



T&F23/1378
A3314535

State Administration Centre
200 Victoria Square
Adelaide SA 5000
GPO Box 1045
Adelaide SA 5001
DX56205
Tel 08 8226 9500
Fax 08 8226 3819
<http://www.treasury.sa.gov.au>
ABN 19 040 349 865

24 November 2023

Freedom of Information – Building Indemnity Insurance Review

I refer to your application under the *Freedom of Information Act 1991* (FOI Act), received by the Department of Treasury and Finance (DTF) on 17 October 2023.

Your application specifically requested:

'All minutes, briefings and correspondence containing the term "Building Indemnity Insurance Review".' [Date Range: 02-01-2023 - 17/10/2023]

Under the FOI Act, an agency has 30 days to respond to a freedom of information request. As DTF did not respond to your request within the time frame required, the department is deemed to have refused you access to all documents relevant to your application. However, I have decided to process the request as if the statutory time frame had been met.

The purpose of this letter is to advise you of my determination.

A total of 5 documents were identified as answering the terms of your application and I have determined as follows:

- I grant you access in full to 2 documents, copies of which are enclosed
- I grant you access in part to 3 documents, copies of which are enclosed.

Please refer to the attached schedule that describes each document and sets out my determination and reasons in summary form.

Documents released in full

Documents 3 and 4.

Documents released in part

Document 2

- Contains information summarising a presentation made to Cabinet.

This information falls within the definition of concerning a deliberations or decisions of Cabinet under the FOI Act and is therefore exempt from release pursuant to clause 1(1)(e) of Schedule 1.

Documents 1, 2 and 5.

- Contains public sector staff mobile phone numbers.

This information falls within the definition of personal affairs under the FOI Act and is therefore exempt from release pursuant to clause 6(1) of Schedule 1.

Document 5

- Contains information of the proposed company that the South Australian Financing Authority intends to approach as part of a jurisdictional analysis, and the location of the company's staff in Australia.

This information falls within the definition of business affairs under the FOI Act. I acknowledge public interest favours transparency regarding potential government contracts and interactions with private companies, however, on balance, the State Government requires access to sensitive commercial and financial information to ensure an informed decision is made when entering a contract with a company. A company would also expect that any information relating to their business, professional, commercial, or financial affairs, and their staff, are not disclosed by the government to the scrutiny of competitors, as it is reasonably expected to prejudice market competition.

The information is therefore exempt from release pursuant to clause 7(1)(c) of Schedule 1.

Exemptions

Clause 1—Cabinet documents

(1) *A document is an exempt document—*

...

(e) *if it contains matter the disclosure of which would disclose information concerning any deliberation or decision of Cabinet; or*

Clause 6—Documents affecting personal affairs

(1) *A document is an exempt document if it contains matter the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).*

Clause 7—Documents affecting business affairs

(1) A document is an exempt document—

...

(c) if it contains matter—

- (i) consisting of information (other than trade secrets or information referred to in paragraph (b)) concerning the business, professional, commercial or financial affairs of any agency or any other person; and
- (ii) the disclosure of which—
 - (A) could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of such information to the Government or to an agency; and
 - (B) 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), DTF is required to publish a log of all non-personal information released under the *Freedom of Information Act 1991*.

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://www.dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars>. Please visit the website for further information.

Appeal rights

If you are aggrieved with this determination, you have a right to apply for internal review under subsection 29(1) of the FOI Act. Pursuant to subsection 29(2), your application must:

- be in writing
- be accompanied by the application fee of \$40.75 (unless fee waiver applicable) – payment options available on request
- be addressed to the Principal Officer
- be mailed to GPO Box 1045, Adelaide SA 5001, or emailed to freedomofinformation2@sa.gov.au, within 30 days after the day on which you receive this letter or within such further time as the Principal Officer may allow.

If you require any further information, please contact Kate Tonkin on (08) 7133 8080 or by email at freedomofInformation2@sa.gov.au.

