



Improving Queensland's CTP Scheme

Suncorp Group's submission to the 2016
Queensland CTP Review



One Company
Many Brands



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Executive Summary

The Suncorp Group is the largest private personal injury insurer in the country. We are a proud Queensland company with a strong history of supporting reform that improves the lives of our customers.

We welcome the Queensland Government's review of the State's Compulsory Third Party (CTP) scheme. While the current scheme is performing quite well and is already one of the most affordable in the country, there exists an opportunity to make it even better, delivering genuine long-term improvements.

Sensible reform will ensure that the scheme continues to meet the Government's goals of improving affordability, efficiency, ensuring fairness and embedding flexibility.

Queensland motorists would benefit from a scheme that provides full coverage for anyone injured in an accident, for a reasonable premium, while getting injured people back to work and the community as soon as possible. With evidence of rising claims frequency it is also important that the scheme is resilient to fraud and exaggeration.

Suncorp believes motorists in Queensland will be better served through the following policy settings:

- full no-fault;
- defined benefits;
- first party;
- reduced Common Law; and
- competitive underwriting.

With these reforms, the Queensland Government can also support innovation in the personal injury insurance market through promoting better data sharing, greater harmonisation with the Workers Compensation scheme and allowing the market to develop complimentary top-up products.

Other statutory schemes, including the National Disability Insurance Scheme (NDIS) and the National Injury Insurance Scheme (NIIS), have made the transition from full financial compensation to sustainable rehabilitation. Making this fundamental shift in focus will guarantee the sustainability of the Queensland CTP scheme for decades to come.

The Suncorp Group

Suncorp Group Limited, and its related bodies corporate and subsidiaries (collectively 'Suncorp'), offers a range of financial products and services including banking (Suncorp Bank), general insurance, compulsory third party insurance, workers compensation insurance, life insurance and superannuation across Australia and New Zealand.

Suncorp has around 13,500 employees and relationships with more than nine million customers.

Suncorp provides a wide range of insurance products to small and medium sized businesses as well as to corporate customers. These products are distributed nationally, both directly and indirectly, through intermediaries.

Suncorp provides workers compensation insurance in Western Australia, the Northern Territory, the Australian Capital Territory and Tasmania, and operates in the managed fund scheme in New South Wales.

CTP insurance is provided in Queensland, New South Wales, the Australian Capital Territory, and South Australia.

Within the Queensland CTP scheme, the Suncorp Group operates under the Suncorp brand.

Suncorp has consistently taken a leadership role within the industry to advocate necessary reform to statutory schemes. We have published a number of white papers on the issues of competitive underwriting, scheme design and no-fault lifetime care. As Australia's largest private personal injury insurer, we take this role seriously and will continue to support reform that improves the lives of our customers. Our recent white papers can be found at Appendix B, C and D.



Suncorp in the Community

Suncorp's community-focused activity is centred on risk management, injury prevention, social participation and quality of care for those who are injured or have a disability.

We value the communities in which we live and work, and have entered into partnerships with a range of organisations that are also dedicated to making a difference in the lives of people who have been affected by personal injury.

Our community partners include Youngcare, Adapted Physical Activity Program, James Cook University, Advance Queensland, Queensland Police, RYDA and Fatality Free Friday. Suncorp also works with youth education initiatives such as the P.A.R.T.Y. Program and has a partnership with the Driver Education Centre of Australia, which aims to address some of the root causes of severe personal injury on Australian roads.

Youngcare

Formed in 2005, Youngcare is a not-for-profit organisation that aims to raise awareness and funds to provide more appropriate accommodation options for young people with high care needs. With an estimated 7,500 young Australians currently living in aged care nursing homes, and limited alternatives available, Youngcare sets out to build Australia's first age-appropriate facilities.

In December 2007, Youngcare's first apartment building opened in Brisbane and now provides a home for 16 young people living with high care needs. Since then, apartments have also been built on the Gold Coast and are soon to be built in Sydney.

One of the major causes of young people needing high level care is acquired brain injury, often the result of a motor vehicle accident. In January 2007, Suncorp Compulsory Third Party Insurance partnered with Youngcare to increase awareness of the organisation's work and to help raise much-needed funds.

Since 2011, our partnership with Youngcare has enabled over 160 people to avoid admission into aged care, creating approximately \$8.9 million in annual savings to the health and aged care system.

Current Scheme Performance

Queensland motorists value their wellbeing and spend billions of dollars each year purchasing CTP insurance. CTP is heavily regulated by the Government to ensure the community is protected. Motorists are right to assume that these regulations will work to maximise coverage and promote efficiency,¹ while remaining affordable and fair.

While being one of the most affordable in the country, motorists might be surprised to know some of the finer details of the Queensland CTP scheme:

- Drivers aren't covered for an error of judgment. Around half of all injured people aren't covered by their CTP policy.²
- Just over half of every dollar paid in premiums is returned to customers who were injured and have made claims.
- Rapid recovery and early return to work is discouraged because of the perverse incentive to delay rehabilitation for higher payouts.
- Customers may be left significantly out of pocket, potentially for years, until liability is established and the claim finalised.
- Lawyers are routinely taking as much as half of a customer's insurance payout.³
- A customer's claim is not managed by the insurance company of their own choosing.

These factors highlight the need to make improvements to the CTP scheme.

¹ A simple definition of the "efficiency" of a personal injury insurance scheme is the proportion of every dollar in premium that goes directly towards injured people.

