



**Government
of South Australia**

TRS19D2876

Hon Stephen Mullighan MP
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Dear Mr Mullighan

APPLICATION UNDER THE *FREEDOM OF INFORMATION ACT 1991*

I refer to your application made under the *Freedom of Information Act 1991* (the Act), dated 16 October 2019.

Your application seeks access to:

"All minutes, briefings and correspondence titled 'Motor Accident Commission – Motor Accident Commission – Transition Process' as described on the Objective document management system, between 23 February 2019 and 16 October 2019."

The legislative prescribed timeframe to determine this application has expired and is now deemed to have refused you access to all documents relevant to your application. I refer to my letter dated 3 November 2019 where I sought additional time to make my determination.

The purpose of this letter is to advise you of my determination. An extensive search was conducted within this office. A total of 1 document was identified as answering the terms of your application.

I release in part 1 document; a copy of which is enclosed.

Document 1

Document 1 is a briefing which was prepared by the then Motor Accident Commission for my information. As you would be aware MAC ceased its operations on the 1 July 2019.

I determine this briefing is exempt in part as it was prepared internally and contains advice and recommendations which were considered for the purpose of decision making relating to the functions of Government. On balance, it is not in the public interest to disclose the content of these documents as it is important for the Government to receive frank and comprehensive advice and opinions.

These briefings are provided to me on the basis that they are both forthright and candid. If these briefings were to be disclosed, such advice and commentary would not be provided in a candid and forthright manner. Disclosure may also lead to confusion and unnecessary debate resulting from the disclosure of possibilities that are being considered.

Whilst there is a strong public interest in government accountability and transparency, there is the competing public interest to ensure that full and frank advice can occur in confidence. It is necessary that I'm appropriately informed and updated on these matters.

On balance, it is not in the public interest to disclose the content of these documents as it is important for the Government to receive frank and comprehensive advice and opinions, including the expression of views which may be contentious. I therefore determine this information exempt pursuant to clause 9(1)(a)(i) to the FOI Act.

Exemptions

Clause 9 — Internal Working Documents

- (1) *a document is an exempt document if it contains matter—*
- (a) *that relates to—*
 - (i) *any opinion, advice or recommendation that has been obtained, prepared or recorded; or*
- in the course of, or for the purpose of, the decision-making functions of the Government, a Minister or an agency; and*
- the disclosure of which would, on balance, be contrary to the public interest.*

Please note, in compliance with Premier and Cabinet Circular PC045 - *Disclosure Logs for Non-Personal Information Released through Freedom of Information* (PC045), the Department of Treasury and Finance is now required to publish a log of all non-personal information released under the Act.

In accordance with this Circular, any non-personal information determined for release as part of this application, may be published on the DTF website. A copy of PC045 can be found at the following address: <https://dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars>. Please visit the website for further information.

As I am determining this application as Principal Officer, section 29(6) of the Act does not provide for an internal review. If you are dissatisfied with my determination you are entitled to exercise your rights of external review with the Ombudsman.

Alternatively, you can apply to the South Australian Civil and Administrative Tribunal. If you wish to seek a review, section 39(3) of the Act states you must do so within 30 calendar days of receiving the determination.

If you require any further information, please contact Vicky Cathro on 8226 9769.

Yours sincerely

A handwritten signature in black ink that reads "Rob Lucas". The signature is written in a cursive style with a large initial 'R'.

Hon Rob Lucas MLC
Principal Officer

28 September 2020

RELEASE IN PART

21/2/19
File No: 7045
Physical ID: TRS19D0159



MINUTES forming ENCLOSURE to

MAC18/0062
MAC19D0113

TO: Treasurer

MOTOR ACCIDENT COMMISSION – TRANSITION PROCESS

Recommendations/Issues:

Please note:

- The Motor Accident Commission's transition process to cease its road safety operations from 30 June 2019.
- The Motor Accident Commission's residual functions that will need to be managed post 30 June 2019.
- The approach being undertaken to manage the transition process.
- The need to resolve the following key issues:
 - Finalising the decision regarding staffing requirements and employment offers for road safety communication and engagement functions.
 - Finalising the decision regarding the Department of Treasury and Finance's responsibility for residual functions relating to 2018-19.
- There is an increasing risk that the transition process for road safety and MAC residual functions is not able to be implemented effectively.

