the PIRS prescribed in schedule 6 still appropriate? Should any changes be made?

27. The ALA is of the view that the psychiatric impairment rating scale (PIRS) rating is a fundamentally limited tool, primarily assessing disability rather than impairment. This distinction is critical, as the categorical and rigid structure of PIRS fails to capture the nuanced, clinical realities of psychiatric impairment, particularly in complex or non-urban contexts.
28. Clinically, there is concern that the PIRS rating lacks the flexibility required to adequately assess individuals whose conditions do not conform to narrow diagnostic or functional categories. Legally, the ALA submits that this raises issues of fairness and equity, particularly where the assessment directly determines entitlements.
29. As raised above the ALA considers that any consideration to ISVs be thoroughly discussed with both the legal and medical professions. It would be appropriate that a roundtable discussion was held, if this discussion was to advance. The ALA would welcome an invitation to participate in such discussion.

Sunset review of the *Personal Injuries Proceedings Regulation 2014* and review of Notice of Claim forms under the *Personal Injuries Proceedings Act 2002* (Qld)

30. This section of the ALA's submission will address the questions raised in the Department's Consultation Paper for the sunset review of the *PIP Regulation* and for the review of NoC forms under the *PIP Act*.

Question 1: Are the particulars required about an injured person appropriate? Please provide any suggestions (and the reasons for them) for prescribing additional, or amending or removing existing, particulars about the injured person.

31. The ALA considers that most of the particulars currently required by regulation are appropriate. However, we raise the following concerns:
- a. Clause (d): This provision limits gender identification to "male" and "female". We recommend that this be amended to reflect a broader and more inclusive understanding of gender, such as allowing self-described gender identity or including a non-binary or "other" option. Alternatively, if gender is not materially relevant to the nature of the claim, we suggest the requirement be removed altogether. Maintaining inclusive practices is important to ensure that all claimants feel respected and acknowledged in the legal process.
 - b. Clause (f): This provision requires a claimant to disclose any consumption of alcohol or drugs (including prescribed medications) in the 12 hours prior to the incident. While this may be relevant in some personal injury contexts (for example, motor accidents), the ALA submits that it is not appropriate or relevant in abuse law matters or medical negligence claims, where the injured person's substance use is unlikely to be causally related to the injury. Including this requirement in all cases may lead to unnecessary intrusions into personal health information and deter some claimants from coming forward.

Question 2: Is information about an injured person’s gender and/or sex necessary for the purposes of a claim?

32. In the ALA’s view, information about an injured person’s gender or sex is not necessary at the initial stages of a claim. Where this information is relevant – for example, in relation to life expectancy – it will be appropriately addressed through medical evidence and expert reports during the course of the proceedings.
33. Mandating the disclosure of gender or sex as a required particular may inadvertently exclude or marginalise individuals who do not identify within binary categories, and may not serve a meaningful purpose in the assessment or progression of most personal injury claims.
34. The ALA, therefore, recommends that this requirement either be removed or made optional, unless a clear and specific purpose for its inclusion can be identified.

Question 3: Are the particulars about the incident alleged to have caused the personal injury appropriate? Please provide any suggestions (and the reasons for them) for prescribing additional, or amending or removing existing, particulars about the alleged incident.

35. We consider that, while many of the prescribed particulars are appropriate in standard personal injury claims, several provisions are either overly broad or unsuitable for certain categories of claims, particularly in institutional abuse and medical negligence matters. Specifically:
 - a. Clause (c): This clause requires the inclusion of a diagram of the incident, which may be unhelpful or simply not possible in many cases. In institutional abuse or medical contexts, the use of a diagram is not only impractical, but may also fail to convey the nuanced or non-physical nature of the alleged harm. We recommend that this requirement be reworded to make it optional and clearly tailored to matters where a diagram would genuinely assist in understanding the incident.
 - b. Clause (f): This clause requests the names of attending ambulance officers. This information is often unknown or unknowable to the claimant. Its inclusion places an unnecessary burden on victims and risks delaying claims. In most cases, such information will emerge, where relevant, through disclosure or medical records. We

recommend this clause be removed or amended to clarify that it is only required if known and applicable.

