

QUEENSLAND



# 1997 Queensland Progress Report



***QUEENSLAND'S ANNUAL REPORT TO  
THE NATIONAL COMPETITION COUNCIL  
RELATIVE TO FIRST TRANCHE ASSESSMENT***



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## 1. INTRODUCTION

Under Clauses 3(10) and 5(10) of the Competition Principles Agreement, Queensland is required to provide annual reports to the National Competition Council (NCC) on progress with competitive neutrality and legislative review.

Whilst formal reporting by States and Territories on the application of the Competition Code and of achievement of COAG objectives in relation to electricity, gas and road transport is not required under the competition policy agreements, the NCC has requested a report covering these matters to facilitate the Council's competition payments assessment process.

Queensland is pleased to provide its first annual report to the NCC covering these matters. This report complements information which has already been provided to the NCC as part of an on-going dialogue on reform issues.

There are two issues which Queensland considers should be commented on up-front.

First, the Council, in its draft assessment of Queensland's performance, has pointed out that gas reform has not progressed as originally envisaged and that agreement is needed on amendments to the time frame for introduction of the national access code.

The Council has taken the position that it can only assess progress against the COAG commitments on gas reform as reflected in the February 1994 and June 1996 communiqués.

The Queensland Government considers this position is no longer applicable given that the Prime Minister has recently approached all jurisdictions proposing a way forward for gas reform.

It is understood that the NCC has now been advised to this effect. At the Prime Minister's initiative, a Gas Reform Implementation Group has been established and is moving towards an access Code and implementation time frame agreeable to all jurisdictions. Queensland has given similar assurances as other jurisdictions to the Prime Minister about progressing implementation of the reform agenda.

Second, the Council has noted that Queensland has a significant number of legislative reviews scheduled for 1999-2000. The Council has previously

expressed concern that participating jurisdictions may not complete the legislation review and reform process by the year 2000 target date (for example, because particular reviews may point to the need to phase in reform action). The Council has stressed its view that completion of the program and all associated reforms by the target date of the year 2000 is a clear obligation under the Competition Principles Agreement. Further, the Council has stated that any jurisdiction which is unable to confirm that it will complete its program of reviews and implement the associated reforms by the year 2000 would not meet fully its legislative review commitments.

As previously advised, the Queensland Government expects to meet the Council's requirements on the time frame for completion of the reviews. Where some of the reforms are more detailed and complex, the Queensland Government will keep the implementation process under scrutiny in an endeavour to meet the time frame.

Having said this, it should be pointed out that clause 5(3) of the Competition Principles Agreement states that "... each party will develop a timetable by June 1996 for the review, and **where appropriate**, reform of all existing legislation that restricts competition by the year 2000."

There has been considerable debate about the interpretation of this clause (for example, whether it requires all the reforms to be implemented by the year 2000).

Without wishing to dwell on this issue, it is suggested that an overly dogmatic interpretation of the provision would not be constructive, given that a pragmatic approach to reform may, in some limited cases, involve a staged implementation process extending beyond the year 2000.

The Annual Report is structured to address the NCC's draft assessment.

## 2. COMPETITION CODE

*The Competition Policy Reform (Qld) Act 1996* was enacted on 10 July 1996 and received Royal Assent on 17 July 1996.

### 3. LOCAL GOVERNMENT

Much of the NCP reforms at a local government level will centre around the application of competitive neutrality and the review of anti-competitive legislation (including local laws). However, certain other aspects of NCP are also likely to apply in certain situations.

In particular, it is expected that prices oversight and third party access will be applicable to the larger business activities of the major urban councils. In fact, in the case of prices oversight, it is possible that the monopoly business activities of the larger councils will be subject to a State-based prices oversight regime.

The COAG urban water reforms will also apply to local governments, again particularly the larger urban councils. It is also possible that some council business activities could be subject to action under Part IV of the *Trade Practices Act*, should breaches of this legislation be demonstrated.

As previously brought to the NCC's attention, the current absence of Commonwealth Government agreement to the application of a Tax Equivalent Regime to local government business activities has the potential to seriously prejudice the successful implementation of NCP reforms at the local government level.

Most commentary on local government NCP initiatives in this report will centre around competitive neutrality and legislation review reforms. However, for completeness, initiatives in relation to the other aspects of NCP are also included. In particular, the table at Attachment 1 details progress on the implementation of each NCP initiative as outlined in *National Competition Policy and Queensland Local Government* and as listed in Appendix C of the National Competition Council's letter of 12 February 1997 to the Under Treasurer.

Attachment 2 is a list of various policy documents and related papers which have been prepared as part of the Government's local government NCP implementation strategy. Each of these documents is to be forwarded separately to the National Competition Council.

## **4. COMPETITIVE NEUTRALITY**

### **4.1 Overview**

Overall, progress toward implementing the competitive neutrality element of National Competition Policy in Queensland is proceeding largely according to the timetable set out in the Queensland Government's Competitive Neutrality Policy Statement. This annual report is based on the state of progress as at the end of the first week in March.

Following the publication of the Government's policy statement on competitive neutrality which set out the policy framework for implementation, efforts are now focused on the practical aspects of implementation. In particular, attention is now focussed on:

- finalising various supporting policies (eg. full cost pricing policy) and guidelines (eg. for undertaking public benefit tests);
- undertaking public benefit tests and implementing reforms for those candidate significant business activities identified in the policy statement; and
- finalising legislation for the establishment and conduct of a competitive neutrality complaints mechanism.

Key issues earmarked by the Council in its draft assessment for comment are: the intended scope of competitive neutrality reform; and, the coverage of the complaints mechanism. The scope of reform is addressed in 4.2. The coverage of the complaints mechanism is addressed in 4.4.

A summary of overall progress to date is provided in Attachment 3. Further detail on aspects itemised in Attachment 3 is provided in following sections.

### **4.2 Scope of reform**

The Queensland Government published, in July 1996, a policy statement on how, when and where it would apply competitive neutrality reform to its significant business activities (SBAs). This statement sets the overall policy

framework for reform including the criteria for identifying activities for consideration.

These criteria specifically state that a range of factors will be taken into account in determining “significance” including: the scale of operation; the impact of the activity on the market in which it operates; and, the impact of the activity on the Queensland economy. While it is useful to use expenditure data as an initial proxy for these factors, it is quite clear that expenditure thresholds are a guide only and activities which do not meet these expenditure thresholds are not precluded from consideration.

It is the Queensland Government’s intention to focus, in the initial stages of competitive neutrality reform implementation, on those government businesses whose reform promises to yield the greatest immediate gain. In particular, efforts are being concentrated on those activities which are most likely candidates for commercialisation or corporatisation reforms. Typically, these are likely to be activities whose size of operation is greater than around \$10 million current expenditure per annum. This is not to say, however, that activities of a smaller scale are not to be considered for reform. Indeed, many significant efficiency and equity gains are to be made to the reform of smaller government business activities or where government competes with the private sector. This is especially so for local government business activities.

It is the Queensland Government’s intention to progressively focus on smaller government activities and subsequently add them to the list of significant business activities. Many of these smaller activities will be highlighted through the annual reporting of complaints. This process may be supplemented in the future if the government decides to extend the coverage of the complaints mechanism to all government activities (refer to 4.4).

### **4.3 Status of reforms to specific SBAs**

This section details the progress made (against the timetable set out in the policy statement) toward implementing competitive neutrality reform for individual significant business activities and candidate significant business activities, as listed in the policy statement.

All of the significant business activities scheduled for reform by July 1996 have now been reformed in accordance with the nature of reform set out in the policy statement.

