



**2023 Review of Queensland's  
Compulsory Third Party  
insurance scheme**

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Submitted by  
Slater and Gordon Lawyers

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## Introduction

1. Slater and Gordon welcomes the opportunity to make a submission and provide feedback on the scenarios in the discussion paper “2023 Review of Queensland’s Compulsory Third Party (CTP) insurance scheme (“CTP scheme”) published in March 2023 (“the discussion paper”).
2. We understand that the Motor Accident Insurance Commission (MAIC) has been tasked with reviewing the CTP scheme due to low profitability being experienced by some individual insurers, despite the scheme remaining profitable at a whole of scheme level<sup>1</sup>. We note, in this regard, that the average insurer profit margin over the past eight years has been 20 per cent, which is well above the 8 per cent profit margin assumed by MAIC in setting the ceiling price.<sup>2</sup>
3. We note that this review will not consider any changes to existing compensation benefits for injured people<sup>3</sup> and agree that “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<sup>4</sup>”.
4. We confirm that the comments and feedback in this submission will be considered by the Queensland Government in their consideration of whether any changes to the scheme are required to preserve Queensland’s position as having the most affordable, sustainable, and fair CTP scheme in Australia.
5. While Slater and Gordon believe it is essential for regular reviews of the CTP scheme to be conducted, we contend that the proposed changes to the CTP scheme outlined in the discussion paper (specifically at Scenarios 2 and 3) will not rectify the core issue that is commanding this review, namely, the variance in individual insurer profitability.
6. Accordingly, Slater and Gordon’s submission strongly supports **Scenario 1 (maintain the status quo)** be adopted, coupled with the development and implementation of initiatives to improve efficiencies and operations involved in the claims process. This should give all insurers an opportunity to make the current scheme successful and profitable through more efficient business operations. This will also result in a better experience for injured motorists while preserving our current Nation-leading CTP scheme.
7. Slater and Gordon’s submission will address:
  - a) Why the status quo as outlined in Scenario 1 should be maintained, including how the CTP Claims Protocol is likely to address the issues raised in the discussion paper and ensure continued timely compensation and rehabilitation for injured Queenslanders; and
  - b) Why the proposed Scenarios 2 and 3 will not benefit or improve the CTP scheme.

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<sup>1</sup> Page 4 and 16, discussion paper

<sup>2</sup> Page 16, discussion paper

<sup>3</sup> Page 4 and 18, discussion paper

<sup>4</sup> Page 4, discussion paper

## Who we are

8. Slater and Gordon is a leading Australian consumer law firm. Our mission is to provide access to justice for Australians. The firm provides specialist legal and complementary services in a broad range of areas including:
  - a) Personal Injury;
  - b) Superannuation and Insurance;
  - c) Class Actions;
  - d) Commercial Litigation; and
  - e) Employment Law.
9. Slater and Gordon has a long and proud history championing for the rights of Australians and for more than 85 years we have acted for thousands of people who have suffered injury or had their rights curtailed.
10. We currently represent individual claimants injured in motor vehicle accidents in Queensland, New South Wales, ACT, Victoria, and Western Australia and ensure these individuals can access timely rehabilitation and the compensation they need to move forward after an accident on the road.
11. We have a specialised team in Queensland who are dedicated to assisting Queenslanders injured in motor vehicle accidents. Our staff are on the ground in Brisbane, Logan, Toowoomba, Sunshine Coast, Northlakes, Bundaberg, and Cairns, but we also service clients from all over Australia who have been injured on Queensland roads.

## The Current CTP Landscape in Queensland

12. The Queensland CTP scheme is Nation-leading.
13. Those who are injured on a Queensland road, due to no fault of their own, have access to timely rehabilitation and fair and equitable access to common law damages which focusses on the impact to the injured person arising from the injury, rather than the specific injury suffered.
14. Queenslanders also enjoy affordable premiums, as well as the right to choose through which licensed insurer they wish to hold their CTP insurance.
15. The 2021–22 data show that Queensland CTP insurance premiums remain the second lowest CTP insurance premiums in Australia and have been offered to Queensland motorists on a consistent and stable basis.<sup>5</sup> This creates trust and certainty in the scheme for Queenslanders while ensuring that insurers in the scheme can maintain profitability.
16. While some insurers are struggling to make a profit, others are making very strong profits. The average insurer profit margin over the past eight years has been 20 per cent<sup>6</sup> - well above the 8 per cent profit margin assumed by MAIC in setting the ceiling price for premiums charged to motorists.<sup>7</sup>
17. There are four licensed insurers in Queensland: RACQ, QBE, Allianz and AAI. When considering total claims size against market share, there is no large disparity in terms of

