

## STANDING COMMITTEE ON LAW AND JUSTICE

### 1st REVIEW OF THE COMPULSORY THIRD PARTY INSURANCE SCHEME

#### PRE-HEARING QUESTIONS ON NOTICE

#### *Update on the implementation of recommendations from the 12<sup>th</sup> Review of the Motor Accidents Authority (MAA)*

1. Please provide an update to each section of the Government Response to the Standing Committee on Law and Justice's report on the 12th Review of the MAA.

#### Response

An update on the Government Response to the Standing Committee on Law and Justice's report on the 12<sup>th</sup> review of the MAA is attached (Attachment 1).

#### *Affordability*

2. MAA Annual Report 2014/15 notes that 'the average CTP premium for all passenger vehicles increased by 0.9 per cent: \$542 at 30 June 2015, up from \$537 at 30 June 2014'.<sup>1</sup> These are up from \$377 on June 2008.<sup>2</sup> What is SIRA's view on these increases?

#### Response

SIRA continues to be concerned about the increasing cost of CTP Green Slips. Average prices have already increased by 7 per cent (or \$43) for a Sydney passenger vehicle since 30 June 2015 and further price rises to take effect by 1 July 2016 are expected to increase these prices to 11.3 per cent (or close to \$70) above prices as at 30 June 2015. If current trends continue, the Scheme Actuary advises that further substantial price increases could occur.

As outlined in SIRA's 2014 and 2015 CTP Scheme Performance Reports, these price increases are due to a range of factors including rising claims frequency and propensity to claim, including in particular the number of legally represented minor injury claims; rising claims costs; inflation and the expansion of benefits. The impact of these cost drivers has been more prominent due to the insurers' declining investment returns as a result of the decline in Commonwealth Government Bond yields.

3. Please provide a breakdown of premium increases by each insurer for the 2013/14, and 2014/15 financial years.

#### Response

Premium increases by each insurer for the 2013/14 and 2014/15 years are set out below.

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<sup>1</sup> Motor Accidents Authority, *Annual Report for year ended 30 June 2015*, p 18

<sup>2</sup> Motor Accidents Authority, *Annual Report for year ended 30 June 2013*, p 32.

Table 1: Premium (including GST & MCIS Levy) changes by each insurer for 2014/15

Insurer	Best Price			Average Premium (all vehicles)			Average Premium (all passenger vehicles)		
	Jun-14	Jun-15	% Change	Jun-14	Jun-15	% Change	Jun-14	Jun-15	% Change
AAMI	524	505	-3.6%	583	565	-3.1%	572	555	-3.0%
Allianz	542	539	-0.6%	575	576	0.2%	554	554	0.0%
CIC Allianz	565	546	-3.4%	899	980	9.0%	518	520	0.4%
GIO	519	509	-1.9%	518	511	-1.4%	520	510	-1.9%
NRMA	532	545	2.4%	544	564	3.7%	534	553	3.6%
QBE	509	519	2.0%	545	542	-0.6%	522	524	0.4%
Zurich	547	548	0.2%	1076	1226	13.9%	627	672	7.2%
Average Change			-0.7%			3.1%			0.9%

Table 2: Premium (including GST & MCIS Levy) changes by each insurer for 2013/14

Insurer	Best Price			Average Premium (all vehicles)			Average Premium (all passenger vehicles)		
	Jun-13	Jun-14	% Change	Jun-13	Jun-14	% Change	Jun-13	Jun-14	% Change
AAMI	546	524	-4.0%	583	583	0.0%	577	572	-0.9%
Allianz	542	542	0.0%	577	575	-0.3%	563	554	-1.6%
CIC Allianz	538	565	5.0%	862	899	4.3%	520	518	-0.4%
GIO	533	519	-2.6%	516	518	0.4%	517	520	0.6%
NRMA	546	532	-2.6%	569	544	-4.4%	560	534	-4.6%
QBE	505	509	0.8%	530	545	2.8%	519	522	0.6%
Zurich	558	547	-2.0%	1033	1076	4.2%	664	627	-5.6%
Average Change			-0.8%			1.0%			-1.7%

Table 3: Best Price for a new customer aged 30 and 54 with a passenger vehicle in Sydney (including GST & MCIS Levy) changes by each insurer between July 2015 and July 2016

Insurer	Best Price		
	Jul-15	Jul-16	% Change
AAMI	\$505	\$592	17.2%
Allianz	\$561	\$604	7.7%
CIC Allianz	\$568	\$653	15.0%
GIO	\$509	\$578	13.6%
NRMA	\$545	\$603	10.6%
QBE	\$519	\$587	13.1%
Zurich	\$573	N/A	N/A
Average Change			12.9%

N/A – Zurich ceased issuing CTP policies from 1 March 2016

Table 4: Premium (including GST & MCIS Levy) changes by each insurer between June 2015 and March 2016

Insurer	Best Price			Average Premium for all vehicles			Average Premium for all passenger vehicles		
	Jun-15	Mar-16	% Change	Jun-15	Mar-16	% Change	Jun-15	Mar-16	% Change
AAMI	\$505	\$572	13.3%	\$565	\$639	13.1%	\$555	\$629	13.3%
Allianz	\$539	\$589	9.3%	\$576	\$606	5.2%	\$554	\$584	5.4%
CIC Allianz	\$546	\$596	9.2%	\$980	\$1,084	10.6%	\$520	\$545	4.8%

GIO	\$509	\$555	9.0%	\$511	\$552	8.0%	\$510	\$548	7.5%
NRMA	\$545	\$588	7.9%	\$564	\$589	4.4%	\$553	\$584	5.6%
QBE	\$519	\$537	3.5%	\$542	\$586	8.1%	\$524	\$553	5.5%
Zurich	\$548	\$597	8.9%	\$1,226	\$1,293	5.5%	\$672	\$743	10.6%
Average change			8.7%			7.9%			7.5%

**4. The 2015 independent review of insurer profits states 'that the level of affordability is also relevant to limiting leakage from the Scheme'.<sup>3</sup> What are the figures for the incidence of scheme leakage for the 2014/15 and 2013/14 financial years?**

### Response

The cost of fraudulent and exaggerated claims is contributing to increasing Green Slip prices.

'Leakage' is a common insurance industry term for when the insurer pays more than was appropriate or necessary under the terms of a policy or statute. Although leakage can occur due to fraud, other factors include claims management inefficiencies, lack of staff training or supervision, manual systems and processes and poor negotiation or settlement practices.

A common form of leakage is where insurers pay out small claims if the apparent cost of disputing the claim outweighs the cost of settling the claim.

'Leakage' from the CTP scheme may also occur when drivers choose to drive uninsured because of unaffordable premiums. Claims in respect of the death of or injury to a person caused by the fault of the owner or driver of a motor vehicle that is not insured may be brought against the Nominal Defendant, who is SIRA. Claims against the Nominal Defendant are paid out of contributions by insurers to the Nominal Defendant Fund.

The Nominal Defendant received 773 claims during 2014/15, compared to 680 in 2013/14, an increase of 14 per cent. Since 1999, Nominal Defendant claims represent approximately 4.2 per cent of all claims and 5.3 per cent of incurred costs. It is noted that these figures include both uninsured as well as unidentified claims.

