

Design Element	WA position	NSW position	SA position	QLD position	VIC position	ACT position	TAS position	NT position
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<p>Coverage – definition of “catastrophic injury”</p> <p>Question: Could NSW LTCS approach be a starting point?</p>	<p>s47B</p> <p><u>Current Arrangements</u> WA CTP scheme have adopted the Abbreviated Injury Scale (AIS) as the standard injury classification system, in conjunction with WA Health. s47B</p>	<p>The LTCS eligibility criteria are not just diagnostic – and certainly not all traumatic brain injury would be in scope.</p>	<p>South Australia is a common law Scheme and requires legislative change to implement the proposed change in approach to catastrophically injured persons. However, if implemented, South Australia is currently investigating:</p> <ol style="list-style-type: none"> <li>1. Entry via defined catastrophic injuries such as adopted by NSW LTCS (ABI, Spinal, Burns etc) and by functional assessments as the secondary criteria of need.</li> <li>2. Exclusion of mental/psychological injury. Concerns over Scheme costs and claim number of support if included (plus difficult to truly assess need validity)</li> <li>3. Would not support entry via functional need only (for example non catastrophically injured persons who have significant susceptibility to ongoing needs)</li> <li>4. A common assessment tool would be the optimum position for conformity of coverage across States and Territories. However, acknowledge existing Schemes may have different approaches – as long as the variance between Schemes if not significant.</li> </ol>	<p>s47B</p> <p>PwC in their 2005 report Actuarial Analysis on Long-Term Care for the Catastrophically Injured argued that ‘a “two-hour” threshold would be difficult to define objectively, and is likely to be subject to barrier creep and cost escalation’.</p> <p>s47B</p>	<p>Support a minimum benchmark based on a diagnostic test of injury, (noting regulations may be used in part to define injuries if not codified in the Act)</p> <p>Under the Transport Accident Act 1986 (Vic.), a severe injury means-</p> <ol style="list-style-type: none"> <li>(a) a significant acquired brain injury, paraplegia, quadriplegia, amputation of a limb, or burns to more than 50% of the body; or</li> <li>(b) any other injury specified by the regulations for the purposes of this definition [refer s.3 Definitions];</li> </ol> <p>The Transport Accident Act defines severe injury in order to set out access to particular benefits not available to other clients and for the purposes of eligibility for access to individual funding agreements (section 61A)</p>	<p>Yes.</p> <p>Defined catastrophic injuries and functional assessments.</p> <p>No change</p> <p>Yes</p> <p>Nil unless the baseline NIIS criteria overlap, due to the differences in principle regarding entry points.</p>	<p>Definition of “catastrophic injury” should be based on a needs assessment rather than the type/nature of injury. Otherwise the definition may be discriminatory, for example, an elderly person can suffer horrific orthopaedic injuries and require copious amounts of care for the remainder of their life and be excluded from lifetime care benefits. The proposed approach should provide flexibility for the injured party who may wish to choose a different path, e.g. incomplete quadriplegic. Each jurisdiction should be free to use processes/tools that deliver the desired outcomes.</p>	<p>In principle support for minimum benchmark, with catastrophic injury being defined according to type and severity</p> <p>Coverage beyond minimum benchmark should be a matter for individual jurisdictions.</p> <p>NT uses Australian Medical Association Guides as gateway for long term attendant care (60%). Support in principle a switch to the LTCS model (using tools to categorise Acquired Brain Injury) and exclusion of mental/psychological injury.</p> <p>At this stage it is not clear to what extent the definition of catastrophic injury and significant disability will align, thus enabling leverage of NDIS common assessment tools.</p>

