

## **INQUIRY INTO 2022 REVIEW OF THE COMPULSORY THIRD PARTY INSURANCE SCHEME**

**Organisation:** Motorcycle Council of NSW

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# 2022 review of the Compulsory Third Party Insurance Scheme

September 2022



Established 1981

Submission to the Legislative Council's Standing Committee on Law and Justice

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## **About the MCC of NSW**

The Motorcycle Council of NSW Inc. (MCC) is an internationally recognised umbrella group for motorcycle clubs, associations and ride groups, in the state of New South Wales.

Established in 1981, the MCC is recognised as the peak motorcycle representative body in NSW and Subject Matter Experts on many complex issues dealing with motorcycling including crash data and statistics, traffic data and congestion information.

The MCC has published documentation that has been referenced worldwide by overseas motorcycling and traffic bodies and has produced video training films that have been utilised and referred to by many overseas trainers, researchers and ride associations.

MCC is the peak representative body for motorcycling in the state of NSW representing over 65 motorcycle clubs, which have a total membership of over 42,000 motorcyclists.

We wish to thank the Legislative Council's Standing Committee on Law and Justice for the opportunity to present this submission and the views of our member clubs on the Compulsory Third Party Insurance Scheme.

Should you require further information on the information contained within this submission please feel free to contact the MCC.

Brian Wood

Secretary

## **Compulsory Third Party Scheme**

The Motorcycle Council of NSW (MCC) has a number of concerns regarding the 2017 CTP Scheme. Some of these concerns have been previously raised in the MCC's submission to the Law & Justice 2020 inquiry into the CTP scheme and previously in 2018.

Current and forthcoming issues

### **Increasing rate of motorcycle sales and registrations**

The MCC now has quarterly meetings with SIRA at which SIRA provides updates on the number of and size of claims. This allows the MCC to assess how the scheme is performing against what was predicted when the 2017 scheme was introduced.

SIRA is providing data on the cost of claims, both motorcycle and other Classes but due to the long tail nature of claims it is still unclear what the eventual cost of claims will be. We are also aware that motorcycle sales have had incredibly strong growth since our previous submission. 2020 data provided by the FCAI shows that compared to 2019, motorcycles, sales of road motorcycles had a 9.3% increase. This is in stark contrast to sales of passenger vehicles for the same period which saw a 13% decline <https://www.fcai.com.au/sales>

Therefore, it can be expected that the number of motorcycle registrations will also increase and on review of the data for 2021 there were 269,518 registered motorcycles in NSW, an increase of 6% on 2020. <https://www.abs.gov.au/statistics/industry/tourism-and-transport/motor-vehicle-census-australia/latest-release#vehicle-type>

### **Monitoring of the MAIA scheme**

In quarterly meetings with SIRA we are given regular updates on claims frequency for both at fault and not at fault claims. We understand as motorcyclists, that we are the most vulnerable road users and as a result, claims costs are generally higher for both at fault and not at fault claims.

Given the information above regarding motorcycle sales and new registrations, it would be prudent to expect a risk in claims as this is the highest growing sector in vehicle sales and there is an expectation that claims frequency will rise.

Until there is a flattening of motorcycle sales in line with passenger vehicle and new registrations do not outflank those of passenger vehicles by 20% year on year then further comparison of claims frequency, cost and liability can be reviewed.

## **Profit Equalisation Scheme (Transitional Excess Profit and Loss mechanism – TEPL)**

SIRA has given the MCC a presentation on how the Transitional Excess Profit and Loss mechanism (TEPL) scheme will work. [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)

Our largest concern is that due to way that current claims costs and frequency is trending, insurers may use this to maximise their profits on motorcycle users.

The MCC would like to ensure that TEPL process is still maintained and insurers are held to account and not claiming greater than the 8% rate in all vehicle classes not just for the scheme overall.

## **Interstate Cover**

As a result of the MCC being contacted by a NSW motorcyclist who had a single vehicle motorcycle crash in Tasmania, it has come to the MCC's attention that a NSW CTP policy does not cover any road user for a crash that occurs interstate but it is the legislation in the State or Territory in which the crash occurred that determines what compensation you receive if any.

Since this incident, there has been further conversation with SIRA have provided a fact sheet which is easy for riders/drivers to follow and outlines what cover is applicable in what state

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

However, the MCC would like to see organisations such as SIRA work with industry bodies, state and federal governments and the National Heads of Motor Accident Insurance Schemes to amalgamate legislation to ensure that it is homogenous across the country. Since the easing of restrictions and now decline in COVID19 cases worldwide, travel across the country has increased significantly.

To allow all motorists access to equitable medical expenses across the country, regardless of fault, given they have CTP policy is something the MCC of NSW would fully support and encourage to avoid instances where motorists are left in \$10,000s of dollars in debt because there was as single vehicle accident which didn't involve a vehicle from that state.

## **Claiming Costs from other Parties**

The Safe System approach is a key element of Towards Zero initiative for road safety, this approach has the aim of reducing the road toll in NSW to zero by 2056.

The Safe System approach was introduced into Australia over 8 years ago.

<https://austroads.com.au/publications/road-safety/ap-r509-16>

Under the Safe System approach the cost of injuries should be borne by the Road Authority who has an obligation to provide a safe road network. The cost shouldn't be borne by CTP policy holders.

The MCC has already raised two cases with SIRA where, upon investigation, it was found that another party was responsible for the CTP claim and the other party subsequently reimbursed the scheme so the cost was not borne by motorcycle policy holders.

In taking out insurance policy holders are authorizing insurance companies to act on their behalf. In many cases the insurance companies do not pursue claiming costs from other insurance companies or other at fault/liable road authorities. Not recovering cost from another party is commonly referred to as 'Knock for knock'. This knock-for-knock approach should not be applied to CTP as it is policy holders who ultimately bear the cost, not the party responsible for the crash and injuries. In many cases it is relatively easy to determine and assign responsibility for a crash that was caused by a road defect that the road authority had a responsibility and duty of care under the Safe System approach to make safe.

### **Claims experience**

Recently the MCC of NSW was contacted by a delegate to provide a summary of their most recent claims experience. Their spouse was involved in a collision in December 2019 that resulted in multiple injuries. A summary of their experience is as follows:

- Due to the time of year the claim was made, there were extensive delays in approvals for medical treatment and professional diagnosis
- Assessment of income for self-employed / home duties injured persons diminished their ability to access services such as ADL assistance
- Classification of the injury as a 'minor injury' meant that there was an inability to have a multidisciplinary team complete diagnosis and treatment of later symptoms
- CTP claim forms are still difficult to complete and not user friendly, further feedback should be given by users (ie injured persons)
- Further review of the triage system of injuries to ensure that if symptoms change from the initial diagnosis that these are reclassified and achieve positive outcomes for injured persons

The system needs to be fair and equitable for those who need to use it. It is there to help, assist and guide injured persons through a difficult time.

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