18 September 2020

Mr Peter Achterstraat AM
NSW Productivity Commissioner
NSW Treasury
52 Martin Place
SYDNEY NSW 2000

Dear Mr Achterstraat

NSW PRODUCTIVITY COMMISSION GREEN PAPER: CONTINUING THE PRODUCTIVITY CONVERSATION

The Insurance Council of Australia **(Insurance Council**)[1] appreciates the opportunity to provide comments on the *Productivity Commission Green Paper: Continuing the Productivity Conversation* (**the Green Paper**) released on 19 August 2020.

Productivity growth is vital to continuing the prosperity which enables the people of New South Wales (**NSW**) to enjoy a high and fulfilling standard of living. The Insurance Council welcomes the NSW Productivity Commission's pragmatic approach taken in the Green Paper which emphasises four criteria for priority: that reforms be feasible, generate material productivity benefits, be able to be progressed by the NSW Government on its own initiative, and accord with the NSW Government's priorities.

In a valuable contribution to public debate, the Green Paper identifies a number of strategic priority areas: best practice teaching; a modern VET system; regulation which supports competition and innovation; reliable well priced water and energy; smarter infrastructure; better planned housing; and a better mix of state and local government taxes which encourage growth. The Insurance Council would like to comment specifically on the issue of tax reform – we believe action is necessary to ensure that as many impediments to economic growth as possible are removed and that revenue is sustainable into the future

The Insurance Council welcomes the Green Paper's Draft recommendation 8.1:

> *"Replace inefficient taxes with more efficient ones. Start by replacing transfer duty with a broad-based land tax. Before proceeding, identify how various designs will improve the economy and the state budget, and how adverse impacts on various groups can be minimised."*

[1]The Insurance Council is the representative body of the general insurance industry in Australia. ICA members represent about 95 per cent of total premium income written by private sector general insurers. Insurance Council members, both insurers and reinsurers, are a significant part of the financial services system. Insurance Council members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance). July 2020 Australian Prudential Regulation Authority statistics show that the general insurance industry generates gross written premium of $51.4 billion a year and has total assets of $135.4 billion. The industry employs about 60,000 people and on average pays out about $171.1 million in claims each working day. Over the 12 months to July 2020 the industry's net profit after tax (NPAT) was $1.0 billion – a 70.5 per cent decrease from the prior year's NPAT of $3.5 billion. The industry's underwriting result was $1.4 billion, falling by 39 per cent from $2.3 billion in the prior year.

The Insurance Council has been a key participant in the tax reform debate. The economic case for the abolition of insurance-based taxes (stamp duties and levies to fund emergency services) is widely accepted, having been canvassed in numerous federal, state and territory government reviews and inquiries.[2]

The consensus is that the states and territories would be materially better off if they reformed their tax regimes so that they were more or wholly reliant on broad-based taxes with minimal exemptions at the same time as they reduced their reliance on transaction-type taxes, including insurance duties.

The interests of all states and territories would be best served by abolishing their insurance duties. The successful shift in states (including Victoria, South Australia and Western Australia) from funding their emergency services through an insurance levy to a broad-based property levy shows that reform is feasible and would bring significant social and fiscal benefits.

Unfortunately, high taxes are a significant disincentive for households to insure. The take-up of home and contents insurance is consistently lowest in NSW, the jurisdiction with the highest rate of insurance duties and levies and the only state or territory to still fund emergency services via a levy on retail insurance premiums.

The Australian Capital Territory's experience in phasing out its stamp duties on insurance products between 2012 and 2016 shows governments can smoothly transition to other, more efficient and fairer revenue sources.

