Sixth review of the exercise of the functions of the MAA and the MAC

MAA Response to Stakeholder Questions on notice

General

MAA's prudential role

Question on notice

1. **When in 2004-2005 is this report expected to be completed**?

The Ernst & Young MAA Corporate Governance Review was completed in October 2004. A copy of the Ernst & Young 'Report of Factual Findings' is attached (**Attachment 1**)

Scheme efficiency

Questions on notice

1. **Does the MAA consider that Scheme efficiency should also include consideration of 'allocative efficiency'. That is, should it include consideration of whether the most appropriate amounts of compensation are being awarded to claimants according to their compensation needs, or is this not a relevant consideration**?

The amount of compensation awarded under the scheme correlates with injury severity.

MAIS[1]	Average claim size - full claims
1	$21,900
2	$64,300
3	$185,400
4	$530,300
5	$1,359,800
6	$129,100
Total	$67,100

An efficient scheme is one where the injured person receives as much as possible and as little as possible is expended on transaction costs such as legal and investigation expenses. As the

[1] [1] Injuries for full claims are coded using the Abbreviated Injury Scale (AIS) system of classification. Up to five injuries are recorded on the MAA database per claim. The Maximum AIS (MAIS) is the severity of the most serious injury recorded. For example, if a claimant sustained whiplash (severity 1), concussion (severity 2) and a fractured femur (severity 3), the MAIS would be 3. The MAIS ranges from 1 to 6:

MAIS		Example
1	minor	whiplash, joint sprain, cuts and bruises
2	moderate	simple fractures, concussion, severe cuts
3	serious	complex fractures, lung contusion, serious brain injury
4	severe	major liver laceration, severe brain injury
5	critical	paraplegia, quadriplegia, critical brain injury
6	maximum (often fatal)	high level quadriplegia

Law Society has quoted from the annual report the scheme has been successful in achieving this. '… of the actual payments made on finalised Year 1 claims, 86% was paid to claimants compared to 80% in the old scheme.'[2]

2. **Considering the importance the Annual Report attributes to 'Scheme efficiency', does the MAA consider that the current Scheme is substantially more 'efficient' than the old Scheme in the light of the above statements**?

On the basis of prospective measures based on insurer filings, the current Scheme is more efficient than the old Scheme: the return to the claimant has averaged 61.3% compared to 58% under the old scheme.[3]

On page 99 of the annual report, the composition of the premium is set out. The risk premium accounts for 70.8% of the total premium; claims handling expenses account for 4.9%; acquisition expenses account for 15.6% and prospective profit accounts for 8.7%.

Acquisition expenses are a fixed cost per policy which means that as the number of policies grow the cost itself grows as a matter of course. Because it is a fixed cost it represents an increasing proportion of premium as premiums decrease. For this reason the MAA considers that it is more appropriate to consider efficiency as the proportion that claim payments represent of the risk premium.

Questions on notice

1. **Considering that the amount payable for an ANF is statutorily limited to $500, does the MAA consider that payments under the ANF scheme equate with full payment to injured persons of the 'funds for the treatment of their injuries'?**

2. **If not, how does the MAA consider that it is appropriate to use the time periods for the payment of ANFs as an indicator of the time taken for injured motor accidents victims to 'access funds for the treatment of their injuries', and to compare this with the time taken for such victims to 'access funds for the treatment of their injuries' under the old Scheme**?

The Law Society's question demonstrates that it is not clear about the operation of ANFs in the new scheme. The introduction of ANFs has been one of the successes of the scheme. The ANF is a one-page form (plus a one page medical certificate to be completed by the doctor), which an injured person can obtain on his/her first visit to a general practitioner after the accident. On the medical certificate the doctor specifies the appropriate treatment for the person's injury. This means that insurers know immediately they receive an ANF what treatment should be paid for. All injured people can follow this simple procedure rather than completing a ten-page full claim form (plus a one page medical certificate plus a two page certificate of earnings).

While everyone who is injured can use the ANF to access payment for treatment more quickly, it is particularly useful for people with less serious injuries who can bypass the more complex and time-consuming full claim form completely. Insurers have a statutory obligation limited to $500. However, in practice insurers make payments in excess of $500 in cases

[2] Annual Report, p 109.
[3] Annual Report, p 99.

where this additional treatment is reasonable and necessary, and so further assist claimants by avoiding the need for them to submit a claim form.

Furthermore, insurers are under an obligation under the Claims Handling Guidelines to advise claimants when they are nearing the dollar limit of the ANF and that a full claim form should be lodged within 6 months of the date of the accident for further payments. The MAA has audited insurer compliance with this requirement and found that all insurers were compliant.

Injured people can and do submit full claim forms, they do not limit themselves to ANFs. About 60% of notifications are lodged as full claims without an ANF. In addition, more than half of the cases where the claimant initially lodges an ANF the claimant subsequently lodges a full claim. This has become a constant over the life of the scheme and is consistent across insurers.

Question on notice

1. **As such, would it not be appropriate for the MAA's consideration of the differences between old Scheme and new Scheme claim processing times to mention the fact that the decrease in overall processing times is at least partly due to the fact that there is less that motor accident victims are now able to claim for**?

The operation of the ANF does not limit the damages that a claimant can seek. As discussed in the previous response, claimants who first use an ANF can and do also lodge a full claim as and when it is necessary

CTP insurance and the insurers

Insurance gap between CTP and public liability insurance

Questions on notice

1. **Has the legal advice been received and what is the nature of the advice?**

Yes. The advice has assisted in clarifying the application of the *Motor Accidents Compensation Act 1999* to motor vehicle accidents involving a vehicle where the vehicle is not covered by a CTP policy and there is no right of action against the Nominal Defendant.

2. **If so, what action has the MAA taken on the basis of the legal advice received, or what action does the MAA intend to take?**
3. **Can the MAA comment further on the Committee's recommendation?**
4. **What other action has the MAA taken on this issue in terms of examining the nature and extent of the gap, options to close the gap, consulting with the CTP insurers or addressing the potential public perception that CTP insurance provides full cover in such circumstances?**

The Fifth Report of the Legislative Council Standing Committee on Law and Justice on the exercise of the functions of the MAA and the MAC recommended that the Minister for Commerce consider the circumstances where accidents arising out of the use or operation of a vehicle fall outside the scope of the *Motor Accidents Compensation Act* 1999 and review:

- the significance and likelihood of such circumstances occurring;
- whether or not members of the public may perceive that their CTP Green Slip insurance provides full cover in these circumstances and
- mechanisms to cover the gap between CTP Green Slip and public liability insurance.

The Government response to the Fifth Report, tabled on 16 November 2004, noted that the MAA is obtaining legal advice as to which kinds of motor vehicle accidents do not give rise to a claim against a CTP insurer or the Nominal Defendant and that the recommendation will be considered further in the light of that advice. Further comment on this issue is a matter for the Minister for Commerce.

Insurer profits

Questions on notice

1. **Does the MAA remain of the view that 6%-8% (of total premium written) represents a reasonable rate of return to CTP insurers as a percentage?**

2. **Does the MAA accept that insurers' profitability since 2000 has far exceeded these levels, as set out above?**

3. **Does the MAA agree that consistent with projections from the past two years and subject to the accuracy of MAA estimates as to outstanding claims liabilities, the scheme is likely to deliver excess profits to CTP insurers in relation to 1999-2000 in the order of $200 million?**

4. **What are the MAA's views as to the probable 23% insurer profit (on current projections) on premium collected in the first year of operation of the new Scheme? How does this figure sit against the MAA target of 6-8% of premium retained as profit?**

5. **What view does the MAA take of the probability that the new scheme will deliver profits to insurers (on current projections) in excess of $600 million over its first four years of operation?**

6. **Whilst insurers are currently cutting CTP premiums in response to these high profits, has any of this excess profit been redirected to accident victims in NSW? Does the MAA have any plans to return any of the excess profits currently being garnered by insurers to accident victims?**

The questions confuses the role of the MAA under section 28 of the Act, to verify premium filing information, including an allowance for a "reasonable' return on capital with the report on estimated profit based on current liability valuations, which is made pursuant to section 5 of the Act.

<u>Section 28</u>
Section 28(1) of the MAC Act requires a licensed insurer to disclose to the MAA "the profit margin on which a premium is based" and section 28(2) requires that the MAA report annually to the Legislative Council Standing Committee on Law and Justice on its assessment of the profit margin on which a premium is based. For the most recent reporting

period namely the year ended 30 June 2004, the MAA's report on profit in relation to s28 is included in its annual report at pages 100-102.

The MAA receives a premium filing from each insurer at least annually and considers all of the factors that go into calculating the proposed premiums. The MAA may reject a premium if it will not fully fund the liabilities or if it is excessive. In relation to profit, the act provides that a premium will fully fund the liabilities if the premium is sufficient to provide a profit margin in excess of all claims costs and expenses that represents an adequate return on capital invested and compensation for the risk taken (section 27(8)(c)).

The MAA must, therefore, not reject a premium on the basis of the level of the profit as long as the level is within the range that ensures an adequate return on capital but is not excessive. The MAA has made every effort to ensure that the profit component of the premium is assessed against objective criteria and has adopted a methodology prepared by Taylor Fry actuaries, which looks at three issues:

1. a suitable method for estimating the rates of return to be used in discounting different types of cash flow
2. the quantum of capital allocated by insurers to CTP business
3. a methodology for deriving a profit margin from 1 and 2.

The MAA's assessment of profit is based on the analysis of the premium filings as against a 'representative' insurer and involves three components:

1. the determination of a suitable quantum of total capital (net assets) for a representative insurer
2. the determination of a suitable allocation of insurer capital to NSW CTP
3. the calculation of a profit loading to service the allocated capital at a fair rate of return.

The representative insurer is based on the average of insurers writing CTP business in NSW. Taylor Fry calculations are based on a representative insurer holding capital equal to 58% of CTP technical provisions, which is approximately equal to 66% of outstanding claims provision (OCP) for NSW CTP. The insurer also holds additional (implicit) capital as a prudential margin within the provision for outstanding claims. The Taylor Fry methodology for allocating capital to the CTP line of business is consistent with APRA's new prudential regime.