Noted

R. H. Hancock
Treasurer

16 / 4 / 2019

BACKGROUND

In 2018, the South Australian Government decided to:

- Reinsure the Motor Accident Commission's (MAC) residual Compulsory Third Party (CTP) business with NICO/Berkshire Hathaway from 1 January 2019, with a 6 month transitional implementation period to 30 June 2019.
- Transfer MAC's road safety communication and engagement function to relevant Government agencies, from 30 June 2019.

Relevant to this:

- MAC staff employment contracts end on 30 June 2019.
- MAC accommodation lease at 121 King William Street, Adelaide ends on 30 June 2019.
- All contractual arrangements (except for partnership agreements) end on 30 June 2019.
- MAC is required to remain as a legal entity post 30 June 2019, as a consequence of the reinsurance arrangement. Therefore, the obligations in the MAC Act remain.
- MAC remains one legal entity for reporting purposes, which includes all road safety and CTP transactions relating to 2018-19 activities.
- NICO have advised that they are unable to employ MAC CTP staff before 1 July 2019 and MAC road safety staff will not transition (from an employment perspective) before 1 July 2019 to the new agency/ies. Therefore, MAC corporate services functions are required to terminate and process end of contract requirements at the end of June 2019.

On 15 March 2019, Bill Griggs (Chair MAC) and Trudy Minett (CEO MAC) met with you. At this meeting, you requested that MAC provide a Minute outlining the residual functions to be performed for the MAC entity post 30 June 2019 and an overview of the approach being taken to implement the required transfer of functions.

DISCUSSION

This Minute is based on MAC's knowledge and understanding. There may be discussions underway in the Department of Treasury and Finance (DTF) which MAC are not party to and, as a consequence, are not included in this Minute. Although I believe MAC is best placed to advise on its residual functions and is prepared to assist the transition, to date MAC has had limited direct involvement in the transition discussions/processes managed by DTF.

It is noted that the fixed date of 30 June 2019 is fast approaching. Therefore, given the outstanding issues, there is an increasing risk that the transition may not be smooth and seamless.

This transition requires a number of parallel transition processes:

1. Transition of road safety communications and engagement to relevant Government Agency/ies.
2. Transition of residual CTP Back Book to NICO/Berkshire Hathaway.
3. Transition of residual functions (including finalising supplier payments, monthly/annual financial accounts and the annual report for 2018-19).
4. Transition of residual ongoing functions relating to the MAC entity for CTP.
5. Finalisation of staff employment arrangements and decommissioning of MAC's premises.

Please note that the third and fourth transition processes above would ideally be undertaken by the same entity, as the activities are directly linked and would likely involve significant duplication if located in different DTF functions.

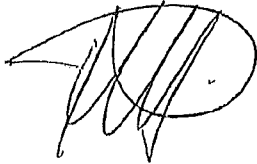
Attachment A provides an overview of each of these transitional processes, key decisions made, outstanding issues and approach being taken to resolve and implement the transition.

In summary:

- Finalising a decision on where road safety functions will be located is critical. At this time, staff have not been offered any employment opportunities past 30 June 2019 as the decision on the operational model for road safety affects who will be offered positions, under what terms and conditions.
- Although we understand DTF have commenced transition planning, they have involved MAC to a limited extent only.

- Now that SAFA has been identified as the entity within DTF that will take on the ongoing residual functions, MAC is in discussions with SAFA.
- The responsibility within DTF for residual functions relating to 2018-19 has not been finalised. This affects MAC's ability to progress the transition. At this time, MAC has commenced discussions with SAFA about these functions as it appears to be the logical place for the residual function to reside.
- It is becoming increasingly important to retain key staff expertise, particularly in the area of financial accounting for the residual functions.
- MAC is analysing options for final vacating of the MAC premises. This includes the logistics of physically vacating the MAC premises earlier (and relocating remaining staff) or handing over the decommissioning of the premises to DTF post 30 June 2019 (which would require an extension to the existing lease). This includes decommissioning of ICT systems, auction of remaining assets.
- The risk of the transition process for road safety and MAC residual functions not being able to be implemented effectively is increasing.
- Reports from NICO/Berkshire Hathaway indicate that the transition of the residual CTP business is on track.