Yours sincerely



Tonia Roache

ACCREDITED FREEDOM OF INFORMATION OFFICER

OFFICIAL
Schedule of Documents

T&F23/1378 -

- "All minutes, briefings and correspondence containing the term "Building Indemnity Insurance Review" [Date Range: 02-01-2023 - 17/10/2023]

Doc. No.	Date	Description of Document	# of pages	Determination	Exemption Clause
001	18/01/2023	Email	2	Released in part	6(1) - Unreasonable disclosure of personal affairs
002		Attachment to Document 1 - Minute	6	Released in part	1(1)(e) - Contains information concerning deliberation or decision of Cabinet or Cabinet committee
					6(1) - Unreasonable disclosure of personal affairs
003		Attachment to Document 1 - Minute	5	Released in full	
004	25/07/2023	Email	1	Released in full	
005		Attachment to Document 4 - Minute	3	Released in part	6(1) - Unreasonable disclosure of personal affairs
					7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest

From: [DTF:Treasurer Ministerial Correspondence](#)
To: [DTF:SAFA Ministerial Correspondence](#)
Cc: [DTF:Office of the Under Treasurer](#)
Subject: FINAL: A2559748 - Minute to the Treasurer - Building Indemnity Insurance Review
Date: Wednesday, 18 January 2023 11:05:33 AM
Attachments: [A2559748 - SIGNED MINUTE.pdf](#)
[image001.png](#)
[A2559748 - OUTGOING MINUTE.pdf](#)

OFFICIAL

Good morning

Please find attached signed minute and outgoing minute from the Treasurer.

Kind regards

Sarah Gysbers

Senior Business Support Officer | Office of the Treasurer, the Hon. Stephen Mullighan MP

State Administration Centre, Level 8, 200 Victoria Square ADELAIDE SA 5000
t 822 61890 | m **Clause 6(1)** | e Sarah.gysbers@sa.gov.au | w treasury.sa.gov.au



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From: DTF:Office of the Under Treasurer <DTFOfficeoftheUnderTreasurer@sa.gov.au>
Sent: Tuesday, 3 January 2023 4:06 PM
To: DTF:Treasurer Ministerial Correspondence <DTFTreasurerMinisterialCorrespondence@sa.gov.au>
Cc: Twells, Mark (DTF) <Mark.Twells@sa.gov.au>; White, Jenny (DTF) <Jenny.White@sa.gov.au>; Easter, Tianna (DTF) <Tianna.Easter@sa.gov.au>; Wilhite, Lynn (DTF) <Lynn.Wilhite2@sa.gov.au>
Subject: FW: A2559748 - Minute to the Treasurer - Building Indemnity Insurance Review

OFFICIAL

Good afternoon

Please find attached routine correspondence regarding a Building Indemnity Insurance Review, endorsed by the Deputy Under Treasurer, Tammie Pribanic, for the Treasurer's consideration.

Kind regards

Ana

Ana Beveridge

Business Manager | Office of the Under Treasurer
Department of Treasury and Finance
State Administration Centre, Level 8, 200 Victoria Square ADELAIDE SA 5000
t 8226 3067 | e ana.beveridge@sa.gov.au | w treasury.sa.gov.au

Committed to workplace flexibility

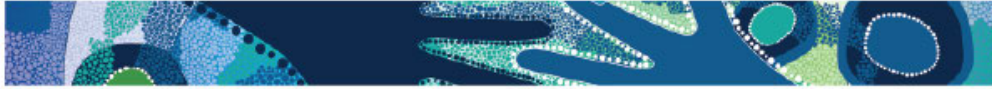


Government of South Australia
Department of Treasury
and Finance



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Australia



The Department of Treasury and Finance acknowledges Aboriginal people as the state's first peoples, nations and Traditional Owners of South Australian land and waters. We recognise that their unique cultural heritage, customs, spiritual beliefs and relationship with the land are of ongoing importance today, and we pay our respects to Elders past, present and emerging leaders of the future.