### Competition

**5. The 2015 independent review of insurer profits states that the practice of 'insurers competing for overfunded and underfunded policyholders using risk selection strategies increases the overall costs within the CTP Scheme, which potentially reduces affordability of premiums and scheme efficiency'.<sup>4</sup> What can be done to address this issue?**

### Response

In the NSW CTP scheme, there is a trade-off between affordability, cross-subsidy and competition. To achieve affordability for all vehicle owners there have to be cross-subsidies (low risk customers pay more to subsidise the premium of high risk customers). The profit

<sup>3</sup> Report of the Independent Review of Insurer Profit within the NSW Compulsory Third Party Scheme, October 2015, p 10.

<sup>4</sup> Report of the Independent Review of Insurer Profit within the NSW Compulsory Third Party Scheme, October 2015, p 54.

review identified that these cross-subsidies lead insurers to target the over-priced customers and they try to minimise the number of high risk (under-priced) customers. As a result, competition by insurers is distorted, and some insurers will gain an excessive profit.

SIRA introduced revised, principles-based *Market Practice and Business Plan Guidelines* in November 2014. The aim of the revised Guidelines is, among other things, to limit potential anti-selection behaviours by insurers. The revised Guidelines seek to better regulate market practices, encourage innovation by insurers and ensure fair and equitable access to Green Slips by customers. In particular, the Guidelines prevent discrimination by insurers against high-risk motorists.

SIRA has also commenced a review of the current premium system. The Premium System Review is considering concerns about incentives for risk selection behaviours, the operation of cross subsidies and vehicle classification in the current system, together with the relevant recommendations of the independent review of insurer profit and competition in the CTP scheme. In particular, the profit review recommended risk pooling as a potentially better way of delivering affordability outcomes. The premium review is due to be completed shortly.

- 6. The 2015 independent review of insurer profits recommended abolishing ‘the current legislative limit on commissions as a share of acquisition costs’ as it may deter new entrants to the market, and therefore create less competition.<sup>5</sup> What is SIRA’s view on this recommendation?**

### **Response**

The *Motor Accidents Compensation Act 1999* provides that the acquisition and policy administration expenses of a licensed insurer, as the amount of commission or other remuneration payable to the insurer’s agent or agents, must not exceed 5 per cent. This amount is calculated on the insurer premium (premium paid by the customer less MCIS levy and GST).

SIRA agrees that this provision needs to be reviewed in line with the findings of the profit review. However any decision to remove or change the current legislative limit on commissions will be a matter for the Parliament. SIRA will provide advice to Government on this issue as part of the current review of the CTP scheme.

### ***Effectiveness***

- 7. According to the MAA Annual Report 2014/15, a priority for that year was the ‘further review of the premium system to examine the operation of current approaches to cross-subsidies in the Scheme and the risk factors used to set premiums’.<sup>6</sup> Was this review undertaken?**
- a. If so, what were the results?
  - b. If not, are there plans to undertake it in the future?

### **Response**

The review of insurer profit and competition, conducted in 2015, was the first step in the review of the premium system. SIRA is now reviewing the premium framework in its totality, including rating factors, vehicle classification and the operation of current approaches to

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<sup>5</sup> *Report of the Independent Review of Insurer Profit within the NSW Compulsory Third Party Scheme*, October 2015, p 55.

<sup>6</sup> Motor Accidents Authority, *Annual Report for year ended 30 June 2015*, p 11.

cross-subsidisation of premiums. The review is incorporating the relevant recommendations of the independent review of insurer profit and competition, including particularly looking at risk pooling. The premium review is due to be completed shortly.

**8. The New South Wales Bar Association its submission states that 'if cases with a lower monetary value which include the cohort of claims targeted under "soft fraud"' measures are not settled by insurers, there is a strong likelihood that the average value of such claims will reduce significantly'<sup>7</sup> and 'if action is required it should be directed at dealing with these claims and not removing the rights of others'.<sup>8</sup> Can SIRA comment on this issue?**

### Response

SIRA agrees that action is required to address the disproportionate and unusual increase in CTP claims lodgement, especially in minor injury claims that have legal representation. The increasing claim frequency and associated claims handling costs are ultimately reflected in increased Green Slip prices.

Extensive analysis of insurer data by SIRA suggests that the aberrant claiming patterns may be associated with groups of service providers (both legal and medical). Some are known to be associated with unmeritorious and exaggerated claims. Some of the issues also relate to the rise of so-called 'claims farming' practices. SIRA has worked with insurers to better identify and manage such claims and is updating its analysis regularly to identify emerging patterns. There has been a dramatic increase in these claims over the past two years.

A key initiative in response to these trends is the establishment of the NSW CTP Fraud Taskforce to address CTP claims fraud perpetrated by claimants, vehicle owners and/ or service providers. The Taskforce is chaired by the Chief Executive of SIRA and includes representatives from NSW Police, Fair Trading, professional regulatory bodies and peak legal and medical bodies.

The Task Force has recommended a number of initiatives to investigate and manage questionable claims and to increase public awareness about the impacts and penalties associated with CTP claims fraud. The strategy focuses on initiatives to curtail criminal activity and disincentivise soft fraud or exaggeration.

SIRA is also developing tactical initiatives to respond to unusual patterns of behaviour involving claimants and networks of legal and medical providers. The program of work being undertaken includes direct engagement with insurers and other regulators as well as targeted communications, ongoing regulatory responses including data monitoring and commissioning of full time resources. SIRA is working with the Police, Office of the Legal Services Commissioner and the Health Care Complaints Commission on this project.

In particular, SIRA is working closely with insurers to develop and evaluate effective claims management strategies to address the problem through better claims management. SIRA agrees with the Bar Association insofar it is essential that any measures to address fraud must not be at the expense of the genuine claimant. To that end, SIRA has been working with all key stakeholders in revising the *Claims Handling Guidelines* to ensure a principles-based approach to achieving outcomes for claimants, while supporting targeted approaches to address claims leakage, fraud and exaggeration.

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<sup>7</sup> Attachment 1, to Submission No. 4, New South Wales Bar Association, p 3.

<sup>8</sup> Attachment 1, to Submission No. 4, New South Wales Bar Association, p 3.

The NSW Government has commenced a comprehensive review of the CTP scheme aimed at creating a fairer and more affordable system for road users. A key objective of the review of the CTP scheme is to reduce opportunities for claims fraud and exaggeration. The CTP reform process is providing an opportunity to consider structural changes to benefits and service fees in the scheme, which may reduce incentives to make small, unmeritorious claims.

**9. The 2014 CTP Scheme Performance Report states that 'recent analysis suggests that there may be some patterns in the cohort of recent minor injury claims that warrant further investigation. The SIRA is working with insurers to better understand the nature and sources of these claims.'<sup>9</sup> Can SIRA provide an update on this matter?**

#### **Response**

See the response to Question 8, above.

#### ***Heavy vehicles***

**10. The Australian Trucking Association (submission no. 2) highlighted the differential treatment of heavy vehicles under state CTP schemes in Australia, and the resulting underinsurance that could occur of heavy vehicle trailers. Does SIRA have any views on this matter?**

#### **Response**

The issue of CTP coverage for heavy vehicle trailers was recently considered by the Heads of Australian and New Zealand Motor Accidents Insurance Schemes (HMAIS) at the meeting on 26 May 2016. As the number of incidents involving trailers is negligible, HMAIS concluded that the issue of CTP coverage for heavy vehicle trailers is a matter for individual jurisdictions. HMAIS will also refer the matter to the National Heavy Vehicle Regulator as part of the consideration of a national approach to heavy vehicle regulation.