With around 3 months to go to 30 June 2019, the resolution of key issues is paramount. MAC is in regular discussion with DTF to seek the resolution of key issues.



TRUDY MINETT
Chief Executive Officer
Motor Accident Commission

21 March 2019

Attachment A: Overview of transition processes

Transition of road safety communications and engagement to relevant Government Agencies	
<p>Key decisions made:</p> <ul style="list-style-type: none"> • That road safety functions will move to SAPOL and DPTI. • [REDACTED] • [REDACTED] 	<p>Outstanding Issues:</p> <ul style="list-style-type: none"> • Finalising the split of functions/funding between SAPOL and DPTI. • Finalising the staff structure (resulting from the split) and offers for staff. • MAC staff have around 3 months left on their contract, with no certainty regarding who will be offered positions and what terms and conditions will be offered. • MAC has not held any transition discussions with DPTI.
<p>Approach being taken to resolve issues:</p> <ul style="list-style-type: none"> • SAPOL is working with DTF to resolve the split of functions/funding. • DTF meets with MAC on a fortnightly basis to oversee the process and address outstanding issues. 	
<p>Implementation update:</p> <ul style="list-style-type: none"> • [REDACTED] ✕ • SAPOL are finalising their classifications of roles and employment offers. • SAPOL have made accommodation available to transition staff into. • MAC are extending partnership arrangements in accordance with your previous approval. • Service provider contracts have been provided to SAPOL to enable SAPOL to prepare for the road safety communications program. • MAC is working with SAPOL to assist them in their transitional processes, as required. • MAC is drafting handover briefings for SAPOL, etc regarding key functions (eg. communications plan, records management, etc). • The human resource transition process is on hold until the model is finalised. 	

Transition of residual CTP Back Book to NICO/Berkshire Hathaway	
<p>Key decisions made:</p> <ul style="list-style-type: none"> ◦ Reinsurance arrangement is in place. ◦ NICO/Berkshire Hathaway (BH) has decided to insource its CTP operational business from 1 July 2019. ◦ BH's staff structure has been finalised. ◦ MAC CTP staff will remain employed with MAC until 30 June 2019. ◦ A process has been agreed between Allianz and BH to facilitate staff transfers from Allianz to BH. 	<p>Outstanding issues:</p> <ul style="list-style-type: none"> ◦ BH is finalising accommodation. ◦ BH is establishing required ICT systems. ◦ Reporting requirements for BH are being resolved. ◦ Accounting treatment for premium payment is being resolved.
<p>Approach being taken to resolve issues:</p> <ul style="list-style-type: none"> ◦ BH and MAC CTP staff oversee the transition process. ◦ DTF has engaged PwC to provide accounting advice regarding the accounting treatment. ◦ DTF meets with MAC on a fortnightly basis to oversee the process and address outstanding issues. ◦ DTF provide an update to the MAC Board at each meeting. 	
<p>Implementation update:</p> <ul style="list-style-type: none"> ◦ Transition Implementation plan is in place and is on track at the time of writing. ◦ Employment offers to MAC CTP staff have been made and accepted (8 staff). ◦ Recruitment of additional staff (for insourced operational functions) is underway. ◦ MAC is working through the accounting treatment of the reinsurance premium payment and is seeking confirmation from PwC and Auditor General. ◦ MAC is preparing human resource paperwork for end of employment contracts (to alleviate tasks to be done in last month). ◦ MAC and Allianz have established a Transition Oversight Group to oversee the transition of claims from MAC/Allianz to BH. ◦ Liaison with Auditor-Generals Department to see whether they can undertake any audit activity before June (to avoid disruption to Allianz when they are transitioning claims to BH). 	