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Government of South Australia

Department of Treasury
and Finance

MINISTER'S OFFICE

3.1.23

MINUTES forming ENCLOSURE

File SAF 22/1157

Doc No A2559748

To The Treasurer

Endorsed: Tammie Pribanic, Deputy Under Treasurer

 TAP 28/12
BUILDING INDEMNITY INSURANCE - REVIEW

Timing: ROUTINE – For noting and approval

Recommendations/Issues: It is recommended that you:

- note there is no appetite from large insurers to recommence underwriting building indemnity insurance (BII) in South Australia, requiring SAFA to continue reinsuring BII over the long term. Consequently, the approach in the financial and administrative model for BII needs to shift to one of long term sustainability and self-sufficiency to reduce the reliance on taxpayers;
- note SAFA and Consumer and Business Services (CBS) (AGD) have recently commenced a joint review of the administrative and financial frameworks for BII and related consumer protections. Initial discussions with government insurers in all other states and territories have taken place and similar reviews are underway in most other jurisdictions;
- approve the scope of the review and delivery timetable outlined in this briefing;
- note that SAFA will establish a steering group to ensure delivery of recommendations and agreement on key aspects of the review occur in a timely manner. The group is likely to comprise senior executives from CBS and SAFA with responsibilities for BII, licensing, and consumer protection;
- note that it is likely SAFA will need to engage the services of an external consultant to provide expert advice and actuarial services as part of the review. SAFA has an existing provision in its budget for consultancy services, and will seek the relevant approvals per government policy;
- note that due to current media interest in the building industry, SAFA will seek your approval of the public consultation paper and proposed public consultation process prior to undertaking public consultation on the review; and

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- subject to your approval of the review scope, sign the attached minute to the Minister for Consumer and Business Affairs seeking her support for the joint review.

DTF My.

Noted/Approved / Not approved



Hon. Stephen Mullighan MP
Treasurer

16 / 1 / 2023

Key Points:

Background – Building Indemnity Insurance arrangements

- Under the *Building Work Contractors Act 1995 (SA)* and *Regulations* (the Act), it is compulsory in South Australia for builders to take out a building indemnity insurance (BII) policy on all domestic construction projects that require development approval and have a value of \$12,000 or greater.
- BII protects homeowners against losses relating to non-completion and breach of statutory warranty (defects) for five years post completion to a maximum limit of \$150,000 per project, where a builder has died, disappeared or become insolvent.
- The South Australian Government Financing Authority (SAFA) has underwritten BII through reinsurance agreements with private sector insurers since 2013, due to the absence of this cover in the commercial market. SAFA currently reinsures BII through an arrangement with QBE Insurance (Australia) Limited (QBE), which sees QBE manage underwriting, distribution, and claims in return for an agreed fee.
- The Minister for Consumer and Business Affairs administers the relevant legislation and Consumer and Business Services (CBS) is responsible for the licensing of builders, supervision of building work and consumer protections under the Act.
- A detailed overview of the State's involvement in BII was noted by you on 24 August 2022 (A2491049).

Challenges with current arrangements

- SAFA's approach to BII since 2013 has been predicated on expectations that the government's involvement in the product would be short-term and private insurers would recommence offering BII.
- There continues to be no appetite from large insurers to re-enter the market and based on current factors impacting the sector, it is unlikely that this will change for a number of years to come.

- To ensure arrangements are appropriate for the Government's involvement in the product over the longer-term, the existing administrative and financial models governing BII need reviewing. A number of consumer protection challenges also require review.
- In considering a fit for purpose longer term model for BII, SAFA has already undertaken two rounds of stakeholder discussions, including meetings with CBS, industry associations, and all other jurisdictions. Based on these discussions and SAFA's own observations, the following key challenges of the existing arrangements have been identified for further review and possible reform:

Premium Pool Sufficiency and Pricing

- Premiums are priced on a cost recovery basis: break-even plus a 'buffer' to account for changes in the economic environment over the 'tail' and other future uncertainty. There is no specific policy governing this practice, nor a policy to price premiums sustainably. This increases the reliance on the Treasurer's indemnity to cover losses. Many other government insurers managing this product have a premium sufficiency policy.
- No long-term capital policies to build the premium pool over time are in place. The current policy of annually netting Fund 3 to zero (and either making a payment to the Treasurer or receiving an indemnity payment from the Treasurer to cover losses) prevents SAFA from growing the premium pool to manage claims or to protect premium stability.
- Legacy pricing models with respect to large / volume builders who receive substantial discounts compared to the premiums paid by other builders, relative to the value of the projects they build. While this does partially reflect historical better claims performance, it is not clear that the experience supports the level of discount.