#### ***Inclusion***

**11. What preparation has been made by SIRA, if any, in terms of readiness for the roll out of the National Disability Insurance Scheme (NDIS) from 1 July 2016?**

#### **Response**

The National Disability Insurance Scheme (NDIS) is designed to provide long-term care and support to people who would not be covered by existing insurance arrangements such as CTP schemes. As such, the NDIS rollout is not expected to have a significant impact on the NSW CTP scheme.

SIRA (and its predecessor agencies) has provided input through a range of inter-agency and inter-Government channels regarding both the NDIS and National Injury Insurance Scheme (NIIS). Under an agreement between the NSW Government and the Commonwealth to a full rollout of the NDIS, it is acknowledged that NSW already meets the criteria for the NIIS for motor vehicle accidents through the Lifetime Care and Support Scheme.

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<sup>9</sup> State Insurance Regulatory Authority, Compulsory Third Party 2014 Scheme Performance Report, November 2015, p 34.

## ***Injury prevention***

- 12. According to the MAA Annual Report 2014/15, the MAA ‘aims to reduce the social and economic impacts of motor accidents in New South Wales’<sup>10</sup>, and in 2014/15 attributed ‘1.86 million to its injury management funding program to projects that support improved recovery for people injured in motor vehicle accidents’.<sup>11</sup> Please provide an update on the outcomes of this funding program and related projects.**

### **Response**

The former MAA implemented substantial investment in research, grants and sponsorships to advance injury prevention and injury management. Over the past five years, this program has operated under a strategic framework designed to optimise funding towards areas of highest priority, including applied research and activities. The program has resulted in a series of ‘themed’ grant rounds, enabling researchers to pitch proposals at key areas of priority for the motor accident scheme.

A key highlight was the establishment of the John Walsh Centre for Rehabilitation Research in October 2014, involving funding of up to \$1 million per annum, in partnership with Insurance and Care NSW (icare). This initiative, which forms part of the Kolling Institute under the auspices of the University of Sydney, has established a nationally significant research centre which will concentrate research efforts and provide a springboard for research collaboration.

Following the establishment of SIRA and SafeWork NSW in September 2015, a review of research, grants, funding and sponsorship across the Better Regulation Division commenced in May 2016. SIRA will not enter into any new program funding arrangements until the review is completed in the third quarter of 2016. SIRA has, however, maintained support for existing commitments, including the John Walsh Centre for Rehabilitation Research.

### ***Performance***

- 13. According to the MAA Annual Report 2014/15, the Premiums Determination Guidelines and Market Practice and Business Plan Guidelines were introduced ‘to better monitor the profile of each insurer’s mix of businesses’.<sup>12</sup> Have these improvements to monitoring of insurer performance been successful?**

### **Response**

Between 2013 and 2015, the former MAA implemented a non-legislative reform program to enhance its regulation of the CTP scheme, and to establish a stronger focus on outcomes.

A key aspect of these reforms was the introduction of new principles based Guidelines aimed at providing stronger direction and supervision of insurers, and improved data and performance information.

Insurers now submit an annual business plan to SIRA outlining their expected market strategies, complemented by the provision of Policy data which informs SIRA on actual performance. This is in addition to data provided in premium filing process, quarterly

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<sup>10</sup> Motor Accidents Authority, *Annual Report for year ended 30 June 2015*, p 6.

<sup>11</sup> Motor Accidents Authority, *Annual Report for year ended 30 June 2015*, p 10.

<sup>12</sup> Motor Accidents Authority, *Annual Report for year ended 30 June 2015*, p 18.

meetings with insurers, and one-on-one meetings at the outset and conclusion of filings. Further consideration is being given, in line with the findings of the Review into Profit and Competition to an annual report by insurers on actual performance.

As a result the introduction of the revised *Premiums Determination Guidelines* and *Market Practice and Business Plan Guidelines*, SIRA has now developed a series of reports to aid the monitoring of insurer performance. These include:

- Reports for each insurer showing their mix of business compared to the industry average and including profile by vehicle age, driver age, postcode zone and renewal rate. These reports enable SIRA to determine which insurers have portfolios which are over exposed to high risks or those with a better than average mix and how the mix is changing over time.
- Reports for each insurer modelling their claims frequency (adjusting for their mix of business) to enable SIRA to compare the insurer's view of claim frequency with the regulator's view of the experience. These reports have resulted in some insurers revising their assumptions in filings and consequently filing revised premiums with reduced premium increases.
- Reports to assist the CTP Fraud Task Force activities.

**14. The Law Society of New South Wales in its submission makes a number of recommendations regarding the Accident Notification Form (ANF) system including expanding the no fault ANF to \$25,000, noting that 'as no costs are payable by insurers on "ANF only" claims, the claims resolution rate would be increased and costs in small claims would be driven down'.<sup>13</sup> What is SIRA's view of this recommendation?**

#### **Response**

The ANF is being examined as part of the broader review of the CTP scheme. Any decision regarding change to the CTP scheme is a matter for the NSW Government.

**15. In the 2014 CTP Scheme Performance Report it is stated that feedback from CTP policy holders indicates 'very poor understanding of the product and its value – that is, what a CTP policy provides'.<sup>14</sup> What is SIRA doing to address this issue?**

#### **Response**

The former MAA commissioned market research to better understand community understanding of the Green Slip scheme. This was followed by further social research commissioned by SIRA earlier in 2016 as part of the Government's consultations on CTP reform options.

The current review of CTP has been supported by a comprehensive communications strategy.

A public education program will follow any decision by Government to make changes to the CTP scheme.

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<sup>13</sup> Attachment 1 to submission No. 7, Law Society of New South Wales, p 5.

<sup>14</sup> State Insurance Regulatory Authority, Compulsory Third Party 2014 Scheme Performance Report, November 2015, p 20.



### ***Scheme design***

- 16. The 2015 independent review of insurer profits discusses the issue of insurers competing on price in a limited way due to the need to enforce cross subsidies within the scheme.<sup>15</sup>**
- a. In SIRA's view, do the current limitations on risk pricing enable adequate competition between insurers?**

### **Response**

See the response to Question 5, above.

- 17. The Law Society of New South Wales in its submission states, in reference to the NSW Government's 2016 discussion paper '*On the road to a better CTP Scheme*' that 'the objectives ... can be better achieved by modifying the current fair and sound scheme, rather than embarking on a wholesale redesign of CTP insurance with all the risks that entails'.<sup>16</sup> Can SIRA comment on this statement?**

### **Response**

The Government's Options Paper canvasses two options that involve changes to processes and/or benefits within the current scheme, as well as options involving a shift to alternative scheme designs, such as a no-fault, defined benefits system. The Options Paper outlines the benefits and issues associated with all of these options.

Consultations on the Options Paper on the review of the CTP scheme indicate that most stakeholders agree that there are significant shortcomings in the current CTP scheme. The consultation process has provided a variety of views on what shape reform should take. Stakeholders have suggested a number of reform proposals in response to issues raised in the CTP Options Paper, including alternative design models.

The Government is currently considering the feedback received on the Options Paper on the Review of the CTP scheme and other forums and will report back with preferred reform options shortly.

Any changes to the CTP scheme are a matter for the NSW Government and ultimately the NSW Parliament.