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<sup>5</sup> <https://maic.qld.gov.au/publications/annual-ctp-scheme-insights-2021-22/>

<sup>6</sup> Retrospective Profit Study of Queensland CTP Premiums as at 31 December 2021, Taylor Fry, 12 May 2022

<sup>7</sup> Page 16, discussion paper.

any specific insurer having a disproportionately higher number of larger/more costly claims.<sup>8</sup>

## **Scenario 1 – Status Quo**

18. Scenario 1 explores the possibility of making no changes to the CTP scheme, but points out that the risk of this scenario is that there will be an ongoing lack of price competition in the future and that it is possible that a licensed insurer may withdraw from the CTP scheme for commercial reasons.<sup>9</sup>

### Price Competition

19. It is important to Slater and Gordon that CTP premiums remain affordable for all Queenslanders.

20. Affordability and stability of premiums in the current uncertain financial climate will remain of crucial importance to Queenslanders and, in our view, will override concerns about price competition between insurers.

21. Assessment of Class 1 premiums over the last six years since the 2016 Review shows that premiums have remained stable, reflecting good CTP scheme experience and management by MAIC.<sup>10</sup> Queensland CTP insurance premiums also remain the second lowest CTP insurance premiums of any State in Australia, a factor that helps to foster trust and certainty in the scheme for Queenslanders.

22. It must be noted however, that the reason premium pricing in Queensland's CTP insurance market has remained stable and affordable over the years, is not due to insurer competition driving down costs for competitive purposes. Instead, it is because of the statutory pricing ceiling to which all insurers must adhere. Competitive pricing is delivered by the statutory regime, not because of insurer practices. This is reflected in the lack of customer movement between insurers.

23. Accordingly, Slater and Gordon contends that there would be no significant impact on affordability for Queensland motorists should an insurer exit the market, given the competitive pricing within the statutory regime

### Risk of Insurer Withdrawal from Scheme

24. The discussion paper references variability in insurer profitability and alludes to the fact that one or more of the four licensed CTP insurers are experiencing low profitability - which could potentially result in their decision to exit the scheme.

25. This on the background of the latest annual Retrospective Profit Study conducted by MAIC's consulting actuary, Taylor Fry, showing that the average insurer profit margin over the past eight years has been 20 percent - well above the 8 percent profit margin assumed by MAIC setting ceiling prices.<sup>11</sup>

26. This study suggests that the ability of insurers within the current CTP scheme to run their business in a profitable way is possible and that at least some of the four licensed insurers are doing this.

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<sup>8</sup> Severity Data Pack, MAIC, March 2022

<sup>9</sup> Page 20, Discussion Paper

<sup>10</sup> Page 14, Discussion Paper

<sup>11</sup> Page 16, Discussion Paper

27. As noted above at paragraph 17, the large disparity in profitability between the four licensed insurers does not seem to be due to any significant skew in larger/more costly claims resting with any one or more insurers over the others (also taking into account respective market shares).
28. The focus, in our view, should therefore be on diagnosis of the issues that are resulting in poor profitability for some insurers compared to very strong profitability for other insurers. Consideration should be given to the impact that each insurer's business plan, performance strategy and operational processes is having on the variance in insurer profitability.
29. Further, even if one of the current four licensed insurers decides to exit the CTP scheme, it is noted that this scenario has happened before, and that the void left by such a departure may provide an opportunity for another insurer to enter the market with a fresh perspective and the potential to drive competition and derive operational efficiencies.

#### CTP Claims Protocol

30. Slater and Gordon submits that a key feature of Scenario 1 being successful will be the continuation and delivery of the work that MAIC, the licensed insurers, the Australian Lawyers Alliance, the Queensland Law Society and plaintiff law firms have been doing to create a "CTP Claims Protocol".
31. The aim of the CTP Claims Protocol will be to ensure the claim process is more streamlined, more efficient and less complex/adversarial for insurers, plaintiff lawyers and injured Queenslanders alike.
32. If these protocols can be developed, agreed and acted upon by all interested parties, then there will likely be improvements in efficiencies across the CTP scheme which will render it stronger and more sustainable into the future. It should also provide an opportunity for insurers who are not running a profitable CTP portfolio to transform their business operations.
33. Slater and Gordon considers that development and adoption of the CTP Claims Protocol is the best way to ensure the ongoing sustainability of the CTP scheme.

