

**Submission
No 4**

**FIFTH REVIEW OF THE EXERCISE OF THE FUNCTIONS
OF THE LIFETIME CARE AND SUPPORT AUTHORITY**

Organisation: Motorcycle Council of NSW

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Twelfth Review of the MAA and the MAC and Fifth Review of the LTCSA and the LTCSAC

**Standing Committee on Law and Justice,
Legislative Council, Parliament House,
Macquarie Street, Sydney**

Comments on MAA and LTCS in NSW

30th October, 2013

MOTORCYCLE COUNCIL
OF NEW SOUTH WALES
INCORPORATED



Motorcycle Council of NSW
PO Box 517 Parramatta CBD BC 2124

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About the MCC of NSW

The Motorcycle Council of NSW represents over 50,000 motorcycle riders in NSW through their club affiliations and individual support scheme.

The MCC of NSW welcomes the opportunity to work with all agencies concerned with motorcycle issues.

The MCC of NSW shares the concern the community has regarding fair and reasonable crash victim compensation and believes this is a basic right.

The MCC of NSW is keen to support an accident compensation scheme that is fair, reasonable and comprehensive.

Introduction

The MCC believes the CTP and LTCS schemes administered by the MAA and LTCSA are expensive, unfair and clouded.

This submission draws upon previous submissions, in particular those made in 2008, 2010 and 2011.

The MCC of NSW meets with the MAA on a quarterly basis. We feel progress and change is extremely slow.

The MCC believes improvements must be made to ensure that all members of the community who may benefit from these schemes may also contribute. In this submission we address CTP and LTCS schemes and pricing

General Comments on the MAA and Scheme

The recent "Motor Accident Injuries Amendment Bill 2013" was presented to the public claiming to be a means to reduce the overall cost of Greenslips to the community. It did not achieve its main aim, primarily because of a failure to involve key stakeholders in a meaningful way as the bill was drafted and this was borne out by the Greenslip roundtable. This attempt at change would be deemed a failure except for the fact that the roundtable itself provided a platform for the stakeholders to voice their concerns directly to the Minister without interference from other parties and the meaning was not lost. Further, the Greenslip roundtable provided a suitable platform for discussion of other avenues to reduce the costs incurred within the system without adversely affecting the injured parties. Even so it would appear that some of the information presented to justify the Bill was incorrect, including the assertion that claims costs have risen over the past five years. This was in direct contradiction to the MAA's own Annual Report.

Alternative options available to reduce costs of CTP Premiums to road users;

- Remove the -15% plus 35% swing on relativities allowed by the MAA to artificially produce a sense of competition. CTP is a legislative requirement and the MAA should be ensuring that the client, being NSW road users, are getting the best deal possible.
 - Remove discounting for Road Side Assistance.
 - Remove discounting for holding comprehensive insurance.
 - Introduce discounting for holding multiple CTP policies for private individuals.
- 4 of the 7 insurers are offering first party cover as an addition to the mandatory third party cover on Greenslips on a discriminatory basis which excludes Trucks, Taxis and Motorcycles. It appears that the costs for this limited exclusive first party system are being taken from the CTP funding pool and increasing costs to the other consumers. Insurers must only be allowed to charge for third party insurance, nothing else should be permitted because it distorts the costs to the system and risks are being shifted from comprehensive insurance to third party insurance. This then frustrates any attempt to analyse costs and benefits with in the third party system and some claimants are being cross-subsidised by others.
- Implement a thorough audit of insurers' claimed costs. Widespread comments indicate the MAA focusses on claims payment process audits and a lesser focus on Insurer cost audits.
 - Why is there a need to advertise CTP as it is compulsory?
 - What is claimed as a cost? Lunches and corporate cards? Naming rights for stadiums?
- Implement a system of excess payments by at fault drivers to ensure they are aware of the ramifications of injuring third parties. In the current system, the at fault driver does not even have to fill in a form. They walk away and wash their hands of any responsibility or involvement in the rehabilitation of injured third parties. Introduction of a \$1,000 excess would alert errant drivers to some of the costs and impacts that have been dealt to innocent third parties.
- Implement a system of victim impact statements specifically for third party injuries and at fault drivers would be confronted by the real world consequences of their actions. As a long term strategy to reduce collisions in general, this would be a far better road safety message than some of the current programs, as drivers would be talking amongst themselves, spreading the word and many more drivers would be cognisant of the impacts to accident victims.