Product Administration

- The current reinsurance model does not reflect the Government's high level of involvement in BII pricing and risk management. The model has not been substantially reviewed in the context of government's continuing involvement in BII since inception in 2013, including the level of transparency in how BII is delivered.
- In 2013 SAFA adopted the underwriting (builder eligibility), distribution claims management criteria utilised by QBE for risk management and administration of the product. Alternative arrangements are in place in other jurisdictions and these should be considered in any review.

Consumer Protections

- A disconnect between the beneficiary of the product (homeowners) and the purchaser (builders). The absence of homeowner engagement in the purchase of BII contributes to a lack of knowledge about BII and the building process, with many unaware of the requirement and importance of the insurance and its regulations, for example, builders reporting to be 'project managers' rather than builders leaves homeowners unprotected.
- Instances of fraud (fake insurance certificates), uninsured works (where builders fail to take out the cover and councils or private certifiers fail to check that the cover is in place before approving the commencement of works), and under

insurance (where a builder has under quoted the cost of works, or has been paid for works not yet completed, over and above the statutory limits).

Regulation

- Any insurer with an APRA licence can enter the market and offer an inferior product that complies with the minimum standard of regulations (e.g. a cover limit of \$80,000 as per the minimum amount in the regulations, not the \$150,000 currently provided by QBE).
- The insurer, a for-profit organisation, is acting as a quasi-regulator of builders. The eligibility process can be onerous for small to medium sized builders, with industry associations highlighting that some small to medium sized builders fail to meet underwriting criteria for insurers.
- Minimum and maximum levels of cover stipulated under regulation are out of date and have not kept pace with increasing building costs. The low minimum threshold for BII has resulted in cover being required for very small projects (\$12,000). The maximum limit of cover was last reviewed and updated in 2017 and has not kept pace with building price index movements.
- Regulations exclude a particular cohort of building work leaving some homeowners without protection, for example homeowners purchasing an apartment in a building of more than three stories are not covered by BII. In the alternative, some building work could be considered for exclusion, such as tennis courts and pontoons.

2022-23 Review

- To address these issues, SAFA is undertaking a review of the administrative framework and related consumer protections for BII, including consideration of initiatives to support premium sustainability and affordability.
- Initial discussions with government insurers in all other states and territories have taken place and SAFA advises that similar reviews are underway in most other jurisdictions.
- As responsibility for the legislation that regulates the insurance cover, licensing of builders, supervision of building work and consumer protections lies with the Minister for Consumer and Business Affairs (the Minister) and is operationally managed by Consumer and Business Services (CBS), SAFA and CBS will work together to deliver the review.
- CBS has indicated its support for a joint review. Attached is a proposed minute from you to the Minister seeking her support and approval for CBS staff to work with SAFA on the review.
- Proposed key areas of inquiry, timelines for recommendations to the Treasurer, and responsibility are outlined on the following page.

BII Review Summary

Deliverable	Agency	Consultation	Indicative Timeline
<p>Develop a long term sustainable financial framework for BII (Operation of Fund 3)</p> <p>This includes premium pricing, investment strategy, and indemnity policy, to reduce the reliance on taxpayers (via the Treasurer's indemnity) to cover losses.</p>	SAFA	Other state and territory governments (no public consultation required)	By end of June 2023
<p>Develop a long term solution for the administrative framework for BII</p> <p>This includes distribution, underwriting, claims management and reinsurance arrangements.</p>	SAFA	Public consultation	By end of December 2023
<p>Review and strengthen consumer protections</p> <p>This includes legislation governing BII, cover (inclusions/exclusions, minimum thresholds and maximum cover limits), monitoring compliance, addressing gaps in consumer protection and consumer education.</p>	CBS	Public consultation	By end of December 2023