- 18. In regard to first party vs third party insurance, the Australian Lawyer's Alliance (ALA) in its submission states that 'the ALA cannot identify any evidence or rational basis for the argument that making a claim against a first party insurer will result in a better client experience as against a claim against a third party insurer.'<sup>17</sup> Can SIRA comment on this statement?**

### **Response**

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<sup>15</sup> *Report of the Independent Review of Insurer Profit within the NSW Compulsory Third Party Scheme*, October 2015, p 52.

<sup>16</sup> Attachment 1 to submission No. 7, The Law Society of New South Wales, p 2.

<sup>17</sup> Attachment 1 to submission No. 5, Australian Lawyer's Alliance, p 4.

As noted in the Options Paper on the Review of the CTP scheme (page 13), allowing injured people to claim against their own insurer, like comprehensive motor vehicle insurance, may change the way insurers view claimants. For example, it may improve an insurer's focus on customer service as the claimant chooses the insurance company - this is no longer a matter of luck. This may also enhance competitiveness amongst insurers.

SIRA acknowledges that, based on the feedback received in the consultation process, there are a range of views on the merits of first party versus third party insurance systems. All views are being considered, including the views expressed by the ALA.

The Government is currently considering the feedback received on the Options Paper on the Review of the CTP scheme and other forums and will report back with preferred reform options shortly.

Any changes to the CTP scheme are a matter for the NSW Government and ultimately the NSW Parliament.

### ***Scheme efficiency***

**19. In 2014/15, what was the average time taken for insurers to make the first payment on CTP claims?**

**a. How has this changed since the 2013/14 financial year?**

#### **Response**

The average time to first payment on compensation payments has not changed for lodgements made in the 2013/14 and 2014/15 financial years. In 2013/14 and 2014/15 the average time taken for insurers to make the first payment on compensation payments (excluding legal and investigation payments) on CTP claims was 35 days from lodgement.

**20. According to the MAA Annual Report 2014/15, a challenge for the MAA in 2014/15 included the aim of 'further decreasing timeframes for medical and claims settlements by maintaining a focus on out of court disputes'.<sup>18</sup> Please provide a breakdown of the reductions in timeframes for medical and claims settlements between 2013/14 and 2014/15.**

#### **Response**

##### **Medical Assessment Service (MAS)**

The timeframes for assessing medical disputes at MAS has remained relatively stable since 2013/14 with the average timeframe across all dispute types increasing by one day from 104 working days in 2013/14 to 105 working days in 2014/15. In the same period there was a 3 per cent increase in the number of medical disputes lodged.

In particular:

- The average timeframe for determining treatment disputes reduced by 7 days from 124 working days in 2013/14 to 117 working days in 2014/15.
- The average timeframe for determining permanent impairment disputes rose by one day from 102 working days in 2013/14 to 103 working days in 2014/15.

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<sup>18</sup> Motor Accidents Authority, *Annual Report for year ended 30 June 2015*, p 11.

- The average timeframe for determining further medical assessment disputes rose by two days from 118 working days in 2013/14 to 120 working days in 2014/15.
- The average timeframe for determining a review of medical assessment dispute where the review application was not accepted by the Proper Officer decreased by two days from 40 working days in 2013/14 to 38 working days in 2014/15.
- The average timeframe for determining a review of medical assessment dispute where the review application was accepted by the Proper Officer reduced by one day from 114 working days in 2013/14 to 113 working days in 2014/15.

### Claims Assessment and Resolution Service (CARS)

The timeframes for assessing disputes at CARS have also remained relatively stable since 2013/14.

In particular:

- The timeframe for determining applications for exemption from CARS have increased by 1 day from 15 working days in 2013/14 to 16 working days in 2014/15.
- The timeframe for determining general assessment disputes decreased by 16 days from 173 working days in 2013/14 to 157 working days in 2014/15. This is despite a 3 per cent increase in the number of matters finalised over the period.
- The timeframe for determining special assessment disputes reduced by 6 days from 74 working days in 2013/14 to 68 working days in 2014/15.

### **21. How efficient was the scheme in the 2013/14 and 2014/15 financial years, in terms of the proportion of each dollar paid in premiums returned to injured persons as compensation?**

- a. Is SIRA satisfied with the current efficiency level of the scheme?**
- b. Is there scope to return a greater proportion of each dollar paid in premiums to injured persons?**

### **Response**

Scheme efficiency considers the proportion of each dollar paid in premiums that is directly returned to injured people as benefits, excluding the Lifetime Care and Support scheme and GST.

As noted in the Options Paper on the Review of the CTP scheme, based on historical trends, the proportion of each dollar paid in premiums returned to injured people as compensation is 45 per cent. The remainder of the funds go towards insurer expenses, insurer profit, legal and investigation expenses and other expenses involved in administering the scheme.

One of the objectives of the review of the NSW CTP scheme is to increase the proportion of benefits provided to the most seriously injured road users. The Government is currently considering all feedback received on the Options Paper on the Review of the CTP scheme and during other forums and will report back with preferred reform options shortly.

The decision as to whether changes will be made to the CTP scheme is a matter for the NSW Government.

### **22. To address the significant increase in legally represented small claims numbers in recent years, the Law Society of New South Wales<sup>19</sup>, The New South Wales Bar**

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<sup>19</sup> Submission No. 7, the Law Society of New South Wales, p 4.

Association<sup>20</sup> and the Australian Lawyer's Alliance<sup>21</sup> in their submissions propose that the Motor Accidents Compensation Regulation 2015 be amended in regard to children's claims as follows:

**Children's claims**

- (a) Where a claim is exempted solely on the basis of a lack of capacity related to the age of a claimant and where the ultimate settlement or judgment in the matter is \$25,000 or less, then:
- (i) The maximum recoverable as party/party professional costs shall not be more than \$5,500 inclusive of GST; and
  - (ii) No additional professional fees may be charged on a contracted out basis
- unless the court otherwise orders.
- (b) Where a claim is exempted solely on the basis of lack of capacity related to the age of a claimant and where the ultimate settlement or judgment in the matter is less than \$50,000, but greater than \$25,000 then:
- (i) The maximum recoverable as party/party professional costs shall not be more than \$11,000 inclusive of GST; and
  - (ii) No additional professional fees may be charged on a contracted out basis
- unless the court otherwise orders.
- (c) Where a claim to which (a) or (b) above applies is the second or other subsequent claim brought on behalf of an occupant of the same vehicle involved in an accident, then the maximum recoverable as party/party professional costs shall not be more than \$5,500 inclusive of GST and no additional professional fees may be charged on a contracted out basis, unless the court otherwise orders.

What is SIRA's view of this recommendation?

**Response**

The Government is currently considering the above proposal as part of the review of the CTP scheme.

The decision as to whether changes will be made to the CTP scheme is a matter for the NSW Government.

**23. As a short term measure to contain the legal fees payable in small claims, the Law Society of New South Wales<sup>22</sup>, The New South Wales Bar Association<sup>23</sup> and the Australian Lawyer's Alliance<sup>24</sup> in their submissions propose that the Motor Accidents Compensation Regulation 2015 be amended to provide that:**

**'where the total damages recovered by way of settlement, award or judgment is less than \$50,000 the legal practitioners acting in the matter**

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<sup>20</sup> Attachment 2 to submission No. 4, New South Wales Bar Association, pp 1-2.

