

25 February 2011

Mrs Vicki Dunne MLA and Mr Brendan Smyth MLA
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Dear Mrs Dunne and Mr Smyth

ROAD TRANSPORT (THIRD PARTY INSURANCE) AMENDMENT BILL 2011 (ACT)

I understand that the ACT Government has recently tabled in the ACT Legislative Assembly the Road Transport (Third Party Insurance) Amendment Bill 2011 (ACT) (the "Bill"). I also note that the Bill will dramatically reduce compensation entitlements for ACT motor accident victims.

I am informed that these reforms are proposed without a full explanation as to the need for them (including data and evidence of the performance of the current ACT CTP scheme) or their likely effects (including the adverse impact on motor accident victims and their families and also how the reforms will provide any tangible benefits for the ACT community).

As you are no doubt aware, some States have already enacted tort law reform with the main object of reducing insurance premiums. That occurred particularly during the so called "insurance crisis". The experience in such other States has been that reforms which have included minimum injury thresholds and other similarly unjust measures have imposed great hardship on accident victims and their families. The experience in others States has also been that the threshold acts to the ultimate detriment of the integrity of the scheme. This interstate experience is something from which the ACT can draw.

In Queensland our Attorney-General last year considered proposals to introduce whole person impairment thresholds to our workers' compensation system. In the Second Reading debate of the amending legislation in Queensland Parliament on 9 June 2010, he said:

"That is why the legislation before the parliament features many of the points raised by employers, by unions and by the legal profession who were consulted widely, openly, in a transparent fashion and at length on the nature and need of the changes. We have had a very open process from the day the government received the report from the WorkCover board. I have reported to the parliament. We set up a significant broad-ranging stakeholder group involving employer groups, trade unions, representatives of workers, lawyers, other interested parties and business groups, including the Queensland Resources Council, the Chamber of Commerce and Industry Queensland and the Australian Industry Group. All of these people had a seat at the table and then we opened the process to public submissions. All of that is on the

department of justice website. All of those submissions can be accessed. It was very open and transparent. It was a very constructive way to develop public policy.

I should also say that not one of the 60 written submissions that the government received suggested a change to the fundamental nature of the Queensland scheme, which is a short-tail statutory scheme with access to common law. There is consensus in the Queensland community that the Queensland system works and delivers for Queensland. That is what we are trying to maintain.”

I am aware that the ACT Law Society, ACT Bar Association and Australian Lawyers Alliance have expressed their strong opposition to the current ACT reforms and have called for the Bill to be referred to an ACT Parliamentary Committee for careful consideration of all relevant information and issues. The Queensland Law Society strongly supports the ACT legal profession in that view. Drawing on the interstate experience of the impact of such reforms, the hardship which the Bill will cause to motor accident victims and their families must not be visited on the ACT community without proper justification supported by evidence and fact.

I urge you to consider and support the ACT legal profession’s opposition to these reforms or, at the very least, careful consideration by an ACT Parliamentary Committee before the Bill progresses any further.

I have also attached to this letter some of the issues we addressed with respect to the proposal for thresholds in Queensland which may be of some assistance to you and refer again to the fact that thresholds dramatically increase disputation rates and the operational costs of a scheme. This is ultimately to the detriment of the integrity and viability of the scheme itself. For your information I have written in similar terms to the ACT Greens.

Yours sincerely,

Bruce Doyle
President