While reforms to some activities have progressed ahead of schedule, there is some slippage with public benefit tests for one or two candidate significant business activities. This has been largely due to complexities associated with the particular activity and to initial problems in undertaking public benefit tests. Essentially, there is to be some expected lag in application due to a learning process associated with departments familiarising themselves with the public benefit test concept and methodology.

Of the candidate SBAs identified in the policy statement:

- competitive neutrality reforms are currently being implemented by five;
- ten are the subject of public benefit tests (with seven due for completion by June 1997);
- university business activities are being reviewed as part of the Commonwealth's review of higher education;
- three are to be subject to public benefit tests once a decision to introduce competition has been made;
- a decision has been made to seek expressions of interest from the private sector compatible with an orderly exit by the Queensland Government from the operation of the Queensland Abattoir Corporation; and
- the Public Trust Office is not due for review until December 1997.

Attachment 4 sets out in detail the current status and proposed outcome for each significant business activity and candidate significant business activity.

#### **4.4 Complaints Mechanism**

Queensland's complaints mechanism is scheduled to be operational by July 1997. Legislation giving effect to the mechanism has been drafted and consultation has occurred with government departments and agencies. Consultation on the draft legislation is now being conducted with affected parties external-to-government.

The mechanism will be administered by the Queensland Competition Authority, a body independent of government.

The complaints mechanism role will entail the QCA receiving complaints from competitors of the government's significant business activities; investigating those complaints; and, reporting to the responsible Ministers as to whether the complaints are substantiated. This report will also make recommendations, where appropriate, as to possible remedial action to overcome any lack of

compliance with competitive neutrality principles. The Ministers will then decide, in consultation with the Minister responsible for the business activity in question, on what action to take in response to the report. The QCA will not have powers to make determinations or to enforce its recommendations with respect to competitive neutrality.

The key features of the mechanism are:

*(i) who may lodge a complaint and ground for complaint*

Persons who are, or could be, competing with SBAs can complain to the QCA when they consider the SBA is not competing fairly due to the advantages the SBA enjoys by way of public ownership.

The complainant must be able to show that they are adversely affected and are either in competition or could be in competition with the SBA.

*(ii) which government activities will be affected*

It is proposed that the mechanism will only apply to those government business activities which the government has determined are SBAs that should be competing on a competitively neutral basis. SBAs will be prescribed by gazette notice. At this stage, those activities (with the exception of QBuild, QFleet and Transport Technology) which are listed in Table 2 of the policy statement will be subject to the complaints mechanism.

It is the Queensland Government's view that the Competition Principles Agreement only requires that the complaints mechanism apply to 'significant business activities' which are subject to competitive neutrality reform.

Nevertheless, whilst the Government intends to limit its complaints mechanism only to those businesses in the first instance, there may be potential for the complaints mechanism to apply to a broader range of business activities in the future (for instance, depending upon implementation of the Code of Conduct to Local Government and lower order competitive neutrality reforms which will occur as a result of competitive service delivery).

This approach has been taken primarily in order to limit the application of the complaints mechanism until experience is gained in administering the mechanism for its significant business activities.

*(iii) process*

A complainant must submit their complaint in writing, providing sufficient details to support their claim. This is not to say, however, that they must provide substantial evidence of a lack of competitive neutrality. For example, it may be sufficient to show evidence that the SBA is consistently able to price substantially below other competitors.

The Authority will have power to reject a complaint if it reasonably considers, amongst other things, the complaint is vexatious or frivolous.

If the Authority decides to investigate the complaint, it must notify certain prescribed interested parties. It has substantial powers and flexibility as to how it conducts the investigation. For example, it may hold public hearings, conduct workshops, and establish working groups and task forces.

In an investigation, the Authority must act with as little formality as possible. Submissions may be made in writing or orally.

Once the Authority has finalised its investigation, it must report to the Ministers responsible<sup>1</sup>. The Ministers must respond to the report within a period of time. This report will be publicly available<sup>2</sup> as will the Ministers' decisions and reasons supporting their decision.

*(iii) tender processes and rights of complainant*

Neither the lodging of a complaint nor the substantiation of a complaint would give rise to any rights in the complainant against the SBA or the government. For example, if a complaint is substantiated by the QCA and accepted by the Ministers, it is proposed that a complainant would not be entitled to damages or to have the decision under a tender process reversed.

It is expected that this aspect of the complaints process will be a potential source of some private sector dissatisfaction, particularly if complainants wish to have some form of immediate redress for their grievances. It is considered, however, that the costs associated with the disruption to tender processes would outweigh any benefits from allowing this form of redress. It would be preferable to review this aspect of the complaints mechanism at a later stage if there appears to be a problem.

*(iv) accreditation of significant business activities*

To provide some certainty for SBAs as to whether they are competitively neutral, it is proposed that the QCA will be able to grant competitive neutrality



accreditation to an SBA. This accreditation would be an effective bar to complaints being lodged against the SBA.

### *Procedural guidelines*

It is intended that procedural guidelines will be developed by the Authority.

### *Complaints received*

There have been four formal complaints received to date regarding the operations of Queensland government businesses. In the absence of a formal complaints mechanism, the complaints have been dealt with by Treasury's NCP Unit in conjunction with the relevant portfolio department. Each complainant has been informed that they will be able to pursue their complaints, if they wish, with the Queensland Competition Authority, once established. Details of each complaint are set out in Attachment 5.

The key issue dealt with, to date, has been how to treat the provision of CSOs to a government business activity (enabling it to price below competitors and below full cost) which is operating in a competitive market. This was the issue in question in the complaint lodged by Coachtrans bus company against Queensland Rail.

The approach that the Queensland Government has taken in relation to this issue is that, under the NCP agreements, it is within the government's discretion to act in an anti-competitive manner provided that:

- there is a net public benefit;
- it is supported by an explicit and transparent government policy objective; and
- that policy objective can only be achieved by restricting competition.

## **4.5 Local Government**

The most extensive NCP reforms to apply at a local government level in Queensland relate to competitive neutrality. This is potentially a much more significant issue for Queensland than other States due to the extent of large business undertakings performed by Queensland's larger urban councils, particularly in relation to water and sewerage activities (which are not functions of local governments in most other States).

The Government's approach to competitive neutrality reforms has been to prioritise reform efforts to the 17 largest local governments. These councils are now required, under legislation, to undertake public benefit assessments of competitive neutrality reform options (i.e. corporatisation, commercialisation and full-cost pricing) to their "significant business activities", mostly water and sewerage and garbage activities.

Over time, the number of councils and the range of business activities subject to this process is likely to increase as additional council business undertakings grow in size above the predetermined expenditure thresholds. However, in relation to council business activities of a smaller size, and particularly those which compete with the private sector, the Government has proposed a voluntary Code of Competitive Conduct, which essentially applies full-cost pricing to those business activities. This code is proposed to apply mandatorily to roadwork activities which compete on an open-tender basis.

A full list of local government competitive neutrality initiatives since the release of the Government's policy statement on local government is included in the table at Attachment 1.

Attention is drawn to the Queensland Government's decision to share a significant proportion of its competition payments from the Commonwealth with those local governments which consider and, where relevant, implement NCP reforms. It is intended that this funding package will provide a major incentive for all councils to consider competitive neutrality and other NCP reform options. Full details of this funding package were considered by Queensland Cabinet on 1 April 1997 and announced publicly on 2 April. These details will be forwarded to the NCC following public release.

## **5. STRUCTURAL REFORM OF PUBLIC MONOPOLIES**

The January 1995 corporatisation of the Queensland electricity industry created a government owned electricity generating company (AUSTA Electric) responsible for around 80% of the State's power supply and a government owned transmission and supply company (the Queensland Transmission and Supply Corporation) which, through its eight subsidiaries, is responsible for transmission, distribution, system control and retail supply in Queensland.