² <https://maic.qld.gov.au/wp-content/uploads/2016/02/MAIC-statistical-information-report-june-2015.pdf>

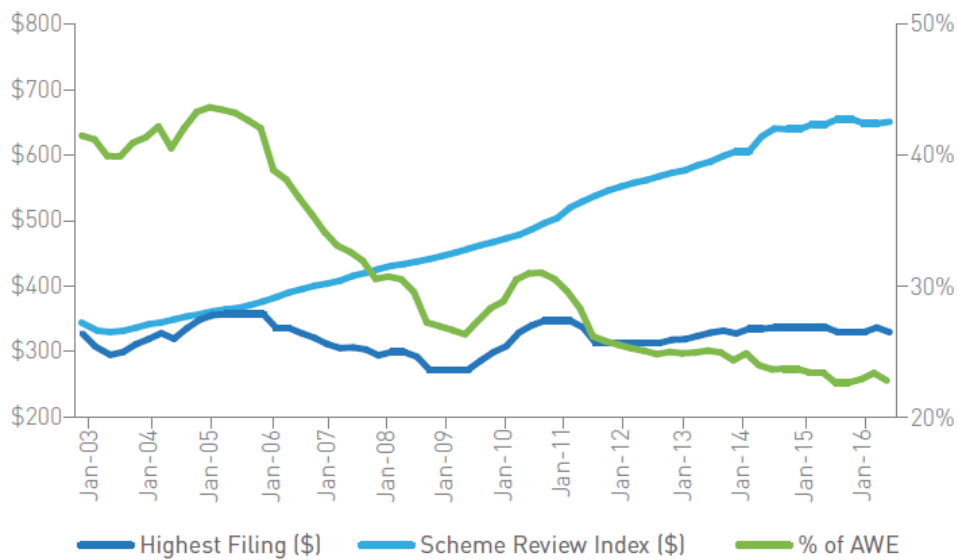
³ Page 30, [MAIC Discussion Paper](#)

Affordability and Efficiency

Compared to other states, the Queensland CTP Scheme is affordable. Motor Accident Insurance Commission (MAIC) analysis shows that, in real terms, the cost of CTP premiums have reduced significantly since 2003 (Graph 1). In 2003 CTP premiums were about 45% of Average Weekly Earnings (AWE). According to MAIC, this is now 23%. The scheme also remains very competitive compared to other states (Graph 2).

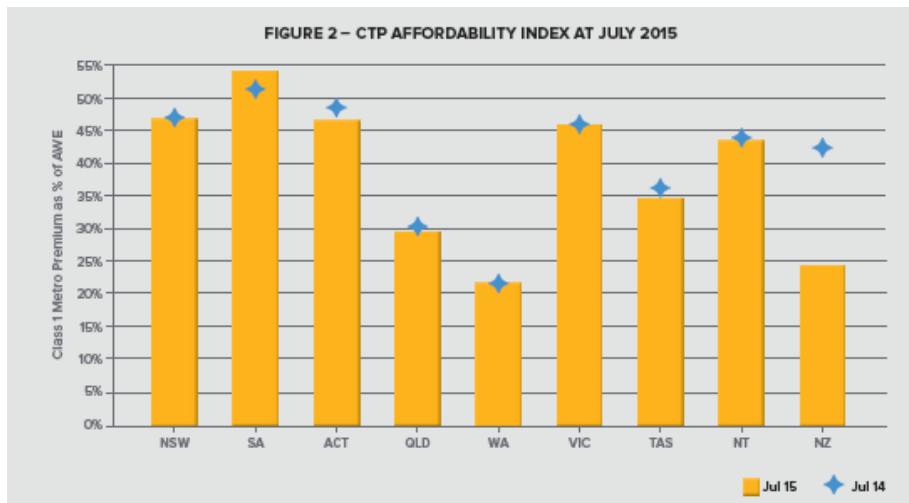
Graph 1 – Scheme Affordability

Chart 1 - Scheme Review Index vs Highest Filed Class 1 CTP Premium



Source: Page 10, [MAIC Discussion Paper](#)