- c. Clause (i): This clause refers to details of protective devices and whether they are used. While this information is appropriate for some claims, it is entirely irrelevant in abuse claims and many medical negligence matters. We suggest that it be removed, or clearly limited to claims involving traffic incidents.

- 36. In summary, the ALA recommends revising the incident particulars to better reflect the diversity of personal injury claim types, and to avoid placing unrealistic or unnecessary evidentiary burdens on claimants at the outset.

Question 4: Are the particulars about the nature and treatment of the injured person’s personal injury appropriate? Please provide any suggestions (and the reasons for them) for prescribing additional, or amending or removing existing, particulars about the nature and treatment of the injured person’s personal injury.

- 37. The ALA considers that the particulars required under regulation 4(a)–(d) and (f) are appropriate and sufficient for the purpose of outlining the nature and treatment of the injured person’s personal injury at the NoC stage. These provisions provide a clear framework that supports early disclosure and assists in the proper assessment and resolution of claims.
- 38. However, we submit that clause (e) should be removed in its entirety. The requirement to provide details of any disability suffered by the injured person – particularly in terms of its relevance to the assessment of the injury or its duration – is, in our view, not appropriate at this early stage of the claim process.
- 39. Disability, and its relevance to the injury, are matters that fall within the scope of medical opinion. Requiring a claimant to provide this information without the benefit of medical assessment or diagnosis introduces the risk of inaccurate or speculative information being included in the claim. It may also place an unreasonable expectation on claimants to make complex judgments that they are not qualified to make.
- 40. For these reasons, we recommend that clause (e) be removed from the regulation to ensure that only factual, claimant-sourced information is required at this stage, with medical matters left to appropriately qualified professionals to assess and report on as the claim progresses.

Question 5: Are the particulars about economic loss appropriate? Please provide any suggestions (and the reasons for them) for prescribing additional, or amending or removing existing, particulars about economic loss.

41. The ALA is of the view that the extent of the particulars currently required under this regulation in relation to economic loss is premature and will lead to duplication of work and cost if it is required to be provided in the Part 2 NoC.
42. While we recognise the importance of understanding the basis of a claimant's economic loss, much of the information required under this section is better suited to later stages of the claims process specifically, when the claimant's injuries are stable and stationary or when a Schedule of Damages can be completed.
43. When the Part 2 NoC becomes due, a claimant may not yet have access to all the detailed records or documentation required to respond comprehensively to matters, such as:
 - Employment and income history across multiple years;
 - Claims and payments made for previous or concurrent disabilities or injuries;
 - Accountant details and records; or
 - Intended future career or income changes.
44. Providing such extensive financial detail at this point risks creating an undue burden on claimants, particularly those who are self-represented or still recovering from injury. Additionally, without the benefit of formal disclosure and supporting records, the accuracy or completeness of this information may be limited.
45. We, therefore, suggest that the requirement to provide these particulars should be significantly reduced to only the most essential and readily available information (e.g., current occupation, basic income details).
46. This approach would maintain the integrity of the claims process while ensuring that information provided is accurate, complete, and not unduly burdensome to obtain at an early stage.

Question 6: Are the particulars of a general nature appropriate? Please provide any suggestions (and the reasons for them) for prescribing additional, or amending or removing existing, particulars of a general nature.

