

**INQUIRY INTO POTENTIAL FOR COMPETITION  
REFORMS REGARDING SOLICITORS' PROFESSIONAL  
INDEMNITY INSURANCE**

**Organisation:** Solicitors for PII Choice - NSW  
**Date Received:** 14 September 2026

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# **Submission to the Select Committee into the Potential for Competition Reforms Regarding Solicitors' Professional Indemnity Insurance**

**14 September 2026**

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## **1. Introduction**

### **1.1 What we ask**

Solicitors for PII Choice - NSW submits that solicitors in New South Wales should be permitted to choose their professional indemnity insurer, for the reasons set out in this submission.

At present, a solicitor who practises only in New South Wales must hold professional indemnity insurance and, for the compulsory minimum layer, may buy that cover only from Lawcover Insurance Pty Ltd, the sole approved provider for that market. We submit that at least one further provider should be approved for the 2027-28 practising year, on the same minimum terms and subject to the safeguards already designed by the Government's own expert, Deloitte, in its report of October 2024 (the **Deloitte report**).

The Court of Appeal has confirmed that the Attorney General already holds the power to approve another policy and another insurer, so no legislation is required before that step can be taken. The recommendations that follow address how that existing power should be exercised.

The inquiry's terms of reference were referred to the Committee by the Legislative Council on 5 August 2026, and this submission follows their order.<sup>1</sup>

### **1.2 Who makes this submission**

We are a committee of practising New South Wales solicitors, and we speak for our members, each of whom pays the premiums this inquiry concerns. We are not an insurer, and we are not retained, funded or instructed by an insurer. We do not ask the Committee to prefer ABC Insurance Pty Ltd or any other applicant; our interest is that NSW solicitors have a choice between compliant insurers.

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<sup>1</sup> New South Wales, Legislative Council, *Minutes of Proceedings*, 5 August 2026, item 39. The terms of reference are: '(1) That a select committee be established to inquire into and report on the potential for competition reforms regarding solicitors' professional indemnity insurance, and in particular: (a) the impact of the current settings resulting in an effective monopoly provider, namely, Lawcover, (b) current pricing and opportunities to drive competition via new market entrants, (c) avenues of legislative reform allowing for competition in the market, and (d) any other related matters.' Documents produced by the Department of Communities and Justice under the Legislative Council's order for papers of 25 March 2026 are cited in these footnotes by the tab of the production ('SO 52 production').

This submission is drawn from documents produced to the NSW Legislative Council, the Parliamentary record and Government-published material, and relies only on documents produced without claim of privilege or confidentiality.

### **1.3 What we seek: choice within minimum standards**

We do not seek the abolition of compulsory insurance, and we do not seek any weakening of the minimum terms in rule 78 of the *Legal Profession Uniform General Rules 2015* (NSW). Compulsory cover on adequate terms protects clients, and it should be preserved and enforced. Nor do we seek deregulation of the profession's indemnity requirements more broadly. What we seek is choice within those minimum terms.

### **1.4 The standard the Committee should apply**

We adopt the standard proposed by the Hon. Susan Carter MLC in debate: competition law 'recognises that monopolies can have public benefits that outweigh anti-competitive detriments, but those need to be assessed and considered, not presumed'.<sup>2</sup> The Committee should apply that standard here: the public benefits of the present monopoly should be demonstrated rather than presumed. On the material produced, we contend that the case for keeping the market closed has not been made. The Government's own expert has identified practical safeguards that would allow measured entry while preserving client protection, premium stability and risk management. Those safeguards should now be used.

## **2. Recommendations**

Solicitors for PII Choice - NSW submits the following Recommendations for the Committee's consideration:

1. That the Attorney General approve at least one additional provider of the compulsory minimum layer of professional indemnity insurance for the 2027-28 practising year. We identify that year because the decisions in evidence were made between February and July of the preceding calendar year, so 2027-28 is the first cycle a recommendation of this Committee could realistically affect.
2. That any additional approval be accompanied by the mitigating structures identified by the Department's own expert: a policy-variation lock, a premium cap, an assigned risk pool or subsidy for higher-risk practices, a risk-management levy, mandatory data reporting, and a defined lead time before market entry. However, such structures should not act as a disincentive to lock out an additional provider and be used to preserve the current sole supplier model.
3. That the criteria for approval be published in advance of each application cycle, that written reasons be mandatory and published, that those reasons address each published criterion and record whether approval on conditions was considered, and that decisions be made on a timetable which allows practitioners and insurers to act on the outcome within the practising year to which it relates.
4. That the approval decision be made by the Attorney General on the recommendation of an independent panel, constituted independently of the Department and of any approved insurer.