Ahead of introducing competition to the Queensland electricity industry consistent with the COAG electricity reform agenda, the Queensland

Government appointed an independent Queensland Electricity Industry Structure Task Force in June 1996 to report on structural, institutional and regulatory arrangements for the industry. Following extensive consultation and research, the Task Force submitted its report in December 1996. A copy of the report has previously been forwarded to the NCC.

The Queensland Government endorsed the Task Force report as the blueprint for introducing competition to the Queensland electricity industry.

The Task Force report included detailed consideration of the need to introduce competition to the potentially competitive sectors of the industry (particularly generation and retail) and optimal measures, including structural changes, for achieving competition in these sectors.

In relation to the Government owned sector, this involves:

- splitting AUSTA Electric into 3 competing generator businesses; and
- disaggregation of QTSC, including separating out transmission into an independent government owned corporation and establishing 3 government owned retail corporations.

When combined with Queensland's commitment to implement the National Electricity Market reforms generally, (for example, non-discriminatory entry for new participants in generation and retail supply), it is contended that Queensland has fully complied with the requirements under the Competition Principles Agreement to the extent that reform is currently being introduced to an area traditionally supplied by a public monopoly or near monopoly.

## **6. LEGISLATION REVIEW**

This section not only reports progress on the review of legislation containing anti-competitive provisions that have been scheduled for review in 1996/97, but also provides other information sought by the NCC as part of this reporting process.

### **6.1 Adequacy of the review program**

#### Casino Agreement Acts

The NCC has sought the inclusion of Queensland's four casino agreement acts on the timetable for review of existing legislation that restricts competition.

The four acts are as follows:

- *Brisbane Casino Agreement Act 1992*
- *Jupiters Casino Agreement Act 1983*
- *Cairns Casino Agreement Act 1992*
- *Breakwater Island Casino Agreement Act 1984*

The restrictions in all four agreement acts amount to an undertaking not to issue any further casino licences within a defined area of the existing casino for a set period of time. For example, with respect to the *Brisbane Casino Agreement Act*, the defined area is 60 km of the existing casino and this restriction applies for 10 years. The acts do not preclude the granting of a further licence outside of that defined area.

As the NCC is aware, Queensland sought to exclude these agreement acts from review under NCP on the grounds that they underpin significant private sector involvement in casinos and, being of a contractual nature, the potential would exist for the State to be exposed to a claim for damages should the legislation be altered without the consent of the relevant private sector contracting party.

Queensland's concerns about conducting a public review for the reasons already stated remain. However, as previously advised, the Queensland Government is prepared to provide the NCC with a report on the nature of the anti-competitive restrictions in the legislation and provide public benefit justification for the retention of the anti-competitive provisions. The *Casino Control Act 1982* and the *Casino Control Regulation 1984* are deemed to contain restrictions on competition and are scheduled for review in 1998/99.

#### Unscheduled reviews listed in the Timetable

The NCC has requested details of the proposed timing of three pieces of legislation that appear on the Timetable but were yet unscheduled. The proposed timing for these reviews is given below:

<u>Department</u>	<u>Legislation</u>	<u>Proposed Timing</u>
Local Government & Planning	<i>Local Government (Planning and Environment) Act 1990</i> <i>(new Act will be Integrated Planning Act)</i>	1996/97

Education	<i>Education (Overseas Students) Bill 1996 (now an Act)</i>	1997/98
Health	<i>Mental Health Act 1974</i>	1997/98

### Process for updating and changing the Timetable

As a general principle, the Queensland Cabinet and the NCC will be advised of any amendments to the timing of reviews scheduled in the Timetable as part of the annual reporting process. Consideration would also be given to advising (or seeking approval of) Cabinet in relation to varying the timing of a major review where the change of timing could have significant implications for industry, the community in general or government. This would be decided on a case-by-case basis.

Deletions from the Timetable would require detailed justification as the basis for Cabinet approval and subsequent advice to the NCC. An example would be where legislation has been included on the Timetable prior to a detailed examination to determine if legislative restrictions are actually anti-competitive.

Additions to the Timetable would follow a similar reporting path. Any anti-competitive legislation passed since 11 April 1995 without public benefit justification would require inclusion in the Timetable.

### Reviews scheduled in 1999/2000 and phasing-in of reforms

The draft assessment notes that Queensland has a significant number of reviews scheduled for 1999-2000 and that the timetable indicates that there may be a phasing-in of some reforms beyond the year 2000. The NCC has sought advice on these matters.

Queensland has only one review scheduled for 1999/2000.

Queensland does, however, have a significant number of reviews (some 50) set down for 1998/99. However, it should be recognised that Queensland has a significant legislative review program that requires the examination of some 170 Acts and Regulations which amounts to over 130 reviews during the period

1996/97 and 1999/2000. The NCC is assured that Queensland will be closely monitoring its legislation review program and departments will be advised of the NCC's concerns about the scheduling of such a significant number of reviews late in the review period. It is possible some of these reviews could be brought forward to coincide with the reviews in other jurisdictions or with competitive neutrality reviews.

The possible phasing-in of reforms that extend beyond the year 2000 is a completely separate matter. Queensland is of the view that the Competition Principles Agreement requires all anti-competitive legislation on the Timetable to be reviewed and appropriately (but not necessarily completely) reformed by the year 2000: that is to say, reform by the year 2000, "where appropriate". The relevant reference - Clause 5(3) - is to be read in conjunction with Clause 5(2) which states that each jurisdiction is free to determine its own agenda for the reform of legislation that restricts competition, hence the importance of the words "where appropriate". It is understood other jurisdictions share this interpretation of what is required by the year 2000.

Nevertheless, Queensland expects that there will be relatively few instances where reforms have not been translated into legislation by the end of the year 2000 or where the legislation provides for transitional arrangements that extend past that time. Any transitional arrangements would need to be justified in the context of the reform options considered during the Public Benefit Test and in relation to the reform recommendations put to Cabinet. The NCC would be advised on a case-by-case basis in these circumstances.

## **6.2 The competition policy implications of new legislation are routinely examined**

### Procedures for ensuring new legislation comply with the Competition Principles Agreement

Clause 5(5) requires that new legislation that has anti-competitive elements is shown to satisfy the guiding principle in Clause 5(1). This requires that the benefits of the restriction to the community as a whole outweigh the costs, and the objectives of the legislation can be met only by restricting competition.

As indicated previously, new and amending legislation enacted since 11 April 1995 has generally complied with the Clause 5(5) requirements. On 1 April 1997, Queensland Cabinet approved "gatekeeping" arrangements for new and

amending legislation to formalise the oversight of such proposals in terms of satisfying the requirements of Clause 5(5). Key requirements of these arrangements include consultation with the NCP Unit of Queensland Treasury in relation to all proposals for new and amending legislation to determine if there are any NCP issues. Another requirement is the undertaking of a Public Benefit Test in accordance with approved guidelines, with a summary of the test results required to accompany any proposal to Cabinet for new or amending legislation that restricts competition. An overview of the public benefit test guidelines for legislation review is at Attachment 7.

### Anti-competitive legislation enacted since 11 April 1995

The NCC has expressed a desire to be advised in relation to any anti-competitive legislation enacted since the Competition Principles Agreement came into effect on 11 April 1995. The information to be provided is required to indicate either that Clause 5(5) has been complied with, or when the new legislation will be scheduled for review.

Attachment 8 summarises the response to this issue.

