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Finance and
Administration Committee

Submission for WorkCover Queensland Review 2012

This submission is made on behalf of Purcell Taylor Lawyers Pty Ltd.

We have had the opportunity to peruse the submissions by the North Queensland Law Association dated 29 August 2012 and the Far North Queensland Law Association Inc. dated 21 August 2012.

We endorse the respective submissions by those organisations.

The firm Purcell Taylor Lawyers began operation in Townsville in December 1999 and subsequently went through incorporation but continued as the same practice. Over that period of time we have acted on behalf of insurers and injured workers.

We continue to represent the interests of a self-insurer for the purpose of the *Workers' Compensation & Rehabilitation Act* and injured workers.

It is our view that the current workers' compensation scheme is operating effectively when considerations of cost effectiveness and the ability to allow injured workers the freedom and dignity to control their own destiny are balanced. In that regard, we are of the view that access to common law is a vital part to the continuing effective operation of the Workers' Compensation Scheme.

There have been significant restrictions in common law claims with various amendments over the years and particularly the 2010 amendments.

The financial viability of the scheme at present does not warrant any further restriction to common law access by injured workers.

Individual liability limited by a scheme approved under professional standards legislation.

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A restriction on access to common law by injured workers could result in workers who are unable to return to work (or substantially return to their previous employment) being left in the Centrelink system.

We have had experience with claimant's who have had low or even "nil" percentage impairments as assessed by WorkCover's doctors but who are unable to return to their previous employment because of the injuries sustained. The assessment in those circumstances are not challenged generally because of cost and time considerations and differing medical opinion has been obtained as to the cause and effect of the injury sustained by the worker.

There is a particular danger in relying on a basic permanent impairment assessment as issued by WorkCover as it does not take into consideration the effect of the injury on the individual. The ability for a court to hear and decide upon any different medical opinion about the cause and effect of injuries allows for independent review.

We would urge the committee to retain the balance between the interests of the parties and to retain the scheme in its current form without any further restriction to common law and we would strongly argue against the position of any proposed threshold allowing access to common law.

Yours faithfully
PURCELL TAYLOR LAWYERS PTY LTD
Per:



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