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<sup>2</sup> New South Wales, *Parliamentary Debates*, Legislative Council, 5 August 2026 (Susan Carter).

5. That section 95 of the *Legal Profession Uniform Law Application Act 2014* (NSW) be amended to resolve the contested relationship between that section and section 210 of the *Legal Profession Uniform Law* (NSW), and to state whether preservation of the existing market structure is a matter the decision-maker may take into account.
6. That the Deloitte report be published without the redactions applied at the applicant's request, together with a statement of the instructions given to Deloitte and of the parties consulted in preparing the report.
7. That the Committee obtain the legal advices withheld from the production under claim of privilege, including the advice of Justin Gleeson SC dated 22 March 2024, and the correspondence brief of 22 May 2024 identified in the Department's index but not produced.

### **3. Term of reference (a): the impact of the current settings resulting in an effective monopoly provider**

#### **3.1 The structure**

We submit that the structure of the compulsory market itself calls for independent scrutiny. Lawcover Insurance Pty Ltd is a wholly owned subsidiary of the Law Society of NSW. The Law Society is at the same time the representative body for the solicitors who must buy Lawcover's product and a regulatory authority under the *Legal Profession Uniform Law* (NSW) (the Uniform Law). The Chair of this Committee observed in debate that the overlap 'is not, by itself, any evidence of wrongdoing', but that 'it is exactly the kind of overlapping function a competition-literate regulator would normally be expected to keep separate'.<sup>3</sup> In practical terms, Lawcover Insurance Pty Ltd is the sole approved provider of compulsory professional indemnity insurance for solicitors who practise only in this State.

Solicitors are, in this respect, an outlier within their own profession. For the 2026-27 practising year the Attorney General has approved, under the same section 95, professional indemnity policies for barristers offered by four providers, and the NSW Bar Association publishes a comparison of those policies to assist its members to choose.<sup>4</sup> Solicitors who practise only in New South Wales have no such choice for the compulsory layer, a difference we submit is difficult to justify given that each approved policy, whichever profession it serves, must meet the level and terms the Attorney General approves.

#### **3.2 Why independent decision-making matters**

The documents produced to the Legislative Council under Standing Order 52 (the **SO 52 production**) show why independent and transparent decision-making matters here. The incumbent insurer is owned by the Law Society of NSW, which also represents the solicitors required to buy the compulsory product. That structure requires clear criteria, published reasons and a process the profession can see is independent of the incumbent's ownership.

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<sup>3</sup> New South Wales, *Parliamentary Debates*, Legislative Council, 5 August 2026 (Taylor Martin).

<sup>4</sup> NSW Bar Association, 'Professional Indemnity Insurance', *NSW Bar Association* (Web Page) <https://nswbar.asn.au/bar-standards/pi-insurance>. The page states that the Attorney General, under section 95 of the *Legal Profession Uniform Law Application Act 2014* (NSW), 'approves the type of professional indemnity insurance policies, the level of insurance provided by the policies and the terms of the policies which can be offered to the NSW Bar', that the minimum cover for 2026-27 is \$1.5 million, and that the Association 'publishes in table form a comparison of 2026-27 PII policies offered by Aon, Marsh, Suncorp and Pacific Indemnity'.

### 3.3 Affordability and the need for a market test

The burden of the compulsory premium falls unevenly across the profession, and that unevenness supports the case for a market test. In October 2024 the Department's own expert, Deloitte, found that sole practitioners pay premiums equivalent to approximately 2.90 per cent of gross fee income, while practices of 25 or more partners pay approximately 0.30 per cent.<sup>5</sup> On that evidence, a sole practitioner commits close to ten times the share of turnover to compulsory cover that a large firm commits. Members of this committee have themselves experienced premiums ranging from 2.7%, right up to 6.9% of gross fee income.

We accept that a premium may be actuarially defensible and still impose a disproportionate burden on a small practice. In a competitive market, a practitioner can test price, excess, service and cover against another offer; most NSW-only solicitors presently cannot. The point is one of affordability as well as choice. Choice would give practitioners a practical discipline that regulation alone does not supply.