Graph 2 – Jurisdiction Comparison

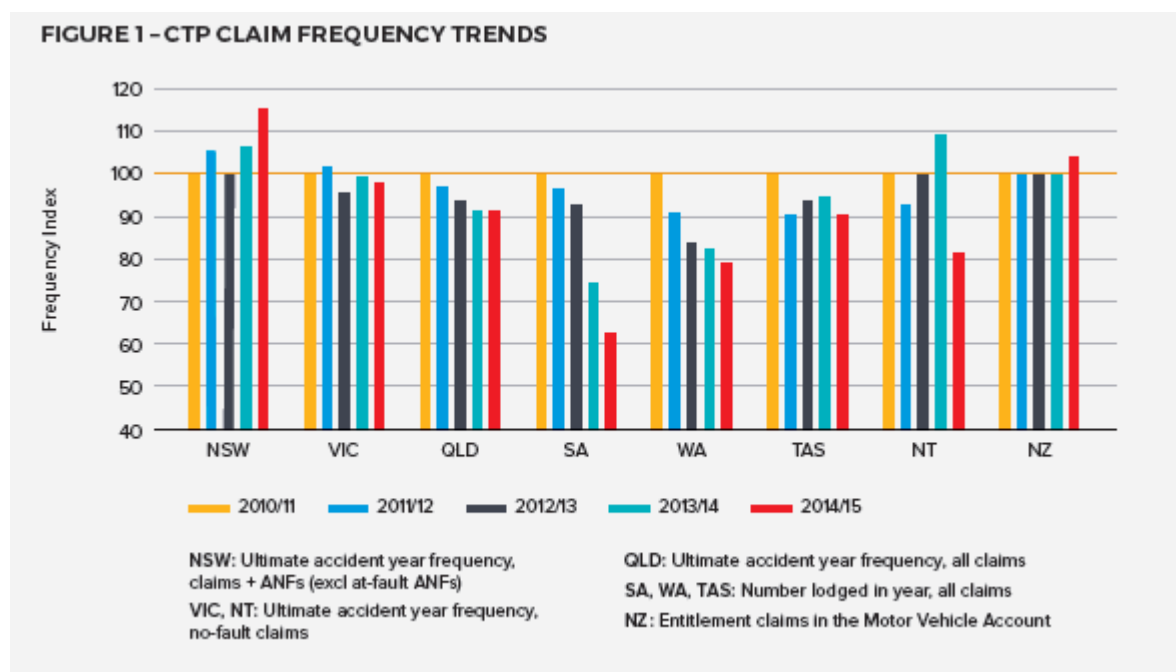


Source: [Finity CTP news August 2016](#)

The number of claims made by Queensland motorists (claims frequency) had decreased in recent years, resulting in reduced cost pressures on the scheme. This has been the result of safer cars and effective road safety campaigns, and is evidence of a stable scheme (Graph 3). In unstable schemes, like New South Wales, claims frequency is rising, in part, because of fraudulent and exaggerated minor claims. The overall effect for motorists is more expensive premiums.

Because the Queensland CTP scheme is an at-fault scheme it is vulnerable to fraud and exaggeration, particularly for minor accidents. A recent Finity report shows a rise in claims frequency, leading to some concern that the New South Wales fraud problem may have spread across the border.⁴ This environment could lead to a large increase in legally represented minor claims and could drive up the cost of premiums. It is vital MAIC monitors this development over the next 12 to 18 months to ensure it doesn't get out of control.

Graph 3 – Claims Frequency



Source: [Finity CTP News April 2016](#)

⁴ Finity – Outlook_2016 Pendulum Highlights – Celebrating a decade of insights at page 8 - http://www.finity.com.au/wp-content/uploads/2016/07/2016_Finity_Outlook_A4_Landscape_Single-Pages.pdf

Private Underwriting

The Queensland CTP scheme has been in private hands since 1936. Customers have had the choice of what insurer they choose, and likewise insurers have competed on both price and service. In recent years insurers, in particular Suncorp, have discounted premiums below the ceiling rate in a bid to attract customers (Table 1).

Table 1 – Filing Rates

TABLE 3 – OLD CLASS 1 METRO PREMIUMS				
Insurer	April 2015		August 2015	
	Premium	Difference from Ceiling	Premium	Difference from Ceiling
Ceiling	\$337		\$330	
Allianz	\$335	(\$2)	\$330	\$0
QBE	\$337	\$0	\$330	\$0
RACQ	\$337	\$0	\$330	\$0
Suncorp	\$324	(\$13)	\$324	(\$6)

Source: [Finity CTP news August 2015](#)

Competition and Scheme Administration

The current CTP scheme is generally administered well, however the processes and settings could be improved to further increase competition.

The process whereby insurance is bundled together with registration is convenient for customers, but does reduce initial contact with insurers and therefore limits the perception of choice. There could be an opportunity to allow insurers to collect registration fees on behalf of the Department of Transport and Main Roads, which would mean customers choose their insurance based on reputation and service offering.

Insurers' service offering and price competitiveness could also be improved through the relaxation of the floor and ceiling price setting process. Allowing more flexibility would give insurers room to compete with current bundling offers.

Further comment on scheme processes can be found in the answers to the Discussion Questions.

Fraud and Exaggeration

There are several ways people can make fraudulent and exaggerated claims. Incidences of 'hard fraud' occur when a person stages an accident and/or claims for an accident that never occurred.

‘Soft fraud’ occurs when a claimant grossly overstates their injuries or the circumstances of the incident. Often insurers will see extensive soft tissue and psychological claims for accidents that only resulted in a minor scratch to the car’s exterior.

In New South Wales, analysis from 2012 shows that fraud and exaggerated claims could be increasing the cost of each insurance policy by \$75.⁵ In Queensland, the level of fraud appears to be currently very low. It is vital that the scheme actively discourages fraud and exaggeration of claims. As stated previously, a recent rise in claims frequency and some concern that the New South Wales fraud problem may have spread across the border has been reported ⁶. In New South Wales, the State Insurance Regulatory Authority (SIRA) confirms the fraud has spread to other areas.⁷

In the UK, the Government has implemented reforms to stamp out fraudulent and exaggerated claims for minor motor vehicle injuries. Government modelling estimates motorists could see £1 billion back in their pockets each year, which equates to a saving of around £50 per policy.⁸

Scheme Coverage

Queensland operates a common law ‘fault’ based CTP scheme. The injured party must be able to establish negligence against an owner or driver of a motor vehicle to claim compensation. The downside of this type of scheme is that people who have a lapse of judgement or hit an animal cannot claim compensation for their injuries.

Table 2 – Scheme Coverage

	At-fault	Not at Fault
Catastrophic	Covered	Covered
All other injuries	Not Covered	Covered

This is a significant gap in the insurance landscape and raises questions around the adequacy of the scheme. Suncorp supports no-fault schemes and we will explain why in more detail later in the submission (page 13).