Transition of residual functions to finalise financial accounts and the annual report for 2018-19

<p>Key decisions made:</p> <ul style="list-style-type: none"> Residual functions for 2018-19 will be performed within DTF. 	<p>Outstanding issues:</p> <ul style="list-style-type: none"> Specific team with DTF has not been finalised. Residual functions have not been finalised. Whether the 2018-19 outstanding road safety and CTP functions will be managed by the same entity (noting MAC remains one entity for reporting). Whether sufficient knowledge exists within SAFA to manage the residual MAC functions.
<p>Approach being taken to resolve issues:</p> <ul style="list-style-type: none"> DTF is resolving responsibility for residual functions relating to 2018-19. DTF meets with MAC on a fortnightly basis to oversee the process and address outstanding issues. 	
<p>Implementation update:</p> <ul style="list-style-type: none"> MAC has developed a draft list of residual functions (refer to Attachment B) and has provided to DTF for review and finalisation. MAC is drafting handover briefings regarding key functions (eg. remaining financial transactions, annual report, actuarial valuation, etc). MAC is drafting content for Annual Report for handover to SAFA. The accounting treatment advice from PwC remains in draft and is outstanding. MAC has therefore not been able to finalise monthly finance reports for December, January and February. 	

Transition of residual ongoing functions relating to the MAC entity for CTP

<p>Key decisions made:</p> <ul style="list-style-type: none"> Ongoing residual functions will be provided by SAFA. 	<p>Outstanding issues:</p> <ul style="list-style-type: none"> Finalising the list of residual functions with SAFA. SAFA determining staffing requirements.
<p>Approach being taken to resolve issues:</p> <ul style="list-style-type: none"> SAFA has commenced working with MAC and DTF on 18 March 2019 to finalise residual functions and staffing requirements. DTF meets with MAC on a fortnightly basis to oversee the process and address outstanding issues. 	
<p>Implementation update:</p> <ul style="list-style-type: none"> MAC and DTF have developed a draft list of residual functions (refer to Attachment C) and has provided to SAFA for review and finalisation. MAC is drafting handover briefings for SAFA regarding key functions (eg. governance framework, Board policies, Board meetings, etc). MAC has discussed the new actuarial report required to manage the NICO contract requirements, and discussed that with the Scheme Actuary. Amendment contract is currently being drafted and will be in place before transition to SAFA. Notice has been provided to some providers where advance notice is required to discontinue services. 	

Finalisation of MAC's employment arrangements and close down of premises

Key decisions made:

- Employment contracts end on 30 June 2019.
- Accommodation lease ends on 30 June 2019.
- SAPOL may physically relocate MAC staff prior to 30 June 2019/ [REDACTED]
- BH will not employ CTP staff before staff 1 July 2019.

Outstanding issues:

- Resolving the logistics of the cessation of employment contracts and vacation of premises on same day (30 June 2019).
- Loss of key staff prior to 30 June 2019.

Approach being taken to resolve issues:

- MAC working with DTF ICT support to determine logistics to decommissioning systems.
- Progressive auction of unnecessary assets (eg. chairs, cupboards, etc) to alleviate tasks to be done in last month.

Implementation update:

- MAC is analysing options for final vacating of the MAC premises. This includes the logistics of physically vacating the MAC premises earlier (and relocating remaining staff) or handing over the decommissioning of the premises to DTF post 30 June 2019 (which would require an extension to the existing lease). This includes decommissioning of ICT systems, auction of remaining assets.
- MAC has commenced undertaking progressive auctions of unnecessary assets (eg. chairs, cupboards, etc) to alleviate tasks to be done in last month.
- MAC has developed a project plan, identifying the services that need to be disconnected (and collated relevant account numbers, etc).
- MAC has salvaged excess ICT assets back to DTF.
- MAC is liaising with Shared Services to provide them early advice of the impending staff terminations and seeking early calculations of final pays.