The same effect operates at the border of the market. Around 70 per cent of NSW solicitors have no interstate presence.<sup>6</sup> Larger firms more often have such a presence, and Deloitte records that around 20 per cent of solicitors operating in NSW lawfully obtain cover from providers based elsewhere in Australia, because they practise in more than one State.<sup>7</sup> Those solicitors already have the market test that NSW-only solicitors lack. A solicitor who considers the compulsory premium, excess or policy response unsuitable presently has no second approved NSW provider to approach.

### 3.4 The profession has no avenue of its own

The profession cannot alter this arrangement through its own market choices, and we make that point only to explain why the question properly comes before the Committee. A solicitor who practises only in New South Wales has no second approved compulsory insurer to approach, and no exercise of individual choice by that solicitor can create one.

## 5. Term of reference (b): current pricing and opportunities to drive competition via new market entrants

### 5.1 The comparative data supports a market test

The comparative pricing evidence supports a market test. Deloitte found that premiums per solicitor were higher in NSW than in Victoria, and the Attorney General has confirmed that finding in writing. Replying on 20 August 2026 to a Member of the Legislative Assembly, he wrote that 'The Deloitte Report found that PII premiums per solicitor were higher in NSW than in Victoria in 2023–24', and attributed the difference to a number of factors 'including ... lower administration costs within the Victorian Legal Practitioners' Liability Committee (LPLC)'.<sup>8</sup>

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<sup>5</sup> Deloitte, *Expert Report concerning Solicitors' Professional Indemnity Insurance in NSW* (Report, October 2024) 22 ('Deloitte Report') (SO 52 production, tab (k), (c)2). Page references to the Deloitte Report are to its printed pagination. Figure 3.3 is sourced in the report to Law Society data for 2023. The ratio of approximately ten to one stated in the text is our own arithmetic on those two percentages.

<sup>6</sup> New South Wales, *Parliamentary Debates*, Legislative Council, 25 March 2026 (John Ruddick): '70 per cent of New South Wales solicitors do not have an interstate presence'; New South Wales, *Parliamentary Debates*, Legislative Council, 5 August 2026 (Taylor Martin), describing law practices that operate solely in New South Wales as 'around 70 per cent of the profession'.

<sup>7</sup> Deloitte Report (n 5) 21: 'Lawcover does not cover all solicitors in NSW, with many interstate practices (accounting for around 20% of the market) exempt from purchasing cover from Lawcover.'

<sup>8</sup> Letter from Michael Daley, Attorney General (NSW), to Judy Hannan, 20 August 2026 (ref EAP26/10333), replying to a letter of 29 June 2026 written on behalf of a constituent. The ellipsis omits an intervening reference, in the same sentence, to higher claims per solicitor in New South Wales. Words in the letter

Deloitte's analysis 'indicates that an average competitive PII provider may operate at a level that is 35% more efficient than Lawcover'.<sup>9</sup> That finding supports a measured proposition: approved competition can create pressure for efficiency, service improvement and better pricing discipline.

Deloitte also observed that 'more often than not, more competition is good',<sup>10</sup> and that even if a single-provider model were preferred, it does not follow that government should choose who that provider is. We adopt that observation.

## **5.2 The manageable risks of new entry**

We accept that the material identifies three principal risks of new entry: premium volatility, reduced risk-management activity, and the position of higher-risk practices. Each, in our submission, is capable of being managed by conditions of approval rather than by keeping the market closed. The Government's own expert has already identified the tools for measured entry: a policy-variation lock, a premium cap, an assigned risk pool or subsidy, a risk-management levy, mandatory data reporting and lead time before commencement.<sup>11</sup> The Committee can therefore recommend reform without compromising the public interest in stable, compulsory client protection.

## **5.3 Client protection is preserved by minimum standards**

Client protection depends on the compulsory minimum terms in rule 78 and on the solvency requirements applying to authorised insurers, and choice between compliant insurers weakens neither safeguard. A client's protection consists of the terms of the policy and the solvency of the insurer behind it. The terms are fixed by rule 78, a legislated floor that every approved policy must meet, and we ask that the floor be preserved and enforced. Solvency is regulated by the Australian Prudential Regulation Authority, which applies the same capital standard to every authorised general insurer. Approving a second insurer which meets both requirements does not reduce what any client is entitled to.