⁵ <https://www.finance.nsw.gov.au/about-us/media-releases/new-taskforce-tackle-ctp-green-slip-fraud>

⁶ Finity – Outlook_2016 Pendulum Highlights – Celebrating a decade of insights at page 8 - http://www.finity.com.au/wp-content/uploads/2016/07/2016_Finity_Outlook_A4_Landscape_Single-Pages.pdf

⁷ State Insurance Regulatory Authority - *Detering fraudulent and exaggerated claims in the NSW CTP insurance scheme* at page 10 - http://www.sira.nsw.gov.au/data/assets/pdf_file/0018/60930/CTP-Fraud-Claims_Final.pdf

⁸ <https://www.gov.uk/government/news/insurers-vow-to-pass-on-whiplash-reform-savings>

Friction Costs

Friction costs refer to the costs incurred in the process of managing and finalising a claim, excluding costs that directly benefit the injured person. Friction costs include insurer expenses, legal, medico-legal and investigation costs.

One of the contributors to friction costs is the process used to determine liability. Because the Queensland CTP scheme is an at-fault scheme, liability is generally determined before rehabilitation can commence.

Legal and medical fees are also significant friction costs that reduce the efficiency of the scheme, particularly for minor claims. Under the current scheme, lawyers often take about half of a claimant's pay-out⁹ in the form of contracted-out¹⁰ legal costs, which is money that is needed for rehabilitation and care. It is important to have transparency around contracted-out costs so that the Regulator can better understand where cost pressures lie.

⁹ Page 30 [MAIC Discussion Paper](#)

¹⁰ Contracted out legal fees' is defined as those costs payable to the legal practitioner representing the claimant, by the claimant under an agreed private arrangement. These costs are not transparent in insurer or Scheme data.

Scheme Reform

Suncorp believes the best way to achieve an affordable, efficient, fair and flexible scheme is through the following policy settings:

- full no-fault;
- defined benefits
- first party and customer choice;
- reduced common law; and
- competitive underwriting.

Defined Benefits

A well-established model exists that largely eliminates lump-sum payments and the inefficient distortions that they create. The 'defined benefits' model provides injured people with care, medical treatment and lost income as they require it, rather than a single cash payment based on future projections. The focus of a defined benefits scheme is rehabilitation, not compensation. The benefit of this approach is that it directs the premium dollar towards those with more serious injuries early after an accident.

It is a model that currently operates in the Victorian CTP scheme and in the New South Wales Workers Compensation personal injury insurance scheme. For minor injuries, treatment and compensation for lost income is provided, but not indefinitely. A maximum time period (depending on the injury) can apply.

There is an incentive, under this type of scheme, for an injured person to get better sooner. An additional benefit for injured people is that they receive payments for lost income immediately, rather than having to wait an extended time for a lump sum.

For people who are off work because of their injuries, being out-of-pocket for long periods of time while their lawyer and insurer negotiate the size of their lump sum can cause financial stress. This puts added pressure on the recovery process.¹¹ Under a defined benefits scheme, claims staff are able to focus on supporting and co-ordinating a rapid recovery for the injured person, rather than conducting adversarial negotiations with lawyers.

All parties – insurers, injured people, employers and lawyers – have a strong incentive to work towards a rapid recovery and return to work. Since defined

¹¹ Standing Committee on Law and Justice - *First review of the Compulsory Third Party insurance scheme*, Response dated 14 July 2016 to questions taken on notice by the Royal Australasian College of Surgeons, at page 1 - <https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryOther/Transcript/10079/Answers%20to%20questions%20on%20notice%20-%20Royal%20Australasian%20College%20of%20Surgeons.pdf>

benefits were introduced to the New South Wales Workers Compensation scheme in 2012, premiums reduced by 12.5% in 2013 and then a further 5% in 2014.¹²

The savings that defined benefits would produce in the Queensland CTP scheme could allow the introduction of a full no-fault scheme, removing the risk that every person in Queensland faces when they drive or ride in a motor vehicle.

Case Study – When the Money Runs Out

Dr Ros Harrington is a leading academic at the Centre of National Research on Disability and Rehabilitation Medicine (CONROD). Recently she spoke about the downsides of lump sum payments at a Queensland Parliamentary Inquiry into support for people who are catastrophically injured.

Dr Harrington raised the prospect of families of injured people restricting access to necessary services in the post settlement period due to fears that the lump sum payment is not going to last.

Dr Harrington stated this may lead to limited opportunities for individuals to develop independence and participate in the community outside of their family, which could be detrimental to their recovery.¹³

No Fault

Many motorists are unaware that they are not fully covered for their personal injuries unless they can establish negligence on someone else's part. The introduction of no-fault CTP insurance would provide peace-of-mind to the entire community that they are adequately covered if they find themselves injured in a motor accident.

The absence of full insurance cover for injured drivers is a substantial gap in the Queensland insurance landscape, and one that can have devastating consequences for individuals and their families. It means that a driver who has a momentary lapse of judgement, or simply finds themselves in the wrong place at the wrong time, may have to rely on Medicare, the Queensland health system and Centrelink to support their recovery. Some argue this is an inequitable situation, particularly for young motorists and children who have the best years ahead of them.¹⁴

¹² http://www.workcover.nsw.gov.au/_data/assets/pdf_file/0019/19108/More-premium-cuts-on-the-way-for-business.pdf

¹³ Page 52, Queensland Parliamentary Inquiry into a suitable model for the implementation of the National Injury Insurance Scheme <http://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2016/5516T406.pdf>

¹⁴ Standing Committee on Law and Justice - *First review of the Compulsory Third Party insurance scheme, Evidence of MARY LANGCAKE, New South Wales Trauma Chair, Royal Australasian College of Surgeons, Director of Trauma, St George Hospital, at page 16, (second entry for Dr Langcake) -*

Reforming CTP insurance into a no-fault scheme would extend full coverage to thousands of at-fault drivers who are injured every year in Queensland. Every person injured in a motor accident would be looked after – as occurs in Victoria. Extending cover to this large cohort of injuries will increase overall claims costs, but the savings from the introduction of defined benefits could offset this increase.