#### **Scenario 2 – Retain the existing privately underwritten model with scheme design changes**

34. Scenario 2 involves "retaining the existing privately underwritten scheme, but with some adjustments aimed at improving competition for the benefit of motorists"<sup>12</sup>.
35. There are three potential scheme design changes proposed:
  - a) Premium equalisation mechanism – which would result in redistribution of premiums between insurers where some insurers have poorer quality risks.
  - b) Random allocation – where CTP insurance policies for new registrations are randomly allocated to CTP insurers rather than selected by vehicle owners.
  - c) Multiple licenses – where licensed insurers could hold multiple licenses.

36. Slater and Gordon does not support Scenario 2.

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<sup>12</sup> Discussion Paper, Page 22

37. In addition to the proposed scheme design changes in this Scenario 2 failing to address the root cause of the issue (inefficient business process within some of the four licensed insurers), we strongly believe that Queenslanders:

- a) should always have a wide choice of CTP insurer; and
- b) should not be put in a position where there is potential for premiums to be increased such that they become unaffordable (a situation which would disproportionately impact the most vulnerable and marginalised Queenslanders, including First Peoples).

38. Slater and Gordon also holds reservations as to the feasibility of achieving a consensus and uniformity among insurers concerning the proposed scheme design modifications and their implications. This also raises concerns about the allocation of resources and time towards such a process.

#### Premium Equalisation Mechanism

39. Implementation of the premium equalisation mechanism assumes that risk is not being shared equally amongst the licensed insurers. This is not supported by the data which demonstrate no large disparity in terms of a specific insurer having a higher number of larger/more costly claims when compared with market share.<sup>13</sup>

40. Further, the disadvantages outlined in the discussion paper<sup>14</sup> including:

- a) better forming insurers having less incentive to innovate or seek to outperform;
- b) insurers seeking to “game the system” for risk selection or risk avoidance;
- c) costly legislative reform and complex Market Practice Guidelines having to be developed;
- d) costly actuarial and administrative costs for MAIC, licensed insurers and the Department of Transport and Main Roads; and
- e) costs potentially being passed on to motorists

does not support the premium equalisation mechanism being considered.

#### Random Allocation

41. Slater and Gordon supports Queenslanders’ right to choose the insurer in which they are to pay a premium and receive CTP insurance. We do not support the random allocation approach.

42. Further, we note that random allocation is unlikely to have an impact on insurer price competition and is likely to result in significant administrative burden to the Department of Transport and Main Roads, MAIC and CTP Insurers.

#### Multiple Licences

43. The current scheme only allows a general insurer to hold one Queensland CTP licence.

44. The suggestion is made that a change could be made that allows an insurer to seek licences at a brand level so that the one insurer could have multiple licences and offer insurance under assorted brands in Queensland.

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<sup>13</sup> Severity Data Pack, MAIC, March 2022

<sup>14</sup> Discussion paper, page 23

45. Such a scheme has been adopted in the Australian Capital Territory with Suncorp holding three licences under its GIO, AAMI and APIA brands.<sup>15</sup>
46. However, the approach has not resulted in competitive offers, innovation, or competition on price in the Australian Capital Territory. The current CTP premium price differences for Suncorp's three insurers are minimal, as listed in the table below.

Insurer Brand	CTP Premium Cost on 3 April 2023 for passenger vehicle
<b>GIO</b>	\$398.30 per annum
<b>AAMI</b>	\$408.20 per annum
<b>APIA</b>	\$417.90 per annum <sup>16</sup>

47. Multiple licences also create a perception of choice within the market that is not accurate and could seem confusing and at worst, misleading to Queensland motorists.