47. The ALA considers that some of the particulars of a general nature currently required under regulation 6 are appropriate; however, others are either duplicative, premature, or require information that should more properly be the subject of medical opinion or formal disclosure. We outline our position as follows:

a. Clause (a) – Date of First Medical Examination

We support the inclusion of this item, as it provides a factual and accessible data point relevant to the claim. It assists in understanding the timeline of the injured person’s response to the incident and is, generally, information readily available to the claimant.

b. Clause (b) – Date of First Consultation with a Lawyer

We submit that the important date to be captured is the date the claimant first instructs a lawyer, as this is important to determine whether a reasonable excuse for delay is required.

c. Clause (c) – Name and Contact of Any Party Notified of the Claim

We consider that this item is appropriate, as it helps identify other potentially relevant parties early in the claims process and assists with managing multiple notices or overlapping liability considerations.

d. Clause (d) – Details of Pre-existing Conditions

We consider this item problematic in both form and substance. The current phrasing in the Part 1 Notice of Claim is as follows:

“has the injured person suffered any personal injuries, illnesses or disabilities either before or since the incident in relation to this or any other incident that may affect the extent of the disabilities to which the claim relates or which may affect the amount of damages in any way?”

This phrasing is confusing, overly broad and appears to require the claimant to make a legal and/or medical assessment as to the relevance and impact of prior conditions.

This problem is compounded by the use of the word “full” at the beginning of the regulation.

This is not something the claimant is typically in a position to determine at this stage. It would be more appropriate to defer this to the Part 2 NoC, where medical records can be obtained and reviewed, and the relevance of any pre-existing conditions can be properly addressed with the benefit of medical input.

Further, we submit that the wording in the approved form goes beyond what is allowed by the current regulations and the form ought to be amended to reflect the wording in the regulation with one amendment being the removal of the word “full” from the start.

48. The approach recommended by the ALA above maintains the utility of general particulars while ensuring that claimants are not asked to provide information that they are not yet in a position to reliably give.

Question 7: Are the particulars required for dependency claims appropriate? Please provide any suggestions (and the reasons for them) for prescribing additional, or amending or removing existing, particulars for dependency claims.

49. The ALA would support creating a new form for dependency claims.

Question 8: Is there an ongoing need for a separate, approved NoC form limited to dependency claims?

50. Yes, we consider there is ongoing utility in maintaining a separate, approved NoC form for dependency claims. Dependency claims are fundamentally different from personal injury claims and require distinct information, such as details of the deceased, the nature of the dependency, and the relationship between the claimant and the deceased.
51. A tailored form ensures that the information relevant to these unique aspects is appropriately captured, promotes clarity for claimants and respondents, and supports the efficient assessment and resolution of these claims.

Question 10: Is there an ongoing need for a separate, approved NoC form limited to dependency claims?

- 52. Yes, we believe there is an ongoing need for a separate, approved NoC form specifically for health care (medical negligence) claims.
- 53. A dedicated form ensures that the unique features of medical negligence claims are appropriately addressed from the outset, promoting clarity, consistency, and efficiency in the handling of these claims for all parties involved.

Question 11: Do you support the development of a specific approved NoC form for claims relating to historical child abuse? If so, please provide suggestions regarding the particulars that the *PIP Regulation* should prescribe for inclusion in a separate specific form.

- 54. Yes, we strongly support the development of a separate, specific NoC form for historical child abuse claims.
- 55. These claims are qualitatively different from other personal injury claims and require a fundamentally different approach—not only in terms of the information requested in the NoC, but across the entire claims process. The current NoC form and process under the *PIP Act* framework are not suitable or fit-for-purpose when applied to historical abuse matters.
- 56. **The key issues on this matter are as follows:**
 - a. The existing NoC form is largely irrelevant in the context of historical abuse. It is designed for recent, physical injury events where treatment, employment, and financial impact are immediately assessable.
 - b. Historical abuse claims often involve long-term psychological harm, delayed disclosure, and complex trauma histories, which cannot be easily or appropriately captured using the current format.
 - c. Requiring victim survivors to complete a detailed and standardised claim form at an early stage can be re-traumatising, inappropriate, and may impede access to justice.
- 57. **As such, the ALA recommends that the process be more closely aligned with the approach used in medical negligence claims, where the sequence is:**

- a. Initial short-form notice to signal the intention to bring a claim. This can be achieved by removing irrelevant questions from the Part 1 NoC and moving some other questions to the Part 2 NoC but also removing the irrelevant questions from the Part 2 NoC.
 - b. Early disclosure from relevant institutions or respondents, enabling the claimant to understand the available records and context.
58. This structure better reflects the realities of historical abuse claims, where claimants often do not have access to the necessary documentation or support to provide detailed particulars at the outset.