Further, there is a growing body of evidence of better health outcomes in full no-fault schemes.¹⁵ The Productivity Commission considered the impacts on recovery and health outcomes in its final report into Disability Care and Support, which is equally relevant for non-catastrophic injuries arising from motor vehicle accidents.¹⁶

Whilst Suncorp supports the removal of the legal defence of ‘inevitable accident’ and the extension of benefits to children regardless of fault, caution should be exercised in extending these types of cover in isolation of a full no-fault scheme. Creating a scheme design that opens up opportunities for fraudulent behaviour should be avoided, especially where it involves small children, as has been the experience in the New South Wales CTP scheme.¹⁷

First Party

First party schemes can provide customers with a guarantee that the insurance company they choose will manage the personal injury claims of anyone in their vehicle, including the driver.

That guarantee cannot be provided with the current at-fault scheme, because all claims are managed by the insurance company of the driver who caused the accident.

A no-fault, first party scheme would allow insurers to compete on the basis of their personal injury claims service, as currently occurs in other classes of insurance.

This could result in insurers advertising to customers the quality of the care they provide, and enhancing their offering, in order to differentiate their brand and gain market share. For drivers who require extra cover, access to top up products such as income protection is available. The benefit of this approach is that CTP coverage

¹⁵ Standing Committee on Law and Justice - *First review of the Compulsory Third Party insurance scheme, Final Report*, paragraph 5.12 at page 61 - <https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryReport/ReportAcrobat/6070/First%20review%20of%20the%20Compulsory%20Third%20Party%20insurance%20scheme.pdf>; Submission of Ian Cameron to the State Insurance regulatory Agency – *Options for reforming Green Slip Insurance*, http://www.maa.nsw.gov.au/_data/assets/pdf_file/001/1/62993/lan-Cameron.pdf

¹⁶ Productivity Commission - *Disability Care and Support*, Volume 2, Chapter 17.6, page 824 - <http://www.pc.gov.au/inquiries/completed/disability-support/report/disability-support-volume2.pdf>

¹⁷ Standing Committee on Law and Justice - *First review of the Compulsory Third Party insurance scheme (NSW_ - Answers to questions on notice – State Insurance Regulatory Authority – question 1 at page 1 and question 6 at page 4 -* <https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryOther/Transcript/10078/Answers%20to%20questions%20on%20notice%20-%20State%20Insurance%20Regulatory%20Authority.pdf>

is maintained at a level that is relevant and affordable for the Queensland community at large.

If insurance companies are directly responsible for their client's rehabilitation, there is a natural incentive to expedite their recovery. There would need to be new sharing arrangements or recovery processes between insurers, which already occurs in relation to Comprehensive Motor policies.

Common Law Access

The extent of common law entitlements directly impacts the efficiency of the scheme, and its affordability for motorists.

Setting a threshold would ensure money is appropriately directed to the people who need it most. For example, those above the 10% Whole Person Impairment (WPI) threshold could retain access to common law for non-economic loss. In addition, a dispute resolution service could be created to deal with disputes in a transparent and non-adversarial way.

As a temporary measure a restriction could be placed on contracted out legal fees for those claims below \$50,000 to guard against an increase in legally represented minor claims – a key cost driver in the New South Wales CTP scheme. Failure to keep a lid on minor legally represented claims that involve legal representation could result in more expensive premiums.

Transparency around legal fees is also important to ensure that claimants and the MAIC are aware of how much of lump sum payouts are going towards legal fees. A scheme efficiency measure will assess the scheme's performance by ascertaining where the premium dollar is spent. It is important to understand and monitor how much of a lump sum claimants eventually receive - net of legal costs. Therefore, the scheme efficiency measure should include contracted-out¹⁸ legal fees.¹⁹

Competitive Underwriting

Suncorp believes that motorists are best served by a market of private insurers who compete on customer service, price and rehabilitation outcomes.

The Victorian TAC is often cited as an example of a scheme that provides no-fault defined benefits cover with public underwriting. However, it is important to note that the Victorian scheme remains underfunded (92%)²⁰ and has failed to reduce

¹⁸ 'Contracted out legal fees' is defined as those costs payable to the legal practitioner representing the claimant, by the claimant under an agreed private arrangement. These costs are not transparent in insurer or Scheme data.

¹⁹ For discussion on the level of 'contracted-out' legal costs in the NSW CTP scheme, see [Ernst & Young, NSW CTP Scheme Performance Update, 2012](http://www.maa.nsw.gov.au/_data/assets/pdf_file/0016/13327/Ernst_and_Young_NSW_CTP_Scheme_Performance_Update_2012.pdf), pages 3 to 5 - http://www.maa.nsw.gov.au/_data/assets/pdf_file/0016/13327/Ernst_and_Young_NSW_CTP_Scheme_Performance_Update_2012.pdf

²⁰ Page 6, TAC 2015 Annual Report. https://www.tac.vic.gov.au/_data/assets/pdf_file/0008/169838/TAC_Annual_Report_2015_WEB.pdf

premiums in recent years. Underfunded means the scheme does not have enough funds to cover future liabilities.