There are wide variations in levels of capitalisation between individual insurers. The allocation of capital by the representative insurer used in the derivation of the profit margin is slightly higher than the highest notional capital allocation reported by an individual CTP insurer.

The indicative range resulting from Taylor Fry's calculations is a profit of 4.5-6% of gross premium for the representative insurer. As the range of profit margins relates to a representative insurer, they are illustrative only. It is fully expected that profit margins filed by individual insurers may vary from them, reflecting the insurers' own business structures. The MAA accepts that the level derived by the Taylor Fry methodology sets the minimum level of profit to ensure an adequate return on capital and that actual profit levels will be

within a range above this as long as the level is justified by the insurer and not considered by the MAA as excessive.

Over the last five years, profit margins have ranged from 7.5 to 10% for individual insurers, with an industry average between 7.7 and 8.7%. The MAA considers this range of profit margins to be reasonable although the MAA has on-going discussions with the CTP insurers who believe that the level of profit derived from the Taylor Fry methodology is not adequate.

The slight increase in the projected profit margin in recent years reflects increased allocation of capital to this line of business in accordance with revised APRA standards.

Profit margins in insurer filings

Filing period	Range (%)	Weighted average (%)
1999-00	7.5 – 9.5	7.7
2000-01	7.5 – 9.5	7.9
2001-02	7.5 – 9.5	8.2
2002-03	7.5 – 9.5	8.2
2003-04	7.5 – 9.7	8.5
2004-05	7.5 – 10.0	8.7

Section 5

Section 5(2)(d) of the Act provides that the insurers, as receivers of public money that is compulsorily levied, should account for their actual profit margins.

The premium filing includes the insurers' prospective estimates of the profit margin but the actual profit or loss that an insurer may ultimately make will depend on the extent to which the other assumptions in the premium filing are correct.

The profit or loss that an insurer makes on an underwriting year will depend in the main on the level of claim liabilities. During the development of an underwriting year as claims are received and paid an insurer, if holding excess capital to meet liabilities, may realise profit by releasing that capital but must at all times hold sufficient capital to meet claim payments plus a prudential margin as required by the Australian Prudential Regulatory Authority (APRA).

The MAA's annual report included a table on page 104 that showed the current estimates of claims liabilities for each underwriting year from which an estimate of profit as a percentage of total premium could be derived. It is important to note that this represents only an estimate of what the realised profit would be if the current liability valuation was correct.

Historically, CTP has been volatile. Insurers' profit under the Motor Accidents Act 1988 from 1991 to 1999 varied from an estimated 33% loss in 1994 to an estimated 26% profit in 1996. The average profit for this period is estimated to be 8% of premiums." In the first two years of the operation of the 1988 Act before the scheme was de-regulated, the profit margins were over 50%.

The annual after tax return on capital (ROC) during the period 1991-1999 ranged from 5% in 1994 to 19% in 1996. The overall average ROC during this period was estimated at 11%.

The MAA assesses the estimated future profit by accounting for the actual payments made to date and current estimates of the liabilities for each underwriting year. These estimates do not

represent actual profit but a current indication of the profit that will be realised once all claims are paid if the current liability valuations prove correct. They are, therefore, heavily qualified by the fact that they will change as the scheme develops further and claims are paid. For example, even for the first underwriting year of the new scheme with approximately 80% of claims finalised, this represents only 48% of the estimated ultimate incurred claim cost. As the larger claims are finalised over the next few years, this may change the estimated incurred claims cost for the underwriting year. This remains a critical factor as very few large claims have yet to proceed to court and, therefore, may be subject to developments in court awards that could significantly affect their value.

Section 28 profit assumption vs. Section 5 profit estimate

The difference between the current estimate of claims cost and the estimate included in insurer filings is due to a reduction in the two components – claim frequency and average claim size - on which the insurers' risk premium is based.

To calculate a risk premium, insurers estimate the frequency of full claims, i.e. the number of full claims per registered vehicle. The actual claim frequency has been lower than the projected claim frequency. In subsequent filings insurers reduced their estimate of claim frequency but the actual claim frequency continued to drop. This is partly due to an increase in the number of registered vehicles and a drop in the rate of casualties/registered vehicle. It should also be noted that all Australian CTP jurisdictions report a decrease in claim frequency.

The average claim size has been lower than projected reflecting the effective implementation of the 1999 reforms. With the introduction of an untested reformed scheme in 1999, insurers originally filed for less than 100% scheme effectiveness in the first years of the scheme. As the scheme settled and demonstrated its effectiveness, insurers responded by incorporating scheme effectiveness of 100% in their filings with the effect that premiums reduced further.

Finally, it must be stated that assessing a single underwriting year in isolation will not provide a valid indication of the operation of the scheme. For that reason, the MAA will continue to report on trends by underwriting year as the scheme continues to develop.

Full funding

Under the current legislation the MAA has an obligation to ensure that the scheme is fully funded. That means that the premiums received in a given year must be determined to be sufficient, having regard to investment income, to cover all future emerging costs for that year.

Premiums charged under the previous third party common law scheme in operation in the 1980s were determined on a pay-as-you-go basis. This means that premiums were set each year to cover the cost of all payments in relation to the current and past claims.

Arguments in favour of a fully funded scheme are that:

- The cost of each year's claims is fully covered. Any risk is borne by the private insurers and the Government is not on risk.
- Current motorists are required to meet the full costs of accidents incurred in the current year, while with a pay-as-you-go scheme motorist in the future are required to pay for the costs generated by motorists in past years.

If the system of full funding for each year was replaced with a system that allowed for equalisation of profits over a number of years it would effectively remove the insurers from being on risk Under such a scheme the insurers would receive a set amount of profit that would, in effect, be a payment for claims management - with the insurance risk being borne by future motorists, with a potential to accrue significant liabilities.

This in fact was the result of the previous third party common law scheme operating in the 1980s. As a result of the unmet claims liabilities when the Motor Accidents Act was introduced in 1988 the then Government added a levy of $43 to the registration of each motor vehicle that continued until 30 June 2000.

7. **Does the MAA intend to recommend changes that will allow for increased compensation, lower premiums or otherwise regulate the profit-taking currently occurring in the scheme?**

Comment on issues of legislative reform is a matter for the Minister for Commerce.

8. **Does the MAA monitor profit announcements by insurers in the NSW CTP market? If so, is the MAA aware of insurers such as IAG (NRMA), QBE and Promina (AAMI) announcing record profits in 2004 from their global operations? Does return on CTP business comprise a significant feature in these record profits?**

As a State regulatory authority, the MAA concentrates on NSW CTP business but also takes into account insurers' overall solvency. The Australian Prudential Regulation Authority (APRA) regulates all insurers operating in Australia, concerning itself with the overall solvency of these companies.

The MAA monitors the financial operations of NSW CTP insurers using the APRA returns and audited annual reports submitted to the Australian Securities and Investment Commission (ASIC). The APRA returns only provide limited information on CTP insurance, and do not readily allow for the estimation of profit from CTP insurance and releases of reserves by year (let alone for NSW CTP). It should be noted that five of the seven active NSW insurers also write CTP in other states or territories of Australia. The ASIC returns do not provide an analysis of insurance business by class or state.

Insurers are required under conditions of their CTP licences to submit, to the MAA, copies of annual and quarterly APRA returns and, annually, the audited ASIC reports. The MAA tracks the overall solvency and profitability of the insurers using these returns.

Every six months, MAA supplements its assessment of CTP insurers' viability through tripartite meetings with APRA and Queensland's Motor Accident Insurance Commission. These meetings discuss, in overall terms, the viability of CTP insurers, their parent companies and other insurance industry issues. The matters discussed are subject to the secrecy provisions of APRA's and MAA's respective legislation, which allow protected information to be divulged only under special circumstances.

9. **Have any insurers yet released reserves in relation to the new Scheme? If so, what reserves have so far been released and in relation to which years?**

There have been no reserves released in the current reporting period.

Premiums

Questions on notice

1. **What has changed within the CTP market since November 2003 when the MAA predicted that premiums would remain stable? How have premiums been able to drop over the past twelve months?**

In 2002-03 insurers filed premiums to commence 1 July 2003 with an increased best price of $314. The filings for July 2003 were lodged against a background of increases in the cost of reinsurance and weakening estimates of future investment earnings. These two factors were outside the control of the motor accidents scheme. The MAA's response in December 2003 was made in relation to the possibility of continued increasing reinsurance rates and continued weakening of estimates of future investment earnings. The MAA's prognostication that this trend would stabilise and therefore premiums would not increase was correct.

2. **Is the drop in premiums reflective of the significant surplus profits which insurers find the new scheme delivers? Has this in turn allowed for a cut in premiums to improve market share?**

The drop in premiums is due to a number of factors including the stabilisation of trends in increasing reinsurance rates and weakening of estimates of future investment earnings. Other factors are addressed in subsequent responses to other stakeholder questions.

3. **Does the MAA accept that the cut in premiums has largely been achieved by a reduction in benefits paid to the injured? Is this fair?**

The aim of the 1999 legislative reforms was to achieve a significant reduction in Green Slip costs and to improve the scheme's operation. The legislation introduced key reforms:

- early notification of injury through medical practitioners via an Accident Notification Form (ANF)
- statutory provisions and guidelines to encourage the early resolution of compensation claims
- medical guidelines to encourage early and appropriate treatment and rehabilitation
- medical disputes determined through independent medical assessment (MAS)
- a new system for early dispute resolution (CARS)
- changes to damages, including the introduction of an objective threshold for access to non-economic loss based on an assessment of impairment
- increased regulatory role for the MAA to ensure insurer compliance with market practice and claims handling guidelines.

Under the Act, claimants remain entitled to modified common law compensation, however the threshold test for access to damages for non-economic loss was altered. The test is whether the person is assessed as having more than 10% permanent whole body impairment as defined by the MAA's guidelines. The threshold was changed from a verbal threshold in the previous scheme to an objective medical evidence based threshold in the reformed scheme. This was necessary because of the deterioration of the verbal threshold. The cap for non-economic loss remained.