Design Element

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<p>Coverage – definition of “motor vehicle”</p> <p>s47B</p>	<p>s47B</p> <p><u>Current Arrangements</u> <i>Motor Vehicle (Third Party Insurance) Act 1943:</i> s3 (1) <i>Motor vehicle:</i> any vehicle propelled by gas, oil, electricity or any other motive power, not being animal power, required to be licensed, and complying with the requirements necessary for licensing, under the Traffic Act and includes a caravan, trailer or semi-trailer drawn or hauled by a motor vehicle</p> <p>s3AA <i>Road Traffic (Licensing) Regulations 1975</i> defines vehicles required to be licensed as: (1) A vehicle for which a licence is required by section 15(1) of the Act is any motor vehicle or trailer except as described in sub regulation (2). (2) The exception in sub regulation (1) applies to – (a) an agricultural implement being towed on a road by another vehicle if the towing</p>	<p>Should not be considered at present – would be an extension of NIS to general injury.</p>	<p><u>Current Arrangements</u> Definition of motor vehicle "motor vehicle" means a vehicle that is built to be propelled by a motor that forms part of the vehicle;" Vehicle is defined as "vehicle" does not include a vehicle operated on a railway or tramway or a mobile machine controlled and guided by a person walking; “</p> <p>Un-registrable vehicles include bicycle, petrol powered bicycles, off road dirt bikes, quad bikes, trams &amp; trains, modified motor vehicles that do not conform to required Transport standards, some agricultural machines, mining machines, vehicles for use on non road-related areas such as golf buggies, ride on lawn mowers.</p> <p>Rally and road races are excluded in legislation” "road race" means any contest— (a) that tests the speed or reliability of motor vehicles or the skill or endurance of their drivers or navigators; and (b) that—(i) is declared to be an event to which section 33 of the Road Traffic Act 1961 applies; or (ii) takes place on a race track established or adapted for the purpose of such contests;</p>	s47B	<p>Support a minimum benchmark</p> <p>The Transport Accident Act 1986 (Vic) adopts the same definition of a motor vehicle as that contained in 3(1) of the Road Safety Act 1986 (Vic.).</p> <p>Under the Transport Accident Act 1986 (Vic.), a registered motor vehicle means-</p> <p>(a) a motor vehicle that is registered in accordance with the Road Safety Act 1986; or (b) a motor vehicle that is not so registered and is not registered under the law of another State or Territory but is usually kept in Victoria and is not exempt from registration in accordance with Part 2 of the Road Safety Act 1986 or the regulations made under that Act; or (ba) a motor vehicle that is not so registered because it is exempt from registration in accordance with Part 2 of the Road Safety Act 1986 or the regulations made under that Act as a visiting overseas motor vehicle; or (c) a motor vehicle in respect of which a registration permit</p>	<p>Common Def: No, unless it is federal and applies to all road transport environments.</p> <p>Each jurisdiction’s insured motorists compulsorily underwrite a particular risk profile that is known and priced accordingly. Adjusting the profile artificially to suit catastrophe will require adjusting the overall risk premium to account for the revised risk across all injuries and may, unless the new potential beneficiaries contribute to the revised risk pool incur greater proportionate costs than the benefits of the scheme, to the point the public may reject it.</p> <p>Cyclists: cyclists could be covered if they are prepared to pay a premium commensurate with their risk of catastrophe on a road or road related area. The premium would be nominal but would add to the balance of the equities within the</p>	<p>MAIB legislation uses the definition of a motor vehicle in the Vehicle and Traffic Act 1999.</p> <p>MAIB exclusion provisions only apply where a person (driver or owner) knew, or ought to have known, the vehicle was not registered.</p> <p>Linking coverage to the payment of an MAIB premium is efficient and enhances compliance.</p>	<p>Support in principle minimum benchmarks.</p> <p>NT preference is for a narrow definition of motor vehicle accidents – NT does not support inclusion of transport classes such as unregistrable vehicles, bicycles and trams.</p> <p>NT legislation currently excludes from this definition a vehicle that runs on rails, a motorised wheelchair that is not capable of travelling at a speed greater than 10 km/h, and a cycle powered by an engine with a power output not exceeding 200 watts.</p> <p>Furthermore under NT legislation person is generally not entitled to certain benefits where the motor vehicle has been unregistered for a period of at least 3 months, and the injured person is the owner or driver of the motor vehicle.</p>