Question 12: NoC forms currently do not provide for a claimant or the claimant’s lawyer to ask the proposed respondent for permission to start a proceeding under section 44(2)(b) of the *PIP Act*. Should NoC forms be amended to provide for this?

59. The ALA submits that the NoC forms should be made consistent with the *Workers’ Compensation and Rehabilitation Act 2003* (Qld) and the associated regulations.
60. Further, the NoC 1 could be amended to include a similar section like the following in the NoCD (replicated overleaf), which would make it clear that the NoC 1 is a sworn document and that separate correspondence would then not be required for starting proceedings.

Question 13: Is it necessary for the *PIP Regulation* to include detailed provisions about the electronic provision of NoC forms under section 44 of the *PIP Act*? Should any electronic service provisions apply generally to the giving of NoC forms to respondents, or be limited to apply only in relation to section 44 of the *PIP Act*?

61. Currently, the *PIP Act* requires the NoC to be given, which is a broader term than service of court proceedings.
62. The ALA contends that it should be made abundantly clear that this can be done in a variety of ways, but electronically in particular given the latency of traditional mail now.
63. As such, the ALA submits that the *PIP Act* and the *PIP Regulation* should be amended to make it abundantly clear that giving of a NoC is effective by email or by post to either the registered office or to the principal place of business, or in person to the respondent or to the business. This should not be limited to urgent matters under section 44 of the *PIP Act*.
64. With emails, if the respondent is a business, the NoC should be sent to any email address that is publicly available for the business.
65. If the respondent is a natural person, the NoC should be sent to the person.

Question 14: Is an approved form under section 44(6) of the *PIP Act* necessary or is it appropriate to continue to allow parties to a claim to reach agreement via exchange of correspondence?

66. We consider that there would be value in developing an approved form under section 44(6) of the *PIP Act*, rather than continuing to rely solely on parties reaching agreement via exchange of correspondence.
67. While the current practice allows for flexibility, in reality, it can lead to significant inconsistency and imbalance, particularly where respondents attempt to use the section 44 agreement as a bargaining tool to introduce unfavourable or additional terms. This can place undue pressure on claimants, delay resolution, and result in increased work, negotiation, and stress for all parties involved—especially where legal representatives must repeatedly push back on terms that go beyond what is appropriate.

68. An approved form would create a standardised set of fair and neutral terms that neither party could deviate from, streamlining the process and removing the potential for the section 44 agreement to be used tactically. It would also improve transparency, efficiency, and consistency across claims.
69. If such a form were to be developed, it would be essential to ensure that it:
- a. contains no prejudicial or one-sided provisions;
 - b. reflects only the intent and effect of section 44, without expanding obligations beyond what the *PIP Act* requires; and
 - c. is clear, accessible, and easy to implement for both claimants and respondents.

Question 15: Please provide any general feedback or suggestions on options to improve accessibility and readability and generally modernise current NoC forms

70. We believe there is significant scope to improve the accessibility, readability, and overall usability of the current NoC forms under the *PIP Act* framework.
71. **Tailored and Responsive Design:**
- a. The current “one-size-fits-all” approach does not account for the variety and complexity of different claim types under the *PIP Act*. We recommend implementing a decision-tree style interface, where the form dynamically adjusts based on the nature of the claim — for example:
 - Public liability claims (e.g., dog bite vs. slip and fall)
 - Medical negligence
 - Nervous shock claims
 - Historical child abuse
 - b. This would allow claimants to provide only relevant information and avoid being asked questions that are inappropriate or insensitive.

