

## 2022 Reviews of The Compulsory Third Party Insurance And Lifetime Care And Support Schemes

### 7 Questions on Notice for the State Insurance Regulatory Authority (SIRA)

#### Question on Notice 1:

**The Hon. ANTHONY D'ADAM:** I want to ask about the logic behind the 10 per cent threshold in terms of profits. I'm assuming that's statutory, is it?

**ADAM DENT:** The SIRA board makes a determination about what they think is a reasonable profit level. I confess that I wasn't at SIRA when that was settled, and nor was Dr Casey in the role. We could take on notice the detail of how that was arrived at, but it is a decision the SIRA board would make around what they think is reasonable, given the market considerations et cetera.

#### SIRA response

Prior to the commencement of the 2017 CTP Scheme, a series of analysis, discussion papers and consultations were undertaken regarding insurer profits culminating in a report published by the SIRA Board that proposed an appropriate profit margin on filed profits in the 2017 CTP Scheme would be 8 per cent.

<https://www.sira.nsw.gov.au/resources-library/law-and-policy-or-corporate/publications/Reforming-insurer-profit-in-the-CTP-Green-Slip-Scheme-Broad-Report.pdf>

A key consideration for the SIRA Board was to determine the central measure of “reasonable profit”, which under the transitional provisions means the level of underwriting profit which represents an adequate return on invested capital for insurers. This central measure then informed the determination of a range of reasonable profit, with the upper range determined to be 10 per cent.

The Transitional Excess Profits and Transitional Excess Losses Guidelines (The Guidelines) are the mechanism by which the excess profit or loss range are set.

The Guidelines came into effect in September 2019 to apply to all third-party policies issued on or after 1 December 2017 and determine a range on both sides of the benchmark profit margin for the excess profit or loss as follows:

- i) Benchmark Profit Margin – 8%
- ii) Excess Profit Threshold – 10%
- iii) Excess Loss Threshold – 3%.

The Benchmark Profit Margin, Excess Profit Threshold and Excess Loss Threshold are subject to review by the Authority as applicable.

#### Question on Notice 2:

**The Hon. GREG DONNELLY:** No, that's okay. I'm not going to interrogate you in detail about the content. It was cc'ed to you. Were you aware that it was cc'ed to a number of other people?

**ADAM DENT:** At the point I received it, yes, because the list of cc's was on the document.

**The Hon. GREG DONNELLY:** Because the list was there, yes. On notice, could you provide the Committee with that list? That would be good because we're looking to get a definitive set of those who received it.

**ADAM DENT:** Sure. I have no reason to believe it wasn't the same as what the list said. I could provide the document, absolutely.

## SIRA Response

Adam Dent provided a copy of the correspondence to the committee during the hearing.

The following list of people were copied on the correspondence:

- The Hon Chris Rath, MLC, Chair, New South Wales Parliament Legislative Council Standing Committee on Law and Justice
- The Hon Victor Dominello, MP, Minister for Customer Service and Digital Government
- Ms Joanne van der Plaats, President, New South Wales Law Society
- Ms Gabrielle Bashir SC, President, New South Wales Bar Association
- Mr Adam Dent, Chief Executive, State Insurance Regulatory Authority
- Ms Sophie Cotsis, MP, Shadow Minister for Industrial Relations, and Shadow Minister for Work Health and Safety
- Ms Yasmin Catley, MP, Shadow Minister for Customer Service, Shadow Minister for Digital, and Shadow Minister for the Hunter
- Mr Richard Harding, CEO, icare NSW
- Mr Simon Cohen, Independent Review Officer

### Question on Notice 3:

**The Hon. GREG DONNELLY:** May I ask then, in terms of the trial—trials are trials, and trials can sometimes produce valuable information and insights—was all of what you've said actually published in a report with respect to the trial?

**PETRINA CASEY:** Yes.

**ADAM DENT:** Yes.

**The Hon. GREG DONNELLY:** On notice, could you provide that?

**ADAM DENT:** Yes, of course.

### SIRA response

SIRA published the report of the Young Drivers Telematics Trial on the SIRA website:

[https://www.sira.nsw.gov.au/\\_data/assets/pdf\\_file/0010/556264/NSW-Young-Drivers-Telematics-Trial.pdf](https://www.sira.nsw.gov.au/_data/assets/pdf_file/0010/556264/NSW-Young-Drivers-Telematics-Trial.pdf)

<https://www.sira.nsw.gov.au/fraud-and-regulation/research/young-drivers-telematics-trial>

### Question on Notice 4:

**The Hon. GREG DONNELLY:** With respect to the p \$91 million, colloquially called the clawback—

we've touched on earlier today—on notice, are you able to provide an explanation, with some specificity if you can because clearly you can, of the methodology used to come up with that figure? It obviously wasn't just plucked out of the air. In fact, knowing the organisation and the competence and the professionalism, there was obviously a lot of work done to come up with that figure. We're very keen, or certainly, on behalf of the Committee, I'm asking the question—we'd like to know the methodology for coming up with that figure.