<sup>21</sup> Attachment 3 to submission No. 5, Australian Lawyer's Alliance, pp 1-2.

<sup>22</sup> Attachment 1 to submission No. 7, Law Society of New South Wales, p 5.

<sup>23</sup> Attachment 2, submission No. 4, New South Wales Bar Association, p 2.

<sup>24</sup> Attachment 3 to submission No. 5, Australian Lawyer's Alliance, p 2.

may not contract out of the regulated legal fees in relation to professional costs.'

What is SIRA's view of this recommendation?

### **Response**

The Government is currently considering this proposal as part of the review of the CTP scheme.

The decision as to whether changes will be made to the CTP scheme is a matter for the NSW Government.

**24. In the 2014 CTP Scheme Performance Report, it is stated that 'measures such as the new Premiums Determination Guidelines are expected to help in creating a clearer basis upon which insurer assumptions are made in filings, but the ultimate uncertainties in scheme design coupled with the necessarily conservative nature of premium setting will likely continue to result in realised profits that exceed filed estimates. The current profit review and premium review processes will explore options to better address this issue going forward'.<sup>25</sup> Could SIRA provide an update on the effectiveness of these guidelines and the reviews in addressing this issue?**

### **Response**

The revised *Premiums Determination Guidelines* provide a more robust framework for the scrutiny of insurer filings by SIRA. They require greater transparency from insurers regarding proposed price changes as insurers must provide more specific information on the assumptions underlying their projections.

SIRA now holds pre-filing meetings with insurers where they are given the opportunity to present their views on key assumptions. SIRA also gives insurers a quarterly briefing on the regulator's view of the Scheme which provides stronger guidance on scheme performance and filing expectations. For example, insurers have been required to file substantial reductions in Superimposed Inflation estimates. This has previously been identified as a major contributor to excessive profits.

Insurers are now required to file using a central estimate rather than conservative assumptions. Insurers are routinely challenged to amend filings where filing assumptions are inconsistent with the regulator's view. As a result, the insurer filing process has improved substantially. This was confirmed in the review of insurer profit.

### ***Scheme reform***

**25. According to the MAA Annual Report 2014/15, a key achievement of the MAA in 2014/15 was the 'commencement of a review of regulatory frameworks and processes'.<sup>26</sup> Please provide an update on this review.**

### **Response**

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<sup>25</sup> State Insurance Regulatory Authority, *Compulsory Third Party 2014 Scheme Performance Report*, November 2015, p 42.

<sup>26</sup> Motor Accidents Authority, *Annual Report for year ended 30 June 2015*, p 10.

In response to the Government's Quality Regulatory Services initiative, SIRA conducted a review of its regulatory framework and processes during 2014/15. As a result, a number of regulatory tools and guidelines have been revised. A multi-disciplinary Regulatory Risk and Strategy Group has also been established within SIRA to further develop regulatory efficiency and effectiveness.

In November 2014 revised *Market Practice and Business Plan Guidelines* commenced to better regulate market practices; encourage innovation, and ensure fair and equitable access to Green Slips by customers. Insurers must submit business plans that demonstrate how the principles will be met. These guidelines are now principles-based, with four principles. Insurers must:

1. Act in good faith with all customers.
2. Use processes and business practices that do not unfairly discriminate against individual customers or groups of customers.
3. Engage in processes and business practices that are transparent and practical for the purpose of issuing policies to customers.
4. Make CTP Policies readily accessible and available to all customers.

The revised *Premiums Determination Guidelines* commenced on 1 November 2014. These guidelines are designed to improve transparency in Green Slip pricing and better supervision over insurer projections. The guidelines add more rigour to insurer premium filings by explicitly stating SIRA's expectations as to how insurers will justify their assumptions and the disclosure of their justification. They also standardise premium filing processes and the information required to be submitted by insurers, to help reduce red tape and improve SIRA's regulatory capability.

SIRA is also currently developing new principles-based and outcomes-focused *Claims Handling Guidelines* in consultation with CTP insurers, legal professional groups and medical peak bodies. The timing of the new Guidelines will be considered following the review of the CTP scheme.

In line with the new risk based approach, SIRA is also monitoring compliance of CTP insurers more strategically, focusing more specifically on insurer decisions critical to the claimant (e.g. determinations of liability, offers of settlement, requests for treatment and care). Insurers are now required to provide clear reasons for decisions on liability and standard templates have been developed for this purpose.

New databases have also been established to provide greater business intelligence for SIRA as scheme regulator, including a Policy Database, and a Legal Costs Database. Further work is underway to identify data and performance measures that will enhance the operation of SIRA.

**26. Please provide an update on the NSW Government's review of the CTP Scheme, outlined in its 2016 discussion paper '*On the road to a better CTP Scheme*'.**

### **Response**

The NSW Government has conducted extensive consultation with stakeholders as part of the review of the CTP scheme. Consultations involving insurers, lawyers, medical professionals and other stakeholders have been undertaken. Qualitative and quantitative social research has also been undertaken to ensure the views of road users, vehicle owners and injured people are taken into account.

Consultations on the Options Paper indicate that most stakeholders agree that there are significant shortcomings in the current CTP scheme. The consultation process has provided a variety of views on what shape reform should take. Stakeholders have suggested a number of reform proposals in response to issues raised in the CTP Options Paper, including alternative design models.

The Government is currently considering the feedback received on the Options Paper on the Review of the CTP scheme and other forums and will report back with preferred reform options in due course.

Any changes to the CTP scheme are a matter for the NSW Government and ultimately the NSW Parliament.

**27. Unions New South Wales recommends investigating 'what cost estimate would cover all workers on journeys to and from their work and place of abode (regardless of fault) under CTP'.<sup>27</sup> Can SIRA comment on this recommendation?**

### **Response**

As the NSW CTP Scheme is a primarily fault-based Scheme, it would not seem logical to extend access to modified common law damages under the current Scheme to at-fault drivers on journeys between their work and residence. The Scheme Actuaries, Ernst & Young, have estimated that the cost of providing coverage to at fault-drivers for journey claims under the current CTP Scheme is between \$61 and \$100 per policy (inclusive of insurer expenses, profit, GST and MCIS levy).

If the NSW CTP Scheme were to become a primarily no-fault Scheme, at-fault drivers, including those on journeys between their work and residence, would be covered under the Scheme. Depending on the design of any Scheme, coverage for journey claims by at fault drivers would likely be able to be provided at significantly reduced CTP premiums than those currently being paid by NSW motorists.

**28. The New South Wales Bar Association its submission states its support of the NSW Government's four key objectives for reform of the scheme, outlined in the discussion paper 'On the road to a better CTP Scheme'. However the Association states it does not support 'stripping the benefits currently paid to those with moderate and economically severe injuries in order to provide benefits to those who cause accidents or to further pad insurer profits'.<sup>28</sup> What is SIRA's view on this issue?**

### **Response**

The Government is currently considering the feedback received on the Options Paper on the Review of the CTP scheme and other forums and will report back with preferred reform options shortly. The Options Paper sets out a target to improve the proportion of benefits going to the seriously injured.

Any reform needs to balance the needs of injured people with the affordability of premiums paid by vehicle owners.

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<sup>27</sup> Submission No. 10, Unions New South Wales, p 2.

<sup>28</sup> Attachment 1 to submission No. 4, New South Wales Bar Association, p 1.

