

**Government Response to the tenth review by the Legislative Council Standing
Committee on Law and Justice on the Motor Accidents Authority and the
Motor Accidents Council**

Recommendation 1:

That the Motor Accidents Authority publish the report on its investigations into the advantages and feasibility of the further itemisation of each component of the Medical Care and Injury Service Levy on CTP Green Slips.

That, if this report demonstrates that it is feasible to clearly identify the proportion of the levy that is allocated to the Lifetime Care and Support Scheme and the proportion allocated to hospital and ambulance services and the administration costs of the Motor Accidents Scheme, the Motor Accidents Authority should pursue the introduction of this further itemisation.

Response:

The Motor Accidents Authority (MAA) has consulted with the Motor Accidents Council on appropriate options for itemising the Medical Care and Injury Services (MCIS) Levy. The MAA's online Green Slip Calculator (www.greenslips.nsw.gov.au) now displays the insurer premium, the MAA levy and the Lifetime Care and Support levy.

Recommendation 2:

That the Motor Accidents Authority, during its forthcoming review of risk relativities, investigate the feasibility of requiring insurers within the Motor Accidents Scheme to differentiate between Green Slip prices for buses and coaches based on their operating environment and on the number of passengers that the vehicle is licensed to transport.

Response:

The MAA has commenced a risk relativity review for buses and coaches in consultation with the Bus and Coach Association. The MAA will now take into account their views on any consideration of options for bus and coach relativities in the future.

Recommendation 3:

That the Minister for Finance pursue an amendment to the *Motor Accidents Compensation Act 1999* to require that the membership of the Motor Accidents Council only lapses upon the appointment of a new membership group or, alternatively, to allow provision for interim membership to be granted between the time that one period of membership ceases and another membership is appointed. In determining the form of the amendment, consideration should be given to the approach used to appoint the membership of similar advisory bodies and to the view of the Motor Accidents Council on this matter.

Response:

The *Motor Accidents Compensation Act 1999* provides that members of the Motor Accidents Council may be appointed for up to 3 years and may be reappointed. In accordance with the Department of Premier and Cabinet's *Guidelines for NSW Board and Committee Members: Appointments and Remuneration* (October 2004), the MAA seeks to ensure that the Minister receives a minimum of three months notice of all pending vacancies on the Motor Accidents Council.

Recommendation 4:

That the independent competition review commissioned by the Motor Accidents Authority and the work being undertaken by the Authority to improve the profit assessment methodology involve extensive stakeholder consultation, including with the Motor Accidents Council and the stakeholders who have contributed to the Committee's Review in relation to insurer profits.

That the Motor Accidents Authority make publicly available the results of this Review, and any subsequent proposals to change the profit assessment methodology used by the Motor Accidents Authority, as soon as possible.

Response:

The MAA has received the report on the competition review of the compulsory third party (CTP) scheme and is currently considering the report's findings and regulatory options.

Recommendation 5:

That the working party established by the Motor Accidents Authority to review the *Motor Accidents Compensation Regulation 2005* ahead of the 1 September 2011 deadline and the appropriateness of the existing legal costs regime should, among other matters:

- carefully consider the findings of the FMRC Legal report on the impact of the Cost Regulation referred to in the Committee's report
- undertake extensive consultation with all relevant stakeholders to determine how the Regulation can be improved to better meet the needs of claimants under the Motor Accidents Scheme.

Response:

The working party established by the MAA to review the existing regulated legal costs regime met on numerous occasions last year. The MAA consulted with a range of stakeholders on the report of the working party and has continued to consult with stakeholders in relation to implementation options. The MAA is continuing to finalise the work of developing a new regulatory approach, in consultation with stakeholders. Any proposed new regulation will also be subject to a formal public consultation period in accordance with the *Subordinate Legislation Act 1989*.

Recommendation 6:

That the Motor Accidents Authority, in consultation with stakeholders including the NSW Farmers' Association, review the interaction between the *Motor Accidents Compensation Act 1999* and the *Workers Compensation Act 1987* to identify areas where clarification is needed regarding the application of each Act.

Response:

As the NSW Farmers' Association's submission has implications for the workers compensation scheme, the MAA will give further consideration to this recommendation in consultation with WorkCover NSW.

Recommendation 7:

That the Minister for Roads, in consultation with the Minister for Finance, pursue an amendment to the *Road Transport (General) Act 2005* to remedy the situation caused by the decision in *Doumit v Jabbs Excavations Pty Ltd* [2009] NSWCA 360, whereby insurance coverage does not extend to registered vehicles that operate on treads. The amendment should redefine the term 'vehicle' to include vehicles that operate on treads.

