



MOTOR TRADERS'  
ASSOCIATION OF NSW

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# Motor Vehicle Insurance and Repair Industry Code of Conduct Review – Submission





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## Executive Summary

### Submission of the Motor Traders' Association of New South Wales (MTA NSW) Regarding the Draft Code of Conduct and Governance Documents

The Motor Traders' Association of New South Wales (MTA NSW), as the peak industry body representing over 3,000 automotive businesses and 40,000 professionals across NSW, welcomes the opportunity to provide detailed feedback on the draft Code of Conduct and associated Governance Documents. This submission reflects extensive consultation with members across NSW and the ACT, and offers practical, constructive recommendations aimed at ensuring a fair, sustainable, and future-fit Collision Repair Industry.

MTA NSW supports the full suite of recommendations proposed by Dr Michael Schaper in his 2023 review and acknowledges the collaborative efforts of the Code Administration Committee (CAC), the Insurance Council of Australia (ICA), and the Motor Trades Association of Australia (MTAA) in drafting a revised Code that improves clarity, governance, and accountability.

### Key Areas of Focus

#### 1. Governance and Compliance

MTA NSW supports the proposed governance structure but recommends clearer guidelines for sanctions, transparency through publication of CAC decisions, and the incorporation of natural justice through an appeal process. These changes will enhance industry trust and ensure penalties are fair and proportionate, particularly for small businesses.

#### 2. Estimate and Assessment Processes

Substantial reforms are suggested to improve fairness and efficiency, including:

- Reinforcement of transparency and fairness in the estimation process.
- Inclusion of government charges in repair estimates.
- Faster resolution of supplementary work approvals and payments.
- Timely payment of parts and invoices to ease small business cash flow pressure.
- Codified standards and timelines for assessments and repairs.
- Formal Code of Conduct for estimators and assessors.
- Removal of vague limitations based on "vehicle age and condition."

### **3. Methods of Repair**

MTA NSW emphasises the importance of prioritising OEM repair methods and recognises the legitimacy of Paint Company methodologies. Use of genuine OEM or authorised parallel import parts is recommended for vehicles under warranty. Only qualified, licensed, or OEM-certified repairers should undertake authorised repairs to ensure consumer safety and industry professionalism.

### **4. Dispute Resolution Process (DRP)**

Recommendations include simplifying DRP procedures for accessibility by small businesses, ensuring adjudications are binding but allowing limited appeals where safety or OEM warranty breaches are at stake. Adjudicators should possess demonstrated experience in estimating, assessing, and repair methodology, with transparency in their role descriptions.

### **5. Use of Artificial Intelligence (AI)**

While MTA NSW acknowledges the growing role of AI, it stresses that any AI-generated estimate or assessment must be reviewed and approved by a qualified human to ensure accuracy and accountability.

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## **Conclusion**

MTA NSW strongly supports the direction of the draft Code and accompanying governance reforms. These recommendations aim to enhance fairness, promote consistency, improve transparency, and build a more collaborative relationship between insurers, repairers, and consumers. The Association remains committed to ongoing engagement with stakeholders to ensure the Code remains practical, scalable, and responsive to emerging technologies and regulatory changes in the automotive sector.



## Introduction

The Motor Traders' Association of New South Wales (**MTA NSW**) appreciates the opportunity to provide feedback on the draft Code of Conduct and supporting Governance Documents as provided by the Code Administration Committee (**CAC**) for consideration. As the peak representative body of the automotive industry in NSW, MTA NSW represents over 3,000 businesses and more than 40,000 automotive professionals across metropolitan, regional, and remote areas. Our members include mechanical repairers, motor dealers, collision repairers, auto-electricians, and a growing number of technicians specialising in hybrid and electric vehicles (EVs).

Established in 1910, MTA NSW has worked consistently to strengthen the integrity and capability of the motor trades. Our members operate under a well-established Code of Ethics which promotes fairness, transparency, and compliance with all associated regulatory and legislative requirements including any referable Industry Codes and a commitment to high service standards. We are equally committed to supporting consumer outcomes by ensuring the public has access to safe, qualified, and reputable automotive service providers throughout the State.

In addition to our policy and advocacy work, MTA NSW is a nationally accredited Registered Training Organisation delivering automotive vocational education and training across NSW for over 20 years. In 2024, MTA NSW's RTO was a finalist as 'large training provider of the year' at the NSW Training Awards.