72. Trauma-Informed Language and Structure:

- a. From a child abuse or nervous shock claim perspective, the current forms are not fit for purpose. For example, asking survivors of abuse whether they were “wearing protective gear at the time” is not only irrelevant but may be perceived as insulting or retraumatising.
- b. A trauma-informed approach must be embedded into the design and wording of the forms to ensure that the process is respectful, supportive and victim survivor-focused.

73. The ALA, therefore, makes the following recommendations:

- a. Transition to electronic and interactive forms with online submission capability;
- b. Incorporate adaptive questions based on claim type through a decision-tree or branching format;
- c. Review and revise all content to ensure language is appropriate, respectful, and trauma-informed, particularly for sensitive claims such as child abuse and nervous shock; and
- d. Look to best-practice models from other compensation schemes (e.g., CTP, MAIA) for form design and functionality.

Question 16: Section 9(1B) of the *PIP Act* provides that the approved form may provide that some or all information included in the notice be verified by statutory declaration. Is it necessary for certain information in the form to be verified by statutory declaration?

74. The ALA does not support the requirement for information in the NoC to be verified by statutory declaration. We note that the NoC 1 is already declared under the *Oaths Act 1867* (Qld), which already provides an assessment for its effectiveness, validity and evidentiary value.

75. Requiring a statutory declaration adds an unnecessary procedural burden – particularly for self-represented claimants or those in vulnerable circumstances – and can create delays and additional costs. In practice, it offers limited additional value in terms of verifying the accuracy

of the information provided, especially given that the claims process already includes mechanisms for addressing false or misleading information.

76. The focus should be on ensuring that claimants can efficiently and accessibly complete and submit the NoC, without needing to navigate the formalities of a statutory declaration. This is especially relevant in the context of moves toward digitising the NoC process, where a statutory declaration requirement may become a barrier to electronic submission.

77. **For these reasons, we recommend that statutory declaration requirements be removed entirely from the approved form under section 9(1B).**

Question 17: Are the records and other information relevant to a claim that a person or their insurer is authorised to access appropriate? Please provide any suggestions (and the reasons for them) for prescribing additional, or amending or removing existing, records or other information.

78. The ALA submits that the *PIP Act* and *PIP Regulation* ought to be amended to ensure that only the authority is provided to third parties from whom information or documentation is requested.

79. The authority should be more clearly defined, setting out the specific categories of information that may be accessed (e.g. relevant medical records, limited employment details).

Question 18: Are the documents required to accompany a notice of claim appropriate? Please provide any suggestions (and the reasons for them) for prescribing additional, or amending or removing existing, documents required to accompany a notice of claim. Please also provide any suggestions (and the reasons for them) for requiring a claimant to provide documents with part 1 and/or part 2 of the notice of claim.

80. It is often not reasonable or feasible for claimants to provide documents within the tight timeframe for submitting a Part 1 NoC (generally within one month of incident). Many claimants will not yet have access to key records – such as medical reports or employment information – at this early stage, particularly if they are unrepresented or still in recovery.

81. The compulsory disclosure provisions already ensure that relevant documents are exchanged in due course, at a time when parties are better placed to understand the scope of the claim and to gather supporting materials. Requiring documents to be attached earlier:

- a. creates unnecessary procedural pressure;
- b. risks incomplete or inaccurate disclosure; and
- c. adds to the administrative burden and cost for claimants, without improving the efficiency or fairness of the process.