Response:

The Roads and Traffic Authority (RTA) has advised the MAA that amendments to the *Road Transport (General) Regulation 2005*, *Road Transport (Vehicle Registration) Regulation 2007* and *Road Transport (Safety and Traffic Management) Regulation 1999* to expand the meaning of 'vehicle' in the respective parent Acts have been made and were published on the NSW Legislation website on 3 March 2011.

Recommendation 8:

That the Motor Accidents Authority consult with Vision Australia during the process of making technological improvements to its case management system, to ensure maximum accessibility to services and information for people with vision impairment.

Response:

The MAA is conscious of ensuring that its services are accessible to all people, including those with disabilities such as vision impairment. To assist people who have difficulties accessing information and lodging forms, the MAA operates a Claims Advisory Service (CAS) that can provide information and advice about the scheme over the phone, including Green Slip price comparisons. CAS can also assist people to complete and lodge claim forms and medical and claims assessment application forms, if required. The MAA does not intend to introduce on-line lodgement of forms at this stage.

Recommendation 9:

That the Motor Accidents Authority consult with carers' advocacy groups to examine the feasibility of modifying the language used on the Motor Accidents Authority website and in official publications when referring to the family of injured people and providing clear information on the support services available for carers.

Response:

The MAA is reviewing its website and publications and will modify the language used in relation to family members who have taken on the role of carer where appropriate.

Recommendation 10:

That the Motor Accidents Authority collaborate with Youthsafe to identify where improvements can be made to current and future youth injury prevention strategies, and to ensure that those strategies maximise their effectiveness in reaching their target audience.

Response:

The NSW Government strategy on 'Safer Roads' is led by the Centre for Road Safety (CRS) within the RTA. The MAA's role in road safety has been refocussed to a support role to help ensure that there is no duplication of effort while maximising road safety education and awareness for motorists and other road users. Future activities in the area of youth injury prevention are a matter for the CRS.

Recommendation 11:

That the Motor Accidents Authority facilitate the attendance of relevant officers at Motor Accidents Assessment Service Reference Group meetings as appropriate, and develop a feedback mechanism to inform the Group as to the background for not adopting proposals.

Response:

The Motor Accidents Assessment Service (MAAS) Reference Group comprises representatives from the insurance industry, legal profession, medical assessors, claims assessors and the MAA. It provides a consultation forum between MAAS and its key stakeholders on issues relating to the operation of the two assessment services. Officers from other areas of the MAA may attend meetings of the MAAS Reference Group as appropriate.

Recommendation 12:

That the next review of the Motor Accidents Authority and Motor Accidents Council, to be conducted in 2012 by a Committee of the Legislative Council as required under section 210 of the *Motor Accidents Compensation Act 1999*, include a focus on the issue of the ten percent whole person impairment threshold for non-economic loss.

Response:

This is a matter for the Legislative Council.

Recommendation 13:

That the Motor Accidents Authority conduct a review of the decisions made by Medical Assessment Service Medical Assessors regarding causation, to establish whether there are particular issues associated with challenges to these decisions. The review should determine whether improvements can be made to decision making on causation issues. When undertaking this review, the MAA should consult extensively with key stakeholders to ensure that the full range of perspectives on this issue is considered. The results of this Review should be made publicly available.

Response:

The Motor Accidents Assessment Service has established a comprehensive ongoing review process to monitor challenges to medical assessors decisions on any grounds (not limited to, but including, causation), in order to seek opportunities for improvement in decision making by medical assessors and in the role of the Motor Accidents Assessment Service. The review process ensures that all court challenges regarding a Medical Assessment Service certificate are reviewed and analysed to determine if any issues need to be addressed with medical assessors, stakeholders or the Motor Accidents Assessment Service. The review process will be reported on a regular basis to the Motor Accidents Council.

Recommendation 14:

That, as part of its review of the Claims Assessment and Resolution Service, the Motor Accidents Authority examine the late claims process, in consultation with the Motor Accidents Council and key stakeholders. This examination should give consideration to allowing only external assessors, or Principal Claims Assessors, to assess late claims disputes.

Response:

The terms of reference for the strategic review of the Claims Assessment and Resolution Service include examination of the late claims process. The issue has been considered by the reviewers, in discussion with stakeholders. The review report is currently being considered by the MAA.

Recommendation 15:

That the Motor Accidents Authority publicly release the Pricewaterhouse Coopers report on the MAA's monitoring systems that included an examination of superimposed inflation, as soon as possible.

Response:

The Pricewaterhouse Coopers report on superimposed inflation in relation to the compulsory third party scheme has been publicly released and is available on the MAA website (www.maa.nsw.gov.au).