- In June 2022, SAFA executed a new reinsurance contract agreement with QBE for a period of two years (to 30 June 2024), with a possible one year extension option if required to 30 June 2025. This will enable sufficient time for the review to be substantially completed.
- SAFA proposes the following administrative arrangements for the review:
 - SAFA is committed to managing the review process
 - SAFA will conduct financial modelling to support the review, including the engagement of advice from actuaries and other expert consultants
 - There will be a consultation process with stakeholders (builders, consumers, and local government) to identify pain points and possible areas of reform
 - Due to current media interest in the building industry, your approval of the public consultation paper and proposed consultation process will be sought prior to SAFA/CBS undertaking public consultation on the review
 - SAFA and CBS staff and consultancy costs associated with the review will be covered by the BII premium pool, and there is an existing provision in SAFA's budget for consultancy services
 - SAFA will establish an appropriate governance arrangement comprising senior executives from SAFA and CBS to provide strategic direction to the project team and to ensure the timely delivery of the review.
- Subject to your approval and the Minister's approval, SAFA will work with CBS to agree resourcing and to establish an appropriate governance structure.
- We will write to you during 2023 with recommendations relating to the first deliverable of the review (Operations of Fund 3) and provide an update on the remaining deliverables.

Housing system reform

- **Clause 1(1)(e)**

- The BII review is consistent with the broader work the Government is doing to improve housing supply and housing affordability.
- SAFA recognises the importance of addressing challenges in the housing system and is committed to considering eligibility of BII as part of the Government's broader housing longer term work. While supporting a robust housing market is important, any changes to eligibility or cost of insurance arising from the review will need to be made in the context of ensuring the scheme is sustainable for the Government and does not increase the State's exposure or increase risks to consumers.



Mark Twells
ACTING CHIEF EXECUTIVE OFFICER, SAFA

Cc: Under Treasurer, Rick Perse

ATTACHMENTS:

- Attachment A: Minute to Minister for Consumer and Business Affairs

Contact Officer:	Jenny White
Telephone:	Clause 6(1)
Email address:	Jenny.White@sa.gov.au



Government
of South Australia

Treasurer

Level 8

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Adelaide SA 5000

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MINUTES forming ENCLOSURE

A2559748

**TO: HON ANDREA MICHAELS MP
MINISTER FOR CONSUMER AND BUSINESS AFFAIRS**

**RE: JOINT REVIEW ON BUILDING INDEMNITY INSURANCE AND RELATED
CONSUMER PROTECTIONS**

I am writing to you in relation to building indemnity insurance and related consumer protections for homeowners.

Under the *Building Work Contractors Act 1995 (SA)* and *Regulations* (the Act), it is compulsory in South Australia for builders to take out a Building Indemnity Insurance (BII) policy on all domestic construction projects that require development approval and have a value of \$12,000 or greater. BII protects homeowners against losses relating to non-completion and breach of statutory warranty (defects) where a builder has died, disappeared, or become insolvent. The policy provides cover up to a maximum limit of \$150,000 per project and protects homeowners against a builder not completing the works and the subsequent defect liability period, which in South Australia continues for five years post completion.

Responsibility for the Act that regulates the insurance cover, licensing of builders, supervision of building work and consumer protections is within your portfolio responsibilities as Minister for Consumer and Business Affairs. This is operationally managed by Consumer and Business Services (CBS).

The South Australian Government Financing Authority (SAFA) has underwritten BII through reinsurance agreements with private sector insurers since 2013, due to the absence of availability of this cover in the commercial market. Due to the risk of claims and expenses exceeding the amount of premium written and income generated from investments, an indemnity from the Treasurer supports losses in the BII fund (Fund 3).

SAFA has taken an arm's length approach to BII since 2013 on the expectation that its involvement would be on a short-term basis until private insurers recommenced offering BII. As there continues to be no appetite from large insurers to recommence underwriting BII in South Australia, and it is unlikely that this will change for a number of years to come, SAFA is required to continue reinsuring BII over the longer-term.

I have been advised that there are a number of consumer protection challenges related to BII that require addressing. These include:

- instances of fraud (fake insurance certificates),
- uninsured works, where builders fail to take out the cover and councils or private certifiers fail to check that the cover is in place before approving the commencement of works, and
- under insurance, where a builder has under quoted the cost of works, or has been paid for works not yet completed, over and above the statutory limits.

Whilst these actions are not an everyday occurrence, they have occurred frequently enough for action to be taken.

To address these issues, I have approved SAFA undertaking a review of the administrative framework and related consumer protections for BII, including consideration of initiatives to support premium sustainability and affordability. SAFA has advised me that initial discussions with government insurers in all other states and territories have taken place and similar reviews are underway in most other jurisdictions. A summary of the key challenges of the existing arrangements is provided in Attachment A.