Economic loss payments were no longer available for the first five days loss of earnings and a cap on loss of weekly earnings, was introduced, to be indexed annually.

These changes to benefit levels were balanced by scheme improvements, which include:

- access to early payment for treatment expenses
- independent assessment of treatment needs
- early determination of liability
- access to a forum for resolving disputes outside the court system, designed to reduce delay in claim settlement and the stress of litigation.

As part of the reforms, legal costs for motor accident matters were regulated. Claimants and their solicitors are able to contract out of these fixed fees, but insurers who are required to pay the claimant's legal fees will only have to pay the fixed amounts.

Questions on notice

1. **In assessing the Scheme's success in terms of the community benefit it generates, does the MAA have any data available to it as to the importance that the public places on the level of greenslip premiums as opposed to the level of compensation available under the Scheme'?**

In 1998 the MAA commissioned Woolcott Research Pty Ltd to undertake a study of motorists attitudes towards the then CTP Scheme and to examine their reactions to various alternative scheme models. The Woolcott study found that the "*cost of CTP appears to be the main negative aspect of the* [then] *current scheme. 83% of respondents agreed that the* [then] *current CTP scheme is too expensive Panellists complained that the cost of CTP appears to be increasing out of control*".

With regard to the level of compensation the study found that "*Opinions over the fairness of the size of compensation payments, and who should receive them are quite mixed.*

- *47% agree that people should not receive compensation if they only have minor injuries;*
- *27% feel that it's not fair to give people large amounts of compensation;*
- *53% agree that people should be entitled to compensation, regardless of whether they're in the right or wrong.*"

In relation to scheme models the study found that there was "*a clear preference for a two part no fault scheme*" which is "*both administrative and allows those with serious injuries to sue for further compensation*".

2. **To what extent has the recent general decrease in CTP premiums under the Scheme resulted from factors outside the MAA's control (e.g. reductions in the cost of reinsurance in the international reinsurance market, improvements in anticipated returns on investment and in automotive safety, and the drought)?**

3. **As such, to what extent can such premium changes be seen as evidence of 'further proof that the scheme is going from strength to strength'?**

The June 2003 quarter average premium for Sydney class 1 cars was $339. The Sydney class 1 best price over the same period was $299. In 2003-04 insurers filed premiums to commence 1 July 2003 with an increased best price of $314. The filings for July 2003 were made against a background of increases in the cost of reinsurance and weakening estimates of future investment earnings. These two factors were outside the control of the motor accidents scheme.

After insurers filed for 1 July 2003 premiums, they were not required to file again until April/May 2004 for 1 July 2004 premiums. However, insurers filed for reduced premiums throughout the period starting in September 2003 and continuing through the year, with insurers leap-frogging to match and better their competitors' reduced prices. As an indicator of the outcome of this competition, the best Sydney price for motorists aged 30-54 dropped from $314 (excluding GST) to $306 (excluding GST).

There were further reductions in premiums filed by insurers to commence on 1 July 2004. The Sydney best price dropped further to $299 (excluding GST). All insurers reduced their best price with individual insurer reductions between $5 and $19.
Many factors affect the cost of premiums. "The base premium is derived from the risk premium to which the insurer adds loadings for expenses, levies and a profit margin. The risk premium is the insurer's estimate of the cost of claims based on projected claims frequency and projected average claim size. The risk premium is expressed as an average price per policy. In calculating the base premium, various components are added to the risk premium:

- acquisition expenses which include but are not limited to
    - o agents' commission
    - o net cost of reinsurance
    - o statutory levies
        - _ the current Roads and Traffic Authority levy is $2.68 per policy
        - _ the current Motor Accidents Authority levy is 2.5% of premium
- claims handling expenses
- profit margin."

The projected claims frequency and the projected claim size in turn are affected by many factors including:

- Trends in the number of vehicles in the NSW fleet and the rate of increases or decreases;
- Trends in the rate of injuries/vehicle;
- Trends in the rate of serious injuries/vehicle
- Trends in the propensity to claim;
- Weather patterns;
- The success of road safety initiatives;

- Effectiveness level adopted by insurers reflecting the effectiveness of the legislation;
- Wage inflation;
- Superimposed inflation;
- Interest rate forecasts which will inform the discount rate used by insurers to discount projected future claim size into today's dollars.

Premium prices are affected by a range of factors – the most important of which is the risk premium. As has been noted there are a range of variables that can affect the level of the risk premium some of which are outside of the control of the scheme.

However while these other factors have affected the risk premium, the current premium prices also reflect the fact that the scheme is working in accordance with the assumptions that underpinned the scheme reforms introduced in 1999. The fact that this is occurring and the on-going success in giving effect to the scheme design principles as reflected in all of the MAA's scheme indicators, not just affordability, is the basis of the Chairman and General Manager's note that the scheme continues to go from strength to strength.

Questions on notice

1. **How does this statement cohere with the assertion that CTP premiums have actually fallen over the most recent reporting period? That is, is it appropriate to look at the best CTP price as a scheme performance indicator, as opposed to average price?**

There are three stages in the determination of NSW CTP premiums. First, insurers are required to classify vehicles according to vehicle categories and geographic zones as set by the MAA. There are five geographic zones of which metropolitan Sydney is one. There are approximately 30 separate vehicle categories for example, ordinary sedans, motor bikes and goods vehicles. Insurers have access to information on vehicle characteristics from the Roads and Traffic Authority (RTA) to enable them to classify vehicles correctly. The MAA reviews the claims experience of each of the vehicle classes and geographic zones to determine a table of relativities reflecting the risk of each vehicle/region category relative to cars in Sydney.

Second, insurers file with the MAA the base premium that they intend to charge for a Sydney car. The base premiums for all other classes of vehicles and regions are calculated by applying the relativities set by the MAA.

Third, once the base premiums are filed with the MAA, the insurers may offer discounts or impose loadings according to the risk being insured. Insurers may apply discounts and loadings within the range allowed by the MAA. The maximum discount is 15% for policyholders/drivers under 55 and 25% for policyholders/drivers over 55. The maximum loading is close to 50%. The best price for Sydney cars is the base premium filed less the maximum discount for under 55s of 15%.

Once an insurer submits a premium filing the MAA can calculate the best price and it therefore represents a prospective indicator of the trend in premium levels. It is an appropriate measure because it applies to approximately 70% of motorists who obtain either the best price (15% discount) or an even lower price in the case of over 55s, who have access to discounts of up to 25%.

The actual average premium cannot be calculated until the policies have been sold. Each quarter the MAA calculates the average premium for a Sydney class 1 vehicle, and the average premium for all classes combined, based on insurer returns. Necessarily the average is a retrospective measure. The average includes premiums where discounts and loadings have been applied. The application of discounts and loadings is up to insurers, and may vary from filing to filing. The effect of the application of discounts and loadings may also vary from period to period depending on the insurer's portfolio being underwritten during the period.

The table below shows the averages for the four quarters in the MAA's reporting period as well as the average for the preceding quarter. Note that the MAA's 2003-04 annual report relates to the reporting period 1 July 2003-30 June 2004.

The June 2003 quarter average premium for Sydney class 1 cars was $339. The Sydney class 1 best price over the same period was $299. In 2002-03 insurers filed premiums to commence 1 July 2003 with an increased best price of $314. The filings for July 2003 were made against a background of increases in the cost of reinsurance and weakening estimates of future investment earnings, both factors outside the control of the motor accidents scheme. The trend in the best price is reflected in the September and December 2003 averages.

As reported in the MAA's 2003-04 annual report, after insurers filed for 1 July 2003 premiums, they were not required to file again until April/May 2004 for 1 July 2004 premiums. However, insurers filed for reduced premiums throughout the period starting in September 2003 and continuing through the year, with insurers leap-frogging to match and better their competitors' reduced prices. As an indicator of the outcome of this competition, the best Sydney price for motorists aged 30-54 dropped from $314 (excluding GST) to $306 (excluding GST). This trend is also reflected in the averages comparing March and June averages with September and December averages.

There were further reductions in premiums filed by insurers to commence on 1 July 2004. The Sydney best price dropped further to $299 (excluding GST). All insurers reduced their best price with individual insurer reductions between $5 and $19.

Quarter ending	Sydney class 1	All classes
June 2003	339	328
September 2003	348	341
December 2003	352	351
March 2004	340	334
June 2004	343	332

Once an insurer submits a premium filing the MAA can calculate the best price and it therefore represents a prospective indicator of the trend in premium levels. It is an appropriate measure because in Sydney, ordinary cars represent about 85% of the vehicle fleet and the best price applies to about 70% of owners of ordinary cars who obtain either the best price (15% discount) or an even lower price in the case of over 55s, who have access to discounts of up to 25%. The best price is the best indicator of the premium being paid by the person in the street.

Ability of MAA to reject an insurer's suggested premium

Questions on notice

1. **While it is acknowledged that the MAA has developed a methodology for assessing profit levels via the MAA Premium Determination Guidelines, on what basis would the MAA determine that the profit that a CTP insurer is generating, or is likely to generate, is 'excessive', or alternatively that the profit that the insurer is generating is 'reasonable'?**

2. **How is the figure for what is a 'reasonable return on capital' in relation to profit determinations calculated?**

3. **In approximate terms, what sort of percentage profit on premium would the MAA consider to be 'excessive'?**

The MAA must not reject a premium on the basis of the level of the profit as long as the level is within the range that ensures an adequate return on capital but is not excessive. The MAA has made every effort to ensure that the profit component of the premium is assessed against objective criteria and has adopted a methodology prepared by Taylor Fry actuaries. The methodology was developed with reference to a 'representative' insurer and involves three components:

1. the determination of a suitable quantum of total capital (net assets) for a representative insurer
2. the determination of a suitable allocation of insurer capital to NSW CTP
3. the calculation of a profit loading to service the allocated capital at a fair rate of return.

The representative insurer is based on the average of insurers writing CTP business in NSW. Taylor Fry calculations are based on a representative insurer holding capital equal to 58% of CTP technical provisions, which is approximately equal to 66% of outstanding claims provision (OCP) for NSW CTP. The insurer also holds additional (implicit) capital as a prudential margin within the provision for outstanding claims. The Taylor Fry methodology for allocating capital to the CTP line of business is consistent with APRA's new prudential regime.