The Insurance Council strongly encourages the NSW Productivity Commission to take up the recommendations of the recent Draft Report of the Review of Federal Financial Relations (**Thodey Review**) that:

- *"All specific taxes on insurance products, including the Emergency Services Levy in New South Wales, **should be abolished** and **replaced by more efficient and broad tax bases**, to improve the affordability and uptake of insurance.*
- *To reduce the cost of insurance and enable fairer ways to fund the fire and emergency services, the Government **should reconsider applying a levy on property owners** and should also consider combining this with any future broad-based land tax. The reform should follow a detailed consideration and modelling process to carefully consider the impacts on different taxpayers." (**emphasis added**)*

The need to address the burden which insurance taxes impose is even more pressing in the current economic circumstances. Communities and businesses are struggling with the impact of natural disasters, COVID-19 and the recession, and these taxes are an unjustified impost. The situation in NSW is particularly dire for families, who are now paying up to 50 per cent in taxes on household policies, and small businesses, who (depending on spikes in

[2] Including Australian Competition and Consumer Commission's Northern Australia Insurance Inquiry 2018, Australian Government's Review of Australia's Future Tax System (the Henry Tax Review) 2010, NSW Independent Pricing & Regulatory Tribunal (IPART) Review into State Taxation 2008, 2009 Victorian Bushfires Royal Commission, NSW Government 2012 review: Funding our Emergency Services, ACT Review of Taxation 2012, GST Distr bution Review 2012 and various Productivity Commission reports.

Emergency Services Levy (**ESL**) rates) can face an effective tax of up to 70% on premiums when they purchase insurance cover. This is because of the combined impact of the ESL,[3] the GST and state stamp duty of 9 per cent.

In NSW taxes on insurance make up 8%, an important proportion, of the state's taxation revenue. The rate at which stamp duty alone[4] is levied on general insurance policies is similar to the rate at which gambling is taxed, yet insurance is a social benefit compared to gambling which can lead to personal ruin.

The Insurance Council submits that the NSW Productivity Commission should make a firm recommendation that special taxes on insurance be replaced with a broad-based property tax, consistent with the Thodey Review. We consider this would better align with the fourfold criteria the Productivity Commission set itself to identify strategic priorities.

Against the background of the economic challenges presently facing the NSW and Australian economies due to the COVID-19 induced recession, it is imperative that action be taken to reform inefficient taxes which depress consumption and diminish State government revenue. Deloitte Access Economics has estimated that the boost to the NSW economy from removing stamp duty on insurances and abolishing the ESL and replacing them with a broad-based property tax would have the effect of:

- increasing consumption by 1.07% of $3.056 billion p.a.; and
- increasing state government revenue by 1.42% or $400 million p.a.[5]

The insurance industry has long publicised the economic benefits of tax reform, and these benefits obviously remain of critical importance. However, the impact of the high effective tax rate imposed on ordinary people, and both small and larger businesses, that seek to manage their risks via the purchase of insurance also cannot be understated. As noted above, in NSW these rates can reach 50 percent for individuals and 70 percent for businesses. These high effective tax rates in NSW are a function of the layering of up to three different sets of taxes on persons and businesses seeking to proactively manage risk.[6]

It is worth considering the opportunity cost of imposing such high taxes on individuals and small businesses, particularly those in regional NSW. The Insurance Council has investigated what it would mean to a home owner and small business in Cobargo, Bega Valley Shire. Cobargo was severely impacted by the recent black summer bushfires.

If NSW were to abolish stamp duty on insurance and ESL:

- a home owner who currently insures their free standing house for $450,000 could purchase an additional $120,000 of coverage with the saved $176.88 on top of the

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[3] The ESL rate varies with State government cost recovery target, which varies from year to year, and premium pool size over which that target is recovered, and which varies with economic conditions.
[4] Leaving aside the application of ESL to general insurance, a 10% tax is imposed on all bets made by customers located in NSW.
[5] Deloitte Access Economics, The Impact of removing stamp duties on insurance, October 2015.
[6] ESL is levied on the premium paid for most, but not all insurances issued in NSW. GST is then levied on the premium plus ESL for most general insurances. Stamp duty is then levied on premium plus ESL plus GST, with some limited exception for certain small businesses. Hence it is unsurprising that NSW has the highest levels of non-insurance and under-insurance of any State in Australia, particularly amongst those who wish to protect their home which for many is also their principal financial asset.