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s47B	<p>vehicle is the subject of a vehicle licence or permit; or</p> <p>(b) an unlicensed vehicle of any type being towed on a road by a tow truck that is the subject of a vehicle licence or permit; or</p> <p>(c) a motor vehicle that is designed so as not to be capable of a speed exceeding 10 km/h; or</p> <p>(d) a power assisted pedal cycle.</p>		<p>"road" means an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving of motor vehicles;</p> <p>"road-related area" means any of the following: (a) an area that divides a road; or (b) a footpath or nature strip adjacent to a road; or (c) an area that is not a road and that is open to the public and designated for use by cyclists or animals; or (d) an area that is not a road and that is open to or used by the public for driving or parking motor vehicles; or (e) any other area that is open to or used by the public and that has been declared by the Minister under section 6 to be a road-related area;</p> <p>Unregistered vehicles are currently indemnified by the Nominal Defendant (under Common law). Passengers covered although contributory negligence considered. Driver – if at fault, not covered. However, recovery provisions exist to recover costs from the unregistered vehicle owner/driver.</p>	s47B	<p>granted in accordance with the regulations made under that Act is in force; or</p> <p>(e) a motor vehicle registered with a Registration Authority in Victoria under the Interstate Road Transport Act 1985 of the Commonwealth or, if that Act is amended, that Act as amended and in force for the time being; registered psychologist means a person registered under the Health Practitioner Regulation National Law to practise in the psychology profession (other than as a student);</p> <p>As a result of the broad definition of a registered motor vehicle the TAC scheme is exposed to claims for transport accidents involving vehicles that are not VicRoads registered and are not required by VicRoads to be registered.</p>	<p>risk pool.</p> <p>Nominal Defendant: Given they fall under nominal defendant, an adjunct to the CTP scheme, yes. In any case, there is no offence of deliberately failing to register a vehicle. The offence does not require mens rea.</p> <p>Not at this time</p>			
<p>Coverage – definition of motor vehicle “accident”</p> <p>Most State schemes have definitions that cover usual motor vehicle accident scenarios</p>	<p>The definition of a motor vehicle as ‘a vehicle that is capable of being registered’ is consistent with WA existing legislation s47B</p> <p><u>Current Arrangements</u> Currently there are no definition of “accident” in the WA legislation however, section 3(7) of the Motor</p>		<p>Motor vehicle injury - Subject to subsection (3a), for the purposes of this Part and Schedule 4, death or bodily injury will be regarded as being caused by or arising out of the use of a motor vehicle only if it is a direct consequence of—</p> <p>(a) the driving of the vehicle; or</p> <p>(b) the vehicle running out</p>	s47B	<p>, the definition of motor vehicle accident in the Motor Accident Insurance Act 1994, means an incident from which a liability for personal injury arises that is covered by insurance under the statutory insurance scheme. The Act (s5)</p>	<p>Support a minimum benchmark</p> <p>Under the Transport Accident Act 1986 (Vic.), the definition of transport accident in section 3(1) an incident includes an incident:</p> <p>(a) involving a motor vehicle, a railway train</p>	<p>As defined in each jurisdiction’s CTP Law because each scheme caters to a unique, compulsorily underwritten insurance risk.</p>	<p>Definition of motor vehicle accident presents no problems.</p> <p>Definition of motor vehicle taken care of in “coverage – definition of motor vehicle” above.</p>	<p>Support in principle minimum benchmark.</p> <p>Example provided appears reasonable as it does not vary significantly from the existing NT definition of MVA.</p>

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	Vehicle (Third Party Insurance) Act requires that for the purposes of the act, “the death of or bodily injury to any person shall not be taken to have been caused by a vehicle if it is not a consequence of the driving of that vehicle or of the vehicle running out of control”.		of control; or (c) a person travelling on a road colliding with the vehicle when the vehicle is stationary, or action taken to avoid such a collision.	applies to similar scenarios as those in the column at left, however also specifically mentions vehicle defects (see below)  <b>s47B</b>  The Act applies to personal injury caused by, through or in connection with a motor vehicle if, and only if, the injury— (a) is a result of— (i) the driving of the motor vehicle; or (ii) a collision, or action taken to avoid a collision, with the motor vehicle; or (iii) the motor vehicle running out of control; or (iv) a defect in the motor vehicle causing loss of control of the vehicle while it is being driven;	or a tram which is out of control; (b) involving a collision between a pedal cycle and an open or opening door of a motor vehicle; (c) involving a collision between a pedal cycle and a motor vehicle while the cyclist is travelling to or from his or her place of employment. [refer s.3 Definitions];  NOTE: this is a narrower than the indemnity provided under the TA Act, which covers the driver and registered owner in respect of any liability in respect of injury or death that is caused by or arise out of the use of the motor vehicle in Victoria or in another State or Territory [s.94]			
Coverage – definition of “place of accident”	<b>s47B</b>  <u>Current Arrangements</u>	NSW currently does not cover off road accidents. The cost of this extension will need to be assessed.  The cost of accidents outside Australia should be covered by resident’s travel insurance.  Should not be considered at present – would be an extension of NIIS to general injury.	Current South Australian Scheme includes coverage/indemnity as defined in registrable vehicles and the road related areas. Only provides coverage based on common law principles so not “full coverage” of no-fault Scheme.  South Australia support maintaining the current coverage and not extend to un-registrable vehicles or non-road related areas (at least initially). Uncertain of the potential liabilities of inclusion of these at present.	<b>s47B</b>  In Qld, uninsured vehicles are covered only if the accident occurs on	Support a minimum benchmark  Under the Transport Accident Act 1986 (Vic.), The Commission is not liable to pay compensation in accordance with this Act in respect of a person who is injured or dies as a result of a transport accident involving the driving of an unregistered motor vehicle or unregistered motor vehicles on private land; And the TAC is not liable to pay compensation to the owner of an	Not at this time; there is an existing insurance medium, Public liability insurance  No because these represent risks that cannot be quantified and therefore cannot be compulsorily underwritten by those who have no control over the risk.	Link to eligibility: • the requirement to hold a valid driver licence for the vehicle being driven or ridden on a ‘public street’); and • the requirement to pay a CTP premium. This provides a framework that is fair, reasonable and affordable. Accidents outside Australia coverage – NO.	Support in principle minimum benchmark.  Initially the NT considers that NIIS should exclude offroad accidents. Persons injured in offroad accidents could continue to be covered (where applicable) by the core state/territory CTP scheme.  Coverage of accidents outside Australia is not supported as part of NIIS.