There are wide variations in levels of capitalisation between individual insurers. The allocation of capital by the representative insurer used in the derivation of the profit margin is slightly higher than the highest notional capital allocation reported by an individual CTP insurer. The indicative range resulting from Taylor Fry's calculations is a profit of 4.5-6% of gross premium for the representative insurer. As the range of profit margins relates to a representative insurer, they are illustrative only. It is fully expected that profit margins filed by individual insurers may vary from them, reflecting the insurers' own business structures. The MAA accepts that the level derived by the Taylor Fry methodology sets the minimum level of profit to ensure an adequate return on capital and that actual profit levels will be within a range above this as long as the level is justified by the insurer and not considered by the MAA as excessive.

The MAA has in fact returned filings because the amount allowed for profit was considered excessive, following a review of all of the insurer's assumptions in the filing. Such a decision varies by insurer and it depends on the mix of risk in the insurer's portfolio as to what profit is appropriate.

Over the last five years, profit margins have ranged from 7.5 to 10% for individual insurers, with an industry average between 7.7 and 8.7%. The MAA considers this range of profit margins to be reasonable although the MAA has on-going discussions with the CTP insurers who believe that the level of profit derived from the Taylor Fry methodology is not adequate.

4. What is the current status of these discussions with APRA?

APRA has imposed minimum capital requirements (MCR) on general insurance companies and this varies by type of business. APRA is encourages insurers to develop their own risk analysis and undertake financial modelling. Capital allocation varies between companies and the MAA is bound by the capital allocation approved by APRA.

The new MCR which came into force on 1 July 2002, is a risk-based assessment of a company's required capital.

An insurer's MCR is the greater of $5M and the aggregate of all the capital charges applicable to its assets and liabilities. The capital charges are calculated by reference to:

- insurance risk;
- investment risk; and
- concentration risk.

APRA has assigned capital factors (expressed as percentages) to the various types of assets and liabilities, as well as insurance-specific liabilities such as outstanding claims and premium liabilities. For example, if an insurer has CTP Net Outstanding Claims (OCP) of $100 million, it will have a risk charge of $15M (15% being applied to $100M). Similarly, the prescribed capital factors for each individual class of insurance will be applied to the Net OCP for each class. The aggregate of charges will be the "Insurance Risk Charge" and is usually the greatest element (in dollar terms) of an insurer's MCR.

Other components of the insurance risk charges are based on the premium liabilities in respect of the unexpired portion of the premiums written by the insurer, and the amount of underwriting risks the insurer retains.

Investment risk charge is calculated by reference to all the insurer's assets as well as certain off-balance sheet exposures (eg charges granted on its assets and derivative activity).

APRA may also require an insurer to hold additional capital, in the form of a capital charge for Investment Concentration Risk, if its exposure to a particular asset exceeds the thresholds set out in APRA's Guidance Note GGN110.4.

The aggregate of all these capital charges is the Minimum Capital Requirement of an insurer.

If an insurer's MCR is for example $300 million, it must demonstrate that it has assets (acceptable for solvency purposes, known as the "Capital Base") which exceed its liabilities

by at least $300 million. Goodwill and other intangible assets such future income tax benefits are not acceptable for solvency purposes.

APRA has, in the past, indicated that its preference is for a solvency coverage of 1.2. In other words, APRA would prefer an insurer's capital base to be 1.2 times its MCR.

The MAA reviews quarterly APRA returns, which currently show that NSW CTP insurers had solvency coverage exceeding 1.2 times MCR. The details of this analysis are subject to strict confidentiality agreements with APRA.

5. **Is there an indication as to the extent to which the indicative level of profit for the 'representative insurer' is likely to be reduced as a result of these discussions?**

No.

Premiums and young drivers

Questions on notice

1. **Who made the policy decision to reduce the degree of subsidy between older and younger drivers?**

In the second reading of the Motor Accidents Compensation Bill 1999 [Hansard, 3 June 1999, NSW Legislative Council] the Special Minister of State indicated that:

"*Under the new pricing regime, to achieve an average $100 reductions means that not everybody will receive a full $100 reduction in price and some will receive more than a $100 reduction. A fundamental aim of the reform package is to increase competition among insurers by allowing insurance companies to price green slips with fewer constraints. Insurers will have greater flexibility in setting premiums so that better risks are rewarded with lower green slips.*

I must emphasise that all New South Wales motorists will receive a reduction in green slip price. The actual amount of the reduction will vary, depending on how insurers assess the potential risks of motorists."

2. **What was the policy basis for the reduction of the cross subsidy between older and younger drivers?**

In unregulated insurance classes, risk rating allows insurers to reject a risk or price it according to the true risk. In NSW, licensed insurers do not have a right to decline or refuse to renew a CTP policy. In this scheme, insurers are only able to distinguish particular risk factors by applying a bonus/malus across a class of drivers.

In addition, as the scheme is compulsory, there is an obligation to ensure premium affordability for all vehicle owners. It is acknowledged that the maximum Green Slip price is inadequate for the high risk market segment, in particular, owners aged 25 or under. It has been estimated that the real risk premium for drivers under 25 is over $1,500 per year and for those under 20 it is over $2,500. This is a measure of the real cost of injuries caused by these groups.

Accordingly, the scheme has maintained a community rating which creates cross subsidies through low risk groups paying additional premiums to provide a lower cost for high risk groups. Without community rating it is likely that the MAC Act's objective of affordable premiums would not be met. Without affordable premiums for all sections of the community, the universal compliance objective would be undermined. The consequence of this is there is little incentive for insurers to reduce their premium pool for high risks by offering higher competitive interval prices. Instead, the incentive is for insurers to reduce their discounts on good risks to further subsidise high risks. Reducing discounts also allows insurers to gain premium increases without altering their base price.

Taking into account these issues, the MAC Act retained community rating so younger drivers would not be faced with unaffordable premiums. However, it was identified that the Premium Determination Guidelines should be changed to create a system in which there is greater competition amongst insurers for good risks. The MAA has achieved this objective by adopting the concept of an elastic gap between an insurer's best price and the insurer's maximum price. This has the effect that when an insurer lowers its best price, the maximum price is reduced by a proportionately less amount. This makes it possible for insurers to compete for good risks by offering lower prices, and not be penalised by accepting business from a disproportionate number of the worst risks.

The concept of the elastic gap has been included in the Premium Determination Guidelines, which also includes a formula for insurers to apply to derive their maximum rate.

3. Is it recognised that this policy is socially regressive in as much as younger drivers are among those least able to afford the relatively higher premiums?

Young drivers have benefited from reduced premiums following the 1999 legislation although to a lesser extent than lower risk groups. Before the reforms, the best price for under 25s in Sydney was $537. Most young people in Sydney would have paid closer to $550. At the present time under 25s are paying around $515 excluding GST.

***MAC Act*, section 85 - obligation on claimants to cooperate with insurers**

Questions on notice

1. **Has the MAA or the MAC reviewed section 85 in its practical operation and effect?**

As part of the MAAS stakeholder consultations forums (refer **Consultation Forums p21-22**) the MAA has considered generally legislative provisions and guidelines concerning claims information and procedures. The progress and outcomes of the MAAS consultations have been considered by the MAC.

2. **Does the MAA or the MAC agree that an amendment to the provision rendering the obligations reciprocal would further of the objects of the *MACAct* as expressed at section 5(1)(b)?**

The open exchange of information is viewed by the MAA as promoting the principles underpinning alternate dispute resolution upon which the Motor Accidents Assessment Service (MAAS) is based.

The MAA Claims Handling Guidelines place specific obligations upon insurers with respect to collecting information from and providing information to claimants, for example;

- Clause 5.3 requires an insurer to provide a claimant with a copy of the police report
- Clause 9 outlines requirements for information requests, including plain English, relevant and tailored to the claimant's circumstances and not duplicated, unless previous information was insufficient.
- Clause 10.2 requires an insurer to provide the claimant with a copy of a treatment providers report, unless the treatment provider has indicated in would be inappropriate

The MAA audits insurer compliance with the Claims Handling Guidelines.

Covert surveillance

Questions on notice

1. **Does the MAA have any guidelines in place as to the conduct of covert surveillance by CTP insurers?**

The MAA's Claims Handling Guidelines state under general principles that surveillance investigators should operate in a professional and ethical manner and should comply with applicable privacy legislation. There were no complaints received by the MAA in 2003-2004 relating to surveillance.

2. **Is the MAA aware of any guidelines or regulations that apply to the use of covert surveillance by insurers generally that would apply to the CTP insurers?**

The Transport Accident Commission (TAC), which administers Victoria's CTP transport accident compensation scheme, has produced guidelines on the conduct of surveillance. The MAA distributed the TAC guidelines to all Claims Managers for their consideration at a Claims Managers' meeting on 17 February 2005. At this meeting the MAA's Principal Compliance Officer recommended that insurers adopt the following principles used by TAC in relation to surveillance:

- Surveillance should be "passive" observation in places regarded as "public";
- Surveillance should not involve any inducement, entrapment or trespass;
- Surveillance should only be used when:
    a. other less intrusive methods of investigation are considered ineffective or inadequate or have been tried and found inconclusive;
    b. the claim is of such a nature to warrant the use of covert surveillance and where there is adequate evidence to suggest that the claimant may be:
        - misrepresenting his/her disability,
        - claiming excessive disabilities,
        - malingering, or

    - involved in the commission of a fraud;
  c. the benefits arising from obtaining relevant information by covert surveillance are considered to outweigh the intrusion on the privacy.
- All requests for surveillance and all surveillance reports should be vetted by quality assurance officers to ensure that there is no breach of any law or guideline or ethical impropriety.

3. Are there any restrictions upon investigators engaging in covert surveillance filming a claimant at their place of work or in their own home?

Refer to first dot point of response to Question 2.

4. Is there any restriction upon investigators engaged in covert surveillance entering onto the premises of a claimant using a false pretext (lying to get admittance)?

Refer to second dot point of response to Question 2.