## **6.3 Adequacy of progress with legislation review and reform**

### Reviews scheduled for 1996/97

On 1 April 1997, Queensland Cabinet endorsed the Public Benefit Test Guidelines containing the methodology to be used in undertaking the review of anti-competitive legislation. These guidelines have previously only had draft status. Departments have already begun to examine existing legislation slated for review in 1996/97 often in a broader context than NCP, although the terms of the NCP review may not yet have been agreed. Except where stated otherwise, all reviews scheduled for 1996/97 will begin during the current financial year.

Attachment 9 provides details of the status of all legislation with proposed review timing of 1996/97 in the *Queensland Legislation Review Timetable* (the Timetable).

### Joint-jurisdictional and national reviews

As the NCC is aware, Queensland's Timetable lists legislation forming part of joint or "cooperative" Commonwealth-State regulatory arrangements. The Timetable was based on the expectation that the review of this legislation would be coordinated at a national level.

All jurisdictions are participating in a process of determining candidates for national reviews. An extensive listing of possible legislation suitable for national review includes the legislation referred to in the previous paragraph. From this lengthy list, first- and second-order candidates were recommended to COAG senior officials for consideration at their meeting on 31 January 1997. That meeting endorsed the undertaking of further work to finalise terms of reference and review arrangements for a number of first-order candidates, namely those that have been considered as part of the Small Business Deregulation Task Force. The legislation in question relates to Food Standards, and Agricultural and Veterinary Chemicals. Senior officials also directed that consideration be given to advancing other candidates including second-order candidates for national reviews. Queensland Cabinet is required to endorse Queensland's participation in any national reviews.

Queensland is supportive of undertaking the review of relevant and appropriate legislation on a national basis as indicated by authoring and coordinating amendments to the paper on national review candidates put recently to COAG senior officials. However, it is fair to say that progress has been relatively slow in developing a list of legislation for national review that has the support of all (or even most) jurisdictions.

The NCC has sought advice on Queensland's approach in the event that legislation identified in the Timetable for potential review on a national basis is not ultimately reviewed on a national basis. The legislation fitting this description falls into two categories: legislation that is listed but unscheduled in the Timetable (i.e. joint or "cooperative" Commonwealth-State regulatory arrangements); and legislation that is both listed and scheduled in the Timetable.

For listed but unscheduled legislation, should a national review not proceed, the Queensland Cabinet would be asked to endorse a State-based review of relevant Queensland legislation, where this is possible and meaningful under the circumstances. For listed and scheduled legislation, State-based reviews will proceed as scheduled unless a national review has been agreed by that time.



Consideration would be given to deferring a review if agreement to a national review was imminent.

There are various models of national reviews including some where a particular jurisdiction takes a lead role. In some cases such as where national schemes currently apply or are intended to apply, line agencies in various jurisdictions are participating in a coordinated exercise where a particular jurisdiction undertakes a review in consultation with remaining jurisdictions and the latter examine the review outcomes in their own context (e.g. cooperatives legislation presently being reviewed by Victoria). While not strictly a national review in the true sense, work is progressing in various areas which will be examined by Queensland in due course for adoption providing NCP requirements are satisfied. Alternatively, Ministerial Councils are undertaking review activities (e.g. Western Australia is developing draft terms of reference for review of legislation pertaining to travel agents) which will take account of NCP.

### Sugar Industry Review

The Queensland and Commonwealth Governments have endorsed the recommendations of the Sugar Industry Review. The review report has been provided to the NCC. Queensland will keep the NCC informed of progress on any necessary legislative changes to give effect to the recommendations of the review.

### Legislation excluded from the Timetable for natural resource management reasons

The NCC has requested that the title and objectives of any legislation excluded from the Timetable on the grounds of the resource management exemption provided in the Timetable be provided as part of this first annual report. This information is given at Attachment 10.

## **6.4 Local Government**

The table at Attachment 1 details initiatives of the Government in relation to applying legislation review to local laws. As outlined in the July 1996 policy statement, it is proposed that the initial identification of those local laws which restrict competition will be undertaken in a two-stage process, namely the larger 17 councils are to assemble lists of their anti-competitive local laws by mid-year, with other councils to do like-wise by early 1998.

## 7. ELECTRICITY

An independent Electricity Industry Structure Taskforce was established in June 1996. The Taskforce recommended to Cabinet in late 1996, a set of structural, institutional and regulatory arrangements for the electricity supply industry. A copy of the Taskforce's Report has been provided to the National Competition Council (NCC). The Government has established the Queensland Electricity Reform Unit (QERU) to implement the reform arrangements.

The Queensland Government (through QERU) is committed to the establishment of a competitive electricity market through a number of initiatives, including:

- commencement of an interim market in the last quarter of 1997; and
- customers to become contestable according to the following Threshold Reduction Strategy:

Date	Customer market threshold (GWh pa)	No. of customers in category
1 January 1998	>40	37
1 January 1999	>4	346
1 January 2000	>0.2	6,317
1 January 2001	<0.2	1,407,000

The *Electricity Act 1994* is being reviewed to facilitate the implementation of the interim market in the last quarter of 1997. Amendments to the legislation will be enacted prior to the interim market's commencement and will ensure consistency with the Competition Principles Agreement and the *Trade Practices Act 1974*. In addition, the Government remains committed to participation in the National Electricity Market, and legislation to apply the National Electricity Law in Queensland is currently scheduled for introduction and enactment in May or June 1997. To enable the application of the National Electricity Law, Queensland's derogations from the National Electricity Code are nearing finalisation.

Queensland is undertaking reforms in relation to specific reform commitments as follows:

*Commitment:* Under the COAG electricity agreements, Queensland is committed to establishing an interconnection with New South Wales, after which it is to become a participant in the national market.

The interconnection with New South Wales is scheduled for 2000/2001. Joint effort is proceeding with New South Wales to identify a route for the interconnection and an independent analysis of the interconnection's economic costs and benefits is being conducted.

*Commitment:* COAG agreed to the structural separation of generation and transmission.

COAG agreed to the ring-fencing of the 'retail' and 'wires' businesses within distribution.

Structural separation of transmission and generation occurred in January 1995 with the corporatisation and separation of generation (AUSTA), transmission (a separate subsidiary of QTSC) and distribution/retail (seven subsidiaries of QTSC).

The commitments to ring-fencing distribution and retailing functions will be met on 1 July 1997 when:

- the existing distribution corporations are to become independent corporations and three new independent retail corporations are to be established; and
- Powerlink Queensland is to be separated into two independent corporations
- a transmission network management corporation and a system planning corporation.

In conjunction with the July 1997 changes, AUSTA is also to be split into three independent and competing government owned generators.

## 8. COAG GAS REFORM

### **Reform Commitments in Relation to Implementation of a National Framework for Access to Gas Transmission Lines**

The Council's draft assessment in relation to the implementation of a national framework for access to gas transmission lines indicates that Queensland may not be regarded as having made satisfactory progress when assessed against the reforms and timetables in the February 1994 and June 1996 COAG Communiqués.

Reference to the commitments in the COAG Communiqués for assessment is no longer applicable. The Council's assessment refers to what was a COAG commitment arising from the Gas Reform Task Force, which was disbanded on 16 December 1996.

The Prime Minister has since taken over the gas reform initiatives and has appointed a Gas Reform Implementation Group (GRIG) to progress reforms and Queensland is an active participant on the GRIG. The GRIG is currently developing an access Code acceptable to all jurisdictions, as well as a time frame for implementation. It is understood that the majority of outstanding issues have been resolved. Queensland's key concern was the inclusion in the Code of a competitive tendering process section. All jurisdictions have now agreed to this inclusion. Further, it is anticipated that negotiations on the Inter-Governmental Agreement to underpin the operation of the National Gas Access Code will be completed shortly.