Attachment B: MAC residual functions relating to 2018-19

MAC Residual functions applying to 2018-19 activity			
S.No.	Activity details	Timing	Additional details
1 Governance			
1.1	Board's role to approve financial statements	August	Approve financial statements for 2018-19 Adopt Actuarial Valuation
1.2	Company Secretary's role	Jul/Aug	Meeting preparation, and distribution Location Organise presentation by Actuary BCIS reporting Cabinet Submission to appoint Board members (if not done by CIMR) Review of Risk Register, etc
2 Reporting			
2.1	BH Contract requirements	August	Receive quarterly report #2 and provide summary
2.2	Board papers	July/August	July: Delegations for MAC Staff and DTF (CE?) Review operating procedures Set meeting Schedule Consider Audit Committee Approve budget for 2019/20 Charter August: Actuarial Review Financial Statements
2.3	Funds SA	July/August	Consider investment strategy (if appropriate) Note - will also require approval by Treasurer
2.4	SAFA	July/August	Consider investment strategy (if appropriate) Note - will also require approval by Treasurer
3 Financials			
3.1	Monthly reporting	Monthly	
3.2	Processing Invoices that come in July/Aug that related to pre June 2019 services	Daily	Admin related invoices sent to Shared services. CTP and RS paid from MYOB. Would expect 80-100 invoices applying to 2018-19 to come in July. Would expect Finlty EOY review Invoices Aug/Sep. RS/CTP invoices are currently paid in MYOB, but could setup account with SS for payment after 1/7. TI 11 - creditors and payments reporting
3.3	BAS lodgement for June 2018	21/07/2019	Will significantly reduce from 1/7, but still required monthly.
3.4	Topping up claims management account	Monthly	
3.5	Quarterly interest calculation	Quarterly	For Apr to Jun period.
3.6	Year-end reporting for 2018-19	July/August	Reconcile Balance sheet items. Complex activity to be completed by 11 Aug every year to report to AG's. Data available only mid-July to prepare report due 11 Aug. Although data can be up-to-date, can only be completed post 30 June.
3.7	AG (EY) review of 2018-19 financial statements	July/August	Support AG and EY in undertaking external audit

MAC Residual functions applying to 2018-19 activity			
S.No	Activity details	Timing	Additional details
4 Procurement & Contract Management			
4.1	Actuary		If not completed by MAC before 30/6/19.
Regulatory			
5.1	Annual report for 2018-19	July, Sep	Update relevant data for as at 30 June Information. Review material provided by MAC and add financial report when approved by Board. Present to Treasurer by 30 Sept. Treasurer has 12 sittings from receipt to lay before Parliament. Load onto MAC website.
6 Other activities			
6.1	ABS reporting for June 2019 quarter	Quarterly	Reporting of assets/liabilities. Adhoc reporting may not be applicable. Due 25th day following quarter end
6.2	FOI requests	Per application	Per request
6.3	Potential fraud reporting	Per Issue	Per event (reported to Board/Audit Committee)
6.4	Records management for 2018-19 payments, financial statement and annual report (Including submission to Minister of Finance)	Oct/Nov	Can only be done following AG signoff. Ensure all records are filed appropriately and sent to state records
6.5	Disclosure of contracts	Per contract	Per contract
6.6	Signoff WIC report	July	
7 Close MAC			
7.1	Close down of MAC operations		This is a contingency requirement outlining tasks that may not all get completed by 30 June 2019 (which is when MAC staff employment contracts end)
a	- Finalise remaining HR records	July	
b	- Decommission of ICT system/Infrastructure	July	
c	- Decommission of phone system	July	
d	- Sell final assets	July	
e	- Salvage all ICT assets	July	
f	- Final salary payments to MAC staff	July	
g	- Handling queries by MAC staff if questions about final pays	July	
h	- Handling provider payment queries post 30 June 2019 (pre 30 June services)	July	
i	- Transfer of data to SAFA	Jun/July	
j	- Handover building back to landlord	Jun/July	