5. Does the MAA believe there should be any rules or boundaries for the conduct of covert surveillance by CTP insurers? If so, what should they be and what steps is the MAA taking to implement them?

Yes, refer to response to Question 2.

6. Can you comment on whether CTP insurers have reduced or increase the amount of covert surveillance used as a result of the MAA informally discouraging over-reliance on surveillance, as noted by Mr Bowen during last year's hearing?

The MAA records investigation costs on its database but does not differentiate between different types of investigation. The MAA's annual report (p.109) shows that investigation costs decreased in the new scheme. Investigation expenses were recorded against a lower proportion of finalised new act claims and, furthermore, the average investigation cost decreased by 38% in those cases where investigation costs were recorded.

Settlement deeds

Questions on notice

1. **Is the MAA aware of this practice or of any complaints relating to deeds of settlement without payment deadlines?**

Since 1 July 2003 there have only been two complaints relating to the late payment of settlement monies. The first resulted from a delay by the insurer in seeking a notice from Centrelink. The second complaint involves the refusal by an insurer to accept the inclusion of an interest clause for late payment of settlement monies in a deed of release. The MAA is presently investigating this matter.

2. **Does the MAA have any comment to make about the desirability of this practice and the impact it has on claimants?**

An insurer is under a statutory obligation to pay settlement monies expeditiously. Requirement 12.6 of the MAA's Claims Handling Guidelines states that: 'The insurer will pay the settlement monies within 20 days of settlement, unless the insurer is waiting for receipt of notice of workers compensation recovery, Centrelink payback or Health Insurance Commission payment. In those circumstances settlement monies will be paid within 20 days of receipt of those notices, if required for settlement.'

When an insurer is waiting for receipt of notice of workers compensation recovery, Centrelink payback or Health Insurance Commission payment, the insurer may require more than 20 working days to effect the payment of settlement monies.

Nevertheless, should an insurer not pay settlement monies within a reasonable timeframe, the claimant or their legal representative, in the first instance, can make inquiries to the insurer, and if the issue is not resolved or the insurer has not complied with 12.6, the claimant's solicitor can also make a complaint to the Principal Compliance Officer (PCO) of the Motor Accidents Authority.

Motor Accident Assessment Service

Increase in applications for various assessments

Questions on notice

1. **Has this extra number of applications led to increased processing delays, and hence increased the delays in compensating motor accident victims?**

The increase in CARS applications and applications for further medical assessment have not resulted in increased processing delays in MAAS. There have been significant improvements in processing times within the period and compared with previous years. The registration, acknowledgement and replies for both MAS and CARS applications have consistently achieved 97-99% compliance with the statutory timeframes.

Over 2003/4, there was a 22% reduction in the average time taken to finalise MAS matters, which include further assessment matters (from 184 days to 144 days). This trend has continued through 2004/5 to date.

In the same period, 84% of CARS matters were allocated to assessors within the statutory timeframe. The significant trend in CARS which impacts on finalisation has been the number of matters deferred by the parties- increasing from 38% at June 2004 to 64% at December 2004. As at June 2004 there was a significant backlog in dealing with Applications for Review of a medical assessment. This backlog was eliminated by December 2004 following an intensive "blitz".

2. **What steps, including the allocation of extra assessment resources, is the MAA taking to ensure that delays do not result from the increasing number of applications?**

2003/4 saw the implementation of the reforms arising form the MAAS Continuous Improvement Project including the restructuring and resourcing of MAAS to meet projected workloads, the introduction of integrated case management teams working flexibly across all types of applications and improved work flows and procedures. A rigorous system of management and executive performance reporting and monitoring ensures workload trends are identified and addressed. The impact of these reforms have continued into 2004/5.

Late allegations of fraud

Questions on notice

1. **Is the MAA aware of any such cases involving late allegations of fraud?**

From 1 July 2003 to 28 Feb 2005 there has been one referral by a CARS assessor to the MAA's Compliance Branch of a late allegation of fraud by an insurer under section 117 of the Act.

2. **Has there been any investigation made of such cases and if so, what was the outcome of the investigation?**

The investigation of the above mater referred to in 1. was inconclusive on the issue of whether the claimant had knowingly made a false or misleading statement in a material particular. The Principal Compliance Officer(PCO) considered that the insurer's actions were not unreasonable under the circumstances. The insurer had attempted to have this issue resolved through CARS by seeking an adjournment of the CARS assessment to permit a further assessment at MAS of a doctor's report based on new video surveillance. However, an adjournment of the CARS assessment was declined. The insurer consequently sought an exemption from CARS on the grounds that the doctor's report based on new video surveillance demonstrated that the claimant had knowingly made a false or misleading statement. An exemption from CARS was granted and the matter settled before going to court.

3. **Is the MAA intending to follow up such cases to ensure that the allegations of fraud which enable the insurer to bypass CARS are maintained in subsequent court proceedings?**

The Principal Claims Assessor (PCA) has requested CARS assessors to refer instances of late allegations of fraud by insurers to the PCA for monitoring. The PCA may refer such matters to Compliance Branch for investigation.

Consultation forums

Questions on notice

1. **Which representatives of the legal and insurance industries participated in the forums?**

In the second half of 2003, the MAA engaged the Hon John Hannaford to undertake an independent consultation with key users of, and participants in the Motor Accident Assessment Service(MAAS). The purpose of the consultation was to review MAAS processes and procedures as they affect Service users and participants. The MAA invited users and participants who had extensive experience with the MAAS system to participate in the consultation process. Invitations were extended to legal practitioners, CTP insurers, CARS and MAS assessors with extensive assessment experience, the Chair and Deputy Chair of the MAA Board and members of the Motor Accidents Council.

In relation to legal practitioners the MAA invited practitioners with a significant volume of matters lodged through the assessment service, across both primarily plaintiff and primarily defendant legal representatives. An invitation was also extended to the Law Society through the chair of the Personal Injury Committee. Invitations to insurers were forwarded to CTP claims managers to nominate experienced claims officers to participate.

2. Can you describe the policy and legislative reform agenda that was developed through the forums?

The objectives of the MAAS consultation process were to:

a. identify issues of concern with the current processes from the perspective of users and participants.
b. provide suggestions for improvements/enhancements to existing processes,
c. determine how current processes can be enhanced and/or altered with a view to improving efficiency of the MAAS processes for all users.

Forums conducted on 25 October 2003 and 6 December 2003 identified a number of themes addressing issues and concerns identified by participants with regard to MAAS, for further examination by Project Groups. These groups comprised representative of the key stakeholder groups participating in the consultation forums and relevant MAA staff.

The themes identified for Project Groups examination were:

- MAAS Process
- Access to MAAS
- Information Management by Parties
- Assessor Roles
- Whole person permanent impairment awareness
- Fairness

The focus of the Project Group work was the development of strategies which could be implemented by policy and guidelines changes, however, in some instances proposals for minor change to the legislative framework governing MAAS were also identified.

Project groups were convened during the period February – May 2004. The reform strategies identified through the work of the project groups were reported back to a further consultation forum on Saturday 26 June 2004. The report from the 26 June consultation forum is attached. (**Attachment 2**)

3. **What is the status of the implementation of the policy and legislative reform agenda that was developed?**

MAAS is developing the agreed policy and guideline reforms. The MAA is of the view that implementation of policy and guideline reforms should await the enactment of any changes to the legislative framework governing MAAS.

Comment on legislative reform is a matter for the Minister for Commerce.

4. **Will draft versions of the legislative changes be made available to key scheme stakeholders?**
5. **When are the legislative changes likely to be introduced into Parliament?**

Comment on legislative reform is a matter for the Minister for Commerce.

Justice Policy Research Centre surveys

Questions on notice

1. **Having regard to the above comments, what steps are the MAA taking to address those comments by scheme stakeholders?**

The extracts referred to by the Bar Association have been taken out of context from the three comprehensive reports completed to date as part of the MAAS user surveys. The studies on MAS assessors perceptions of MAS,CARS assessors perceptions of CARS and CTP insurers perception of MAS and CARS form part of a series of user surveys. Modules dealing with insurer and claimant legal representatives and MAS and CARS claimants are still to be completed. It is necessary to consider the findings not only in the context of the full report of each module but also in the context of the overall survey. Issues raised in the MAS and CARS assessor module have been raised with assessors and are the subject of on- going consultation and discussion with assessors.

Copies of the reports on the three survey modules completed to date are attached.
(**Attachment 3**)

2. **In particular, what steps are the MAA taking to address the consistent level of complaint about inconsistent MAS decision making?**

Consistency of decision making is regularly addressed with MAS and CARS assessors through training and education programmes and regular performance review.

The 'Hannaford' review process

Questions on notice
1. **Can you outline the review process?**

Refer answer to Question 2 **- Consultation forums** (p21)

2. **Is the MAA still committed to the introduction of the reforms recommended by review?**

Refer answer to Question 3 - **Consultation forums** (p22)

3. **If so, when can it be expected that the necessary legislation will be put in place? Why has there been a delay?**

Comment on legislative reform is a matter for the Minister for Commerce.

Claims Assessment and Resolution Service

Late lodgement of claims

Questions on notice

1. **Can CARS advise, in relation to those assessed 'full and satisfactory' late claim disputes, the percentage of cases in which the explanation for late lodgement of the claim has been rejected by an insurer yet accepted by an assessor?**

2. **Assuming that insurers are successful in maintaining their objection to the reasons given for late lodgement of a claim in little more than 20% of assessed cases, does the MAA agree that insurers persevere with objecting to the explanation for late lodgement in claims in far too many cases?**

3. **It is appreciated that in some cases a full explanation is only provided once the insurer has challenged the original explanation given. Nonetheless, thereafter the insurer has the opportunity to withdraw their objection to the explanation. Common experience is that the insurer will all too frequently 'take their chances' and force the matter to determination by a CARS assessor. Is this the experience of CARS assessors?**

4. **What action has the MAA taken to reduce and discourage the number of unsuccessful objections taken by insurers to the explanations given for the late lodgement of claim forms?**

In the period from the commencement of the scheme to 30 June 2004, CARS Assessors determined 200 matters concerning late claims. The insurer's rejection of a late claim was upheld in 26.0% of assessed matters. In the period 1 July 2004 to 1 March 2005, CARS Assessors have determined 30 matters concerning late claims. CARS Assessors upheld an insurer's rejection of a late claim in 56.7% of those matters.