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	<p>The WA CTP policy currently covers any owner or driver of a licensed motor vehicle, subject to the warranties and conditions contained in the Policy and any other person who drives that motor vehicle, whether with or without the consent of the owner, in respect of all liability for negligence incurred by the owner or other person in respect of the death of or bodily injury to any person directly caused by, or by the driving of, that motor vehicle in any part of the Commonwealth.</p> <p>Coverage under the CTP policy does not extend to the Indian Ocean Territories (IOT) which are a Commonwealth jurisdiction however, under administrative arrangements with the Commonwealth, CTP arrangements in the IOT are currently being managed by the Territory Insurance Office and WA laws applied.</p> <p>s47B</p>		<p>South Australia support excluding international visitors.</p>	<p>a road or in a public place. However, conditionally registered vehicles are only covered while on a road (not public place).</p> <p>s47B</p>	<p>uninsured motor vehicle who is injured or who dies in a transport accident on private land</p> <p><b>private land</b> means any land (whether publicly or privately owned) that- (a) is not a highway; and (b) members of the public may not enter or may not remain on without permission;</p> <p><b>unregistered motor vehicle</b> means a motor vehicle which has never been registered under Part 2 of the Road Safety Act 1986 or a corresponding law of another State or a Territory and in respect of which a transport accident charge was not paid at the time that the transport accident occurred.</p> <p><b>uninsured motor vehicle means</b> a motor vehicle in respect of which the transport accident charge has not been paid for at least 12 months [s.41A &amp; s.41B</p>			
<p>Coverage – extra territorial application</p>	<p>There are different costs of registering a vehicle in different states.</p> <p>s47B</p> <p>Costs of care and support differ across States, premium costs will be based on the cost of care and support within a particular jurisdiction.</p>	<p>NSW currently does not cover accidents in other jurisdictions. The cost of this extension would need to be assessed.</p>	<p>South Australia support a minimum benchmark that each State or Territory cover any catastrophic injuries that occur in their jurisdiction. This ensures full coverage across Australia. It would create difficult rules to define “residency” for some persons e.g. miners, transitory persons and also the concept of “grace periods” for persons relocating to other States.</p>	<p>s47B</p>	<p>Support a minimum benchmark</p> <p>Entitlement to compensation outside Victoria s.42 (1) This section applies where a person is injured or dies as a result of a transport accident if- (a) the person, a dependant of the person or the surviving partner of the person is</p>	<p>Not Limited to the jurisdiction but as exists now, a compact that each jurisdiction applies the same standards of care as are applicable in the “paying” jurisdiction.</p> <p>The jurisdiction of registration should be the jurisdiction of payment</p>	<p>Coverage should extend to residents of a State who are injured in a motor vehicle in another jurisdiction in a vehicle registered in their home State.* If a resident is injured in a State other than their own in a vehicle registered interstate, the</p>	<p>Support in principle minimum benchmark.</p> <p>NT supports coverage based on where the accident occurs, with protocols established for cost recovery arrangements between schemes where vehicle is registered in a different jurisdiction.</p>

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	<p>Some States may choose to provide services above minimum benchmarks. Extended coverage is likely to be reflected in premiums paid.</p> <p style="text-align: center;">s47B</p> <p><u>Current Arrangements</u> The existing scheme covers a WA registered vehicle throughout the Commonwealth. The lump-sum payment which is negotiated is based on the cost of care in the place the expense will be incurred.</p>		States and Territories can create MOUs on funding and management of claims if cross border claims occur.	s47B	<p>entitled to compensation in respect of the accident in accordance with this Act; and</p> <p>(b) a person has a right to claim compensation or a right of action in respect of the accident under the law of a place outside Victoria.</p> <p>(2) The person, or a dependant or a surviving partner of the person, is not entitled to compensation in accordance with this Act if, under the law of a place outside Victoria-</p> <p>(a) the person, dependant or surviving partner has been paid or has recovered an amount of compensation or damages; or</p> <p>(b) an award of compensation or judgment for damages has been made, given or entered in favour of the person, dependant or surviving spouse; or</p> <p>(c) any payment into court has been accepted by the person, dependant or surviving spouse; or</p> <p>(d) there has been a compromise or settlement of a claim by the person, dependant or surviving spouse; or</p> <p>(e) a claim for compensation in favour of the person, dependant or surviving spouse has been accepted; or</p> <p>(f) the person, dependant or surviving</p>	The jurisdiction of treatment applies the same standards of care as the jurisdiction of payment at the same level as if the crash occurred in the jurisdiction of payment.	<p>coverage should be provided by the jurisdiction of the insurer.</p> <p>* - It is important to avoid a bizarre situation where three insurers are involved in one claim, e.g. Tasmanian resident injured in an accident in NSW with the driver of a NSW registered vehicle at fault:</p> <ul style="list-style-type: none"> <li>• NSW LTC pays NIIS benefits;</li> <li>• MAIB pays other no-fault benefits; and</li> <li>• NSW insurer pays damages.</li> </ul>	