Government monopoly providers often fail to innovate and drive customer service improvements. They tend to be less nimble when faced with challenging economic conditions which may give rise to emerging trends. In addition, motorists have no choice of insurer and cannot express their dissatisfaction with their current insurer by moving to a competitor.

Canada provides a number of examples where the private sector has successfully underwritten a scheme that provides defined benefits, no-fault and first party. The Canadian provinces of Alberta, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario and Prince Edward Island all have private underwriters in a no-fault, defined benefits scheme.²¹

Case Study – Competitive Underwriting

In 2014, Suncorp commissioned PWC to look at the macro-economic benefits of competition and competitive underwriting in the personal injury insurance sector. The PWC Report found significant benefits in retaining or introducing private underwriting. In South Australia, the Government transitioned the CTP scheme to the private sector on 1 July 2016.

This reform is providing the South Australian Government with a significant capital injection which can be used for vital infrastructure projects. Decisions around scheme design are retained by Government which highlights how scheme design can be managed separately to scheme underwriting.²²

As illustrated below, the reform is also expected to potentially generate \$308m in additional real gross state product over the next 10 years.

GRAPH 5: Macroeconomic benefits of competitive underwriting

Potential macroeconomic effects of privatisation by 2024-25, cumulative deviation from base case of no privatisation. ¹

	NSW Workers Compensation	SA Workers Compensation	SA CTP
Real Gross State Product (\$m) ²	3,067	530	308
Employment (persons)	804	194	95
Productivity (\$GSP/worker)	691	531	311
Tax revenue (\$m)	615	108	67

Source: Page 4, Insurance Insights, States in the Injury Business, The impact of privatising personal injury insurance schemes, November 2104, Published by the Suncorp Group.

²¹ Internal analysis.

²² <http://www.suncorpgroup.com.au/sites/default/files/pdf/news/States%20in%20the%20injury%20business%20-%20Suncorp%20white%20paper%20Nov%202014.pdf>

Reform Benefits

A Fair and Affordable Scheme

The Queensland Government's reform goals are to:

- improve affordability;
- improve efficiency;
- ensure fairness; and
- embed flexibility.

We believe Suncorp's suggested reforms will achieve this and also result in the following flow on benefits.

Innovation and Productivity

Reforming the Queensland CTP scheme to focus on rehabilitation rather than compensation would also deliver significant productivity benefits for the State.

The Productivity Commission's recommendations in regard to the National Disability Insurance Scheme (NDIS) referred to the increase in productivity that would result from the introduction of the NDIS.²³ The objective of national disability reform was to create a system that is both affordable and fair.

Similarly, it is expected that reform of the Queensland CTP scheme with defined benefits would lead to faster rehabilitation, providing a tangible positive impact on productivity. This is because the focus would shift from negotiating a lump sum and legal proceedings to active rehabilitation and returning to work.

At a time when Australia's workforce is ageing, the productivity improvements that can be achieved by a more efficient personal injury scheme are substantial. Directing a far greater proportion of the \$1.2 billion in annual premiums of the Queensland CTP scheme towards helping injured people recover would assist the community and the economy.

Key Fact – Getting People Back to Work

People who are off work for 20 days have a 70% chance of getting back to work. That figure drops to 50% for people off work for 45 days and to only 35% for those off work for 70 days or more.²⁴

Getting people back to work quickly should be the fundamental priority of the Queensland CTP Scheme.

²³ Why the NDIS makes economic sense - <http://www.everyaustraliancounts.com.au/ndis-makes-economic-sense/>

²⁴ Johnson D, Fry T. *Factors Affecting Return to Work after Injury: A study for the Victorian WorkSafe Victoria Authority*. Melbourne: Melbourne Institute of Applied Economic and Social Research; 2002.

Social Outcomes

Historically, the Queensland CTP scheme has evolved to meet the changing needs of the community. There is no question that this must continue as the social and economic needs of the community change.

Suncorp has long argued that accident compensation schemes have a vital role to play in facilitating workforce participation. To do so, it is crucial that accident compensation schemes are aligned with the objectives of the NDIS and NIIS.

Accident compensation schemes should be based on fairness, outcomes and affordability. The principles guiding an effective accident compensation scheme should include social outcomes, sustainability, competition, defined and controlled benefits, national consistency and dispute resolution.

There is a case for greater consistency in benefit structure and claims management, between workers compensation and CTP. Principled, consistent reforms based on fairness, outcomes and affordability should be the approach to bring these schemes into alignment with the NDIS and the NIIS.

Workers compensation schemes across the nation are moving away from the culture of 'compensation' to a focus on work, health and safety on the basis that work has health benefits.²⁵ Changing the culture of the CTP scheme to align it with this approach should be seriously considered.

²⁵ Maaïke van der Noordt; Helma IJzelenberg; Mariël Droomers; Karin - *Health Effects of Employment: A Systemic Review of Prospective Studies, 2014* - <http://www.medscape.com/viewarticle/831491>

Conclusion

Queensland motorists deserve a scheme that is affordable, directs the premium dollar to those more seriously injured, and provides a full level of cover that incentivises injured people to recover quickly. This involves a cultural shift from compensation to the health benefits that are achieved by returning to work or community activities early after an accident.

Suncorp strongly believes this is best achieved through the implementation of defined benefits, no-fault cover and first party arrangements. Maintaining competitive underwriting and encouraging competition will also help ensure the scheme remains affordable.

A scheme designed on these principles should be the end-goal for Queensland CTP reform, however we acknowledge this may need a transition period requiring continued consultation and education with all relevant stakeholders.