82. **As such, the ALA makes the following recommendations:**

- a. Remove the requirement to provide documents with Part 1 of the NoC (that is, making it optional to attach documents to the form), as proper disclosure can be made throughout the process;
- b. Preserve document exchange through the existing compulsory disclosure process, which is more appropriate in both timing and scope;
- c. Consider whether any essential documents (e.g. identity verification or representative authority) could be addressed through simple declarations or standard forms, rather than attachments; and
- d. A more pragmatic, streamlined approach to documentation would ensure fairness, reduce pressure on claimants, and maintain the effectiveness of the existing disclosure regime.

Question 19: Please provide any feedback on the efficacy of the ‘claimant’s certificate’ in addressing claim farming issues in Queensland.

83. The ALA supports the use of a Law Practice Certificate at the commencement of a claim as an appropriate and effective tool in addressing claim farming. It serves its purpose in confirming that the claimant has not been unlawfully solicited and that the claim has been initiated through proper legal channels.

84. The initial certificate sufficiently addresses the concerns around claim farming. Requiring a further certificate adds unnecessary administrative burden without any meaningful increase in compliance or protection against unlawful practices.

85. The ALA, therefore, makes the following recommendations:

- a. Retain the requirement for a Law Practice Certificate at the commencement of a claim.
- b. Remove the requirement for a further certificate at the conclusion of a claim, as it offers little additional value and imposes an unreasonable procedural obligation.

Question 20: Are the timeframes prescribed by section 6 of the *PIP Regulation* appropriate?

86. We consider that the timeframe prescribed in section 6(a) – being one month after the respondent receives Part 1 of the NoC – is appropriate and provides a reasonable period for respondents to assess the claim and respond.

87. However, we have concerns with the timeframe in section 6(b)—which allows only seven days for a person to respond after identifying another potential respondent. This period is too short and does not provide a realistic or fair opportunity for the person to consider their position, seek advice, and take any necessary steps in response.

88. We recommend that section 6(b) be amended to provide a period of one month, consistent with section 6(a). This would ensure consistency across the regulation and provide sufficient time for meaningful engagement with the claim, especially in circumstances where new parties are being identified and brought into the process.

89. The ALA, therefore, makes the following recommendations:

- a. Retain the one-month timeframe under section 6(a); and
- b. Amend section 6(b) to provide a one-month timeframe, replacing the current seven-day period.

90. This change would promote procedural fairness, reduce unnecessary pressure on parties, and improve the practical workability of the claims process.

Question 21: Are the timeframes prescribed by section 7 of the *PIP Regulation* appropriate?

91. We consider the timeframes prescribed under section 7(1) of the *PIP Regulation* to be appropriate and sufficient. These timeframes provide claimants with a reasonable opportunity to add other respondents in light of new information received during the claim process.
92. To ensure fairness and consistency with the other timeframes in section 7(1), we recommend that the timeframe in section 7(2) also be extended to one month. This would align all relevant response periods and reduce procedural pressure on claimants.
93. **As such, the ALA makes the following recommendations:**
- a. Retain the existing timeframes under section 7(1); and
 - b. Amend the seven-day timeframe under section 7(2) to one month, consistent with the rest of the regulation.
94. This change would support a more practical and equitable approach to progressing claims involving multiple respondents.

Question 22: Are the timeframes prescribed by section 8 of the *PIP Regulation* appropriate?

95. We consider that the current timeframes prescribed in section 8 of the *PIP Regulation* are too short in some instances and should be amended for consistency and practicality.
96. While the three-month period under section 8(1)(a) is appropriate, the ALA would support review of the seven-day timeframes in both section 8(1)(b) and section 8(2). A one-month timeframe after receiving new information would likely be more appropriate and consistent for both claimants and respondents.

Question 23: Is the information required to be included in a contributor's response appropriate?

97. Yes, we are satisfied that the information currently required to be included in a contributor's response is appropriate. No changes are recommended at this time.

Question 24: Should the *PIP Regulation* prescribe a timeframe for a contributor to give their response to a respondent? If so, what timeframe do you consider appropriate?