This dual function—as both an industry advocate and education provider—positions MTA NSW to offer practical, informed insights on the implementation and impact of regulatory changes and Industry regulation. We acknowledge the recommendations of Dr Michael Schaper in his report of 2023 and **support the recommendations in full**. We support the objectives of the recommendations which are to respond to the **five (5) issues** outlined in the Terms of Reference namely:

- (a) The effectiveness of Dispute Resolution processes under the MVIRI Code.
- (b) Awareness and accessibility of the Code.
- (c) Compliance with the Code.
- (d) Governance of the Code and the CAC; and
- (e) Other issues are pertinent to the effective governance and operation of the Code.

The implementation of the recommendations of Dr Schaper is a necessary step to provide a framework for the Collision Repair Industry to modernise the Code in light of the significant changes in technology and Government Regulations which have occurred since the inception of the Code. In addition, the recommendations provide the stakeholders of the Code being the ICA and MTAA with an opportunity to establish a future fit framework for the sustainability of the Collision Repair Industry within Australia. The Collision Repair ecosystem is a unique blend of both Business and Consumer priorities which impact the economy generally and are important to balance to facilitate a productive, effective, and sustainable industry. We emphasise the need for any amendments to the Code to remain practical and scalable, particularly considering the economic pressure that applies to all small and independent collision repair operators.

We acknowledge the consultative approach taken by the CAC in Company with the stakeholders being the Insurance Council of Australia (**ICA**) and the Motor Trades Association of Australia (**MTAA**) and look forward to continued engagement on measures that will support long-term safety, workforce capability and consumer trust in an evolving automotive landscape.

MTA NSW has engaged in extensive consultations with its members via online events as well as in-person events in Sydney, Canberra, and Newcastle. In addition, direct communication with members and the Body Repair Industry Strategy Committee has enabled MTA NSW to receive significant input into the issues which face the industry and also the ways in which those issues may be addressed through the Code framework.

### **MTA NSW member feedback on the Draft Code of Conduct and Governance Documents.**

MTA NSW acknowledges the significant changes and improvements to the following areas which the draft Code and Governance Documents provide over the current Code:

- 1. Governance and Compliance*
- 2. Penalties and Sanctions*
- 3. Estimate and Assessment processes.*
- 4. Methodology for Repairs*
- 5. Dispute Resolution Process*

MTA NSW welcomes the work undertaken by the CAC and the stakeholders to facilitate into the documents many of the practical outcomes from the recommendations of Dr Schaper. However, whilst the overall direction of the draft Code and Governance Documents provide improvement in the efficiency and effectiveness of the Collision Repair Industry, feedback from the industry in New South Wales has identified areas for **improvements** in the proposed draft documents which are submitted will enable more efficiency in the operations of all participants with the industry including Insurers, Repairers and Consumers. For the purposes of these submissions, we have broken down the issues which the membership of MTA NSW wishes to be addressed in the following headings:

- 1. Governance and Compliance**
- 2. Estimate and Assessment Processes**
- 3. Methods of Repair**
- 4. Dispute Resolution Process (DRP)**

# 1. Governance and Compliance

The MTA NSW supports the broad framework of the Governance structure as proposed in the draft Code and Governance Documents. In addition to the matters outlined in the documents MTA NSW submits that the following issues need to be addressed.

## (a) Guidelines for Sanctions and Penalties.

Whilst the flexibility for the imposition of sanctions and penalties as provided to the CAC in the proposed drafts is one method to address this issue. In circumstances where the imposition of any fines or sanction, is a new concept to many small businesses in the Collision Repair Industry, and that such penalties may have a disproportionate effect upon small and medium business MTA NSW recommends that clarity and transparency be provided in the documents as to the range and scale of any such penalties or sanctions. Considering most industry participants will refer to the Code document it is recommended that this clarity appears in this document.

One approach may be to adjust financial penalties based upon the turnover of a business so that any such penalties are proportionate to the capacity of the business to meet its obligations.

### **RECOMMENDATION:**

***Clear scope and guidelines for Penalties and Sanctions form part of the Code.***

## (b) Principles of Natural Justice for any Breach Process

MTA NSW supports the imposition of a process for the imposition of sanctions or penalties upon Industry participants who are in breach of the Code. However, the current documents leave all decision making in the hands of the CAC and the Board. In light of the quasi-judicial nature of the authority vested in these bodies, the inclusion of appeal rights to industry participants so that natural justice can be seen to be done is important.