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					<p>spouse has commenced an action for damages in a court of competent jurisdiction- unless the Commission is liable under section 94(1) to pay compensation to the person, dependant or surviving spouse under the law of a place outside Victoria.</p> <p>(3) If the person, a dependant or a surviving partner of the person-</p> <p>(a) receives compensation under this Act in respect of a transport accident; and</p> <p>(b) under the law of a place outside Victoria-</p> <p>(i) receives compensation or damages; or (ii) obtains an award of compensation or judgment for damages; or (iii) payment into court has been accepted; or (iv) there has been a settlement or compromise of a claim-in respect of the accident- the Commission may recover from that person, dependant or surviving partner as a debt due to the Commission the amount of compensation paid under this Act or the amount to which paragraph (b) refers, whichever is the lesser.</p> <p>(4) If a person claims compensation under this Act in respect of a transport accident, an amount recovered or to be recovered by that</p>			

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					<p>person under the law of a place outside Victoria as compensation or damages in respect of a transport accident shall be presumed to be compensation or damages in respect of the same transport accident unless the person proves to the contrary.</p> <p>(5) If a person who claims or is entitled to claim compensation under this Act in respect of a transport accident claims compensation or commences proceedings outside Victoria for the recovery of damages in respect of that accident, the person must give notice in writing to the Commission.</p> <p>The TAC applies discretion when dealing with dual entitlements to compensation in circumstances where the TAC carries a no fault liability and is also the insurer on risk at common law</p>			
Coverage – exclusions based on illegal or reckless acts	s47B	Exclusions from care and support services for recklessness not supported in principle.	<p>Consider all persons catastrophically injured in a motor vehicle accident should be covered at a minimum for lifetime care and support and medical, regardless of the breach or act that caused the injury.</p> <p>In the end, if the Scheme does not cover these people then they will need to be provided care and support by some other mechanism. Accepting coverage reduces the administrative and legal</p>	s47B	<p>Support a minimum benchmark</p> <p>There is no exclusion under the Transport Accident Act 1986 (Vic.), in relation to medical rehabilitation and disability supports.</p> <p>Recovery action may apply in certain circumstances.</p> <p>A number of restrictions apply to the driver of a</p>	Crashes occurring in the course of committing felonious activity (crimes that may attract a custodial sentence of more than one year).	<p>The exclusions in MAIB legislation are recommended:</p> <ul style="list-style-type: none"> <li>• convicted of manslaughter;</li> <li>• causing death by dangerous driving;</li> <li>• causing grievous bodily harm by dangerous driving;</li> <li>• dangerous and reckless driving;</li> </ul> <p>and</p> <ul style="list-style-type: none"> <li>• driving under the influence of alcohol/drugs.</li> </ul>	<p>Support in principle minimum benchmark to establish exclusions based on illegal or reckless acts.</p> <p>Jurisdictions should have discretion to apply exclusions over and above the minimum standard.</p> <p>Current exclusions and partial exclusions in the NT include illegal and reckless acts such as</p>

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	s47B		challenges of “proving” these persons are to be excluded. Against the principles and purpose of the NIIS.	s47B	motor vehicle on financial compensation if they are convicted of serious driving offences and drink or drug affected driving.		These people should be covered by NDIS. Note that MAIB excludes coverage only for extreme criminal acts and not lower convictions for speeding or exceeding 0.05 alcohol limit. Other exclusions include: <ul style="list-style-type: none"> <li>• intentional injury;</li> <li>• injured in commission of a crime of dishonesty or violence; and</li> <li>• driver with no valid driver licence.</li> </ul>	alcohol, drugs, theft, serious intentionally traffic violation, escape from law and seatbelt use (25% reduction). Such exclusions are considered appropriate in curbing community behaviour.
Coverage – international visitors/ non Australian residents	s47B  <u>Current arrangement</u> International tourists are covered for common law damages.	Exclude	Agree international visitor excluded. If defined by resident and not citizenship then NZ persons may be included (depending on the definition of duration of stay e.g. 3 months, or 6 months?)  Current South Australian common law Scheme covered international visitors. However, limited protection against foreign judgments: 124AA—Limitation of liability in respect of foreign awards (1) This section applies in relation to actions brought before a court of another country or state (except a state or territory of the Commonwealth). (2) Any limitation on liability for damages for death or bodily injury arising out of the use of a motor vehicle	s47B	Support a minimum benchmark  TAC is liable to pay for medical and like benefits (including disability services) to eligible persons (see criteria above) irrespective of citizenship or residency. However the Commission is only liable for funding costs of services received in Australia. [refer s.60(B); s.60(2A)]	Excluded: international visitors and non residents.	Even though MAIB pays benefits for the treatment in Australia for an overseas visitor, there should be no minimum benchmark imposed on the States and Territories.	In terms of establishing a minimum benchmark, the NT supports exclusion of international visitors/non Australian residents from the NIIS.  It should be a decision of each jurisdiction whether benefits for this class of motorist be provided.  The NT currently has restrictions on rehabilitation and care for injured persons returning to their overseas home.