98. Yes, we consider it appropriate for the *PIP Regulation* to prescribe a specific timeframe for a contributor to provide their response to the respondent. This would promote clarity, consistency, and procedural fairness in managing contribution claims.
99. The ALA recommends a timeframe of one month as reasonable and practical. It allows sufficient time for the contributor to assess the notice, seek advice, and provide a meaningful response, without causing undue delay in the progression of the claim.

Question 25: Is it necessary for the offer of settlement to be accompanied by an explanatory statement, including the wording prescribed by section 10(2) of the *PIP Regulation*, where a claimant is not represented by a lawyer? If so, is the current wording prescribed by section 10(2) appropriate?

100. The ALA considers that it is necessary that an explanatory statement follows in order for the parties to engage in meaningful negotiations – particularly for self-represented claimants, as they need to understand the formulation of the offer.
101. The current wording prescribed by section 10(2) particularly for self-represented claimants provides the relevant guidance on the meaning of the acceptance of the offer.

Question 26: Are the costs prescribed by section 11 of the *PIP Regulation* appropriate? Please provide any suggestions (and the reasons for them) for prescribing additional, or amending or removing existing, costs a claimant may be entitled to.

102. We believe the costs prescribed under section 11 of the *PIP Regulation* are outdated and require a comprehensive review. In particular, the declared costs limit no longer reflects the current economic environment, including inflation and changes in the legal industry. As a result, the current cost limits may undervalue the complexity and time involved in processing claims, particularly in more complex or lengthy cases.
103. Further, the costs thresholds have the effect of diminishing certain groups of individuals' injuries and the impact of those injuries on those individuals.

104. The prescribed costs should be revised to ensure they are reasonable and reflective of actual legal and procedural expenses involved in handling personal injury claims under the *PIP Act* framework. This would ensure that claimants have fair access to compensation for their legal costs and that the cost structure keeps pace with the evolving legal landscape.

105. **The ALA, therefore, makes the following recommendations which we submit should be subject to further discussion between stakeholders on a fair and reasonable approach (a discussion which should, at the same time, consider the general damages provisions of the *CL Regulation*, which are falling behind the faster moving costs threshold increases:**

- a. Review and increase the prescribed cost limits, particularly the declared costs limit, to account for current market conditions; and
- b. Consider indexing cost limits to keep them aligned with inflation or changes in the legal industry over time.

106. This would promote fairness and ensure that claimants are not disadvantaged by outdated cost structures.

Question 27: Are the ‘default’ timeframes currently prescribed in the *PIP Act* provisions outlined above appropriate? If not, please provide suggestions (and the reasons for them) regarding appropriate timeframes to be prescribed by the *PIP Regulation*.

107. We believe that the current timeframes prescribed for Part 2 under the *PIP Act* are not appropriate. The timing for Part 2 is too early in the process, as claimants often do not have access to the necessary evidence at this stage. This creates an undue burden, as claimants are required to provide detailed information before they have gathered all relevant documentation.

108. The compulsory disclosure provisions already require parties to exchange information, making the Part 2 requirements redundant. The duplication of efforts leads to extra costs for claimants and delays the claims process, without providing any meaningful benefit to the parties involved.

109. **The ALA, therefore, makes the following recommendations:**

- a. Consider removing the Part 2 timing requirement or adjusting the deadlines to be 4 months post compliance to align with when relevant evidence and documents are likely to be available.
- b. Align disclosure requirements with the compulsory disclosure provisions to avoid the need for repetitive document submissions and reduce unnecessary delays and costs.

110. This would streamline the process and allow claimants to provide more accurate and comprehensive information once all necessary evidence is in hand.

Conclusion

111. The Australian Lawyers Alliance (ALA) welcomes the opportunity to have input to the Department of Justice as part of these reviews.

112. The ALA is available to provide further assistance to the Attorney-General and to the Department on the issues raised in this submission.



Sarah Grace

President, Queensland Branch Committee

Australian Lawyers Alliance