### **RECOMMENDATION:**

***Inclusion of an appeal process for any decision by the CAC relating to an alleged breach of the Code***

## (c) Transparency in operations and decisions of CAC.

At present the operations of the CAC, to the industry, are shrouded in a degree of secrecy due to the operation of Clause 13.3 of the current Code. In addition to the Annual Report to be provided by the CAC, MTA NSW submits that the public

disclosure of minutes of meetings and decisions made by the CAC on breaches of the Code should be made. This transparency should also extend to the publishing of decisions made through the Dispute Resolution process (**DRP**) as outlined in the draft documents.

The ability for Industry to understand the what, why and how of any non-compliance with the Code by any industry participant, is an important part of the capacity of the Industry to change some entrenched behaviors that have to date been counterproductive to the whole purpose of the Current Code to *“promote the efficient operation of, and consumer confidence in, professional and competitive Motor Vehicle Insurance and Repair Industry in Australia”*

This transparency is also necessary considering the legislative governance oversight which operates currently in both New South Wales and South Australia.

**RECOMMENDATION:**

***Minutes of CAC and Board meetings be posted on the website as well as decisions of the CAC on Breach and any DRP decisions.***

## **2. Estimate and Assessment Process**

MTA NSW understands that the current draft documents provide guidance as to how the Estimating and Assessing Process needs to be adapted to new technologies and guidelines. Consequently, MTA NSW submits that the following issues are to be addressed.

**(a) Inclusion of Transparency, disclosure, and fairness in relation to Estimate/Assessment process.**

Under the current Code, which has operated for almost 20 Years, within Paragraph (a) of the Preamble. Both Repairers and Insurers acknowledge the importance of providing *“Transparency, disclosure and fairness in relation to the quotation process, times and rates.”*

MTA NSW considers that to continue to promote an efficient and competitive Collision Repair Industry that these provisions should be retained in the new Code.

**RECOMMENDATION:**

***Reinstate the requirement that Insurers and Repairers recognise that the Code provide for matters such as “Transparency, disclosure and fairness in relation to the Estimate/Assessment process, times and rates”***

## **(b) Inclusion of Government charges and levies as part of the Estimate**

Since the inception of the Code in 2006 successive Government have imposed a range of levies and charges upon Collision Repair businesses to undertake the work in the Collision

Repair Industry. These range from environmental to administrative (Covid 19 levies). It is important that these charges be recognised by industry as part of the cost of the repair of vehicles.

### ***RECOMMENDATION:***

***Incorporate and acknowledge levies and charges into the Estimate process***

## **(c) Insurer to complete Estimate/Assessment process prior to seeking ancillary estimate.**

MTA NSW recognises the position of Insurance companies to obtain more than one estimate in determining what repairs at which costs will be utilised under a contract of insurance. However, in light of the work undertaken by any Collision Repair business in the preparation of an estimate it is only consistent with the principles of “**fairness and transparency**” for the Insurer to complete negotiations with a Collision Repair Business prior to seeking to obtain a further or subsequent estimate.

MTA NSW appreciates that time frames should apply in all circumstances to give efficacy to this process.

### ***RECOMMENDATION:***

***Insurers are to complete assessment negotiations with a Collision Repair Business before obtaining a subsequent Estimate.***

## **(d) Inclusion of Supplementaries in Estimate and Assessment Process**

It is well known within the industry that after the initial authority is provided by an Insurer that additional, or what is often called **supplementary work**, is uncovered during the repair process. This supplementary work often needs rectification before the repair work can be completed and hence it is imperative that this work is identified and authorised as a matter of priority. At present the definition of “Repairs” in the draft Code is silent as to supplementary work and should be rectified. In addition, the requirement for prompt payment for this supplementary work in circumstances when extra parts are ordered is crucial to the proper running of a repair process.