## **5.4 Contestability**

We submit that the 2001 report to the Attorney General's Department, the most authoritative document in the Department's possession favouring a single provider, does not support an unconditional monopoly. It recommended:

There needs to be an effective mechanism in place to prevent excessive profits being earned by the monopoly insurer in the medium to long term. *A periodic competitive tender process should achieve this.*<sup>12</sup>

The same report confirms that even a single-provider model need not be a permanent, uncontested appointment: the document relied on to support a single provider contemplates a contestable one, won in competition, held for a fixed term, and re-tendered periodically.

The Department's own 2001 advice therefore treated a single-provider arrangement as one that must periodically justify itself against the market. That is the standard set out at section 1.4, and it is the standard we ask the Committee to apply.

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after the sentence quoted, which address the Victorian insurer's loss ratio and compare the market in England and Wales, are omitted here and are summarised in this note rather than quoted.

<sup>9</sup> Deloitte Report (n 5) 43.

<sup>10</sup> Deloitte Report (n 5) 30.

<sup>11</sup> Deloitte Report (n 5) 61 ('Potential mitigating structures').

<sup>12</sup> Taylor Fry, *Actuarial and Related Advice in relation to the provision of Professional Indemnity Insurance to Solicitors in NSW* (Report, June 2001) 19 (emphasis added) (SO 52 production, tabs (k), (c)4; (k), (c)5).

## **6. Term of reference (c): avenues of legislative reform allowing for competition in the market**

### **6.1 The power already exists**

We submit that the Attorney General already holds the power to approve a second insurer. In *Law Society of New South Wales v Attorney General (NSW); ABC Insurance Pty Ltd v Law Society of New South Wales* [2024] NSWCA 90, the Court of Appeal held on 23 April 2024 that section 95 is a 'legislative arrangement for the approval or selection of insurers', and that section 95(2) confers on the Attorney General the power to approve a policy of professional indemnity insurance, 'including the identity of the insurer by which the policy is to be issued'. The High Court refused special leave on 5 December 2024, observing that although 'the issue of interpretation raised in this application is of public importance, there is no reason to doubt the reasoning of the Court of Appeal'.<sup>13</sup>

That resolves the question of power. The single-insurer market exists because the discretion conferred by section 95(2) has been exercised in favour of one insurer and against the only other applicant; what stands between the profession and a second insurer is a decision under the same section. The practical significance is that the Committee can recommend the reform we seek without asking Parliament to legislate, and that the Government can implement it within one application cycle.

### **6.2 Clarifying the scope of the section 95 discretion**

We accept that the Court of Appeal decided only that the power exists and what it attaches to; it did not decide what considerations the Attorney General may lawfully take into account in exercising it, and that question remains open. There is a contested question whether preservation of the existing market structure is a proper consideration under section 95. A private opinion of Bret Walker SC and Dr Sean Baron Levi says it is not.<sup>14</sup> The Department has taken the opposite view.<sup>15</sup> Recommendations 5 and 7 address this: Parliament can settle in a sentence a question which successive opinions have not settled in three years, and the Committee is in a position to obtain the advice.

### **6.3 The published reasons support conditional approval**

The published reasons themselves recognise that competition can drive lower premiums, better risk-pricing and administrative efficiency.<sup>16</sup> Conditional approval, using safeguards already designed for that task, is the proper response to the identified risks.

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<sup>13</sup> [2024] NSWCA 90, [31]–[43]; *ABC Insurance Pty Ltd v Law Society of New South Wales* [2024] HCASL 331; *ABC Insurance Pty Ltd v Law Society of New South Wales* [2024] HCASL 332. Both decisions are publicly available, on NSW Caselaw and the High Court website respectively; the holdings and the special leave disposition are summarised in the SO 52 production, tab PII\_Parliamentary Docs4, 'Tab I - Summary of Court of Appeal and High Court decisions'.

<sup>14</sup> Bret Walker and Sean Baron Levi, 'Advice in the Matter of ABC Insurance Pty Ltd' (Advice to Meridian Lawyers, 16 October 2023) [64] (SO 52 production, tab PII\_Parliamentary Docs4).

