

21 April 2023

Motor Accident Insurance Commission  
GPO Box 2203  
BRISBANE QLD 4001

**By email:** Consultation@maic.qld.gov.au

Dear Sir/Madam,

We welcome the opportunity to provide feedback in relation to the 2023 Review of Queensland's Compulsory Third Party (CTP) insurance scheme.

Maurice Blackburn Pty Ltd is a plaintiff law firm with 34 permanent offices and 30 visiting offices nationally throughout all mainland States and Territories. Our Queensland practice consists of 14 permanent offices and 8 visiting offices across rural, regional and metropolitan centres. The firm specialises in road injuries, work injuries, medical negligence, abuse law, employment and industrial law, dust diseases, superannuation (particularly total and permanent disability claims), negligent financial and other advice, and consumer and commercial class actions. The firm also has a substantial social justice practice.

We welcome the review of the Queensland CTP scheme and thank MAIC for its commitment to genuine consultation.

All Maurice Blackburn contributions to public policy discussions are based on the lived experience of the clients we serve, and the experience of our staff who serve them. Our responses to the issues articulated in the Discussion Paper are drawn from the experience of people who are relying on the scheme to ensure they can retain quality of life while recovering from road-based trauma.

We note the core focus of the review, as articulated in the Discussion Paper:<sup>1</sup>

*This review will be focused on addressing the issues and opportunities for scheme improvement. .... To achieve this, the discussion paper outlines three scenarios for consideration by key stakeholders and the wider community:*

*Scenario 1: Maintain status quo*

*Scenario 2: Retain existing privately underwritten model with scheme design changes*

*Scenario 3: Transition to a public underwriting model*

Of these options, Maurice Blackburn supports the adoption of Scenario 1 – the maintenance of the status quo. Our reasons for adopting this position are outlined on the following pages.

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<sup>1</sup> Ref: Discussion Paper, p.18

## About the Scheme

Maurice Blackburn assists road trauma victims across every mainland State and Territory in Australia. This experience gives us a unique perspective on the quality of user experience of the Queensland CTP scheme, when compared to other schemes nationally. We agree with the summation of the scheme in the Discussion Paper which reads:<sup>2</sup>

*Queensland road users are protected by the most affordable Compulsory Third Party insurance scheme in mainland Australia, and one that delivers fair and timely compensation and rehabilitation support to people injured in road crashes through no fault of their own. While the scheme continues to perform well and in a stable manner, regular review is warranted to preserve the core elements of affordability and fairness and to identify opportunities for further improvement.*

MAIC's reporting on the functioning of the scheme<sup>3</sup> is based around four objectives:

- Affordability
- Efficiency
- Fairness
- Responsiveness

Annual reporting by MAIC indicates that the scheme continues to excel against each of these objectives. For example:

- The scheme is delivering the second-lowest CTP premiums in Australia.
- The percentage of premiums paid out as claimant benefits continues to comfortably exceed the 60% target set by the scheme.
- Service delivery costs have continued to fall.
- 99% of claims are resolved within legislated timeframes (within 6 months of receipt of the claim).
- Insurer profitability remains high.
- Litigation rates remain low.
- Complaints about compensation benefits remain low, while satisfaction rates remain high.

These pleasing results reflect the success of the unique underpinnings of the Queensland scheme. Its basis as a common law 'fault' based scheme sets it apart from other jurisdictions and contributes in no small way to its comparative efficiency and fairness. The underwriting by licensed insurers continues to encourage efficiency and remove risk away from the public purse.

Importantly, the governance and administration of the scheme remains strong and effective. This is important in ensuring that the focus of all stakeholders remains on achieving the best outcomes for injured Queenslanders.

The importance of an efficient, reliable, stable CTP scheme cannot be underestimated. Not only is it important for the wellbeing of casual road users, it is essential for those workers in the gig economy whose engagement requires road use – such as those who work in food delivery services and the transportation of people. These drivers have few other rights or benefits to draw on in the event of an injury or accident.

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<sup>2</sup> Ref: Discussion Paper, p.4

<sup>3</sup> Drawn from: <https://maic.qld.gov.au/publications/annual-ctp-scheme-insights-2021-22/>

Maurice Blackburn holds the Queensland CTP scheme in very high regard, for the protections and benefits it offers our clients.