Suncorp looks forward to working with the Queensland Government and other stakeholders to ensure the continued viability of the scheme, and importantly, to provide the best outcomes for motorists and injured people.

Appendix A – Discussion Questions

- 1. Do the guiding principles as outlined represent an appropriate framework to underpin the Scheme? Do you have any comments on how they should be assessed?**

The guiding principles of affordability, efficiency, fairness and flexibility provide an appropriate framework. Suncorp has long used these principles to assess the health of a scheme.

Affordability is best assessed by the average class 1 premium. However it is important to make clear that jurisdictional comparisons are not always fair. For example the New South Wales scheme provides much more coverage to motorists and is one of the main reasons why it is more expensive.

In respect to efficiency, a specific measure should also be introduced. This measure would be defined as the amount of the premium dollar that is returned to claimants. This measure would be an effective way to assess scheme performance and emerging trends. It would also require greater transparency around how the premium dollar is spent and should include 'contracted-out' legal fees.²⁶

Fairness is a more qualitative concept. We believe fairness should take into consideration the number of motorists covered, at fault or not-at fault, also the proportion of money going to more seriously injured individuals.

- 2. Is the current Affordability Index still an appropriate benchmark for deciding when a scheme review needs to be undertaken? Do you have any suggestions of alternative approaches for assessing affordability?**

Given the above guiding principles we believe a more rigorous benchmark could be set to determine the health of the scheme. Specifically efficiency and scheme coverage should be key indicators.

- 3. On balance, which underwriting model do you believe best meets the guiding principles and why?**

Suncorp has long argued that private underwriting provides the highest level of competition, true choice for consumers and value for tax-payers.

See page 16 for more information.

²⁶ For discussion on the level of 'contracted-out' legal costs in the NSW CTP scheme, see [Ernst & Young, NSW CTP Scheme Performance Update, 2012](http://www.maa.nsw.gov.au/data/assets/pdf_file/0016/13327/Ernst_and_Young_NSW_CTP_Scheme_Performance_Update_2012.pdf), pages 3 to 5 - http://www.maa.nsw.gov.au/data/assets/pdf_file/0016/13327/Ernst_and_Young_NSW_CTP_Scheme_Performance_Update_2012.pdf

4. Do you believe there is fair price competition in the current Scheme? If not, why not? What changes do you think need to be made to achieve fair price competition if this is seen as a desirable objective?

The scheme is currently competitive however, simple changes could be made to increase competitiveness. In our view the gap between the ceiling and floor needs to be increased to allow insurers to price aggressively. At present the level of discount insurers can implement isn't sufficient to lure customers away from bundling discounts and general brand loyalty.

A move to first party would also incentivise customers to shop on service and would allow insurers to innovate.

5. In your view, what are the main reasons why motorists do not actively switch CTP insurers? Are there any perceived costs and barriers to switching? Would more active switching lead to increased price competition between insurers?

As per question 4. Insurers can't price aggressively enough to incentivise a switch. Also offering CTP through vehicle registration dampens the choice. An alternative could be to allow insurers to collect registration on behalf of the Government.

6. Are there any other features of the current Vehicle Class Filing Model that need to be changed to improve the Scheme outcomes?

Suncorp supports a strong level of community rating however believes there could be more flexibility in the Vehicle Class Filing Model. In our view the vehicle class is becoming less important, instead, how people use the car is more influential. Allowing more price discrimination for certain uses could allow discounts for more general uses. The benefit of this approach is its flexibility in incorporating the emerging ride-sourcing market.

7. Have the changes made to the Scheme in 2010 achieved their intent in ensuring that motorists are aware of their ability to choose their CTP insurer and exercise that choice in the market? Are further changes required, and if so, what?

Changes in 2010 removed the incentive for third parties, or intermediaries, to direct where a customer's CTP insurance was placed. We believe those changes did not go far enough in promoting choice for motorists.

Choice could be further promoted by allowing insurers to collect registration on behalf of the Department of Transport to give customers an active choice of insurer.

Also as discussed previously, first party arrangements would promote customer and product bundling opportunities.

8. Should CTP insurance be unbundled from vehicle registration? If not, why not? If yes, what would be the perceived benefits?

We believe insurers should be able to collect registration on behalf of the Government. This would reduce the number of touchpoints for the customer and also promote competition because the initial customer contact will be with the insurer, not the Government.

9. Do you have any comments on the approach used to estimate the economic parameters? Are there alternatives that should be considered?

As long as lump sum common law compensation exists in a long-tail scheme, there will be a need to incorporate long-term economic assumptions in premium setting. The variability of claim outcomes, and exposure of premium to investment variability, will result in uncertain pricing.

Reducing the uncertainty of how much will be paid, and reducing the time between injury and settlement, will ultimately reduce uncontrollable outcomes, and reduce the price of risk.

10. Does the current CTP Scheme create barriers to entry that are preventing or deterring new insurers from entering the market? If so, what do you perceive these to be and how should they be addressed?

The Queensland CTP scheme is a long-tail, common law compensation scheme. Such schemes are capital intensive, and have a long lead time in producing uncertain returns. This is likely to be unattractive to new entrants who are required to make a large upfront investment.

Combined with very limited ability for insurers to price according to when and how conditions change, this means that an insurer not only needs substantial capital, but also requires highly experienced experts in order to enter, and remain in, such a scheme.

Reducing the level of uncertainty through the introduction of defined benefits will encourage new entrants.

11. Should the approach used to determine the allowance for insurer profitability be amended and if so, in what way?

The process and methodology for setting an allowance for insurer profitability is satisfactory however, changes to the underlying scheme structure would provide more certainty for the Regulator. Specifically defined benefits would stabilise the scheme and insurer returns.