CARS provides a forum for such applications to be determined. How parties access this forum is a matter for the parties. The CARS Assessor makes a decision on the application based on the information before them.

Contributory negligence

Questions on notice

1. **Has the survey been conducted and if so what were the results? If not, when is the survey to be conducted?**

An analysis of all matters finalised by CARS has been undertaken.

2. **Can the MAA now advise as to the number of general assessments concluded by CARS assessors in which contributory negligence has been alleged?**

As at 30 June 2004, 165 general assessment applications were finalised by CARS (7% of all finalised general assessment applications) in which the insurer alleged contributory negligence.

3. **In what percentage of cases where contributory negligence has been alleged has a CARS assessor concluded that there was contributory negligence?**

Of the 165 applications received in which contributory negligence was alleged;

- 109 settled without going on to assessment
- 5 matters were withdrawn
- 8 matters were dismissed
- 23 matters were assessed as unsuitable for assessment at CARS

Of the remaining 20 matters which proceeded to a determination by a CARS assessor

- 12 matters were assessed as not containing any element of contributory negligence
- 8 matters were assessed as containing an element of contributory negligence

4. **Does the MAA have any concern that some insurers are making unwarranted allegations of contributory negligence in the belief that such allegations will preserve their right to seek a re-hearing of the CARS assessor's decision?**

From the very small number of relevant matters proceeding to assessment by a CARS assessor is not possible to draw any conclusions.

Withdrawing admissions of liability

Questions on notice

1. **Is the MAA aware of the cases referred to by the Bar Association and the Australian lawyers Alliance?**
2. **Is the MAA aware of any instances where an admission of liability has been withdrawn for the specific purpose of bypassing the CARS assessment procedure?**
3. **Have there been any complaints to the MAA about insurers withdrawing admissions of liability?**
4. **If so, what investigations have been made by the MAA and what was the outcome of these investigations?**

There have been thirteen cases referred to the MAA's Compliance Branch where insurers have withdrawn admissions of liability some time into the processing of a claim. The changes in liability have generally occurred as a result of the claim being reviewed by the insurer or their legal representative in preparation for a CARS assessment.

In the cases investigated by the MAA's Compliance Branch there was no indication that admissions of liability were withdrawn for the specific purpose of bypassing the CARS assessment procedure.

All thirteen cases referred, were investigated by the Compliance Branch. Two cases were found in favour of the insurer. In the remaining eleven cases the MAA issued Breach Notices (formal warnings) to two insurers for non-compliance with s80 of the Act. These insurers have subsequently implemented new policies/processes to ensure the accuracy of their determinations of liability.

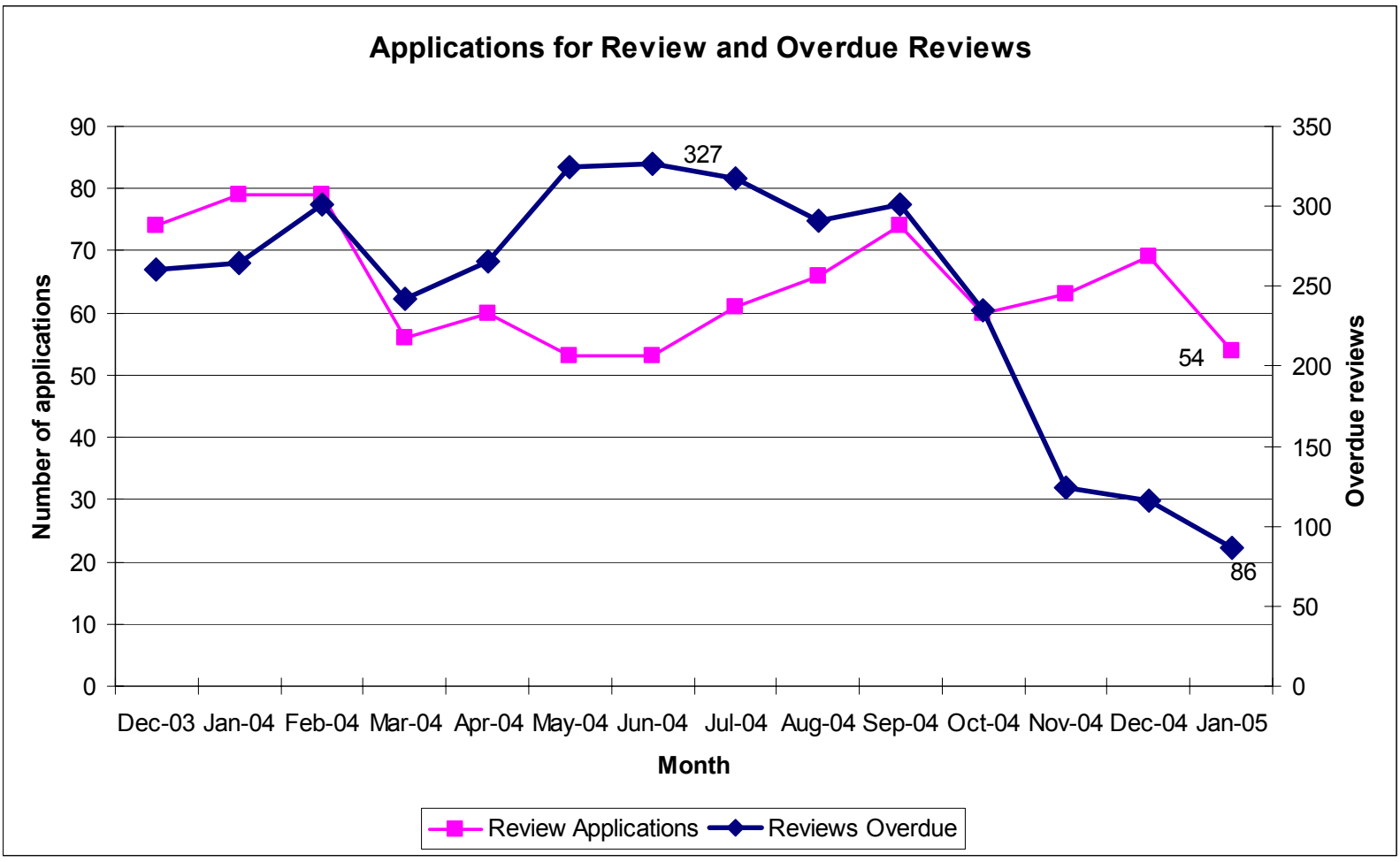
Medical Assessment Service

Backlog in review determinations

Question on notice

1. **What are the reasons for the backlog continuing until the end of 2004?**

The backlog in review applications and determinations was addressed in the second half of 2004 when additional positions were filled in the Review Team by people with the specific skill set to undertake the assessment of review applications and to exercise the power of the Proper Officer. From September to December 2004, there was a "blitz" on all outstanding review applications. The graph below shows the immediate and on-going impact of the blitz over this period, reducing a backlog of some 300 overdue matters to 86 as at 31 January.



Decrease in medical treatment disputes

Question on notice

1. **Why are the number of medical treatment disputes decreasing and are such decreases occurring as a proportion of the number of claims made?**

The MAA plays a key role in supporting improved management of claimants' injuries within the CTP Scheme primarily through improving injury management practices and educating stakeholders and providers about medical and rehabilitation issues.

The decrease in the number of medical treatment disputes is largely due to a number of MAA initiatives to educate and assist parties in identifying and using appropriate treatment options and resolving treatment matters in dispute. The MAA has issued a number of guidelines and provides training in areas such as dealing with whiplash injuries (the largest injury group), use of attendant care for spinal cord injuries and managing anxiety resulting from motor accidents. Regular training sessions are held for physiotherapists, the largest treatment provider group. The TRAC Guidelines requires insurers who decline treatment requests to provide reasons for denial and advise parties of available dispute resolution process including internal processes. The Claims Handling Guidelines require treatment provider reports to be given to the injured person. MAAS requires evidence that treatment has been declined by the insurer before matter is allocated to assessment. The cumulative effect of these initiatives has had a positive impact in resolving treatment matters before they become disputes and come to MAAS.

The number of medical disputes increased each year from the start of the scheme and reached 1,312 in 2002-03. The number of disputes dropped by 39% in 2003-04 to 805. The proportion of claims with MAS treatment disputes has decreased over time although it must be noted that more recent years are less developed.

Year claim reported	1999-00	2000-01	01-02	02-03	03-04	Total
% of claims with a MAS treatment dispute	9.7%	8.6%	6.6%	3.1%	1.0%	5.3%

Delays in MAS

Questions on notice

1. **What steps is the MAA taking to further streamline the MAS assessment process to improve the six month assessment turnaround time?**

The main reason for the current assessment turnaround period is the failure by parties to be properly prepared. Too often parties are using the MAS jurisdiction to test the matter in dispute rather than to resolve and settle the matter. Parties submit incomplete documentation, are vague on the issues in dispute and submit late documentation- often to within 5 days of a medical appointment. MAS currently acts as the distribution point for exchanging of documents between the parties and this alone accounts for the 40 day "reply" phase of the 105 day MAS cycle.

In addition, complex MAS assessments usually involve more than one medical appointment which necessarily extends the assessment time and some 10-15% of appointments are rescheduled, mostly at the request of the claimant.

Even with MAS working at optimum efficiency, there is little internal scope to further reduce the current assessment period. The key issue is to address the failure of parties to meaningfully engage in trying to resolve the dispute before it comes to MAS and to provide full disclosure and exchange of documents to be used in the dispute.

As part of the current program of MAS reforms consideration is being given to requiring the mandatory prior disclosure and exchange of all documents which form the basis of the disputed matter.

2. **When can it be expected that the optimum assessment time will be cut down to three or four months?**

MAS could commit to reduced turnaround times with the introduction of mandatory prior disclosure and exchange of all documents. This reform would have an immediate and significant impact on the MAS assessment turnaround time.