Attachment C: MAC ongoing residual functions

MAC Residual functions effective 1 July 2019			
S.No	Activity details	Frequency of action	Additional details
1 Governance			
1.1	Board's role	Quarterly	Establish a new board by 1 July 2019. Establish and approve operating protocols.
1.2	Company Secretary's role	Quarterly	Organising Board meetings, agenda, minutes, managing board policies and handbook, board performance, BCIS reporting, governance framework, risk register.
1.3	Company Secretary's role	Adhoc	Update policies, handbook etc per new Board function.
2 Reporting			
2.1	BH Contract requirements	Quarterly	
2.2	Board papers	Quarterly	Compiling required documents
2.3	Funds SA	Monthly	Investment returns report
2.4	SAFA	Monthly	FWA / WHT
2.5	Actuarial reports	Twice a year	Adjusting Claims liability based on Economic assumptions
3 Filhandlers			
3.1	Monthly reporting	Monthly	Separated as Admin/CTP claims, 2 well trained staff performing these currently (although this can be combined for 1/7 to MAC Fund only)
3.2	Processing Invoices	Daily	Admin related invoices sent to Shared services - currently averaging 30 per month. CTP invoices are paid in MYOB. All these should be able to be processed by SS form 1/7. TI 11 - creditors and payments reporting
3.3	BAS lodgement	Monthly	Lodge for MAC and also receive and oversight BH BAS
3.4	Topping up claims management account	Monthly	May be required partway through month if requested by BH. Calculating amount required to be topped up, checking that no large size claim settlements are expected, instructing SAFA, transfer funds from MAC account to BH account
3.5	Budget set-up	Annual	
3.6	Budget/BMS reporting	Twice a year	Monitoring Budget
3.7	Year-end reporting	Annual	Reconcile Balance sheet items; complex activity to be completed by 11 Aug every year to report to AG's. Data available only mid-July to prepare report due 11 Aug.
3.8	External Audit (AG, EY)	Annual	Discuss scope of external audit, review AG letter and provide to the Board Unsure extent of AG audit post 1/1/19 and 1/7/19.
4 Procurement & Contract Management			
4.1	Actuary	Annual	Due to be renewed/procured You may want to consider changing this to 2 or 3 years now that the decision is made OR do 1 year now with the intention of doing a full procurement next year
4.3	BH/NICO contract	?	Review of BH Performance
4.4	Probity Advisor?	Adhoc	
4.5	Legal Provider - Reinsurance services Audit provider	Annual	Model-Litigant clause Procurement will need to occur prior to Dec 2019

MAC Residual functions effective 1 July 2019			
S.No	Activity details	Frequency of action	Additional details
5 Regulatory			
5.1	Confirmation of BH's credit rating	Annual	(Includes research above any BH advice) Note - need to consider any where reported by BH outside annual process
5.2	Charter	Annual	To be amended to reflect the scope of the new Board, Reviewed each year
5.3	Collateral requirements	Annual	December each year.
5.4	Annual report	Annual	Prepare material for annual report and add financial report when approved, present to Treasurer and load onto public website
5.5	Information to Regulator's office	Adhoc	
6 Other activities			
6.1	ABS reporting	Quarterly	Reporting of assets/liabilities. Adhoc reporting may not be applicable
6.2	BH relationship review	Annual	Can this be part of Contract Management?
6.3	Reporting to Minister of Finance	Annual	via annual report, Minute to Minister of Finance with annual report
6.4	FWA Performance/Investment strategy	Monthly/Qtrly?	Not sure what this will entail above reporting, given SAFA have put into 1.9% account?
6.5	Retained Premium Performance/Investment strategy	Monthly/Qtrly?	Including liaison with FSA, reporting to Treasurer
6.6	Reinsurance services Audit	Annual	Focused on service to Claimants and compliance with the State Government's model litigant model - oversee services, liaise with BH, legal panel, etc as required to coordinate access, review report and present to Board
6.7	FWA Interest Calculation	Quarterly	Calculate interest, and determine distribution or top up. Process distribution or make payment
6.8	FOI requests	Adhoc	Deal with FOI as received. Summary performance reporting of FOI requests to be included in annual report
6.9	Potential fraud reporting	Adhoc	Along with any whistle-blower or ICAC events
6.10	Records management	Ongoing	ensure all official records are filed appropriately, records are managed in accordance with State Records Act, administration files are provided to BH when appropriately requested, claim files to be considered at the end of the BH arrangement as they currently pay for archiving
6.11	Actuarial valuation	Twice a year	Ensure valuation is available to staff undertaking financial tasks (twice a year), ensure collateral document is provided to BH and staff assessing letter of credit (once a year), ensure actuarial valuation is provided to Board for review (and attendance of actuary where appropriate)(twice a year)
6.12	Disclosure of contracts	Within 60 days of any contracts being finalised	
6.13	Maintain/Review Risk Register	Ongoing	
6.14	Financial compliance Management Program	Annual	Required by TIs. Will depend on the extent of functions performed, and whether performed by MAC, DTF or SAFA
6.15	Complaints and Ministerial	Adhoc	Matters received direct by MAC (not matters received directly to BH)
6.16	Collect and distribute mail (SAC, GPO)	Daily	