base premium (of $564.55) plus GST (of $67.46). The increase in protection to $570,000 would eliminate any under insurance due to more rigorous rebuilding standards and leave them with change in their hip pocket. Alternatively, they could bank the savings and use it to pay for six weeks of fresh fruit and vegetables for the family.[7]

- the owner of a pharmacy who currently insures their premises to a $450,000[8] could purchase an additional $290,000 of cover with the saved $472.51 on top of the base premium (of $1,662.33) plus GST (of $200.45). The increase in protection to $740,000 would eliminate any under insurance for example due to lack of business interruption cover and leave them with change in their hip pocket. Alternatively, the business could bank the savings and use it to pay for 6 months of internet data and unlimited mobile calls and selected international calls. [9]

The Insurance Council urges the NSW Productivity Commission to take a stronger stance in favour of immediate action to tackle the social and individual burden of taxes on insurance policies.

The Insurance Council also supports draft recommendations made in the Green Paper relating to "Forward looking regulation supports competition and innovation". Draft recommendations 4.1 and 4.2 advocate the extension and retention of regulatory changes made to ease difficulties created by COVID-19 restrictions. The Insurance Council agrees that many of these changes have been, and are, strongly beneficial and should be made permanent. For reference, a copy of the Insurance Council's submission to members of the National Cabinet is attached outlining the need for the retention of a number of measures affecting general insurance.

If you have any questions or comments in relation to our submission please contact [redacted]

Yours sincerely

[redacted]

[redacted]

[7] The average NSW family spends $275.41 a week on groceries, including $13.50 on fruit and $16.78 on vegetables: https://www.budgetdirect.com.au/home-contents-insurance/research/average-grocery-bill-statistics.html
[8] Together with contents to the value of $50,000(with an annual claim cap of $948,000 and legal liability to the value of $10m.
[9] Under Telstra's business NBN50 unlimited data and calling pack plan as at 17 September 2020.

INSURANCE COUNCIL OF AUSTRALIA

10 August 2020

The Hon Victor Dominello MP
Minister for Customer Service
52 Martin Place
SYDNEY NSW 2000

Dear Minister,

MODERNISING AND DIGITISING COMPLIANCE REQUIREMENTS

The Insurance Council of Australia (ICA) supports the work by the Federal and State Governments to cut red tape by modernising communications and other business practices. As Governments have recognised, laws have not kept pace with the advances in digital technology, which has led to greater compliance costs and meant time and money lost for consumers.

COVID-19 has driven businesses and governments to adopt more flexible practices. For instance, temporary COVID-19 measures have allowed for the electronic signing and virtual witnessing of documents. These measures should be made permanent.

The necessity of adopting to the COVID-19 situation creates a prime opportunity for Governments to reassess current compliance requirements in order to create a more efficient and less costly regulatory environment for businesses and consumers. Modern communications technology means analogue requirements in law should be revisited.

Anything governments can do to create more permanent flexibility, taking advantage of modern technology to create a more digital environment, would help economic recovery by lowering costs and saving time for business and consumers.

We have listed measures at a State and Federal level which we believe can be adopted permanently in order to create greater flexibility and bring compliance requirements in line with current technologies. This is by no means an exhaustive list, and we encourage governments to be actively considering how legislation can be amended to make doing business easier.

Of particular interest to members is that the Insurance Contracts Act should be amended to allow for greater flexibility in the provision of disclosure documents via electronic means, on the same basis that is possible for other financial services providers.

We look forward to engaging the Commonwealth's Deregulation Taskforce and relevant State Government agencies as governments seek to ease the burden of doing business in order to aid with the economic recovery.