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			(i) the amount awarded; or (ii) the amount awarded less the amount of the excess. (4) In the course of proceedings under subsection (3)(d), a court may— (a) receive in evidence any transcript of evidence in proceedings before the court by which the amount was awarded and draw any conclusion of fact from the evidence it considers proper; or (b) adopt any of the court's findings of fact.					
Coverage – organised motor sport and like events”	<p><b>s47B</b></p> <p><u>Current arrangement</u> Currently, these events are generally excluded under the WA CTP scheme, however, if the vehicles and drivers involved are licensed the CTP policy would respond (as coverage is extended to anywhere within the Commonwealth) but the available common law defences to the claim would be raised as well as the provisions of the Civil Liability Act 2002 as they apply to inherently dangerous or recreational activities.</p>	Should not be considered at present – would be an extension of NIIS to general injury.	<p>Current South Australian Scheme excludes all injuries/death arising from motor sports, rallies or racing including spectators. Covered by the race/rally organiser insurance.</p> <p>Agree should exclude in initial NIIS design.</p>	<b>s47B</b>	<p>Support a minimum benchmark, and the benchmark be set to ensure exclusion.</p> <p>Under the Transport Accident Act 1986 (Vic), Motor sport accidents are excluded S41(1) The Commission is not liable to pay compensation in accordance with this Act in respect of a person who is injured or dies as a result of a transport accident involving a motor vehicle or motor vehicles that are taking part in, or in a test in preparation for, an organized motor vehicle race or a speed trial if the person is- (a) the driver of, or a passenger in, such a motor vehicle; or (b) a spectator at the race, trial or test; or (c) an official or organizer of the race, trial or test; or (d) assisting in any way in the holding of the</p>	<p>Excluded because there is an existing insurance product that addresses the risk.</p> <p>Excluded because injury is not the result of a road crash, but personal injury to a volunteer. They are within the class of people who attract the benefits of the underwritten compulsory insurance risk.</p> <p>Yes, if stages 2 and 3 progress.</p>	Motor racing should not be included under NIIS in any circumstances.	<p>The NT supports exclusion of organised motor sport and like events from the NIIS.</p> <p>It should be a decision of each jurisdiction whether benefits are provided for such events.</p>

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					<p>race, trial or test; or (e) assisting competitors in the race, trial or test.</p> <p>S41(A) Subsection (1) does not apply to an organised motor vehicle race or speed trial-</p> <p>(a ) the rules of which require that the race or trial is to be conducted in accordance with the Road Safety Act 1986 and the regulations applying under that Act; and (b) in respect of which the Commission has certified in writing, the circumstances and conditions under which subsection (1) does not apply.</p> <p>S41(2) In subsection (1) speed trial has the same meaning as in section 68 of the Road Safety Act 1986 (Vic).</p>			
Coverage – “terrorism events”	<p><b>s47B</b></p> <p>Terrorism events are not excluded from the current CTP scheme, provided negligence can be established and the injuries are directly caused by or by the driving of the WA registered motor vehicle.</p>	<p>Current terrorism exclusions are considered related to insurance industry prudential requirements. Government underwritten schemes can accept this risk.</p>	<p>Terrorism excluded under current South Australian Scheme. Agree to exclude in initial NIIS.</p>	<b>s47B</b>	<p>Support a minimum benchmark, and the benchmark be set to exclude.</p> <p>Under the Transport Accident Act 1986 (Vic), there is no exclusion for terrorism events. Notwithstanding, if a benchmark is set to exclude this does not preclude the TAC from continuing to offer broader coverage.</p>	Exclude	<p>Terrorism is an excluded event under Tasmanian legislation and should be excluded under NIIS.</p>	<p>The NT supports exclusion of terrorism events from the NIIS.</p> <p>Coverage for Terrorism events would represent a potentially large risk exposure and impact on CTP scheme reinsurance costs/availability.</p>
Coverage – interim versus lifetime participation	<b>s47B</b>	<p>NSW is supportive of the use of LTCS as a model.</p> <p><u>Current Arrangements</u> The NSW LTCSA</p>	<p>South Australia may need to follow the NSW hybrid approach if residual non catastrophic CTP Scheme remains as Common law.</p>	<b>s47B</b>	<p>Agree this is not the purview of minimum benchmarks</p>	<p>Yes because that process engages the precise first quadrant of scheme efficiency, early intervention and early</p>	<p>Properly designed no-fault schemes provide coverage for all injuries for all people involved in motor accidents</p>	<p>Not supported on basis that minimum benchmarks around injury type/severity and eligibility appear sufficient.</p>