Use of AMA guidelines for permanent impairment

Questions on notice

1. **Does the MAA intend to review the use of the AMA Guides in the light of evidence that calls their objectivity into question and suggests the AMA Guides are inappropriate as a final guide to the assessment of disability?**

The AMA Guidelines, along with the MAA Guides, assess impairment, not disability. If the impairment threshold for access to non-economic loss is exceeded the claimant's disability is then considered following general common law principals.

2. **Does the MAA intend to review the direction given to MAS assessors by MAA staff?**

Refer answer to Questions on notice 1- 9 below.

3. **On what policy grounds does the MAA maintain a right to confidentiality or privilege over official communications with MAS assessors? How does this claimed right to confidentiality or privilege sit within the objects of the *MACAct* and the provisions of clause 9.7 of the *Medical Assessment Guidelines*?**

The MAA maintains such communications are subject to public interest immunity. The issue is presently before the New South Wales Court of Appeal for hearing on 11 July 2005 in Dr Ryan v Watkins, matter No 40955 of 2004.

Under cl10.11-cl10.13.5 of the Medical Assessment Guidelines, the MAAS is able to provide guidance and support to its assessors in the finalisation of reports and certificates. Such communication between the MAAS and its assessors does not constitute the introduction of new information but interpretation and guidance on Guidelines issued by the MAA or prescribed by the Act and which are already in the public domain.

Questions on notice

1. **Has the MAA conducted any review of the three separate assessments in the *Mihalopoulos* matter to analyse why three widely differing certificates were issued? What explanation does the MAA have for these varying results in a supposedly objective system?**

2. **Is the MAA aware of any other instances where there have been inconsistent results between MAS assessments? What analysis has the MAA made of such inconsistencies to determine their origin and cause?**

3. **What steps does the MAA take to promote consistency of decision making (short of the level of interference in decision making which Judge Sidis found to be indicative of bias)?**

4. **Does the MAA believe that there are aspects of the AMA Guides and the MAA's own Guidelines that can lead to inconsistent outcomes? If so, what steps is the MAA taking to address this issue?**

5. **In relation to the *Catsicas* matter, what steps has the MAA taken to review its internal 'report checking' processes?**

6. **Why did the MAA response extend in a subsequent case before Judge Sidis to the MAA claiming privilege over correspondence between the MAS report checkers and MAS assessors?**

7. **Judge Sidis refused to uphold this claim for privilege. The MAA is currently engaged in taking this issue to the Court of Appeal. Does the MAA believe that it will maintain faith in the integrity of the scheme to now claim privilege and to try and not provide correspondence between MAS report checkers and MAS assessors?**

8. **Why won't the MAA hand over to the parties concerned all correspondence between the MAA and its medical assessors?**

9. **In light of the *Catsicas* case, what steps is the MAA taking to ensure that report checking does not involve 'an absence of procedural fairness' or actions 'beyond power and unauthorised' or actions 'suggestive of bias'?**

The MAA does not comment on individual cases.

It is considered that some 2-3 matters out of the 5,860 matters assessed to date does not constitute a material problem. Nevertheless, the MAA is committed to consistency in assessor decision-making and has implemented a number of "checks and balances" to promote assessor consistency, including assessor education and training, workshops and a rigorous performance monitoring framework. An essential part of assessor performance monitoring and evaluation is the "checking" of assessor reports.

In December 2004, the MAA requested Mr B Zipser, Barrister, to conduct an independent review of a sample of files relating to medical assessments which involved communication between MAS staff and assessors to ascertain whether or not the communication between MAS staff and assessors raised any concerns regarding procedural fairness. Mr Zipser provided his report at the end of February 2005 and reported that for most(28) of the 34 files reviewed, " the communications between MAS officers and medical assessors involved requests by MAS officers to medical assessors to correct errors or clarify matters requiring clarification in draft reports and certificates. On this basis, the communications with the assessors were appropriate and raised no grounds for concern."

In the other 6 matters identified by Mr Zipser, 5 matters related to assessment reports undertaken by new assessors or assessors requiring specific guidance on issues noted in their performance review. These reports would have been targeted for review by MAS as part of its quality assurance regime and related to the correct application of guidelines and other published material. MAS' quality assurance processes are a key strategy to ensuring quality and consistent decisions from assessors.
The other matter was an enquiry to an assessor due to an incomplete set of injuries being given to the assessor. No amendment was requested.

The MAA is appealing the decision in the *Watkins* matter and will accordingly abide by the decision of the Court of Appeal.

In relation to the AMA and the MAA Guidelines, the guidelines outline the methodology for the assessment of permanent impairment, so that similar injuries will be assessed in the same way. For example, the assessment of the spine following spinal fractures will be conducted in the same way and the decision based on reproducible clinical findings.

The MAA Guidelines are presently under review to address any areas of ambiguity and to provide greater clarification, for example, more specific guidance on how to deal with pre-existing injuries. Draft revised guidelines have been circulated to stakeholder groups for consultation.

<u>Other claims issues</u>

Costs regulations

Questions on notice

1. **Has the Justice Policy Research Centre study been completed and if so, can a copy of the final report of the study be provided to the Committee?**

Professor Ted Wright, Belle Wiese Professor of Legal Ethics, Dean of Law and Head, School of Law, University of Newcastle and Director, Justice Policy Research Centre, has indicated that the project "ran into impossible difficulties in gaining access to lawyers' files. Basically the difficulty is a dual-layered one, from a researcher's point of view. Our previous research indicates that lawyers are generally very reluctant to give access to detailed cost information, and the position from a professional conduct point of view is probably that they need their clients' permission to give us access to the file. We proceeded on that basis, and then ran into the second layer of difficulty, in the form of a restrictive ethics clearance which required us to

approach claimants in writing and to request a written permission (by return mail). Ultimately we got this permission only from 35 claimants - too small a number."

2. **Has the work value review of legal costs been completed and what were the results?**

In light of likely changes to the MAAS processes and procedures following the MAAS Consultation Forums further work on a work value review of legal costs has been deferred.

3. **Is the MAA undertaking any other work in relation to reviewing the Costs Regulation?**

The motor accidents scheme regulated costs are being considered as part of the automatic repeal of the Motor Accidents Compensation Regulation (No2) 1999 on 1 September 2005.

Claims against the Nominal Defendant for unregistered vehicles

Questions on notice

1. **Has the MAA undertaken the examination promised during the Committee's Fifth Review?**

Yes

2. **If so, what was the outcome of that examination?**
3. **What steps has the MAA taken to advise the Minister of the outcome of the examination and what advice was provided?**

The Fifth Report of the Legislative Council Standing Committee on Law and Justice on the exercise of the functions of the MAA and the MAC recommended that if, as a result of the MAA's examination of the issue of claims against the Nominal Defendant for unregistered and unregisterable vehicles, the MAA determines that the operation of the legislation does have the effect described by APLA and the Bar Association (outlined in paragraph 2.23-2-26 of this report), the Minister for Commerce should seek to amend the *Motor Accidents Compensation Act* 1999 accordingly. The Government response to the Fifth Report, tabled on 16 November 2004, indicated that the Committee's recommendation is under consideration. Further comment on this issue is a matter for the Minister for Commerce.

<u>Payment of claims</u>

Compensation for the seriously injured

Questions on notice

1. **What research has the MAA done as to the adequacy of awards of damages for the seriously brain injured?**
2. **What research has the MAA done as to the adequacy of awards of damages for quadriplegics and paraplegics?**
3. **Are the level of damages being awarded for these types of injuries adequate to deal with the lifetime needs of these claimants? If not, why not?**

The 1999 reforms to the motor accidents scheme did not impact on the compensation entitlements for serious injury.

4. **The MAA is pursuing a scheme to provide long term care for the catastrophically injured. Care is often a major component of the damages awarded to a motor accident victim with serious brain injury, paraplegia or quadriplegia. Part of the MAA's argument for long-term care is that awards of damages in such cases have proved inadequate to meet long-term needs. Where has the MAA set out the adequacy or inadequacy of awards of damages for the seriously injured?**

The MAA has not argued that awards of damages to catastrophically injured clients are inadequate to meet long-time needs, rather the MAA has observed that for a variety of reasons the awards have often not lasted a person's lifetime.

5. **How does the MAA reconcile its statements with regards to fairness at page 113 of the Annual Report with its advocacy of long term care for the seriously injured on the basis of the inadequacy of current provisions for future care?**

Refer answer to question on notice 4 above.

6. **Does the MAA agree that current awards of compensation are proving inadequate to meet the long-term care and equipment needs of the seriously injured?**

Refer answer to question on notice 4 above.

7. **What is the basis for the statement on page 5 of the Annual Report that the seriously injured are now getting increased compensation? What is the degree of increase in compensation to the seriously injured?**

The legislative reforms sought to increase the proportion of the premium dollar going to injured persons, particularly those with serious injuries. To see how the scheme affects claimants with serious injuries, the MAA examined the experience of claimants with severe brain injuries whose claims related to accidents between October 1999 and September 2000. These 116 claims are reasonably well advanced.

The MAA examined more thoroughly the 28 finalised brain injury claims with liability fully accepted (24%) compared to 21 (20%) such claims relating to the final year of the old scheme. In the new scheme 4 percent have been litigated compared to 52 percent in the old scheme. The reforms sought to establish a non adversarial climate in which to resolve claims. These reforms have clearly had a beneficial impact on reducing the number of severely injured claimants taking their claim through the court system.

As intended by the reforms, payments to seriously injured people have not been affected. In fact, the average payment has increased by 3%. Non economic loss payments were made on 20 of the finalised new scheme claims and 19 old scheme claims. The average payment for non economic loss is 24% higher under the new scheme.

Administration costs such as legal and investigation costs have decreased in the new scheme and as a consequence the amount of the premium dollar returned to injured people, especially to seriously injured people, has increased.

Impact of the discount rate on the level of damages for the seriously injured

Question on notice

1. **Is the MAA aware of the change in the UK discount rate? If so, what consideration has the MAA given to making recommendations for changes to the NSW discount rate?**

The MAA notes that the prescribed statutory discount rate applying under section 127 of the *Motor Accidents Compensation Act 1999* is the same rate as applies to the former motor accidents scheme pursuant to section 71 of the *Motor Accidents Act 1988*.