In relation to open-ended exclusive franchises, no new open-ended exclusive franchises have been approved in Queensland. Approvals to develop new distribution franchises have been granted on the understanding that they will be subject to open access provisions upon the introduction of the national gas access regime. Approvals which have been given on this basis are for distribution in the centres of the Sunshine Coast, Gympie, Maryborough and Hervey Bay and have been applied to new arrangements for Bundaberg.

The Queensland Department of Mines and Energy is currently working with gas industry participants in developing a threshold reduction strategy (TRS) for the orderly introduction of open access principles into the Queensland market. The TRS will be generally consistent with those proposed by other participating jurisdictions.

## Reform commitments in relation to issues other than a national framework for access

*Commitment:* COAG agreed that reforms to the gas industry to promote free and fair trade be viewed as a package and that each government would move to implement the reforms by 1 July 1996.

The Council has suggested that the 1 July 1996 deadline be regarded as binding unless it has been amended by subsequent unanimous agreement between the parties. As outlined above, commitments based on the nominated COAG communiques are no longer applicable. The GRIG has been given the task of developing policies and timetables acceptable to all jurisdictions.

*Commitment:* COAG agreed to remove all remaining legislative and regulatory barriers to the free trade of gas both within and across their boundaries by 1 July 1996.

S43 of the *Gas Act 1965* states that:

*“A fuel gas supplier shall not make a contract for the supply of the fuel gas being indigenous natural gas or liquefied petroleum gas derived from indigenous natural gas, where such a contract provides for a rate of delivery in excess of 1 petajoule per year or delivery of a total quantity of 5 petajoules, unless the Governor in Council has approved the making of the contract in question.”*

This section is seen as a legislative barrier to free trade of gas and is in the process of being repealed. No other legislative barriers have been identified.

*Commitment:* COAG agreed to adopt AS 2885 to achieve uniform national pipeline construction standards by the end of 1994 or earlier.

AS 2885 is called up in the *Queensland Petroleum Regulation (land)* (Regulation 237)

*Commitment:* COAG agreed that approaches to price control and maintenance in the gas industry be considered in the context of agreed national competition policy.

Under the Gas Act, the Minister has the capacity to establish a gas tribunal which has the authority to investigate the prices of delivered gas. Any tribunal established will take account of NCP principles. The matter of the Australian Consumer and Competition Commission (ACCC) being suggested as the industry regulator for transmission pipelines is being considered by Queensland. However, Queensland has indicated that the ACCC may be a suitable regulator of the national gas market but this is subject to further Cabinet consideration.

**Commitment:** COAG agreed that where publicly-owned transmission and distribution activities are at present vertically integrated, they be separated, and legislation introduced to ring-fence transmission and distribution activities in the private sector by 1 July 1996.

There are no publicly-owned transmission and distribution services in Queensland that are vertically integrated. Currently, in Queensland, there are three main transmission pipelines and two main natural gas distributors that are privately owned. Major gas industry participants are aware that transmission and distribution assets will need to conform with the ring-fencing provisions of the national access code.

**Commitment:** COAG agreed to place their gas utilities on a commercial footing, through corporatisation, by 1 July 1996.

There are no State Government-owned gas utilities in Queensland. The two publicly-owned gas utilities are owned by Dalby Town Council and Roma Town Council. Under the policy outlined in Queensland's July 1996 statement of application in relation to the implementation of competitive neutrality to local government business activities, only those activities with annual current expenditure greater than \$5 million in 1992-93 terms (ie Type 1 and 2 activities) are required to consider competitive neutrality reform (ie corporatisation, commercialisation or full cost pricing). Both these gas utilities fall well below this threshold.

The activities may qualify as Type 3 business activities (depending upon the extent they compete with the private sector). Local governments will be encouraged, through a range of incentives, to implement competitive neutrality reforms through the adoption of a Code of Competitive Conduct.

## 9. NATIONAL ROAD TRANSPORT REFORMS

The national road transport legislation, as envisaged in the Heads of Government Agreement, is divided into six modules, each comprising one set of regulations, with the exception of the Vehicle Operations module which comprises eight sets of regulations. These modules are as follows:

- Heavy Vehicle Charges - implemented 1 July 1995
- Vehicle Operations
  - Restricted access vehicles - to be implemented by September 1997
  - Mass and loading - implemented December 1995
  - Oversize and over mass - to be implemented by September 1997
  - Heavy vehicle standards - to be implemented by September 1997
  - Light vehicle standards - to be implemented by September 1997
  - Australian Road Rules - to be implemented by mid-1998
  - Truck driving hours - to be implemented by June 1997
  - Bus driving hours - to be implemented by June 1997
  - Dangerous Goods - to be implemented by June 1997
  - Heavy Vehicle registration - to be implemented by January 1998
  - Driver Licensing - to be implemented by July 1998
  - Compliance and Enforcement - to be implemented by July 1998

In order to implement the national road transport legislation, the *Transport Operations (Road Use Management) Act* was established in 1995. The primary purpose of the *TO(RUM) Act 1995* is to establish the legislative framework and initial administrative structures to implement national road transport legislation as it is developed and approved.

The *TO(RUM) Act 1995* not only provides the legislative framework to deliver national uniformity, but also provides an opportunity to consolidate and reform existing Queensland road use legislation and to establish a framework for managing road use which takes into account national and international benchmarks and best practice. Delivery of these reforms will facilitate the outcome of nationally consistent road transport legislation, as existing road use legislation is fragmented and inconsistent through being spread across six acts and regulations.

Queensland is strongly committed to the development and timely delivery of national road transport reforms.

### ***Heavy Vehicle Charges***

*The Road Transport Charges (Australian Capital Territory) Act and Regulations* were implemented on 1 July 1995 in Queensland under the *Transport Operations (Road Use Management) Regulations 1995*.

Queensland was the only jurisdiction (other than the ACT and Commonwealth) to implement Heavy Vehicle Charges in accordance with the agreed national implementation date of 1 July 1995. Implementation by other jurisdictions occurred between January 1996 and October 1996, with all jurisdictions now operating under the national scheme.

### ***Dangerous Goods***

The necessary legislative amendments to translate the provisions of the *Road Transport Reform (Dangerous Goods) Act 1993* into *TO (RUM) Act 1995* are currently being progressed (the Queensland Cabinet is scheduled to consider the necessary amendments in May 1997).

Once passed by the Commonwealth Parliament, the national dangerous goods regulation will be adopted in Queensland. It is intended to adopt the regulation via template legislation.

Regardless of whether the national dangerous goods regulation has proceeded through Commonwealth Parliament, Queensland will implement the substance of the regulation by 1 July 1997.

### ***Mass and Loading Regulations***

In December 1995 Queensland introduced the national mass and loading regulation via the *Transport Operations (Road Use Management) Regulation 1995*.

The Mass and Loading Regulations contain the standards applying to vehicle mass and the loading of vehicles. To support the Regulations, a Load Restraint Guide was produced and approved by Ministerial Council. This guide has also been adopted in Queensland.



### ***Heavy Vehicle Implementation Package (10 Point Plan)***

In October 1994, Transport Agency Chief Executive (TACE) members acknowledged the need to fast-track the delivery of reforms to the transport industry. In recognition of this, TACE, in consultation with industry, identified ten priority initiatives for industry that could be implemented ahead of the development of national legislation.

These priority initiatives comprise the Heavy Vehicle Implementation Package or Ten Point Plan.

Queensland has implemented eight of the ten initiatives and is well progressed with the remaining two.

