



Insurance Council  
of Australia

24 April 2026

Manager Policy and Legislative Services  
WorkCover WA

By email: [consultation@workcover.wa.gov.au](mailto:consultation@workcover.wa.gov.au)

Dear Sir/Madam,

### **Proposed Act Amendments Consultation Paper – Proposal 1**

We refer to the Insurance Council of Australia's (Insurance Council) submission dated 8 April 2026, which provided feedback on Proposals 2-13 in the Proposed Act Amendments Consultation Paper. We appreciate WorkCover WA's agreement to extend the submission timeframe to enable a supplementary submission on Proposal 1 on behalf of the Insurance Council's licensed workers compensation insurer members in Western Australia (Insurers).

The Insurance Council and Insurers acknowledge WorkCover WA's position that settlement agreements must remain subject to appropriate regulatory scrutiny, comply with statutory entitlement caps and limits, and not provide for damages through the statutory settlement pathway. We also recognise the importance of transparency for workers, regulators and other scheme participants.

Following further consideration of Proposal 1, the Insurance Council and Insurers request that WorkCover WA consider adopting a capped global settlement approach for settlement agreements.

#### **Continued use of itemised breakdowns with a supplementary global figure**

The Insurance Council and Insurers support the continued inclusion of the existing breakdown of compensation amounts in the Settlement Agreement form (SF1 form) and do not propose that this structure be removed. Rather, we submit that the SF1 form be enhanced through the inclusion of a capped global lump sum line item as a supplementary field.

This would allow settlements to continue to proceed under the existing structure, while also accommodating settlements that are inherently global in nature. In practice, many settlements are negotiated and agreed on an overall figure, without a detailed allocation across compensation categories forming part of the original agreement.

Including a global lump sum line item would therefore provide greater flexibility. It would also reduce the need for parties to retrospectively construct artificial or notional breakdowns purely to satisfy form requirements, which may not accurately reflect the agreed terms of the settlement.

#### **Benefits of a capped global settlement figure**

In addition to the above, introducing a capped global settlement figure would deliver a number of broader benefits, including:

- Greater flexibility in settlement negotiations, including facilitating allowances for extensions to income compensation and medical and health entitlements.
- A simplified and more accessible approach for workers, as a single figure is easier to understand and reduces confusion arising from complex allocation or categorisation.

- Better alignment with how settlements are reached in practice, reflecting the overall agreed value of a claim rather than requiring artificial allocation to meet rigid form requirements.
- Reduced administrative complexity and burden for all parties within the scheme.
- Improved resolution of matters where defence costs may outweigh the ultimate settlement amount.
- Faster negotiation, agreement, and registration of settlements, supporting the containment of income compensation costs associated with avoidable delays.
- Reduced risk of administrative errors that currently contribute to settlement delays, while maintaining the integrity of the statutory framework.
- Fewer disputes about categorisation rather than substantive entitlement.
- Improved treatment of estimated permanent impairment values, which are currently documented as income compensation (as they fall within the same general limit), but may otherwise impact workers' access to Centrelink benefits following settlement.
- Alignment with settlement approaches adopted in other Australian jurisdictions.

### **Addressing regulatory concerns and safeguards**

In relation to concerns that a global settlement figure could remove reference points for statutory maximum amounts or potentially include an element of damages, we make the following observations.

Parties would continue to negotiate within the applicable statutory caps and limits. A capped global figure would not override legislative limits but would allow those limits to be applied holistically.

In relation to the potential inclusion of damages, the settlement portal already requires parties to confirm that the agreement does not provide for liability to pay common law damages. If further assurance is required, WorkCover WA could mandate that settlement agreements could include an express declaration confirming that no amount is attributable to damages.

Transparency can continue to be achieved through clear explanations provided to workers and their representatives, supported by settlement documentation that outlines the total settlement amount and explains its implications. Alternatively, parties could be required to confirm compliance with statutory caps and limits as part of the approval process, ensuring WorkCover WA retains appropriate oversight.

In relation to the statutory limit on the combined amount of permanent impairment compensation and income compensation, compliance could be confirmed through an approval process without necessitating a fully itemised settlement agreement in every case.

### **Summary**

Appropriate safeguards can be retained by:

- Continuing to report amounts paid to date;
- Separately identifying the agreed permanent impairment percentage and corresponding lump sum; and
- Requiring declarations and supporting material confirming compliance with statutory limits.

This approach would preserve the integrity of statutory entitlements, ensure compliance with permanent impairment requirements, and allow the Director to continue exercising appropriate regulatory scrutiny. At the same time, it would provide greater flexibility in settlement negotiations and reflect how settlements are reached in practice.

Adopting a capped global settlement figure would also promote greater consistency with interstate frameworks and reduce unnecessary complexity and administrative burden within the scheme.

The Insurance Council and Insurers would welcome the opportunity to discuss this feedback further at a convenient time.

Please do not hesitate to contact Alice Nichol, Senior Adviser, Insurance Lines, on [REDACTED] or at [REDACTED] if you have any questions.

Kind regards,



**Alexandra Hordern**

General Manager, Regulatory & Consumer Policy