The MAA also notes that Parliament recently had the opportunity to consider the appropriateness of this statutory discount rate for future economic loss in personal injury matters, when giving consideration to the provisions of the *Civil Liability Act 2002* which also provides for a five percent statutory discount rate (section 14). This section in the civil liability legislation was approved by Parliament.

Questions on notice

1. **Does the MAA agree that the current Scheme is costed on 10% of claimants (approximately 1,500) per year receiving NEL?**

2. **Does the MAA agree that the Scheme is costed on those 1,500 accident victims per year receiving approximately $150 million in NEL between them?**

3. **To date, what is the total dollar value of payments for NEL to accident victims from the first year of operation of the new Scheme?**

4. **What percentage of claims from year one remain outstanding and what percentage of those claims has an NEL estimate held by the insurer?**

5. **What number of claimants from year one of operation of the Scheme have to date received payments for non economic loss?**

6. **What percentage of completed claims from year one have to date received NEL?**

Excluding interstate claims and ANFs, there are 13,390 year 1 full claims of which 11,466 are finalised (86%). Of the 11,466 finalised, 813 (6.1%) have NEL payments totalling $64.2 million, giving an average of $78,910 per finalised claim.

A further $55.1 million has been paid or incurred on 515 of the 1,924 open claims, representing an average payment of $107,072.

In total, $119.3 million has been paid or incurred on 1,328 year 1 claims (finalised and open). Of full claims 9.9% have either a payment for NEL or are reserved for NEL. (Number = 8.3% of full claims + ANFs, excluding interstate claims)

7. **Does the MAA remain confident that approximately 1,500 accident victims will share approximately $150 million in NEL loss payments for accidents occurring during the first year of operation of the new Scheme?**

Under the Act, claimants are entitled to modified common law compensation, however the threshold test for access to damages for non economic loss was altered. The test is whether the person is assessed as having more than 10% permanent, whole body impairment as defined by the MAA's guidelines. The cap for non economic loss remained.

The threshold was changed from a verbal threshold to an objective medical evidence based threshold. This was necessary because of the deterioration of the verbal threshold.

The verbal threshold provided for in section 79 of the *Motor Accidents Act 1988* eroded to the extent that soft tissue strains were receiving non-economic loss awards. In an effort to stem the erosion, in 1995 the threshold was amended (see section 79A) to provide that non-economic loss awards could only be made where that loss of the injure person was at least fifteen percent of a most extreme case. As well an objects clause (at section 2A(1)(2)(i)), was inserted into the legislation, expressly stating that an aim of the legislation was to limit benefits for non-economic loss in the case of relatively minor injuries. Despite the amendments, the threshold continued to deteriorate. The impact of the deterioration in the verbal threshold was heightened by the fact that whiplash injury represented almost 40% of claims, and the flow on cost was the major driver of the increasing and unaffordable CTP premiums.

8. **Has the MAA made any review of claimants who are receiving an assessment of 9% or 10% for WPI from MAS to determine the appropriateness of those persons not recovering compensation for NEL? Does the MAA propose to make any such study?**

No.

9. **In the light of criticisms of the operation of the 10% WPI threshold for NEL and the AMA Guides based assessment of that figure, can the MAA comment on the necessity for a comprehensive review of the suitability of the 10% WPI threshold and the AMA Guides for the gatekeeper role they play in the Scheme?**

Comment on scheme reform is a matter for the Minister for Commerce.

Schedule of payments for orthopaedic cases

Questions on notice

1. **What are the MAAs comments on this suggestion?**

In the Motor Accidents Scheme medical services are paid in accordance with the Australian Medical Association (AMA) List of Medical Services and Fees. This List is reviewed, updated and reissued by the AMA annually, and the MAA gazettes the new list each year. This List covers all medical interventions, including surgery. The MAA does not wish to enter into negotiations with each medical group about their fee structure when the AMA List

covers most medical interventions, has been in existence since 1973 and takes account of both practice costs and net income when calculating the AMA recommended fees.

Injury prevention and rehabilitation

Review of the MAA Grants Program

Questions on notice

1. **What was the outcome of the review, in terms of improving the overall direction and management of the Program to ensure that it remains highly relevant and effective into the future with robust and rigorous processes for selecting and managing individual grants?**

2. **What are the MAA's intentions for the future operation of the Program consequent to the review, particularly in relation to addressing issues relevant to young people?**

3. **What changes to the existing Program structure/new programs is the MAA considering funding/administering over the next 12 months?**

Since its establishment in 1989, the MAA has fulfilled a role in supporting injury prevention initiatives and promoting appropriate treatment of injured persons.

The broad aim in injury prevention is to contribute to the reduction of crashes involving serious and high incidence injuries and incurring subsequent costs to the CTP Scheme. In terms of injury management, the MAA aims to ensure that insurers meet their obligations under the Act, to promote appropriate treatment of injured people and to foster the development of improved rehabilitation and long term care services for this population.

The MAA provides funding for a range of initiatives to achieve these aims through the Grants Program. PWC completed a review of the performance of this program for the MAA in 2004. A copy of the review report is provided **(at Attachment 4).**

A number of recommendations to improve the performance of the program were made in particular in the areas of strategic direction; improved selection processes and management of grants and improvements to evaluation.

Two consultants have commenced working with the MAA to develop a 3-5 year strategy for the MAA's road safety and rehabilitation programs.

This process is focussing on reviewing the MAA's current role in road safety and rehabilitation in NSW, reviewing the current priorities and programs and identifying some new areas and activities. Ideas being considered include focusing on fewer, larger, longer term projects aimed at MAA priorities. There are a number of projects that the MAA is committed to over the next 3-4 years. These will continue and newer projects/approaches will be developed concurrently

The strategy will be finalised by mid 2005 for commencement in July in accord with the MAA's corporate planning cycle.

4. **Could the MAA provide more details as to what evaluation procedures are in place regarding the various projects funded under the Program (eg Arrive Alive, sports sponsorship including women's netball and soccer and the Rabbitoh's, the Local Government Grants Program and the Kids Need a Hand in Traffic campaign) to ensure that they are the most effective educational tools for promoting road safety to young people and an appropriate use of the MAA's resources?**

An evaluation strategy is developed for individual projects at their commencement. The evaluation measures used vary according to the objectives of the project being undertaken.

In the road safety area, evaluation of education/awareness projects typically focuses on whether they have reached the target audience, the effectiveness of the message and whether it has increased awareness and influenced intention to change behaviour.

In the area, of rehabilitation and research projects, the focus is more on whether, the project will improve treatment or services for the target population, to what extent and how quickly.

5. **What measures needs to be taken to ensure that there is a capacity to facilitate research to establish sound evidence bases and to involve appropriate road safety and injury management expertise in initiatives supported through the Program?**

The MAA has good access to expertise in both road safety and rehabilitation fields to support the Program. For example, the MAA provides funding for the Injury Risk Management Research Centre (University of NSW) and the Chair of Rehabilitation Studies (University of Sydney) and has good relationships with government and non- government agencies in both fields. In addition, the MAC has members with road safety and medical expertise that can be readily utilised by the MAA.

6. **Is the MAA considering any measures to boost the public's awareness of the existence of the grants opportunities?**

The MAA is committed to ensuring a broad and high level of awareness of opportunities. This issue will be considered as part of the implementation of the 3-5 year strategy.

7. **Does the MAA have ongoing strategies to review the Program?**

Strategies to review the program will be included in the evaluation framework being developed.

Long term care of the catastrophically injured

Questions on notice

1. **What ongoing participation will the MAA have in the development, implementation and review of operation of the new long term care scheme for people with catastrophic injuries?**
2. **What directions is the MAA is taking to ensure appropriate and flexible long term support for people who are injured through road trauma, particularly young people who require this support over a longer period of time and whose needs are more likely to change over time?**

Comment on this issue is a matter for the Minister for Commerce.

Motor Accidents Council

Questions on notice

1. **Noting that one of the functions of the MAC is to advise and make recommendations to the MAA on the MAA medical guidelines, what recommendations has the MAC made regarding the MAA medical guidelines during 2003-2004?**

The Motor Accidents Council has reviewed the following medical guidelines and documents during 2003-2004:

- Managing acute low back pain – An insurer's guide
- Traumatic Brain Injury Care and Support Protocols
- Draft [revised] Guidelines for the assessment of permanent impairment
- Treatment, Rehabilitation and Attendant Care Guidelines 2004

2. **Noting that one of the functions of the MAC is to advise and make recommendations to the MAA on the MAA claims assessment guidelines, what recommendations has the MAC made regarding the operation of the claims assessment guidelines during 2003-2004?**

The progress and outcomes of the MAAS consultation forums (refer pp21-22 – **Consultation Forums**) have been reported to the MAC.

The objectives of the MAAS consultation process were to:

a. identify issues of concern with the current processes from the perspective of users and participants.
b. provide suggestions for improvements/enhancements to existing processes,
c. determine how current processes can be enhanced and/or altered with a view to improving efficiency of the MAAS processes for all users.

Arising from stakeholder consultations forums a number of changes to the claims assessment guidelines have been suggested. Those reform proposals have been considered by the MAC.

3. **Noting that one of the functions of the MAC is to monitor the operation of the services provided under the *MAC Act* for the assessment of injuries and the assessment of claims, what steps has the MAC taken to monitor the operation of services provided for the assessment of injuries (MAS) and the assessment of (CARS) claims during 2003-2004?**

Quarterly performance reports on the operations of the MAS and CARS are considered by the Council.

4. **Noting that one of the functions of the MAC is to monitor the operation of Part 3.2 (early payment for treatment of injured people), what steps has the MAC taken to**

monitor the operation of Part 3.2 in relation to early payment for treatment of injured persons during 2003-2004?

The operation of the provisions for early payment of injured people are monitored in the Motor Accidents Scheme annual report (as published in the MAA's annual report). The MAC considers the Motor Accidents Scheme annual report and also receives a report on the scheme performance indicators each quarter.