## **About the Scenarios**

As noted earlier, Maurice Blackburn favours Scenario 1 – the maintenance of the status quo – as our preferred option.

With the stability and comparative success of the scheme as described above, we do not believe that the case has been made for significant changes to how the scheme operates.

We offer the following observations in relation to the three scenarios:

### Scenario 1: Maintain status quo

As noted earlier, Scenario 1 represents our preferred option.

Our experience in supporting injured road users across the country tells us that the Queensland scheme, as it stands, continues to represent the standard by which other schemes should be measured.

The relative success of the scheme, as described on page 2 of this submission, indicates that major structural change is not required at the moment. Current arrangements strike an appropriate balance between fairness and affordability for consumers, and profitability for insurers.

The Discussion Paper notes a couple of potential downsides of maintaining the status quo:<sup>4</sup>

*This scenario may be insufficient to address the ongoing lack of price competition or prevent the potential withdrawal of an insurer or encourage new entrants into the Queensland CTP market.*

Maurice Blackburn agrees that these are genuine concerns. We do not, however, agree that structural changes such as those described in Scenarios 2 and 3 necessarily represent an appropriate response. As discussed in more detail in our response to Scenario 2 below, we believe that enabling and encouraging consumers to make informed choices is at the heart of healthy competition. Information transparency and quality service provision should enable the better insurers to thrive under current scheme settings.

We further note the valuable consultation work which MAIC has commenced which aims to establish a CTP Claims Protocol, within the current scheme design. Maurice Blackburn believes that this consultation has the potential to address a number of issues related to the claims process – both from the perspective of the consumer and their advocates, as well as for insurers. We believe that if sufficient time and focus is allowed for the outcomes of this process to be ‘bedded down’, the need for wholesale adjustments to the status quo will be negated.

### Scenario 2: Retain existing privately underwritten model with scheme design changes

Maurice Blackburn notes the concerns raised in the Discussion Paper in relation to lack of price competition, disappointing rates of switching behaviour by consumers and variance in

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<sup>4</sup> Ref: Discussion Paper, p.20

insurer profitability. We perceive the initiatives described in Scenario 2 as descriptions of potential means to address these identified issues.

We thoroughly endorse MAIC continuing to focus on ways to increase competition amongst insurers, in order to encourage them to attract a greater share of premium revenue. Like all competitive market places, consumer choice should determine success.

MAIC's focus should therefore be on stimulating competition through incentivising insurer behaviours which will help consumers make better choices.

Consumer choice will be influenced by things such as:

- Premium price achieved through efficiency, not a reduction in benefits
- Excellent communication
- Excellent customer service
- A more consumer-focused approach to claims processing
- A focus on continuous improvement and innovation.

To that end, we do not perceive a premium equalisation mechanism as an appropriate means to encourage insurers to innovate, or work harder to attract more market share. On the contrary, it would more likely punish better performing insurers and benefit those which have not earned that mantle.

Similarly, initiatives such as random allocation diminish consumer choice.

We believe that promoting active decision making by motorists is an appropriate focus for MAIC. The initiatives outlined in section 7.4 of the Discussion Paper are worthy of further investigation.

Maurice Blackburn has no view on multiple licences.

### Scenario 3: Transition to a public underwriting model

The shift to public underwriting would mark a seismic shift in the way the Queensland scheme is operated and perceived.

The Discussion Paper tells us that:

*While the scheme has been stable, fair and affordable for many years, there are increasing market signals that reform may be warranted, and public underwriting is one approach worthy of further examination.*


With the scheme currently ticking boxes in relation to affordability and efficiency for consumers, and profitability for insurers, Maurice Blackburn does not believe the case has been made to consider such a shift at this time.

There may come a time when having the State assume control of underwriting and administering the scheme – along with the associated operational risks - may become appropriate. We believe that while-ever market forces have the capacity to deliver affordable and efficient outcomes for consumers, that should remain the focus.

We would anticipate that additional, focused consultation would need to take place, should such a radical change to the scheme's structure be contemplated.

Please do not hesitate to contact me and my colleagues on 07 3014 5032 or at MJJames@mauriceblackburn.com.au if we can further assist with MAIC's important work.

Yours faithfully,

A handwritten signature in black ink that reads "Michelle James". The signature is written in a cursive, flowing style.

Michelle James  
**Principal Lawyer**  
**Maurice Blackburn Lawyers**