**ADAM DENT:** We can certainly provide you a document called our TEPL guidelines.

## SIRA response

The Transitional Excess Profits and Transitional Excess Losses Guidelines (The Guidelines) outline the methodology and process for the transitional excess profit or excess loss (TEPL) assessment.

[https://www.sira.nsw.gov.au/\\_data/assets/pdf\\_file/0003/567642/Motor-accident-guidelines-transitional-excess-profits-and-transitional-excess-losses.pdf](https://www.sira.nsw.gov.au/_data/assets/pdf_file/0003/567642/Motor-accident-guidelines-transitional-excess-profits-and-transitional-excess-losses.pdf)

The results of each stage of the process are reviewed and endorsed by SIRA's Premium Committee (whose role is to advise the SIRA Board on matters pertaining to CTP insurance premiums) and the SIRA Board prior to SIRA Chief Executive making his final decision.

## Question on Notice 5:

**The Hon. ANTHONY D'ADAM:** I just wanted to ask something arising out of the evidence from the Motorcycle Council this morning. They again raised the issue around interstate accidents. I'm assuming this applies not just to the motorcycles but also to other vehicles as well. There seemed to be some suggestion around an inability for motorists to acquire additional insurance that would overlap with the CTP policy that would give them coverage for accidents outside of New South Wales. What work has SIRA done in relation to this? Is there consideration being given to some kind of top-up arrangement that would address this problem that seems to be primarily a Tasmanian problem, but it's a problem nonetheless, for those who are taking out CTP and not actually having an equitable or equivalent form of coverage if they go interstate?

**PETRINA CASEY:** I'll take some of it on notice, but it is a challenging area.

## SIRA response

Each Australian State and Territory has its own motor accident injuries scheme which operates in accordance their legislative frameworks.

A NSW resident injured in a motor vehicle accident in another Australian jurisdiction has entitlements in accordance with the law of where the crash happened.

SIRA has not undertaken work regarding insurance coverage options where a gap exists between NSW entitlements and that available in other jurisdictions.

SIRA has published on its website information to assist those who are injured in an accident while driving or riding a NSW registered vehicle interstate. SIRA's CTP Assist service also provides information when they receive calls from customers who need information arising from interstate crashes.

<https://www.sira.nsw.gov.au/resources-library/motor-accident-resources/publications/injury-advice-centre/ctp-insurance-scheme-and-interstate-accidents>

### Question on Notice 6:

**The Hon. ANTHONY D'ADAM:** The issue is not information; it is about the ; coverage. You take out a policy, you've got a registered vehicle in New South Wales and you are able to drive it interstate. A policy should cover you and should have a consistent level of benefits, irrespective of where the accident happens, if you're using that vehicle. Is there no mechanism that's within SIRA's power? I'm assuming it is going to take legislative change.

**ADAM DENT:** Not presently, Mr D'Adam, and I might humbly suggest that could be a recommendation—for us to examine the feasibility and what might need to happen to address that issue. That might be something you could put to us to look into.

**The Hon. ANTHONY D'ADAM:** Have you done work in terms of the options that are available, and are you able to provide that work that has been done to the Committee so that we can have a bit more of a look?

**PETRINA CASEY:** I would have to take that on notice. We've certainly done work in terms of understanding all the different gaps but, to the extent to which we have looked at options, I would have to take that on notice.

### SIRA Response

SIRA has not undertaken work regarding insurance coverage options where a gap exists between NSW entitlements and that available in other jurisdictions.

However, SIRA has published a comparison of different benefits across the various states to assist those who are injured in an accident understand their entitlements and provide them with information, including links to the different organisations that administers the scheme.

### Question on Notice 7:

**PETRINA CASEY:** There is a mechanism to seek recoveries for third parties that have played a role in the accident. That is the role of the insurers, and we set that expectation in the guidelines. I can tell you that we have, as a scheme, recovered over \$30.84 million in recoveries. Those are recoveries from various schemes and other responsible entities for their role in the accident. So there is a mechanism to recover. There is a mechanism for us to ensure that insurers are doing that, and we are doing that, assuring that those recoveries do happen within the scheme so they're not being paid for by the CTP scheme when there is another place that should bear that cost.

**The Hon. ANTHONY D'ADAM:** On notice are you able to provide a breakdown in terms of whether it's local government or where the recoveries have been drawn from?

**PETRINA CASEY:** I'm certainly happy to take on notice whatever we've got. It might not be as granular as that, but I'll certainly provide what we can of that breakdown of that \$30.8 million, yes.

### SIRA response

The following table reflects the available information regarding payment types for recoveries from third parties in the NSW CTP Scheme from scheme inception to 30 September 2022.

<b>Payment Type</b>	<b>Recovery amount</b>
Recoveries - From another party	7,159,090
Recoveries - From insured	58,324
Recovery for CTP Vocational Program	286,823
Recoveries - From interstate insurers for statutory benefits	19,212,336
Recoveries - Nominal defendant recoveries from uninsured owner/driver	158,902
Recoveries - Over Payments	3,207,740
Recovery of weekly payments for the purposes of reimbursement of transferred claims	785,401
<b>TOTAL</b>	<b>\$ 30,868,616</b>