Any changes to the CTP scheme are a matter for the NSW Government and ultimately the NSW Parliament.

**29. The New South Wales Bar Association in its submission cautions that ‘if the CTP scheme becomes a scheme that only provides minimal benefits then by that process the CTP scheme becomes the stepping-stone for the need to purchase private income and disability policies’.<sup>29</sup> What is SIRA’s view on this potential issue?**

#### **Response**

The Government’s Options Paper canvasses four options and the benefits and issues associated with all of these options.

Any reform needs to balance the needs of injured people with the affordability of premiums paid by vehicle owners.

The Government is currently considering the feedback received on the Options Paper on the Review of the CTP scheme and other forums and will report back with preferred reform options shortly.

The decision as to whether changes will be made to the CTP scheme is a matter for the NSW Government.

**30. The New South Wales Bar Association in its submission states that it supports the notion of a hybrid fault-based scheme, outlined in ‘Option C’ of the discussion paper ‘*On the road to a better CTP Scheme*’. The Association also states that ‘the challenge in adjusting the fault/no fault mix is that any expansion by way of further benefits to drivers at fault will usually necessitate removing benefits from those who can establish fault’.<sup>30</sup> Can SIRA comment on this statement?**

#### **Response**

The Government’s Options Paper canvasses four options and the benefits and issues associated with all of these options.

Any reform needs to balance the needs of injured people with the affordability of premiums paid by vehicle owners.

The Government is currently considering the feedback received on the Options Paper on the Review of the CTP scheme and other forums and will report back with preferred reform options shortly.

The decision as to whether changes will be made to the CTP scheme is a matter for the NSW Government.

**31. The Law Society of New South Wales states in its submission, in relation to the NSW Government’s discussion paper ‘*On the road to a better CTP Scheme*’, that ‘the adoption of a mandated open disclosure model as currently exists in Queensland, may go a long way to achieving at least two of the Minister’s key objectives, reducing the time it takes to resolve a claim, and reducing**

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<sup>29</sup> Attachment 1 to submission No. 4, New South Wales Bar Association, p 2.

<sup>30</sup> Attachment 1 to submission No. 4, New South Wales Bar Association, 2.



**opportunities for claims fraud and exaggeration<sup>31</sup>. What is SIRA's view on this comment?**

**Response**

SIRA has been developing new Claims Handling Guidelines which require greater disclosure by the parties.

The Government is currently considering the feedback received on the Options Paper on the Review of the CTP scheme and other forums and will report back with preferred reform options shortly.

The decision as to whether changes will be made to the CTP scheme is a matter for the NSW Government.

**32. In the 2014 CTP Scheme Performance Report it is noted 'that while the New South Wales motor accidents scheme is not as efficient as some other schemes, the benefits paid under the scheme are considerably more generous than in many other Australian states'.<sup>32</sup> Does SIRA expect that this level of benefits will be maintained following the NSW Government's planned reform of the scheme?**

**Response**

The Government's Options Paper canvasses four options and the benefits and issues associated with all of these options.

Any reform needs to balance the needs of injured people with the affordability of premiums paid by vehicle owners.

The Government is currently considering the feedback received on the Options Paper on the Review of the CTP scheme and other forums and will report back with preferred reform options shortly.

The decision as to whether changes will be made to the CTP scheme is a matter for the NSW Government.

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<sup>31</sup> Attachment 1 to submission No. 7, the Law Society of New South Wales, p 14.

<sup>32</sup> State Insurance Regulatory Authority, Compulsory Third Party 2014 Scheme Performance Report, November 2015, p 7.

ATTACHMENT 1 - REVIEW OF THE EXERCISE OF THE FUNCTIONS OF THE MOTOR ACCIDENTS AUTHORITY – Twelfth Review

Recommendation	Government Response	Notes
<p>1 That the Minister for Finance and Services establish a Motor Accidents Advisory Committee under section 10 of the <i>Safety, Return to Work and Support Board Act 2012</i> that is comprised of members from the legal, insurance, health and community sectors.</p>	<p>Supported in part The MAA will establish an advisory committee with representatives of the customers of the Scheme, that being vehicle owners and injured people, as well as expert advisors, rather than the proposed membership which reflects service providers in the Scheme. It is not intended at this time to establish the advisory committee under section 10 of the <i>Safety, Return to Work and Support Board Act 2012</i>. The MAA has existing arrangements for seeking input from members of the legal, insurance and health sectors. The MAA meets regularly with key service providers to discuss policy opportunities and to resolve operational questions about the delivery of the scheme. Service providers and stakeholder groups are also given ample opportunity to advance their interests through the regular Law and Justice Committee review process. However, the Government is concerned that the voice of stakeholders – vehicle owners, who fund the Scheme, and injured people, who need to rely on the Scheme for support – are not as well heard. The MAA is seeking to engage more directly with these two key stakeholder groups – injured people and vehicle owners, to get a more comprehensive understanding of consumer views, expectations and experiences of the CTP Scheme. The MAA is undertaking a claimant survey and piloting some broader focus groups including claimants and policy holders (vehicle owners). The Government proposes an advisory committee structure that allows input from the direct scheme stakeholders. However the Government recognises that these user groups are somewhat fragmented and it may be difficult to find a representative membership.</p>	<p>As a result of the <i>State Insurance and Care Governance Act 2015</i>, the State Insurance Regulatory Authority (SIRA) assumed responsibility for the regulatory functions of the Motor Accidents Authority from 1 September 2015. SIRA has conducted consultation with key stakeholders on the most effective way to engage on issues affecting the scheme. SIRA will shortly be releasing a strategy which addresses how it will engage across compulsory third party (CTP) and workers compensation schemes. Following the establishment of SIRA, it is no longer proposed to establish a customer advisory committee. SIRA's preference is to adopt a range of consultation mechanisms to engage on issues related to the scheme as they arise. As well as having frequent one-on-one engagement with key stakeholders groups, the following consultations have been undertaken in relation to CTP issues:</p> <ul style="list-style-type: none"> <li>• A roundtable on CTP issues affecting the Taxi industry;</li> <li>• Release of an options paper around CTP reform and targeted consultation through: <ul style="list-style-type: none"> <li>• Separate roundtables with the legal/insurance industry, carers organisations and other industry bodies, and medical and allied health service providers;</li> <li>• Social research including discussion forums, telephone interviews and online surveys of over 1200 community members including motorists and injured road users;</li> </ul> </li> <li>• A roundtable on CTP insurance for the Point to Point Industry;</li> <li>• CTP Fraud Taskforce comprising NSW Police,</li> </ul>