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	s47B	scheme provides for interim participation – for a five year period for children under five at the age of injury and a two year period for all other participants. Recovery from brain injury can be very unpredictable and allows people who have made a recovery to the point where they no longer will need lifetime care and support to exit the scheme. At the same time it enables early treatment and rehabilitation to be available for a broad range of potential participants.	South Australia agree with the interim and full participation model as some injuries may take some time to be able to be assessed for functional needs assessments. This means for some persons their common law rights need to remain in place until a full acceptance can be established. South Australia accept other no fault Schemes do not have requirement to assess entry.	s47B		engagement with the concept of lifetime care and support.	and do not need “interim participation” provisions. This extra layer of complexity should not be imposed on no-fault schemes.	
Entitlements – Access to medical, rehabilitation and care and support benefits	s47B  <u>Current Arrangements</u> Where fault has been established, the WA MVPI scheme provides reasonable and necessary hospital, medical and rehabilitation expenses. This is usually paid	NSW would not wish to reduce the benefits provided.  NSW suggests that the LTCS benefits may be a good minimum standard noting that jurisdictions can provide more than the minimum.  The extent of mirroring of NDIS would need careful consideration as the NIIS includes a broader range of support.	At the minimum the NIIS should cover hospital, rehabilitation, medical, care and additional support such as aids and appliances. However, Victoria raised the issue of alignment with NDIS who will not be covering hospital and medical. The minimum benchmark could be for care and additional support only but the individual Scheme will of course provide the other areas. This is a difficult issue as if it is proposed that the NIIS only have a criteria for care it may pose complex issues for each Common law state down the road.  South Australia is investigating the following items: –medical treatment (including pharmaceutical) –dental treatment –rehabilitation	s47B	Support a minimum benchmark  TAC pays reasonable costs of road accident rescue services, medical services, hospital services, nursing services, disability services, rehabilitation services, transportation costs and ambulance services received in Australia (s.60(2)(1) – also refer definition S.3  A disability service means the provision to or for a person who is disabled as a result of an injury in a transport accident of any service (other than a rehabilitation service or a hospital service) relating to attendant care, assistance, accommodation	If interim participation is to be accepted, then it is more efficient to engage the lifetime care paradigm as soon as possible after a catastrophe. The bureaucratic niceties of cost shifting and cost recovery should not affect the injured person’s uptake and continuity of participation.  A matter for each jurisdiction.	NIIS should not be required to provide broader coverage than NDIS.  NDIS guidelines should be reviewed to assess their adaptability.	Support in principle minimum benchmarks for hospital, medical, pharmaceutical, rehabilitation and care and support entitlements.

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	<p>as a lump sum once investigation of fault and assessment of benefits has been finalised.</p> <p>Benefits include cover for medical, hospital, rehabilitation, home modification, equipment, attendant care and case management expenses.</p>		<p>–ambulance transportation –respite care –attendant care services –domestic assistance –aids and appliances –artificial members, eyes and teeth –education and vocational training –home and transport modification –workplace and educational facility modifications –such other kinds of treatment, care or support or services as prescribed by regulation.</p> <p>In addition, what is provided as a minimum criteria should be set for home modifications and vehicles. However, this may want to be excluded from the minimum benchmark. In principle should align to NDIS guidelines but uncertain how NDIS disabilities needs align to traumatic catastrophic injury needs.</p>		<p>support, community access, respite care or household help, the provision of which service is an authorised service in accordance with section 23; domestic partner of a person means-</p>			
Entitlements – Access to no fault economic and non economic loss entitlements	s47B	Not supported	South Australia agree should be for each individual State or Territory to define own approach based on their Scheme design.		<p>Agree this is not the purview of minimum benchmarks</p> <p>NIIS should not be extended to include economic and non-economic loss</p>	Exclude. There are more efficient existing mechanisms for delivering ancillary benefits.	Agree, no minimum benchmark required.	<p>NT does not support minimum benchmark for economic and non economic loss entitlements.</p> <p>It should be a decision of each jurisdiction whether benefits for economic and non economic loss are provided.</p> <p>The NT provides loss of earning capacity benefits and attendant care.</p>
Case management and care co-	s47B	The level and extent of case management in an individualised	Agree should be for each Scheme jurisdiction and minimum criteria not		Agree this is not the purview of minimum benchmarks	The rules of the crash jurisdiction control the rules of lifetime	Agree, no minimum benchmark	NT does not support minimum benchmarks for case management