<sup>15</sup> Department of Communities and Justice (NSW), 'Briefing to Attorney General: Lawcover Insurance Pty Ltd – Request for Approval – Professional Indemnity Insurance Policies for 2026-27' (Briefing Note EAP25/20153) (SO 52 production, tab PII\_Parliamentary Docs4).

<sup>16</sup> Department of Communities and Justice (NSW), 'Request by ABC Insurance Pty Ltd for Approval of Professional Indemnity Insurance Policies for Solicitors in NSW for 2026-2027 Practising Year', *Department of Communities and Justice* (Web Page, 9 March 2026) <https://dcj.nsw.gov.au/legal-and-justice/laws-and-legislation/request-by-abc-insurance-pty-ltd-for-approval-of-professional-in.html>. The statement records that the policies were submitted for approval under section 95 of the *Legal Profession Uniform Law Application Act 2014* (NSW), that the Attorney General was assisted by the Deloitte report of October 2024, and that the decision follows a determination of 10 July 2025 not to approve a policy for the 2025-26 practising year.

## **6.4 The precedent**

The course we propose has a settled pedigree. It was recommended by the Commonwealth competition regulator in 1999.<sup>17</sup> This State's own review made the same recommendation in that year. Deloitte, in 2024, described that course as consistent with both of those recommendations.<sup>18</sup> The trial period with a capped number of insurers, recommended in 1999, remains a sensible way to proceed, and it is reflected in Recommendation 1.

## **6.5 The safeguards identified by the expert**

Deloitte identified a set of options for managing the risks of controlled entry, while noting that it was 'not necessarily advocating the adoption of all of these options'.<sup>19</sup> In summary, they include:

- A policy-variation lock to prevent approved coverage being reduced without consultation.
- A premium cap to maintain affordability, especially for practices with prior claims.
- An assigned risk pool or subsidy to ensure higher-risk practices remain covered.
- A risk-management levy to preserve profession-wide risk-management work.
- Mandatory data reporting so affordability, stability, market coverage and risk management can be monitored.
- Lead time so insurers and practitioners can prepare for entry.

We adopt that package in full. It should now be implemented alongside approval of at least one additional provider. It was prepared by Deloitte, the Department's expert, at the Department's request, for the express purpose of managing the risks of new entry. However, these management options should be cognizant of the commercial market and operate so as to promote the entry of an additional insurance provider. The bar set by these safeguards should not be so high as to lock out an additional insurer and be used to simply preserve the current sole supplier model.

The reform path is accordingly a limited one: preserve minimum terms, preserve risk management, manage higher-risk practices, require data, and allow solicitors to choose between compliant providers.

## **6.6 The reform we propose**

We submit that the Committee should recommend approval of at least one additional approved provider for the 2027-28 practising year, on the safeguards at Recommendation 2, with published criteria and published reasons for future decisions, and on a decision timetable which allows practitioners to act on the outcome.

## **7. Term of reference (d): any other related matters**

We raise three matters bearing on how the entry question has been decided.

### **7.1 The profession should see the assessment**

We submit that the profession should be able to read the assessment of the applicant. Chapter 2 of the Deloitte report is the assessment of the applicant insurer, and Appendix A to that report is the assessment of its policy against the rule 78 minimum standards. In the version released to the profession, both are redacted in their entirety. Those parts were redacted at

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<sup>17</sup> Deloitte Report (n 5) 31, summarising the 1998 and 1999 reviews by the Attorney General's Department and the Australian Competition and Consumer Commission.

<sup>18</sup> Deloitte Report (n 5) 8 (Conclusions).

<sup>19</sup> Deloitte Report (n 5) 61.

the applicant's request.<sup>20</sup> The Department confirmed that the Deloitte report had 'some redactions applied at the request of ABC'.<sup>21</sup>

We accept that a commercial party is entitled to protect commercially sensitive material, and that the applicant was entitled to make that request. The consequence, however, is that the profession was told a competitor had been assessed and found wanting, without being able to read the assessment itself. The unredacted text is now before the Parliament, and the Department did not claim privilege over it. Recommendation 6 asks the Committee to publish the detail for the benefit of the profession.