If you would like to discuss any of these matters further, please do not hesitate to contact [redacted]

Yours sincerely

[redacted]

INSURANCE COUNCIL OF AUSTRALIA

ATTACHMENT

Examples of temporary measures adopted during COVID-19 that should be made permanent

Queensland:	Under Schedule 1 of the *Electronic Transactions Act (Queensland) Act 2001 (Qld)* certain documents cannot be signed electronically. These included documents that needed to be: Filed with a Court or Tribunal, Served personally or by post. Authenticated, verified, or witnessed. The *COVID-19 Emergency Response Act 2020 (Qld)* gave the Queensland Government power to make regulations relating to the signing, witnessing, certification, and filing of documents (section 9).
Western Australia:	On 6 April 2020, WorkCover WA allowed for the lodging of complete MOA documents with the Director in PDF format via email for parties to a settlement via Memorandum of Agreement (MOA) pursuant to Section 76 of the *Workers' Compensation and Injury Management Act 1981*.

Examples of current regulatory requirements that should be modernised

Commonwealth: Electronic communication with customers	The Insurance Contracts Act should be amended to facilitate the electronic disclosure of insurance documents. Currently, certain documents require specific consent to be sent via electronic communications. Due to ASIC not being able to give relief under the Insurance Contracts Act, insurers are unable to communicate electronically with their policyholders on the same basis as other financial service providers that are regulated solely by the Corporations Act. This would help to make the disclosure of information more consumer centric.
Consistent national approach to executing Deeds	Executing Deeds (i.e. Deeds of Settlement) is not consistent between states and requires a wet signature in NSW (but can witnessed electronically).

Consistent national approach to electronic signatures for Workers Compensation and CTP claims.	There should be the use of electronic signatures and submission on documents in Workers Compensation and CTP claims nationally. This would enable exchange of documents in various situations including claims settlement to be faster and more efficient and have less of an impact on injured people.
Hard Copy postage of Tax File Number Declaration	There should be a way for a claimant to easily submit their TFN to the ATO and share the details with insurers for entering in their system. Injured people can submit the declaration electronically via their MyGov account but there is no way for them to share with insurers the details of that declaration so they can record the same in their system. Ideally there would be a way for a claimant to send insurers a TFN Declaration that insurers could then electronically sign and email or upload the doc. Even a portal to submit the info would be good. This is preferable to exchanging paper documents.
NSW and SA: Compulsory Third Party DRIVES searches (conducted when a new claim is lodged).	CTP DRIVES searches according to the regulator's guidelines are to be undertaken at the office. There should be the ability to undertake DRIVES searches while working from home on an insurer device.
Western Australia: Formal document signing and electronic claim form submission Workers' Compensation and Injury Management Act 1981 s178, s179 and Workers' Compensation & Injury Management Regulations 6AA f	Document submission should be completed online with electronic signature.
Western Australia: Submission to Workcover WA Regulator hard copies of Injured Worker Claim Forms	Submission of the injured workers claim forms should be electronic.

Workers' Compensation and Injury Management Act 1981 s103A	
Western Australia: Form 15B accessed via online portal Workers' Compensation and Injury Management Regulations 1981 – r12(5), and the Act s76(9)	Move the Form 15B onto the online portal for insurers, with a separate permission to access than the current standard/Conciliation and Arbitration Service users.
Removal of the requirement to notify the Director when pending a claim Workers' Compensation and Injury Management Act 1981 ss 57A(3)(c) and 57A(4)	WCWA will receive data from our system regarding claims liability status as part of our normal reporting requirements
Western Australia: Removal of the requirement for an employer to notify WCWA of their intention to dismiss a worker (or, alternatively, allowing electronic submission of the document) Workers' Compensation and Injury Management Act 1981 s84AB	The current wording does not take into account fixed period employment (such as contract work) or other exceptional circumstances (such as change in ownership or economic uncertainty/change experienced with CV19). Further, it does not follow current industrial relation laws
Western Australia: Removal of the requirement to notify WCWA of a policy that has lapsed Workers' Compensation and Injury Management Act 1981 s160(3a)	Online verification appropriate.