Recommendation	Government Response	Notes
<p>2</p> <p>That the Motor Accidents Authority publish the Ernst &amp; Young report into motorcycle CTP premiums as soon as it has been completed and provide it to the committee.</p>	<p>Supported</p> <p>Ernst &amp; Young is currently finalising its independent review of motorcycle CTP premiums and the Government will release it in due course. A copy will also be provided to the Committee once available.</p>	<p>The <i>Review of Green Slip Premium Setting for Motorcycles 2000-2014</i> by Ernst &amp; Young was publicly released on 10 March 2016 and is available on the SIRA website. The review was, at the same time, provided to the Committee.</p>
<p>3</p> <p>That the Motor Accidents Authority, in consultation with stakeholders, address the issue of insurers denying liability under section 95 of the <i>Motor Accidents Compensation Act 1999</i> to exempt cases from the Claims Assessment and Resolution Service.</p>	<p>Supported</p> <p>The amendments to the <i>MAA Claims Handling Guidelines</i> and <i>Claims Assessment Guidelines</i>, which came into effect on 1 May 2014, provide for claims involving allegations of contributory negligence to be assessed by the Claims Assessment and Resolution Service (CARS). The amendments aim to reduce Scheme costs and delays associated with litigation of these matters, and require clearer explanation by insurers of their liability decisions.</p> <p>To support this, the MAA has issued new liability decision templates for use by insurers, developed in consultation with insurers and the legal profession, to provide greater transparency of decision making and better inform injured people of the status of their claim and next steps. The MAA is currently monitoring impacts and compliance with the new template, and has commissioned targeted audits of insurer liability decisions.</p> <p>The MAA Motor Accidents Assessment Service Reference Group will monitor the frequency of allegations of contributory negligence by CTP insurers over the next 12mths</p>	<p>A review of the use of section 81 templates by insurers has been completed and an independent audit of liability determinations has also been finalised. SIRA recommended a number of remedial actions, which have been put in place by insurers where appropriate and SIRA continues to monitor insurer compliance and performance in this area.</p> <p>An analysis of the frequency of allegations of contributory negligence by CTP insurers before and after the amendments to the MAA Claims Handling Guidelines on 1 May 2014 has shown that the number of claims with a liability status of 'partial liability – contributory negligence' had reduced by 12.5%.</p>
<p>4</p> <p>That the Motor Accidents Authority include the data solely for CTP scheme efficiency and the data for combined CTP and Lifetime Care and Support scheme efficiency in its annual reports.</p>	<p>Supported in part</p> <p>The CTP and Lifetime Care and Support Schemes are fundamentally different. These differences make it difficult and misleading to create a combined efficiency measure. While the Government believes it is appropriate to hold the private insurance market and the Lifetime Care and Support</p>	<p>A thorough review of the CTP and Lifetime Care and Support (LTCS) schemes has been undertaken by the scheme actuaries. Both actuaries recommended against using a combined efficiency ratio. This advice was included in the 2014 CTP Scheme Performance Report, which was provided to the Committee in 2015.</p>

Recommendation	Government Response	Notes
	Scheme to separate account for their performance, it has asked the Motor Accidents Authority and Lifetime Care and Support Authority to work with their respective actuaries to consider the options for showing efficiency.	Notwithstanding, the Government's Options Paper for CTP reform provides an indicative efficiency measure including LTCS.
<p><b>5</b></p> <p>That the Minister for Finance and Services ensure there is a prompt review of the high level of insurer profits, and that all relevant stakeholders are consulted.</p>	<p>Supported</p> <p>The Government remains concerned about the high level of insurer profits in the CTP Scheme. The issue of insurer super-profit has been an issue in the Scheme for more than a decade. The Government attempted to introduce reforms in 2013 which, among other things, would have helped address this issue. However, the New South Wales Upper House did not support the legislation.</p> <p>The Government will ask the Safety, Return to Work and Support Board to commission a review of insurer profits in the CTP Scheme. It is anticipated that the review will include an examination of Scheme design and competition issues, as well as opportunities for improving the regulation of the scheme.</p>	<p>An independent review of insurer profit within the CTP scheme was undertaken in mid-2015. The review was led by an independent chair and conducted by independent consultants and included substantial stakeholder consultation. The review included an examination of premium system design and competition issues, and opportunities for improving scheme regulation. The final report was published on 11 March 2016 and a copy provided to the Committee.</p>
<p><b>6</b></p> <p>That in its review of the <i>Motor Accidents Compensation Act 1999</i>, the NSW Government consult with stakeholders to identify barriers to new entrants and any means to encourage greater competition while maintaining long-term scheme sustainability.</p>	<p>Supported</p> <p>The proposed review of insurer profits (see response to recommendation 5 above) will also include an examination of opportunities to better address competition in the CTP Scheme, as these issues are inter-related.</p>	<p>Competition issues were considered as part of the independent review of insurer profit within the CTP scheme (see response to recommendation 5).</p>
<p><b>7</b></p> <p>That the Motor Accidents Authority provide a report annually to the committee by 30 April that includes a comprehensive review of scheme performance in the most recent accident year, including an analysis of the drivers of high levels of insurer profits.</p>	<p>Supported</p> <p>The MAA will provide a new scheme performance report annually to the Committee. This will include the reporting requirements regarding insurer profit that the MAA is required to provide the Committee.</p> <p>It is proposed that the MAA Annual Report provide high level scheme metrics and an overview of the performance of the MAA, while the Scheme Performance report will provide</p>	<p>SIRA has provided the 2014 CTP Scheme Performance Report and 2015 CTP Scheme Performance Report to the Committee.</p>

Recommendation	Government Response	Notes
<p>8</p> <p>That the Motor Accidents Authority proactively consult with stakeholders and report twice yearly, once in the annual report and once in the April report (see recommendation 7) on superimposed inflation risks and strategies to address them.</p>	<p>detailed analysis of the scheme itself.</p> <p>Supported</p> <p>The New South Wales Government recognises that superimposed inflation (or its absence) is a factor that has contributed to higher than anticipated insurer profits in the CTP scheme and at times has been the significant driver of increases in claims costs and premiums. The Government agrees that there is merit in proactively considering any potential sources of superimposed inflation as and when they become apparent. The MAA will consult with relevant scheme stakeholders and include a discussion of superimposed inflation risks and strategies to address them in the new scheme performance report and annual report, where relevant and appropriate.</p>	<p>SIRA has had discussions with CTP insurers and legal professionals about superimposed inflation.</p> <p>The 2014 and 2015 CTP Scheme Performance Reports and the 2014-15 Annual Report contain an analysis of superimposed inflation.</p>
<p>9</p> <p>That the Minister for Finance and Services ensure the <i>Motor Accidents Compensation Regulation 2005</i> is remade by no later than 1 September 2014, and that it provide for realistic and fair levels of legal costs in motor accident matters.</p>	<p>Supported in part</p> <p>The MAA is currently in consultation with scheme stakeholders about potential changes to the <i>Motor Accidents Compensation Regulation 2005</i> within the constraints of the current <i>Motor Accidents Compensation Act 1999</i>. After taking stakeholder feedback into account, the Authority will make recommendations to the Government with a view to issuing a draft Regulation for formal consultation before any new Regulation is made. The timeframe for remaking the Regulation has been extended to 1 September 2015 to enable adequate consultation with scheme stakeholders.</p>	<p>The <i>Motor Accidents Compensation Regulation 2015</i> was published on 5 March 2015.</p>
<p>10</p> <p>That the Motor Accidents Authority finalise the review of the Physiotherapy Notice of Commencement and Physiotherapy Review Forms in consultation with stakeholders, and in doing so, include the physiotherapist type and level of expertise so an appropriate level of remuneration can be provided.</p>	<p>Supported</p> <p>The MAA is currently reviewing communications and guidance documents for all service providers, including physiotherapists, by way of a Service Provider Guides Working Group. The Working Group meets regularly and is currently working towards the following goals:</p> <ul style="list-style-type: none"> <li>- simplifying the request and approval process to avoid treatment delays;</li> </ul>	<p>SIRA is continuing work on this project with the goal of a mid-2016 implementation date.</p>