I am seeking your support for this review, and your approval for CBS staff to work with SAFA to deliver a suite of recommendations that ensure arrangements are fit for purpose across a longer-term period of government involvement in BII. A range of recommendations to strengthen consumer protections related to the construction sector will also form part of the review scope.

Proposed key areas of inquiry, timelines for recommendations, and responsibility are outlined in the table below:

Deliverable	Agency	Consultation	Indicative Timeline
<p>Develop a long term sustainable financial framework for BII (Operation of Fund 3)</p> <p>This includes premium pricing, investment strategy, and indemnity policy, to reduce the reliance on taxpayers (via the Treasurer's indemnity) to cover losses.</p>	SAFA	Other state and territory governments (no public consultation required)	By end of June 2023
<p>Develop a long term solution for the administrative framework for BII</p> <p>This includes distribution, underwriting, claims management and reinsurance arrangements.</p>	SAFA	Public consultation	By end of December 2023
<p>Review and strengthen consumer protections</p> <p>This includes legislation governing BII, cover (inclusions/exclusions, minimum thresholds, and maximum cover limits), monitoring compliance, addressing gaps in consumer protection and consumer education.</p>	CBS	Public consultation	By end of December 2023

The following administrative arrangements for the review will apply:

- SAFA is committed to managing the review process
- SAFA will conduct financial modelling to support the review, including the engagement of advice from actuaries and other expert consultants
- There will be a consultation process with stakeholders (builders, consumers, and local government) to identify pain points and possible areas of reform
- Due to current media interest in the building industry, our approval (as the Ministers with responsibility for this review) of the public consultation paper and proposed consultation process will be sought prior to SAFA/CBS undertaking public consultation on the review
- SAFA and CBS staff, and consultancy costs associated with the review will be covered by the BII premium pool
- SAFA will establish an appropriate governance arrangement comprising senior executives from SAFA and CBS to provide strategic direction to the project team and to ensure the timely delivery of the review.

I am advised that CBS has indicated its support for a joint review. Subject to your approval, SAFA will work with CBS to agree resourcing and to establish an appropriate governance structure.

For further information about the review, please contact Jenny White, Director, Insurance and Fleet, SAFA on Jenny.White@sa.gov.au or 8429 0562.

I look forward to our agencies working together on this important consumer protection.



Hon. Stephen Mullighan MP
Treasurer

16 January 2023

Att: Dini Soulio, Commissioner, Consumer and Business Services

Attachment A: Key challenges with existing arrangements

In considering a fit for purpose long term model for BII, SAFA has already undertaken two rounds of stakeholder discussions, including meetings with CBS, industry associations, and all other jurisdictions. Based on these discussions and SAFA's own observations, the following key challenges of the existing arrangements have been identified for further review and possible reform:

Premium Pool Sufficiency and Pricing

- Premiums are priced on a cost recovery basis: break-even plus a 'buffer' to account for changes in the economic environment over the 'tail' and other future uncertainty. There is no specific policy governing this practice, nor a policy to price premiums sustainably. This increases the reliance on the Treasurer's indemnity to cover losses. Many other government insurers managing this product have a premium sufficiency policy.
- No long-term capital policies to build the premium pool over time are in place. The current policy of annually netting Fund 3 to zero (and either making a payment to the Treasurer or receiving an indemnity payment from the Treasurer to cover losses) prevents SAFA from growing the premium pool to manage claims or to protect premium stability.
- Legacy pricing models with respect to large / volume builders who receive substantial discounts compared to the premiums paid by other builders, relative to the value of the projects they build. While this does partially reflect historical better claims performance, it is not clear that the experience supports the level of discount.

Product Administration

- The current reinsurance model does not reflect the Government's high level of involvement in BII pricing and risk management. The model has not been substantially reviewed in the context of government's continuing involvement in BII since inception in 2013, including the level of transparency in how BII is delivered.
- In 2013 SAFA adopted the underwriting (builder eligibility), distribution claims management criteria utilised by QBE for risk management and administration of the product. Alternative arrangements are in place in other jurisdictions and these should be considered in any review.