### ***Specific Reform Commitments Related to the First Tranche of Payments***

The Council has indicated that, in its view, compliance with the first tranche of road transport reform commitments requires:

- (i) Adoption of the first reform module (heavy vehicle charges) with effect from 1 July 1995; and
- (ii) A commitment to implementation of future transport reforms according to the timetable endorsed by the Ministerial Council of Road Transport (MCRT).

In relation to (i) above, Queensland implemented the Heavy Vehicle Charges module in accordance with the agreed national implementation date of 1 July 1995. In relation to (ii) above, Queensland is committed to implementing future road transport reforms according to the MCRT timetable, subject to any changes which may be agreed by MCRT.

**ATTACHMENT 1**

<b>EXTENSION OF NCP REFORMS TO LOCAL GOVERNMENT</b>	<b>Target Completion Date</b>	<b>STATUS</b>	<b>COMMENTS</b>
<i>Competitive Neutrality</i>			
Legislation to require local governments to identify and assess Type 1 and Type 2 business activities (Item 5 - as listed in the Council's request of 12 February 1997, Appendix C).	December 1996	<i>Local Government Legislation Amendment Act 1996</i> (passed November 1996) provides for, <i>inter alia</i> : - the initial list of Type 1 and Type 2 business activities; and - councils to complete their assessments by July 1997.	The Act provides for councils to be granted an extension to the end of September 1997 on application to the Minister for Local Government and Planning. It is likely that several councils will apply for the extension, particularly due to delays arising because of council elections.
Release of a corporatisation /commercialisation discussion paper (Item 9)	December 1996	<ul style="list-style-type: none"> <li>Issues paper on <i>Enabling Legislation for Local Government Owned Corporations (LGOCs)</i> released on 21 October 1996.</li> <li>Commercialisation discussion paper released to the 17 Type 1 and Type 2 councils on 24 December 1996.</li> </ul>	Detailed guides to corporatisation and commercialisation are also being prepared by the government for use by councils.
Development and release of public benefit assessment guidelines. (Item 10)	December 1996	<i>Local Government Competitive Neutrality Public Benefit Assessment Guidelines</i> released on 13 December 1996.	A consultant (Arthur Anderson) has been commissioned by the LGAQ to develop a detailed framework, based on the guidelines, to assist councils to undertake their assessments either in-house or through external councils.

				<p>- final report released 24 March 1997</p> <p>The government supports this process and has provided advice and assistance and is fully funding the consultancy.</p> <p>Major consultancy planned (to begin by mid-April), to provide detailed guidance to councils in relation to the principles and implementation of full cost pricing.</p> <p>Major issues are:</p> <ul style="list-style-type: none"> <li>- valuation of the business at transfer for depreciation for taxation purposes;</li> <li>- the implications of current cost accounting; and</li> <li>- it is essential that the Commonwealth agree to extending the TER arrangements to apply to local government businesses.</li> </ul> <p>Finalisation of Bill delayed by Commonwealth's delay in consideration of tax equivalent issues.</p>
Development and release of full cost pricing guidelines. (Item 11)	December 1996	Draft full cost pricing principles released to the 17 Type 1 and Type 2 councils (and other selected councils) on 19 November 1996.	Draft manual to be ready for release for comment by mid-April.	
Development and release of Tax Equivalent Regime (TER) manual. (Item 12)	December 1996			
Legislation to provide a framework for the application of competitive neutrality to Type 1 and Type 2 activities through corporatisation etc. (Item 7)	December 1996	<ul style="list-style-type: none"> <li>• Draft Bill released late December 1996</li> <li>• Further draft released 18 March 1997</li> <li>• Legislation to be introduced into Parliament in April 1997.</li> </ul>		
Establishment of State government complaints mechanism regime covering Type 1 and Type 2 local government business activities.	December 1996		<ul style="list-style-type: none"> <li>• Government has taken a decision to establish a State-based regime, to be administered by a new body, the Queensland</li> </ul>	<ul style="list-style-type: none"> <li>• QCA will not cover local government Type 1 and Type 2 activities initially.</li> <li>• Subsequent amendments planned to cover local government prior to the July 1998</li> </ul>

<p>(Item 1)</p> <p>Development and release of a Code of Competitive Conduct</p> <p>- to be applied to roadwork activities from date Code is approved by Qld government</p> <p>(Items 13 &amp; 20)</p>	<p>December 1996</p>	<p>Competition Authority (QCA).</p> <ul style="list-style-type: none"> <li>• QCA Bill is being finalised (to be introduced into Parliament in April) with a view to the QCA beginning operations from July 1997.</li> </ul> <p>Issues Paper on the proposed Code of Competitive Conduct released for comment on 19 March 1997.</p>	<p>deadline for corporatisation etc of Type 1 and Type 2 activities.</p> <ul style="list-style-type: none"> <li>• Application of Code to roadworks being considered in conjunction with a current review of the 3 zonal system of allocating work on State-controlled roads.</li> <li>• Date for application of Code to roadworks to be negotiated with local government.</li> <li>• Legislation to be introduced into Parliament in April 1997.</li> </ul>
<p>Guidelines for councils on the development of consumer charters.</p> <p>(Item 14)</p>	<p>December 1996</p>	<p>-</p>	<p>To be finalised at the State level first.</p>
<p>Completion of public benefit assessments for application of competitive neutrality (ie corporatisation /commercialisation/full cost pricing) to Type 1 and Type 2 business activities.</p> <p>(Item 2)</p>	<p>July 1997</p>	<ul style="list-style-type: none"> <li>• Assessment process has begun: <ul style="list-style-type: none"> <li>- councils required under legislation to undertake assessments; and</li> <li>- a number of councils have called for expressions of interest from consultants to undertake their assessments.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• As at end of February, tenders have closed (or are about to) for at least 7 councils with Type 1 and Type 2 activities</li> <li>• Only one council has so far requested an extension - council was advised it was too early in the process to consider extensions</li> </ul>

<p>For the first five years, local government will need to identify on an annual basis whether any additional business activities (apart from activities already identified) meet the criteria for Type 1 and Type 2 business activities.  (Item 3)</p>	<p>-</p>	<ul style="list-style-type: none"> <li>• The draft legislation contains requirements for: <ul style="list-style-type: none"> <li>- the annual identification and assessment of new Type 1 &amp; 2 activities; and</li> <li>- initial decisions to reject reform to be re-visited every three years</li> </ul> </li> <li>• Legislation to be introduced into Parliament in April 1997</li> </ul>	
<p><b>Legislation Review</b> Legislation to set out the requirements for assessment of proposed local laws and proposed amendments to existing local laws.  (Item 6)</p>	<p>December 1996</p>	<ul style="list-style-type: none"> <li>• Legislation to be introduced into Parliament in April 1997</li> </ul>	<p>Councils are aware of the requirements and the Minister for Local Government and Planning is to write to councils to advise that although the legislation won't be introduced into Parliament until April 1997, Type 1 &amp; 2 councils will need to have identified anti-competitive laws by July 1997 in line with the application statement.</p>
<p>Public interest test guidelines for review of local laws.</p>	<p>December 1996</p>	<ul style="list-style-type: none"> <li>• A draft version of the guidelines has been prepared for application to State laws.</li> <li>• Consideration is currently being given to the modifications necessary to apply them to local laws.</li> </ul>	<p>Not needed immediately - will be finalised in time to enable councils to meet their obligations. The most pressing need is to get councils to identify those laws requiring review.</p>

