

Date >> 03 September 2012



The Research Director
Finance and Administration Committee
Parliament House
George Street
Brisbane Qld 4000



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Dear Sir/Madam

RE: Inquiry into the operation of Queensland's workers' compensation scheme

We refer to the inquiry into the operation of Queensland's workers' compensation scheme and make the following submission on behalf of Townsville City Council.

The Townsville City Council is a self-insurer licensed in accordance with the *Workers' Compensation and Rehabilitation Act 2003* (Act).

As a self-insurer for workers' compensation we are seeking a review of certain provisions within the current *Workers' Compensation and Rehabilitation Act 2003* which relate to latent onset injuries. Our concern is that the current legislation does not allow for a fair and equitable approach in determining liability with respect to claims involving conditions such as asbestoses and mesothelioma.

It is also council's view that the current legislation does not provide for an appropriate exchange of funds to adequately compensate an insurer in situations where liability in relation to potential future claims is transferred.

Townsville City Council recently had a scenario where an ex employee of the former pre-amalgamation Thuringowa City Council made a claim for workers compensation for a latent onset injury. The former employee worked for the new amalgamated Townsville City Council for a brief period before leaving the organisation and then subsequently brought a statutory claim for a latent onset injury.

The legislation provides for latent onset injuries of this nature to be claimed at the date of diagnosis irrespective of the period of exposure. The claimant had no

exposure whatsoever during his period of employment with the amalgamated Townsville City Council.

The entire period of exposure which caused the condition was with another entity that had ceased to exist due to amalgamation and consequently the new Townsville City Council inherited the entire workforce of the former Thuringowa City Council and Townsville and Thuringowa Water Supply Board.

To date the claim has cost Townsville City Council in excess of \$600,000.00 despite receiving no premium during the time of the claimant's exposure or a payment of liability under Section 90 of the Act. It is important to note that the post amalgamated Townsville City Council inherited approximately 470 additional employees. The potential for further claims of a similar nature arising in the future is very likely.

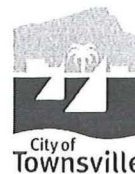
Our concerns also extend to the potential for other conditions such as skin cancer which may eventuate into claims that will be lodged where the claimant is seeking a global permanent impairment and again the date of diagnosis under the current Act is when the claimant attends on a doctor and the doctor provides the claimant with a Workers' Compensation Certificate despite the fact that a number of the cancers or skin damaged areas having been treated a number of years preceding the application for compensation.

It is understood Section 36 of the Act was a provision included in the current legislation to clarify that the claim be investigated under the Act relevant to the date of diagnosis, however to achieve a level of fairness it should be expanded to include, that despite the date of diagnosis, the employer at the time when the exposure or the majority of the exposure took place should automatically assume the liability. The eventual outcome of this proposed change would see the liability from any subsequent claim fall to the insurer of the employer whom the claimant was employed by at the time of exposure.

Even in the scenario where the entity (i.e. employer) has ceased to exist, the insurer providing insurance coverage at the time, having accepted premiums along with the liability should be responsible for making good the payment on any claim that may arise. The current legislation forces the liability and payment of such claims to the new employer and consequently their insurer. This obviously would not apply when an insurer has paid the liability under Section 90 of the Act.

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In relation to Section 90 it is Council's submission that a particular scenario has been omitted in one insurer being entitled to be adequately compensated for a previous insurers liabilities. This scenario is when an entity (Thuringowa City Council and Townsville and Thuringowa Water Supply Board) ceases to exist and another entity (Amalgamated Townsville City Council) takes over the employees and where the three entities have different insurers as occurred in the amalgamation process.

It is Council's view that these amendments should be considered and enacted to bring fairness and equity in terms of these provisions.

If you have any questions in relation to Council's submission please contact Troy Greenwood (Manager People Performance Operations) on (07) 4773 8406.

Yours sincerely

A handwritten signature in black ink, appearing to read "Ray Burton".

Ray Burton

Chief Executive Officer