Maurice Blackburn Lawyers
Since 1919

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15 September 2021

Committee Secretary
Economics and Governance Committee
Parliament House
BRISBANE QLD 4000

By email: EGC@parliament.qld.gov.au

Dear Sir/Madam,

We welcome the opportunity to provide input in relation to the Committee's consideration of the *Superannuation (State Public Sector) (Scheme Administration) Amendment Bill 2021* (the Bill).

Maurice Blackburn Pty Ltd is a plaintiff law firm with 33 permanent offices and 30 visiting offices throughout all mainland States and Territories.

Our Queensland practice has 13 offices spread across both regional and metropolitan parts of the State. We provide access to justice for everyday Queenslanders across the firm's primary practice areas of personal injuries, medical negligence, employment and industrial law, dust diseases, superannuation, negligent financial and other advice, and consumer and commercial class actions.

All Maurice Blackburn contributions to public policy inquiries are based on the lived experience of our clients. With specific relevance to this inquiry, we represent Queenslanders who have lost income or livelihoods and seek to claim compensation under insurance policies held by superannuation funds.

Maurice Blackburn recognises the enormous potential benefits associated with the merger of QSuper and SunSuper. As the Treasurer pointed out in his Explanatory Speech to the Bill the merged entity will:[1]

- Be the second largest superannuation fund in Australia,
- Remain headquartered in Queensland,
- Have an estimated $200 billion in net assets,
- Continue to be a profit-for-member fund, and
- Have two million members, which will allow it to distribute costs across a larger membership base and thereby reduce the cost per member.

[1] Derived from https://documents.parliament.qld.gov.au/events/han/2021/2021_09_01_DAILY.pdf#page=28: p.2344

We also note from the Treasurer's speech that great care is being taken to ensure that:

> *… the existing entitlements and benefits of QSuper members are preserved following the merger, including those of defined benefit members.*[2]

And that:

> *Any changes to the defined benefit category rules are subject to government consultation and cannot alter the member's benefit design in a detrimental way.*[3]

Maurice Blackburn acknowledges that, in the merger of any two products or services, both will come with advantages and deficiencies. We believe that a central principle underpinning any such merger should be that no member of the merged scheme should be worse off as a result of that merger.

One area of concern in the current arrangements lies in the comparison of insurance products currently housed within the QSuper and SunSuper schemes.

Since July 2016, SunSuper have used an AIA default insurance product, TPD Assist, for its 1.3 million members. This product is a significant deviation from the traditional insurance against Total and Permanent Disability (TPD).

Rather than receive a lump sum, SunSuper members are instead paid their benefit in five instalments over six years. That means every year the member must reapply and re-prove they are totally and permanently disabled. That means that ongoing medical assessments and compulsory rehab may be required by members each year.

In our experience, the consequence of this approach is that it often puts unnecessary stress on the claimant's mental health condition, while depriving them of the lump sum benefit that would relieve debt pressures as they seek to adjust to medical retirement.

Only very narrow exceptions are offered - under the AIIA product provided to SunSuper members, even people with paraplegia and those who have lost an entire limb do not qualify for a lump sum.

No other fund, including industry funds, use this drip-feed way to pay TPD benefits. It is entirely unique to SunSuper. The capacity of the TPD Assist model to satisfy the sole interests test has been questioned.[4]

A further concern is that the TPD Assist product contains a clause that excludes TPD eligibility for insured members whose *'financial affairs are under the supervision of a third party (due to their medical conditions or incapacity).*[5]

That clause in effect allows AIA to collect full premiums from fund members who have their finances administered by the Public Trustee, while only providing death cover. We consider this clause to be unlawful for various reasons, not least of which because it unfairly impacts upon the most vulnerable in the community.

In the spirit of ensuring that the merger achieves the worthy policy objectives described in the Explanatory Notes, we make the following suggestions:

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[2] Ibid
[3] Ibid
[4] See https://www.lawyersalliance.com.au/documents/item/1556: para 66 to 80
[5] Policy clause 2.3.1(b) at page 10.

Maurice Blackburn looks to the Committee to provide assurances to current fund members that the provisions protecting current benefits are sufficiently robust to ensure that no-one ends up in a lesser scheme as a result of the merger.

We urge the Committee to use the coverage of other industry superannuation funds as the benchmark for insurance products within the merged fund.

We further urge the Committee to satisfy itself that the member benefits provided within the merged entity do not create a risk that a fund which has the Queensland Government as a trustee could provide outcomes for injured workers below the industry standard or community expectations.

Maurice Blackburn would be pleased, upon request, to provide the Committee with more detailed information on the above, including:

- A comparison of insurance benefits under the pre-merger funds with other industry superannuation products, and
- Case studies which demonstrate the potential impacts on fund members should the wrong settings be accepted.[6]

Please do not hesitate to contact me and my colleagues on [redacted] or at [redacted] if we can further assist with the Committee's important work.

Yours faithfully,

Josh Mennen
Principal Lawyer
Maurice Blackburn

[6] See for example: https://www.abc.net.au/news/2018-06-03/sunsuper-insurance-members-sue-qld/9825324; https://www.news.com.au/finance/work/at-work/stonemason-with-incurable-silicosis-denied-lump-sum-payout-by-insurer/news-story/319232f9ed96502bddbb6cdd92e06e66; https://www.heraldsun.com.au/business/injured-sunsuper-customer-slams-company-over-controversial-drip-feed-policy/news-story/787cb278c7c1fa3f93df3cf5de5a8e31

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