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ordination		funding context needs to be considered. LTCS and TAC may provide useful guidance.	established in NIIS. However, information sharing re. approach and outcomes should be in place.			care and support for each catastrophic injury participant.	required.	and care co-ordination on basis that this could reduce flexibility/efficiency and may not take account of state/territory unique operating environments
Fee setting	s47B	No comment.	Agree not a minimum criteria requirement.			Agree no compelling reason at this time.	Agree, no minimum benchmark required.	NT does not support minimum benchmarks for fee setting on basis that this would not take into account state/territory unique operating environments
Workforce issues	s47B	The extent of accreditation and the States' role needs to be discussed.	Agree not a minimum criteria requirement.			It is important that skills are portable among all jurisdictions which mean accreditation should be reciprocal and automatic.	Agree, no minimum benchmark required.	NT does not support minimum benchmarks for harmonisation of accreditation arrangements as this could reduce flexibility and may not take into account state/territory unique operating environments.
Governance NIIS Secretariat and managing NDIS alignment risks	s47B	The costs of any secretariat, its role and mechanisms would need to be considered.	Agree not a minimum criteria requirement.			Ideally, ACT would like to see NSW as a regional secretariat considering it is logical for the ACT to replicate the major elements of their lifetime care scheme and join with them. A federal secretariat would need to be federally funded because the cost of funding it could not legitimately be a charge on our CTP scheme.	Agree, no minimum benchmark required. There is a risk that a NIIS Secretariat will increase the costs to be borne by motorists and tax payers and deliver no significant benefit to the public.	NT does not support minimum benchmarks for governance arrangements. Reporting and NDIS alignment could be achieved via existing Ministerial Council processes.

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						Alternatively, the non lifetime care States could develop a regional governance body, jointly funded from each participating scheme.		
Governance Dispute resolution mechanisms	s47B	<p>As part of the recent reforms to the NSW Workcover scheme NSW will introduce a statutory WorkCover Independent Review Officer role – similar to an ombudsman for review of some decisions.</p> <p>Currently LTCSA disputes are referred to the Motor Accidents Assessment Service for review and resolution. A number of models could be considered by jurisdictions as there is the potential for scope creep in terms of eligibility and standards. There is also a need to align the review process with the existing ombudsman, tribunal and courts frameworks in each jurisdiction.</p>	Agree not a minimum criteria requirement.			Must be determined by each jurisdiction because there is no current centralised jurisprudence, other than the High Court. On the other hand, resolution mechanisms could be standardised as a means of developing a uniform approach to disputes, over time. The issue today is that even if jurisdictions align minimum benchmarks, the various administrative appeal and judicial bodies in each jurisdiction will bring their unique jurisprudential perspectives to bear on each dispute. The only way to overcome this would be to create or deem a single appellate mechanism to be utilised for all disputes.	Agree, no minimum benchmark required.	<p>NT does not support minimum benchmarks for governance arrangements.</p> <p>The NT considers its existing CTP scheme dispute resolution process sufficient to manage disputes around NIIS minimum benchmarks.</p>
Governance Prudential and Funding issues	s47B	Requirements and approach to issues such as prudential margins will vary by state and therefore this should be a matter for states to individually determine.	Agree not a minimum criteria requirement.			Schemes must be fully funded. A regional or national reinsurance pool would be a desirable means of reducing marginal costs.	Agree, no minimum benchmark required. Discussion in relation to a National reinsurance pool can only be considered if concept details are	<p>The NT supports in principle NIIS liabilities to be fully funded through annual contributions/premiums but does not support minimum benchmarks around prudential standards and funding issues.</p> <p>The NT has in place</p>

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							known.	prudential requirements which align with APRA standards, with the exception that capital requirements are based on a solvency target instead of a minimum capital requirement. Funding sources and annual contributions are determined in accordance with legislation/prudential requirements and are reviewed on a regular basis.
Workplace injuries	s47B	NSW may not support the transfer of Workcover clients to the NIIS as they are covered under an existing scheme.  Note under recent Workcover reforms journey to work claim are no longer covered.	South Australia legislation places CTP as liable for costs associated with work related motor vehicle accidents (on Common law basis). For each jurisdiction to decide which Authority would cover work related MVA costs and the management of all catastrophically injured persons through other work related injuries.	s47B		Not at this time.  There are matters for each jurisdiction.	Agree, no minimum benchmark required. Course of employment claims – Workers Compensation. Journey to work claims involving a motor vehicle – NIIS.	This appears outside of initial NIIS stage which relates to motor vehicle injuries.