**RECOMMENDATION:**

***That the definition of Repair includes reference to supplementary repairs and that the Code require the payment for this work to be made by an Insurer within 48 Hours.***

**(e) Process for payment of parts ordered for Repair Work**

It is common practice within the industry that Repairers are required to order and pay for parts many months prior to arrival of the necessary parts. This is but one of the consequences of supply chain issues for Australia. As many operators within the Repair Collision Industry are small and medium businesses this imposition on the cashflow of the business can be significant. As parts are all included within the authority of the Insurer, then a requirement that Insurers pay the sum allocated to parts at the time of an authority being provided will greatly assist in the efficient and effective operation of the industry.

Again, consistent with the current principles of “fairness” in the assessment process this requirement upon insurers who are large multinational entities is appropriate.

**RECOMMENDATION:**

***That the Code include a provision in the estimate/assessment process that Insurers are to pay the sum specified for parts upon authorisation.***

**(f) Payment of Invoices**

The current Code specifies that Insurers must pay “*agreed Repair costs no more than 30 days from settlement of the insurance claim or receipt by the Insurer or their agent of the final Repair invoice.*” Not only is this provision almost 20 years old but the reduced margins and additional costs to collision repair businesses in the current economic landscape mean that this time delay in the payment of what is the agreed sum has a disproportionate impact upon small and medium business and should be reduced to reflect the cashflow limitations of small business.

**RECOMMENDATION:**

***That payment of the agreed authorised Repair Costs (excluding supplementals) be made within 14 days.***

**(g) Estimate and Assessment timeframes.**

The current draft Code makes provision for a clear and specified timeframe to be outlined for the provision of estimates and the undertaking and conclusion of assessments.

This improvement from the current vague language is to be commended. MTA NSW members are mindful of the various factors which impact upon the volume and requirements for the provision of estimates and assessments. In particular the complexity of vehicle repairs with new technologies may often require much preliminary work by repairers including strip down, measurements & electronic scanning to determine the full extent of damage prior to any estimate being provided. This work may include liaison with OEM Parts interpreters and suppliers to obtain parts costings and availability. The necessary triage of the work is now not only a safety issue but proper process to enable Repairers to provide accurate estimates to Insurers. The provisions of the Code need to reflect the timing required by the Repairers to undertake this work.

**RECOMMENDATION:**

***That timing requires the provision of any estimate factor in the complexity of the estimation process. In addition, that Insurer completes an Assessment within a period of 10 business days from submission of the Estimate by the Repairer.***

**(h) Code of Conduct for Estimators and Assessors**

The working relationship between Estimators and Assessors is a critical part of the efficient operation of the Repair process and the operation of the industry. The behaviour exhibited by all Estimators and Assessors is crucial to the resolution of any issues in the repair process and necessary to facilitate commercial outcomes that benefit both Insurers and repairers. Therefore, the imposition of a code of conduct upon these personnel similar to that which exists in the Loss Adjusting profession is seen as a helpful way to align the manner the parties deal with each other and provide accountability for behaviour in the industry.

**RECOMMENDATION:**

***The Code to provision for a Code of Conduct similar in content to the Institute of Loss Adjusters.***

**(i) “Age and Condition of Vehicle”**

The current draft makes reference to the “age and condition” of the vehicle when Repairers undertake estimates. Feedback from members of MTA NSW is that such a limitation upon the estimate process is counterproductive when structural and safety aspects of the repair estimates are being undertaken by Repair businesses. This limitation should not exist in the process of undertaking a repair estimation.

**RECOMMENDATION:**

***Remove reference to “age and condition” as a factor for consideration in preparing a repair estimate.***

### **3. Methods of Repair**

**(a) Original Engine Manufacturer (OEM) Repair Methods.**

The members of the MTA NSW consider that the best and most accurate repair methods are those specified by the OEMs.

Therefore, these repair methods must assume primacy of consideration under the Estimate/Assessment process. MTA NSW does recognise that in some instances, particularly with new Chinese vehicles, that repair methodology is not readily available. In these circumstances the Repairer and Insurer should reach an agreement upon the most effective method of Repair.

**RECOMMENDATION:**

***That the provisions around method of repair should make clear the primacy of the OEM methodology.***

**(b) Paint Company Methodology**

Many of the paint companies operating in the Australian Market have specified methodologies for the application of their products. These methodologies have over time been developed to run hand in hand with the repair methodologies for motor vehicles. It is important that these methods are followed not only to provide the best quality outcome for the consumer but also to avoid any possible legal action which may flow from the misuse of products as supplied.