<p>Identification of local laws with anti-competitive provisions for Type 1 and Type 2 councils.  (Item 4)</p>	<p>July 1997</p>	<ul style="list-style-type: none"> <li>• Department of Local Government and Planning (DLGP) has begun consideration of the model local laws - identification of those requiring review to be completed by the end of April 1997.</li> </ul>	<p>As part of the review of model local laws, DLGP will be developing resource material to assist councils in their review of local laws.</p>
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**ATTACHMENT 2****References pertaining to Local Government**

- Local Government Legislation Amendment Act 1996
- Commercialisation Discussion Paper
- Local Government Competitive Neutrality Assessment Guidelines
- Competitive Neutrality Public Benefit Assessment Framework
- Draft Terms of Reference for Major Consultancy on Full Cost Pricing
- Draft Local Government Legislation Amendment Bill (to provide for corporatisation, commercialisation/full cost pricing)
- Issues Paper on the Code of Competitive Conduct
- Prices Oversight Discussion Paper
- Third Party Access Discussion Paper
- COAG Urban Water Reform Discussion Paper
- Trade Practices Act Audit/Compliance Manual

## ATTACHMENT 3

## Competitive Neutrality - Summary of overall progress

Key aspect	Stated or Required Outcome	Status	Proposed outcome
<b>Competitive Neutrality Policy Statement</b>	To be published by June 1996. To include an implementation timetable and a complaints mechanism.	Queensland Government's Policy Statement, <i>Competitive Neutrality and Queensland Government Business Activities</i> , published in July 1996.	Obligation fulfilled
<b>Scope of reform</b>	To apply to all activities identified as significant business activities (SBAs) - not just by reference to a monetary threshold but also with reference to impact on the market or the economy.	Principles for identifying significant business activities are listed in policy statement - 'significant' criteria refer to size of operation and impact on the market and/or Queensland economy. Tables 2 and 3 in Policy Statement list business activities so far. Non-SBAs will be covered by the Competitive Service Delivery Guidelines.	Will be reviewing and reporting on the inclusion of further candidates as they arise. Refer to <i>Scope of Reform</i> below.
<b>Reforms to individual business activities</b>  Reforms and Public benefit tests  Note: Further detail on the status of specific SBAs is provided in section 4.3 and Attachment 3	Refer to published timetable and section 4.3 and Attachment 4.	Competitive neutrality reforms currently being implemented: corporatisation of Queensland Corrective Services Commission; establishing Workers Compensation Board (now called Workcover) as a statutory authority with a view to moving to corporatisation over the longer term; Golden Casket Office (includes transfer of gaming machines from Office of Gaming Regulation to Golden Casket); TAB; merger of QIDC and Suncorp with Metway to form a company under Corporations Law; and, divestment strategy for the Queensland Abattoir Corporation.	Public benefit tests for BMA, Water Boards, provision by public hospitals of services to private patients to be completed by June 1997. Partial completion of public benefit test for TAFE Queensland by June 1997/



Key aspect	Stated or Required Outcome	Status	Proposed outcome
<b>Complaints mechanism</b>	Legislation to be enacted giving effect to the key features of the mechanism as outlined in the policy statement	Draft legislation prepared (Part 5A of the Queensland Competition Bill). Consultation has occurred with departments. Currently under way is a further round of consultation with groups external-to-government who may be affected. In planning stages with respect to procedural and administrative aspects of the complaints mechanism.	Legislation to be introduced to Parliament in April, with a view to having the Queensland Competition Authority operational by July.
<b>Full cost pricing policy</b>	Policy to be developed	Draft Full Cost Pricing Policy developed. Consultation has occurred with departments. Feedback to be incorporated before Policy is issued by the Deputy Premier and Treasurer under the <i>Financial Administration and Audit Act</i> .	Policy to be issued by May 1997.
<b>Other implementation issues</b> <i>(i) Public benefit test guidelines</i>  <i>(ii) Consumer charter guidelines</i>  <i>(iii) Debt guarantee fees</i>	(i) Guidelines to be developed.  (ii) Draft consumer charter guidelines to be released for comment by December 1996.  (iii) Legislation giving effect to this fee to be introduced.	(i) Guidelines for undertaking public benefit tests for competitive neutrality reform have been developed. An overview of the public benefit test guidelines is provided in Attachment 6.  (ii) Draft guidelines have been prepared. Seeking Cabinet approval for external consultation.  (iii) A draft Policy Paper regarding debt guarantee fees and other GOC financial arrangements has been prepared for the Treasurer's approval. Amendments are being made to the Statutory Bodies (Financial Arrangements) Act to apply a guarantee fee to non-GOCs, where relevant.	(i) Guidelines endorsed by Cabinet in April 1997.  (ii) Guidelines to be approved for use by July 1997.  (iii) It is intended that legislation applying debt guarantee fees will be in place by July 1997.

## ATTACHMENT 4

## Status of reforms to specific SBAs

SBA / Candidate SBA	Stated or Required Outcome	Status	Proposed outcome
<b>Business activities listed for reform by July 1996:</b>  CITEC  GOPRINT  QPM  Project Services  Sales and Distribution Services  Road Transport Construction Service  Plant Hire Services	Fully commercialised  Fully commercialised  Fully commercialised  Fully commercialised  Fully commercialised  Fully commercialised  Fully commercialised	Fully commercialised  Fully commercialised  Fully commercialised  Fully commercialised  Fully commercialised  Fully commercialised  Fully commercialised	Obligation fulfilled  Obligation fulfilled  Obligation fulfilled  Obligation fulfilled  Obligation fulfilled  Obligation fulfilled  Obligation fulfilled
<b>Business activities listed for review by 31 December 1996:</b>  Queensland Tourist and Travel Corporation	Public benefit test to be completed by 31 December 1996	A Steering Committee has been formed to oversight the public benefit test. The test is focussing on the Sunlover operation of	Public benefit test to be completed by June 1997.

<b>SBA / Candidate SBA</b>	<b>Stated or Required Outcome</b>	<b>Status</b>	<b>Proposed outcome</b>
<p>Superannuation Services Unit of the Government Superannuation Office</p> <p>Office of Gaming Regulation (rental of gaming machines only)</p>	<p>Public benefit test to be completed by 31 December 1996</p> <p>Public benefit test to be completed by 31 December 1996</p>	<p>QTTC. Draft reports have been prepared but not to a satisfactory standard. Further work is required. In order to accommodate this further work, the deadline for completion of the test has been extended.</p> <p>Public benefit test has been delayed pending a broader review of the Queensland Government's superannuation arrangements.</p> <p>A decision has been made to open up the gaming machine market to competition as of 1 July 1997. The function of renting gaming machines has been removed from the Office. Alternative providers, including the Golden Casket Office will undertake this function.</p>	<p>A decision as to what reforms will apply is expected to be made by June 1997.</p> <p>The Office of Gaming Machines will no longer rent gaming machines. Instead, it will undertake a purely regulatory role.</p>
<p>Provision and management of corrective services facilities.</p> <p>Prison industries</p> <p>TAB</p>	<p>Public benefit test by 31 December 1996</p> <p>Public benefit test to be completed by 31 December 1996</p> <p>Public benefit test to be completed by 31 December 1996</p>	<p>A decision has been made to corporatise the service delivery area of the Queensland Corrective Services Commission (QCSC). Accordingly, it was considered that a public benefit test was not required.</p> <p>Corporatisation process examined issue and determined that the public benefits of providing prisoners with meaningful work outweighed lack of competitive neutrality. However, a code of practice will be developed by QCSC to ensure impact on private sector is minimised.</p> <p>Test has been delayed while TAB assesses a range of business issues including ownership options</p>	<p>To be corporatised by July 1997.</p> <p>To be considered in the QCSC corporatisation process.</p> <p>In the event that a decision is made not to change</p>