## **7.2 The refusal turned on one disputed drafting issue**

We submit that the refusal turned on a single disputed drafting issue. The Department assessed the applicant's policy against each of the rule 78 minimum standards. Of the nine standards assessed, the policy was marked compliant on eight. The single adverse finding was on rule 78(5):

The ABC Policy qualifies coverage for former employees in a way that is not consistent with the minimum standard. The ABC Policy provides coverage for employees 'provided that they were employees at the time of the conduct giving rise to the Claim or Loss.' No such distinction applies in relation to past Principals.<sup>22</sup>

Deloitte performed the same assessment and marked the policy compliant on rule 78(5).<sup>23</sup> Its report records that the Department had assessed the draft wording 'provided to Deloitte on 12 February', and that in 'the mark-up version of the proposed policy received on 14 May' the employee coverage clause carried no requirement that the person be an employee at the time of the conduct.

The only applicant to test this arrangement was refused on one ground, concerning the drafting of a single coverage provision, and the Department's own expert recorded that the amended wording met the standard. The Department's own index records a further item, 'Correspondence brief from DCJ to Attorney General - ABC's updated application (amended wording) - 22 May 2024', which was not produced.<sup>24</sup>

## **7.3 Decisions must be made in time to matter**

A decision delivered after renewals have closed cannot be acted on by practitioners in the practising year to which it relates. We submit that approval decisions should therefore be made against published criteria and on a timetable aligned to the renewal cycle.

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<sup>20</sup> Letter from David Sandig, Director, ABC Insurance Pty Ltd, to Paul McKnight, Deputy Secretary, Law Reform and Legal Services, Department of Communities and Justice, 16 December 2024 (SO 52 production, tabs PII\_Parliamentary Docs3; PII\_Parliamentary Docs4).

<sup>21</sup> Letter from Paul McKnight, Deputy Secretary, Law Reform and Legal Services, Department of Communities and Justice, to Meaghan Lewis, General Counsel, Law Society of New South Wales, 17 January 2025 (ref SUB22/255466) (SO 52 production, tab (k), (c)2).

<sup>22</sup> Department of Communities and Justice (NSW), 'Assessment of ABC Policy's Compliance with r 78 Minimum Standards' (SO 52 production, tab PII\_Parliamentary Docs1).

<sup>23</sup> Deloitte Report (n 5) app A, table A.1, columns 'Assessment by Deloitte' and 'Assessment by the Department' (SO 52 production, tab PII\_Parliamentary Docs3, 513, being Tab D to the Department's brief of 15 October 2024, produced without claim). The passage on the 12 February and 14 May versions is at section 2.2.1 of the report (SO 52 production, tab PII\_Parliamentary Docs2, 573).

<sup>24</sup> Department of Communities and Justice (NSW), Index to the SO 52 production, item (c)(i)26, 'Correspondence brief from DCJ to Attorney General - ABC's updated application (amended wording) - 22 May 2024', recorded with no claim of privilege (SO 52 production, tab PII\_Parliamentary Docs1). No document under that reference appears in the production.

## **8. Conclusion**

This submission makes one practical request: that NSW solicitors be allowed to choose between approved professional indemnity insurers, while the compulsory minimum terms that protect clients are kept in place.

The case for that reform is measured and evidence-based, and does not depend on any criticism of Lawcover. It rests on four propositions drawn from the Government's own material.

1. The power already exists. The Court of Appeal has confirmed that the Attorney General may approve a policy, including the identity of the insurer issuing it, so the Committee can recommend reform without requiring Parliament to pass new legislation first.
2. The reform has a long pedigree. The ACCC recommended choice within minimum standards in 1999, this State's own review adopted that approach in the same year, and Deloitte said in 2024 that approving a new policy would be consistent with both.
3. The risks can be managed. The policy-variation lock, premium cap, assigned risk pool, risk-management levy, data reporting and lead time were designed by the Department's own expert for the purpose of measured entry, and they should now be used.
4. The case for keeping the market closed has not been made. No approval criteria were published in advance, and no condition short of refusal is recorded as having been considered. The stated risks are the same risks for which safeguards had already been prepared.

Choice already exists for a significant part of the profession. A fifth of solicitors practising in NSW already buy their compulsory cover in a competitive market because they practise interstate. The remaining NSW-only solicitors should be given the same opportunity, on the same client-protection floor and with the safeguards already identified.

## **9. Request to appear**

Solicitors for PII Choice - NSW asks to give evidence at a public hearing, and can assist the Committee with the documentary material produced without claim of privilege.