12. Should the MAI Act be amended to: a) introduce a provision to remove the legal defence of inevitable accident? b) allow children aged 16 years and under the ability to access compensation entitlements under the CTP Scheme even if he or she was at-fault?

Yes, but not in isolation of a general no-fault scheme. This is very much a question of social justice. This reform has been undertaken in New South Wales and provides cover for truly blameless accidents and accidents involving children. But it has come at a cost, as this specific scheme design feature may have contributed to the increase in fraudulent claims involving small children.²⁷ Introducing a full no-fault scheme with defined benefits should prevent this particular opportunity.

See page 13 for more information.

13. Do you have any other comments in relation to Scheme coverage?

Suncorp welcomes the introduction of the National Injury Insurance Scheme in Queensland, however we believe the retention of common law for this cohort is a poor outcome and will drive costs in the scheme.

Outside of the NIIS we strongly support the extension of the scheme to those at-fault. Often motor vehicle accidents are due to a lapse of judgement and are generally faultless. These people are currently falling into the welfare system and putting pressure on the Queensland health system and other channels. Other jurisdictions have acknowledged the unfairness of at-fault schemes and implemented reforms. We believe the same should be done in Queensland. This could be achieved in tandem with an extension of defined benefits and have little effect on affordability.

The current scheme coverage should be assessed to ascertain whether it is fit for purpose for Queensland motorists today, having regard to the way the sharing economy and automation is changing the employment environment. Greater disparity in coverage requirements of Queensland motorists is likely to occur. Not all motorists will require 'top coverage' and it will not be affordable for the community at large in the long term.

²⁷ Standing Committee on Law and Justice - *First review of the Compulsory Third Party insurance scheme (NSW_ - Answers to questions on notice – State Insurance Regulatory Authority – question 1 at page 1 and question 6 at page 4 - <http://www.parliament.nsw.gov.au/committees/DBAssets/InquiryOther/Transcript/10078/Answers%20to%20questions%20on%20notice%20-%20State%20Insurance%20Regulatory%20Authority.pdf>*

A better approach is to provide a scheme that assists claimants in the recovery process and getting them back to work, or to the community, in a timely fashion. For those with greater coverage needs 'top-up' insurance policies are available. The benefit is that the average motorist is not financially burdened with a scheme that is delivering to those requiring greater coverage.

See page 13 for more information.

14. Should Queensland legislate to require lawyers to disclose details of their fees and the final settlement received by the claimant after all expenses and statutory refunds have been paid? What are the potential implications?

Yes. Legal fees are a key driver of cost in the scheme. Just as insurers are required to report on key metrics, so too should lawyers. This is already occurring in New South Wales and has provided a clearer picture of the cost of legal representation.

15. What other options would improve the transparency of claimant and insurer legal costs under the Scheme?

Scheme efficiency is a key measure of scheme performance and is an indicator of value for money.²⁸ This is a vital metric to assess Queensland's CTP scheme performance. It is incumbent upon all stakeholders, working within the CTP scheme, to ensure the premium dollar is spent most effectively.

To improve transparency of claimant and insurer legal costs under the scheme, it is recommended that regulation be introduced requiring lawyers to provide full disclosure of party-party and solicitor-client legal costs (with full breakdown) to the Regulator. For full transparency, the disclosure of these costs should also be provided to claimants. The obligation to provide this data should be subject to an appropriate time limit after a claim has been resolved.

The Regulator can assess this data to determine where the premium dollar is spent and discover emerging trends in a timely fashion. The Regulator should report upon the findings.

²⁸ For a discussion on the definition of scheme efficiency used in the NSW CTP scheme and why it does not include the Lifetime Care and Support Scheme see - [Ernst & Young, NSW CTP Scheme Performance Update, 2012](http://www.maa.nsw.gov.au/data/assets/pdf_file/0016/13327/Ernst_and_Young_NSW_CTP_Scheme_Performance_Update_2012.pdf), paragraph 1.2 at page 2 - http://www.maa.nsw.gov.au/data/assets/pdf_file/0016/13327/Ernst_and_Young_NSW_CTP_Scheme_Performance_Update_2012.pdf

16. Should the role, structure and functions of MAIC be amended in any way, and if so, how and why?

The role of MAIC as a prudential supervisor as prescribed under the MAI Act should be reviewed. While it is understood why the Queensland Government has an interest in ensuring licensed CTP insurers remain fully solvent, APRA already performs extensive monitoring and oversight of financial services organisations, and are well equipped to identify risks beyond the CTP line of insurance within a licensed entity.

Rather than replicate the extensive prudential supervision already undertaken by APRA (which would increase complexity and cost to MAIC and licensed insurers), we believe that a mechanism whereby the Queensland Government can rely upon the oversight of APRA will ultimately provide a more robust assessment of an insurer's stability.

17. Should Queensland's Nominal Defendant (or 'insurer of last resort') Scheme be amended in any way and if so, how?

No, the scheme operates well and provides the Queensland Government with a first-hand account on how the CTP scheme is operating in practice, particularly on claims management where the Nominal Defendant is exposed to the same dynamics as a licensed insurer.

18. Based on your experience with the Queensland CTP Scheme, do you have any other suggestions as to how the objectives of this scheme review could be achieved?

Suncorp's views and suggestions for reform are outlined in this submission. We look forward to working with MAIC to improve the CTP scheme.

Appendix B – The mechanics of motor injury schemes

Appendix C – States in the injury business

Appendix D – Beyond fault