### Scenario 3 – A public underwriting model

48. In this scenario, the State of Queensland proposes that the State itself “would assume the role of administrator and underwriter of the CTP scheme and would become the sole provider of the CTP insurance in Queensland.”<sup>17</sup>
49. Slater and Gordon does not believe that this approach would result in the best outcomes for injured Queenslanders and submits that if dismantling our Nation-leading CTP scheme was in serious contemplation by the State of Queensland, that this would require a much more in depth review/submission than what is currently requested as a part of this present exercise.
50. Further, the discussion paper notes that the 2016 Review Committee had recommended that a publicly underwritten model should be explored again **if** insurers were unable to deliver affordable, competitive premiums or where a limited number of licensed insurers was not in the best interests of the scheme.<sup>18</sup>
51. Currently, premiums remain affordable for Queensland motorists and the overall profit being returned to the licensed insurers is well above what was anticipated by the scheme design. Again, this proposal does not address the root cause of the current issue (being inefficient business processes within some insurers).
52. We also share concern over such a public model being implemented in Queensland due to the following factors:
- a) Costs to Queenslanders – publicly underwritten insurance schemes can be expensive to administer and place a significant burden on public resources, which can result in higher insurance premiums for consumers.<sup>19</sup>
  - b) Limited Competition – Publicly underwritten insurance schemes limit competition in the insurance market - again this is likely to have a direct impact on insurance premiums for Queensland motorists.

<sup>15</sup> Discussion paper, page 26

<sup>16</sup> <https://www.treasury.act.gov.au/maic/your-mai-insurance/how-mai-insurance-premiums-are-set>

<sup>17</sup> Discussion Paper, page 29

<sup>18</sup> Discussion paper, page 29

<sup>19</sup> For example, in Victoria where there is a publicly underwritten scheme, premiums are \$120 more expensive than QLD per annum.

- c) Inefficiency – Publicly underwritten insurance schemes can be less efficient than private insurance providers, as they have less incentive to reduce costs, innovate or improve service quality. This can result in longer wait times for claims processing and can impact the quality of care and treatment provided to injured individuals making claims.
- d) Other current interactions with Queensland Government Departments – by way of context, Slater and Gordon has experienced very poor interactions with Crown Law and QGIF in claims we are advancing on behalf of survivors of child sexual abuse. Our observations, which have been shared with the Attorney General of Queensland, include:
  - i. poor internal processes resulting in very inefficient claims management;
  - ii. costly and drawn out case strategy resulting in high number of matters requiring to be litigated in a court and mediated at least twice within the claim journey;
  - iii. high attrition of staff resulting in inexperienced personnel managing claims;
  - iv. very adversarial and combative behaviours causing to re-traumatise survivors of abuse on many occasions;
  - v. non-compliance with model litigant policy or with pre-court procedures within the Personal Injuries Proceedings Act (2002) and particularly disclosure obligations.

53. We therefore have concerns that a publicly underwritten model for CTP claims could result in similar inefficiencies and lack of timely access to rehabilitation and compensation for Queenslanders injured in motor vehicle accidents.

54. Further, given all the critical issues currently facing the people of Queensland, we find it puzzling that the Government would be considering in-housing a CTP scheme that is well managed, well administered, competitive and affordable.

## **Conclusion**

55. Slater and Gordon thanks the Queensland Government and MAIC for their consideration of our submission while reviewing the viability and sustainability of the Queensland Compulsory Third Party (CTP) insurance scheme, from an insurer profitability perspective.

56. We commend the Queensland Government for confirming that no changes to existing compensation benefits or common law rights for injured motorists are being considered.

57. The focus of the Queensland CTP scheme must be about delivering fair and reasonable outcomes for Queenslanders who have been injured on the road. The current CTP scheme does this, and any change must not remove those rights and protections.

58. Slater and Gordon is supportive of any initiative which can preserve Queensland's Nation-leading scheme and believes that one of the most important issues the CTP scheme is facing is understanding the reasons behind such variability in the current licensed insurers' profitability. It is our respectful opinion that the profitability of the licensed CTP insurers could benefit from consideration of the ways in which they could reconsider the ways in which they are currently operating their CTP businesses.

59. To support the foregoing conclusion, Slater and Gordon is assisting with the development of CTP Claims Protocols alongside licensed insurers, MAIC, ALA, QLS and other plaintiff lawyers. We submit that this is the more appropriate approach to take before considering



any changes that are likely to impact Queensland people, be expensive, administratively burdensome or require significant legislative amendment.

60. Slater and Gordon's representative, Peta Yujnovich, is available to assist in any further capacity that may be required as the Queensland Government considers the feedback and submissions in relation to the proposals in the discussion paper.



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