Recommendation	Government Response	Notes
<p><b>11</b></p> <p>That the Motor Accidents Authority work with Carers NSW to produce and publish an online fact sheet containing information to assist carers, including links to other appropriate services and support.</p>	<p><b>Government Response</b></p> <ul style="list-style-type: none"> <li>- incorporating the principles of the Clinical Framework into the process;</li> <li>- highlighting the role of return to work in the CTP scheme; and</li> <li>- emphasising the use of client's goals in treatment requests and when reporting on the outcome of services.</li> </ul> <p>The Working Group has been involved in the development of a draft form for requesting all allied health services, which is currently being piloted by WorkCover. Work is also underway on an additional form to request case manager or rehabilitation provider services. It is anticipated that the new forms will be available for use by allied health professionals involved in the CTP scheme in 2015.</p>	<p><b>Notes</b></p> <p>SIRA is currently updating its website to include a link to the icare website.</p> <p>The MAA wrote to Carers NSW in May 2015 inviting a representative to meet and discuss any other CTP issues it may have.</p>
<p><b>12</b></p> <p>That the Motor Accidents Authority conduct a review and publish a discussion paper on the issues relating to access to non-economic loss damages, and that these be considered in any legislative review. The discussion paper should include an actuarial analysis of the ramifications to the scheme, claimants, CTP</p>	<p><b>Government Response</b></p> <p>Supported</p> <p>The New South Wales Government recognises the important role of carers in providing assistance and care to people with disabilities, including people who have been severely injured in motor vehicle accidents. The MAA has reviewed its website content as part of an upgrade and determined that the most appropriate location for information to assist carers of people who have been severely injured in motor vehicle accidents is the Lifetime Care and Support Authority website. The Lifetime Care and Support Authority's website contains information to assist carers and provides a link to the Carers NSW website. The MAA website will be amended to include a link to this information on the Lifetime Care and Support Authority's website.</p>	
	<p><b>Government Response</b></p> <p>Not supported</p> <p>The New South Wales Government does not intend to change the 10% whole person impairment threshold at this time.</p> <p>The ten per cent whole person impairment threshold for determining access to non-economic loss damages has been successfully in place since 1999 in order to ensure that the highest proportion of CTP scheme benefits go to those people</p>	

Recommendation	Government Response	Notes
<p>pricing and insurers of:</p> <ul style="list-style-type: none"> <li>- changing the threshold to access non-economic loss damages to that of section 16 of the <i>Civil Liability Act 2002</i></li> <li>- lowering the ten per cent whole person impairment threshold</li> <li>- allowing both physical and psychological injuries to be aggregated to determine whole person impairment threshold.</li> </ul>	<p>who are most seriously injured.</p> <p>Any lowering of the threshold or aggregation of physical and psychological injuries will increase cost in the CTP scheme and the NSW Government does not support measures which will significantly increase Green Slip prices, especially at this time of relatively poor affordability. An estimate by the CTP scheme actuary indicates that:</p> <ul style="list-style-type: none"> <li>- changing the threshold to access non-economic loss damages to that of section 16 of the <i>Civil Liability Act 2002</i> would increase the cost of a Green Slip by up to \$85 per policy;</li> <li>- lowering the whole person impairment threshold from 10% to five per cent would increase the cost of a Green Slip by up to \$75 per policy, and removing the threshold altogether would add up to \$130 per policy; and</li> <li>- allowing both physical and psychological injuries to be aggregated to determine whole person impairment would increase the cost of a Green Slip by up to \$75 per policy.</li> </ul>	
<p><b>13</b></p> <p>That the Minister for Finance and Services ensure that a review of causation is undertaken, and that the report and recommendations be published</p>	<p>Not supported</p> <p>Questions of reasonable and necessary treatment, causation and the degree of permanent impairment of injuries are matters of specialist medical opinion, which should be addressed by appropriately qualified medical and allied health specialists.</p> <p>In accordance with the <i>Motor Accidents Compensation Act 1999</i>, the MAA appoints suitably qualified persons as medical assessors. In appointing medical assessors, the MAA considers their expertise, independence and credibility within their area of speciality. They are accredited to assess one or more different types of dispute and receive regular training and performance management in connection with their role in providing conclusive certificates in relation to medical assessment matters.</p> <p>The New South Wales Government is of the view that medical professionals with the correct training are more than capable</p>	

Recommendation	Government Response	Notes
<p><b>14</b></p> <p>That the NSW Government amend Division 1A of the <i>Motor Accidents Compensation Act 1999</i>, including through the removal of section 89A, to address concerns with the settlement conference process.</p>	<p>Supported in part</p> <p>The Government agrees that this provision is problematic. The <i>Motor Accident Injuries Amendment Bill 2013</i> proposed significant reforms to Division 1A of Part 4.4 of the <i>Motor Accidents Compensation Act 1999</i> (sections 89A – 89E), including removing section 89A. However the legislation was not supported by the opposition and minor parties in the Legislative Council and consequently the Bill was withdrawn from Parliament in August 2013.</p> <p>Following the withdrawal of the Bill, the Authority is working with stakeholders, including the NSW Bar Association, to review procedures and guidelines with a view to streamlining claims and dispute resolution processes within the constraints of the current legislation.</p> <p>The Government will consider the concerns raised by stakeholders in relation to the operational requirements of Division 1A, however the decision to change an Act is ultimately a matter for the Parliament.</p>	<p>This issue will be considered again as part of the current review of the CTP scheme.</p>
<p><b>15</b></p> <p>That the NSW Government amend the late claims process under section 73 of the <i>Motor Accidents Compensation Act 1999</i> by extending the period in which a late claim can be made without explanation from six to 12 months.</p>	<p>Supported in part</p> <p>The reforms proposed in the withdrawn <i>Motor Accident Injuries Amendment Bill 2013</i> were intended to better address late claims by extending the period in which a claim could be made without explanation (up to a year), but reducing the insurer's obligations to make initial back-payments (thereby encouraging early lodgement).</p> <p>The Government considers that the late claim system needs improving, but that there should still be an incentive for early lodgement to enable treatment and support to be provided as early as possible. The MAA will review the range of options for improving the late claims process. The MAA will work with insurers and lawyers as part of the review of MAA Claims Handling Guidelines to ensure clearer and more appropriate</p>	<p>A review of the Claims Handling Guidelines is underway. The review specifically addresses the late claims process by clarifying expectations in relation to insurers' management of late claims.</p> <p>This issue will be considered again as part of the current review of the CTP scheme.</p>



Recommendation	Government Response	Notes
<p><b>16</b></p> <p>That the NSW Government ensure that the review of the operation of the Accident Notification Form is conducted by the Motor Accidents Advisory Committee (see recommendation 1), or, if that committee is not established, that stakeholders are widely consulted in the review.</p>	<p>Supported</p> <p>The MAA will undertake a review of the operation of the ANF as part of its current Improvement program and will welcome the input of stakeholders with a range of views about how it might operate more effectively. It is anticipated that the review may include an examination of the efficiency and effectiveness of the ANF as well as options for simplifying its operation.</p>	<p>SIRA has reviewed the maximum amount that an insurer is required to pay under the Accident Notification Form (ANF) and determined that it is still appropriate.</p> <p>This issue will be considered again as part of the current review of the CTP scheme.</p>