- Remove the current system of 5 categories of motorcycles based on engine size. Ironically, the reason Insurers cannot accurately calculate cost is because there is such a low number of claims. Therefore they are modelling the costs across the 7 insurers and 5 categories of bikes and introducing contingencies, which then leads to an artificially increased premium cost to motorcycle riders. The MAA website even has a document on it that advises engine size is not the best way to determine risk. A two category system based upon Learner Approved Motorcycles (LAMS) and non LAMS bikes as determined by the RMS would give a far better spread of risk and more accurate modelling and the MCC would support this.

The MAA has on repeated occasions failed to furnish the MCC of NSW with requested information. This indicates a lack of transparency in the MAA's dealings with the MCC of NSW.

Information sought includes;

- Total Premiums paid in for Motorcycles Financial year 2010, 2011, and 2012. Requested three times, twice in meetings and once by email.
- Total claims paid Financial Year 2010 2011 2012 Requested three times, twice in meetings and once by email.
- Ability to review 12 month rolling loss information for insurers on CTP Premiums. This is a standard measurement used by all insurers to track costs.
- Where items of data have been delivered to the MCC of NSW it has been supplied in a format which makes it difficult or impossible to make meaningful comparisons. The MCC of NSW, is the motorcycle riders' representative in NSW and as such, is entitled to receive information in a manner that can be utilised.
- A request to review the Ernst and Young report into motorcycle CTP Premiums commissioned in 2010. The response to this was a claim that Ernst and Young did not complete a report but had only completed a 10 page power point presentation. Does Ernst & Young support this assertion?

Contain the profits of insurers

Based on its own figures the MAA has allowed insurance companies to take profits significantly in excess of those the system was designed to pay. This is a massive failure of the MAA and state government's regulation and governance. Little of any real value has been done about this despite it being a matter of public record for a number of years.

Reasons given for excess profits include long tail claims that eventually settle for less than expected and the balance then falls to the insurers as profits.

This issue can be addressed by implementing a claims pool for long tail claims. Once the claims are settled reasonable costs and profit margins could then be returned to the insurers and the balance could then offset costs in the system and reduce premiums to the people of NSW.

Recreational Registration.

The Hunter Illegal Trail Riding working group was formed some years ago to investigate options for reducing illegal trail riding in the Hunter region and to look for alternatives. Chief Inspector Dave Robinson was sent to Victoria to review their system. Chief Inspector Robinson prepared a clear and detailed report on recommendations to implement a Recreational Registration system in NSW. It was agreed by the Working group and the various NSW Departments involved that Inspector Robinson's recommendations would go a long way toward reducing the impact of illegal riding and would have the added benefit of introducing an affordable registration system that would entice non-contributors (Unregistered riders) to move into the CTP and registration system and pay their way. This report has been available for a couple of years yet has lain dormant for some time. The Department of Premier and Cabinet have advised they are waiting for the MAA to supply further information.

The MAA appears to be slow to move on Recreation Registration requests including but not limited to;

- They failed to reprice CTP risk for Recreational Registration CTP component based upon new road numbering system. This request has been made on two occasions.
- The MAA has failed to follow through on requests to liaise with Department of Premiers and Cabinet to discuss items of information that the MAA advise they are not clear about.
- The MAA incorrectly advised the Motorcycle Council of NSW that the Police and other Departments had not signed off on the recreational registration proposal. Subsequent enquiries by the MCC of NSW have found that this is not the case and it would appear that the MAA misled the MCC.
- The Recreational Registration report is available upon request.

MCC of NSW Recommendations

Review the transparency of the MAA and its supply of information to key stakeholders.

The MCC recommends a thorough review of insurer costs and MAA auditing practices.

Implement a 2 category motorcycle classing scheme based upon LAMS and non-LAMS motorcycles.

Implement a Recreational Registration scheme as outlined in the report commissioned by the Hunter Illegal Trail Bike working group and as submitted by Chief Inspector David Robinson.

The MCC of NSW remains fully supportive of a “no blame” Lifetime Care and Support Scheme to assist those in the community who have had the misfortune to be so affected.