**RECOMMENDATION:**

***That Paint Company methodologies be reflected in the Code to be part of the Methods of repairs to be adopted by the industry.***

**(c) Parts usage in Repair methods.**

MTA NSW recognises that different policies can apply to the usage of parts in a repair methodology depending upon whether the vehicle is under warranty to the OEM. In circumstances where a vehicle remains under warranty to an OEM it is important that only OEM authorised parts are utilised.

These authorised parts may in some instances include “**parallel imports**” as approved by the OEM. This position is necessary to prevent any possible breaches of the warranty which the consumer has been provided for by the OEM. It is imperative that other aftermarket parts be avoided to prevent any possible unintended consequences for the consumer in the repair process.

**RECOMMENDATION:**

***That only OEM authorised, or Parallel Import Parts be utilised in the repair process for any vehicle under warranty.***

**(d) Qualifications of repairers for Work Undertaken**

To enable the Industry to promote its professionalism and provide for the consumer confidence which the draft Code stipulates, the members of MTA NSW have identified that it is important for the repairer to be properly qualified, if necessary certified by the OEM, and in the case of NSW licensed to undertake the work which the Insurer may authorise upon a consumer lodging a claim. Failure to follow this criterion will lead to poor quality of work which not only has the economic consequence of rectification but also leads to a lack of trust by the consumer in the Industry as a whole.

**RECOMMENDATION:**

***That insurer only authorise work to a Repairer who is qualified, certified, or licensed to undertake the work required.***

## **4. Dispute Resolution Process (DRP)**

**(a) Simplifies DRP**

Many Collision Repair businesses are small to medium businesses and not familiar or cognizant of the processes which ordinarily apply in Dispute resolution.

The feedback from the members of MTA NSW is that any DRP needs to reflect this fact as opposed to Insurers who often have legal departments who can prepare submissions and arguments as well as obtain expert reports to support their position in any DRP. Consequently, any DRP needs to be as simple as possible and avoid the normal formalities of submissions and argument that apply.

**RECOMMENDATION:**

***The DRP should limit the material required to be filed to that prepared by the parties in the estimate/assessment process.***

## **(b) Binding Determination of DRP**

The draft Code provides for the decision of the adjudicators to be **final and binding** upon the parties. The members of MTA NSW appreciate the improvement that this outcome-based process provides over the current Insurer controlled process.

However, reservations have been raised in circumstances where the decision may result in repair work that may lead to breaches of warranties of the OEM's or affects the structural integrity and safety of the vehicle. In those circumstances then appeal rights to the parties should be incorporated into the Code.

### **RECOMMENDATION:**

***The DRP should provide limited appeal rights to the parties in circumstances where an adjudication decision raises structural integrity and safety issues, as well as likely breach of any OEM warranty.***

## **(c) Skill Set of Adjudicators**

MTA NSW has received feedback that the qualifications and skills of the appointed adjudicators are critical in fostering Industry support and faith in the DRP. Importantly the knowledge of the appointed Adjudicators in repair methodologies for OEM's and Paint companies as well as parts policies is crucial. In addition, experience in the process of estimating and assessing is seen as a foundation skill that the adjudicators should have.

### **RECOMMENDATION:**

***That any job description for the Adjudicator position include knowledge of repair methodologies as well as experience in estimating and / or assessing. Further that the position description of the Adjudicator position be published by the CAC.***

## **Other Matters**

### **Generative Artificial Intelligence (AI)**

The members of MTA NSW acknowledge the advances in technology occurring through the usage of AI in the Collision Repair Industry and the benefits which this technology will have in the future for the industry participants.

However, at present considering the range of vehicles in the Australian Market and the lack of core repair data available for many brands, it is important that human oversight continue of any Estimates or Assessments that are generated by Industry participants.

***RECOMMENDATION:***

**That any and all estimates or assessments that are generated by the usage of artificial intelligence are to have final sign off by a person who has responsibility for the accuracy and outcome of the estimate or assessment.**

## **Conclusion**

MTA NSW supports the direction of the proposed Draft Code of Conduct and associated Governance Documents. MTA NSW welcomes continued engagement in the finalisation of the Governance documents and the implementation of the recommendation of Dr Michael Schaper. MTA NSW submits that the above recommendations will help future fit the Code and its Governance framework for the changes in the industry in the years ahead.