Consumer Protections

- A disconnect between the beneficiary of the product (homeowners) and the purchaser (builders). The absence of homeowner engagement in the purchase of BII contributes to a lack of knowledge about BII and the building process, with many unaware of the requirement and importance of the insurance and its regulations, for example, builders reporting to be 'project managers' rather than builders leaves homeowners unprotected.
- Instances of fraud (fake insurance certificates), uninsured works (where builders fail to take out the cover and councils or private certifiers fail to check that the cover is in place before approving the commencement of works), and

under insurance (where a builder has under quoted the cost of works, or has been paid for works not yet completed, over and above the statutory limits).

Regulation

- Any insurer with APRA licence can enter the market and offer an inferior product that complies with the minimum standard of regulations (e.g. a cover limit of \$80,000 as per the minimum amount in the regulations, not the \$150,000 currently provided by QBE).
- The insurer, a for-profit organisation, is acting as a quasi-regulator of builders. The eligibility process can be onerous for small to medium sized builders, with industry associations highlighting that some small to medium sized builders fail to meet underwriting criteria for insurers.
- Minimum and maximum levels of cover stipulated under regulation are out of date and have not kept pace with increasing building costs. The low minimum threshold for BII has resulted in cover being required for very small projects (\$12,000). The maximum limit of cover was last reviewed and updated in 2017 and has not kept pace with building price index moves.
- Regulations exclude particular cohort of building work leaving some homeowners without protection, for example homeowners purchasing an apartment in a building of more than three stories are not covered by BII. In the alternative, some building work could be considered for exclusion, such as tennis courts and pontoons.

From: [DTF:Office of the Under Treasurer](#)
To: [Rizzo_Natasha \(DTF\)](#); [DTF:Office of the Under Treasurer](#)
Cc: [DTF:SAFA Ministerial Correspondence](#); [White, Jenny \(DTF\)](#)
Subject: RE: Min to UT - BII Review consultancy services (A2915862)
Date: Tuesday, 25 July 2023 9:39:42 AM
Attachments: [A2915862 - BII Review consultancy services.pdf](#)
[image003.png](#)
[image005.png](#)

OFFICIAL

Good morning,

Please see attached Signed Minute (A2915862) regarding the above matter, endorsed by Deputy Under Treasurer, Tammie Pribanic and now Signed, Noted/Approved by Under Treasurer, Rick Persse.
Please let me know, should you have any concerns at all.

Many Thanks

Mina Capoccia

Executive Support Officer | Office of the Under Treasurer | Department of Treasury and Finance

State Administration Centre, Level 8, 200 Victoria Square ADELAIDE SA 5000
t 08 8429 0561 | e mina.capoccia@sa.gov.au | w treasury.sa.gov.au



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From: Rizzo, Natasha (DTF) <Natasha.Rizzo2@sa.gov.au>
Sent: Sunday, July 23, 2023 3:37 PM
To: DTF:Office of the Under Treasurer <DTFOfficeoftheUnderTreasurer@sa.gov.au>
Cc: DTF:SAFA Ministerial Correspondence <SAFAMinisterialCorrespondence@sa.gov.au>; White, Jenny (DTF) <Jenny.White@sa.gov.au>
Subject: Min to UT - BII Review consultancy services (A2915862)

OFFICIAL

Good Morning,

Please find attached minute and attachment regarding BII Review consultancy services, endorsed by Deputy Under Treasurer, Tammie Pribanic to be forwarded to the Under Treasurer for consideration.

Thank you.

Natasha Rizzo

Business Coordinator | Governance and Corporate Services
South Australian Government Financing Authority (SAFA)

State Administration Centre, 200 Victoria Square, ADELAIDE, SA, 5000
t 8429 2375 | e Natasha.Rizzo2@sa.gov.au | w safa.sa.gov.au



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Government of South Australia
Department of Treasury
and Finance

MINUTES forming ENCLOSURE

File: SAF22/1157

Doc No: A2915862

To: The Under Treasurer

Endorsed: Tammie Pribanic, Deputy Under Treasurer

BUILDING INDEMNITY INSURANCE REVIEW – ENGAGEMENT OF CONSULTANTS

Timing: ROUTINE - For noting and approval by 4/08/2023

Recommendations/Issues: It is recommended that you:

- note that the South Australian Government Financing Authority (SAFA) and Consumer and Business Services (CBS) (AGD) have commenced a joint review of the administrative and financial frameworks for Building Indemnity Insurance (BII);
- note that SAFA is seeking to conduct two separate procurement processes for services related to the review:
 - to engage a consultant to conduct a jurisdictional analysis of similar schemes;
 - to engage a consultant to conduct stakeholder engagement.
- note that SAFA anticipates that each of the procurements will have a value between \$11,000 and \$55,000 (incl. GST);
- note that DTF's Procurement Matrix requires the Under Treasurer's approval prior to approaching the market with consultancy procurements valued at more than \$11,000 (incl GST) and also requires a minimum of one written quote for procurement projects with a value of less than \$55,000 (incl GST); and
- approve SAFA seeking a quotation and scope of work from **Clause 7(1)(c)** to conduct the jurisdictional analysis for the BII Review; and
- approve SAFA seeking a quotation and scope of work from at least one organisation to conduct stakeholder engagement for the BII Review.

Approved/~~Not Approved~~

Rick Persse
UNDER TREASURER

4 / 7 / 2023

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Key Points:

- On 16 January 2023, the Treasurer noted that SAFA and CBS commenced a joint review of the administrative and financial frameworks for BII, including the establishment of a steering committee comprising senior executives and project staff from SAFA and CBS to oversee the review (copy attached).
- Fundamental to the review is:
 - an understanding of the current landscape, including what is working well, and the challenges faced by other jurisdictions in delivering building indemnity insurance, and
 - consideration of stakeholders' experiences and perspective on BII and related consumer protections.
- SAFA is seeking to conduct two separate procurement processes to engage consultants to prepare a jurisdictional analysis and conduct the stakeholder engagement process.
- SAFA anticipates that each of the procurements will have a value between \$11,000 and \$55,000 (incl. GST)
- Pursuant to the DTF Procurement Matrix, approval from the Under Treasurer is required prior to approaching the market with consultancy procurements valued at more than \$11,000 (incl GST). It also requires a minimum of one written quote for procurement projects with a value of less than \$55,000 (incl GST).

Jurisdictional analysis

- Arrangements and models utilised in other jurisdictions will assist the BII review project team to identify common challenges and possible solutions, and will assist in the selection of areas of inquiry for the South Australian review.
- Reviews are underway in most other jurisdictions around Australia. SAFA has provided input to similar BII related jurisdictional reviews conducted by **Clause 7(1)(c)**
- SAFA intends to seek a quotation ^{Clause 7(1)(c)} with a view to minimising costs by leveraging work already undertaken by **Clause 7(1)(c)**

• **Clause 7(1)(c)**

Stakeholder consultation

- Stakeholders' experiences and perspective on BII, and on related consumer protections, are integral to the review and is important these are appropriately captured and considered. Stakeholders include builders, tradespersons, building associations, homeowners, developers, local government, State government, insurers, regulators, and insurance companies.

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- Stakeholder consultation will include a variety of consultation activities tailored to the individual stakeholder groups, such as focus groups, and the release of a public consultation paper.
- Stakeholder feedback will inform SAFA and CBS' recommendations to the South Australian Government on Bill arrangements and consumer protections.
- SAFA is seeking to engage a small team with experience conducting public consultation within a government context to conduct stakeholder engagement for the review.
- Department for Premier and Cabinet and Attorney-General's Department have provided SAFA with details of South Australian consultants who have conducted similar work for government in the past. SAFA will seek quotations and scopes of work from three South Australian based organisations from these lists.

Recommendations

- As the value of both procurements are estimated at a value between \$11,000 and \$55,000 (incl. GST) approval for SAFA to proceed is within your delegated authority pursuant to the DTF Procurement Matrix.
- SAFA therefore requests you approve SAFA seeking a quotation and scope of work ^{Clause 7(1)(c)} to conduct the jurisdictional analysis, and approve SAFA seeking a quotation and scope of work from at least one organisation to conduct stakeholder engagement for the Bill Review.



Jenny White
A / CHIEF EXECUTIVE OFFICER, SAFA

21/07/ 2023

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