The MCC of NSW recommends the implementation of a Crash Reporting Scheme similar to that implemented in Western Australia with real time reporting in order to give the MAA and other stakeholders better access to real data.

We also re-iterate the recommendations of our previous submissions.

The MCC welcomes any opportunity to appear before the Members of the Committee to expand further upon any points made in this submission.

For and on behalf of the MCC of NSW Committee

Christopher James Burns
MCC Official Spokesman

Appendix 1 MCC Recommendations 2011

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MCC of NSW Recommendations

The MCC of NSW remains fully supportive of a "no blame" Lifetime Care and Support Scheme to assist those in the community who have had the misfortune to acquire that need.

The MCC of NSW recommends the implementation of a Crash Reporting Scheme similar to that implemented in Western Australia with real time reporting in order to give the MAA better access to real data.

We would re-iterate the recommendations of our 2010 submission to the 3rd LTCS review with modification of No.5 in light of the attached section on Data Collection and Utilisation.

"Accordingly, the MCC of NSW recommendations seek to have the LTCS levy calculated and applied in a more equitable manner across a broader cross section of the community.

These recommendations include;

- 1. That the LTCS levy return to a common flat fee across all registered vehicles in NSW.*
- 2. That the LTCS be shown as a discrete itemised line item on the CTP Green Slip provided to insured drivers / riders.*
- 3. That the calculation of the fee be freely available and simply explained to members of the motoring public.*
- 4. That consideration be given to applying the levy across all motorists (rather than just registered vehicle owners) given the significant coverage of the LTCS scheme across more than just the drivers, riders or passengers of road registered vehicles. This may be as a flat fee on licence holders.*
- 5. That the fundamental data set and subsequent calculations for CTP premiums reflect more closely the accident / injury performance of the pool of premium holders (i.e. be based around registered vehicles only)."*

It remains patently clear that the LTCS levy as currently applied, is unfair to certain segments of the community which bear a disproportionate share of the burden.

The MCC would be happy to appear before the Members of the Committee in order to expand further upon the points made in this submission.

MCC of NSW Recommendations

The MCC of NSW is fully supportive of a "no blame" Lifetime Care and Support Scheme to assist those in the community most in need. However it is also patently clear that the levy as currently applied is unfair to certain segments of the community which bear a disproportionate share of the burden through the LTCS Levy.

Accordingly, the MCC of NSW recommendations seek to have the LTCS levy calculated and applied in a more equitable manner across a broader cross section of the community. These recommendations include;

1. That the LTCS levy reverts to a common flat fee across all registered vehicles in NSW.
2. That the LTCS be shown as a discrete itemised line item on the CTP Greenslip presented to insured drivers / riders.
3. That the calculation of the fee be freely available and simply explained to members of the motoring public.
4. That consideration be given to applying the levy across all motorists (rather than just registered vehicle owners) given the significant coverage of the LTCS scheme across more than just the drivers, riders or passengers of road registered vehicles. This may be as a flat fee on licence holders.
5. That the fundamental data set and subsequent calculations for CTP premiums reflect more closely the accident / injury performance of the pool of premium holders (i.e. be based around registered vehicles only).

Holistic solutions are required

Government policy must reflect overall community management of risk through various programs across a wide range of Government agencies Presently it does not do this. Simply ignoring or banning activities does not make them disappear, it merely creates a duck-shoving of responsibility and blame. e.g. lack of managed areas for off road activities

Some issues that arise

A motorcyclist can strike a barrier in ways that a car can not
Placement of advertising signs, bus shelters and kiosks that block vision of pedestrians for road users
Road User Educational issues
Alcohol issues
Bicycles and road rules
Pedestrians and road rules
Education of road engineers
Transport Planning
Failure to include motorcycles and scooters
Car centric road planning and management
Lack of adequate public transport

The LTCS as a No Fault scheme

- No individual responsibility is appointed
- Only the registered road user cohort within the community is required to take responsibility for funding
- At the very least the LTCS levy must be the same for all vehicles
- An alternative is that the LTCS levy be evenly applied to all holders of vehicle licences
- Preferably the LTCS will be funded by the entire community to evenly distribute the burden and responsibility

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