SBA / Candidate SBA	Stated or Required Outcome	Status	Proposed outcome
			ownership, corporatisation will be undertaken.
<p><b>Business activities listed for reform/review by July 1997:</b></p> <p>Golden Casket Office</p> <p>Water Commercial (now called State Water Projects)</p> <p>Brisbane Market Authority</p> <p>Queensland Abattoir Corporation</p> <p>Queensland Sugar Corporation</p>	<p>Corporatise by July 1997</p> <p>Commercialise by July 1997</p> <p>Public benefit test to be completed by June 1997</p> <p>Public benefit test to be completed by June 1997</p> <p>Date for test to be set after completion of Sugar Industry Review</p>	<p>In the process of corporatising - on schedule for corporatisation for July 1997.</p> <p>Proceeding toward commercialisation. Consideration is being given to possible future corporatisation.</p> <p>Work has commenced on the public benefit test. A decision has been made to amalgamate legislation review, public benefit test and review of privatisation. Accordingly, the deadline is to be extended.</p> <p>The Government made a decision after the publication of the policy statement to seek expressions of interest from the private sector compatible with an orderly exit by the Queensland Government from operation of the QAC.</p> <p>Following completion of the Sugar Industry Review, Cabinet decided to undertake a competitive neutrality public benefit test. This test is to be completed by December 1997.</p>	<p>To be corporatised by July 1997.</p> <p>Commercialised by July 1997.</p> <p>Combined review to be completed in 1998 - no deadline set yet.</p> <p>Orderly exit by Queensland Government from QAC operation.</p> <p>Public benefit test to be completed by December 1997</p>

<b>SBA / Candidate SBA</b>	<b>Stated or Required Outcome</b>	<b>Status</b>	<b>Proposed outcome</b>
South East Queensland Water Board	Public benefit test to be completed by July 1997	Public benefit tests being carried out simultaneously with other urban water boards.	A combined public benefit test report (for all four urban water boards).
Townsville Thuringowa Water Supply Board	Public benefit test to be completed by July 1997	Public benefit tests being carried out simultaneously with other urban water boards.	
Gladstone Water Board	Public benefit test to be completed by July 1997	Public benefit tests being carried out simultaneously with other urban water boards.	
Mt Isa Water Board	Public benefit test to be completed by July 1997	Public benefit tests being carried out simultaneously with other urban water boards.	
<b>Business activities listed for review commencing 31 December 1996:</b>			
Provision of services by public hospitals to private patients, incl. the provision of clinical pathology services	31 December 1996	Public benefit test has commenced. An options paper, outlining options for achieving a competitive market and competitive neutrality in this market has been released for public comment. The options outlined are very similar to those put forward in Victoria.	Public benefit test to be completed by June 1997.
TAFE (competitive tendering for publicly funded programs)	31 December 1996	Public benefit test has commenced. A Steering Committee has been formed and a consultant has been engaged to undertake the first stage of the test. In terms of national coordination, any reform	It is anticipated that the public benefit test will be completed by December 1997.

<b>SBA / Candidate SBA</b>	<b>Stated or Required Outcome</b>	<b>Status</b>	<b>Proposed outcome</b>
TAFE (full-fee-for-service activities)	31 December 1996	<p>outcomes which have national implications will be raised at the appropriate national government forums.</p> <p>As above - the public benefit test is, necessarily, considering the whole of TAFE operations.</p>	As above.
<p><b>No date has been set for the following reforms / reviews:</b></p> <p>Universities - research and development marketing companies</p> <p>Suncorp</p> <p>QBuild</p>	<p>To be reviewed in conjunction with the Commonwealth.</p> <p>Proposed to be amalgamated with Metway Bank and QIDC.</p> <p>Currently at second stage of commercialisation - date for third stage yet to be determined.</p>	<p>Commonwealth Department of Employment, Education, Training and Youth Affairs is coordinating a proposal for the application of competitive neutrality to universities. Queensland has provided a response to a draft proposal put forward in November 1996. It is intended that the Commonwealth proposal be put before the MCEETYA<sup>3</sup> and progressed through that forum.</p> <p>Suncorp has now been merged with Metway Bank and QIDC and is operating under Corporations Law.</p> <p>Third stage commercialisation is dependent upon a decision by the Government to introduce competition to QBuild. No such decision has been made.</p>	<p>Any reform proposals to be put before the MCEETYA<sup>4</sup> and progressed through that forum.</p> <p>Obligation fulfilled</p> <p>Indeterminate</p>

<sup>3</sup> Ministerial Council on Employment, Education, Training and Youth Affairs.

<sup>4</sup> Ministerial Council on Employment, Education, Training and Youth Affairs.

<b>SBA / Candidate SBA</b>	<b>Stated or Required Outcome</b>	<b>Status</b>	<b>Proposed outcome</b>
<p>QFleet</p> <p>Transport Technology Division</p> <p>Workers' Compensation Board</p>	<p>Currently at second stage of commercialisation - date for third stage yet to be determined.</p> <p>To be commercialised - date yet to be determined.</p> <p>To be reviewed subject to the outcome of the Inquiry into Workers' Compensation and Related Matters (the Kennedy Inquiry).</p>	<p>Third stage commercialisation is dependent upon a decision by the Government to introduce competition to QFleet. No such decision has been made.</p> <p>Discussions are taking place to put in place appropriate arrangements for commercialisation.</p> <p>The Board has been reconstituted as a statutory authority called Workcover. The Kennedy Inquiry recommended that the Board be corporatised and competition introduced into the market. Work is currently progressing toward this objective. However, it is not expected that Workcover will be in a position to compete effectively for several years.</p>	<p>Indeterminate</p> <p>No firm date has been set for commercialisation</p> <p>Corporatisation of the Workers Compensation Board (now called Workcover) over the longer term when solvency is restored.</p>
<p><b>To be reviewed when and if competition introduced:</b></p> <p>Hotel services - catering, cleaning, etc.</p> <p>- hospital laundry services</p> <p>Central pharmacy</p>	<p>To be reviewed when and if competition is introduced into the delivery of these services.</p> <p>To be reviewed when and if competition is introduced into the delivery of these services.</p>	<p>No decision has been made to introduce competition in these areas.</p> <p>No decision has been made to introduce competition in these areas.</p>	<p>Indeterminate</p> <p>Indeterminate</p>

<b>SBA / Candidate SBA</b>	<b>Stated or Required Outcome</b>	<b>Status</b>	<b>Proposed outcome</b>
Business units of the Housing Program (Housing Finance and Property Management)	Currently under review, but introduction of competitive neutrality principles considered when and if competition introduced.	These units are still under review. While no decision has been made to introduce competition to these areas, a range of options is being considered.	Indeterminate
<p><b>Business activities listed for review by December 1997:</b></p> <p>Public Trust Office (PTO) 1997</p> <p>National reviews suggested for:</p> <p>TAFE - competitive tendering for publicly funded programs and full fee-for-service activities.</p> <p>Universities - research and development marketing companies</p> <p>Provision of services by</p>	<p>Public benefit test by 31 December 1997</p> <p>Review to commence by 31 December 1996. Any decision to apply competitive neutrality will be made in consultation with the Commonwealth.</p> <p>Competitive neutrality in public sector research and development to be the subject of a separate review (commencing in the second half of 1997)</p> <p>Review to commence by 31 December 1996.</p>	<p>No further action yet undertaken.</p> <p>Refer to previous entry for TAFE.</p> <p>Any proposal for reform to other areas of university activity will be reviewed via the Commonwealth's Task Force.</p> <p>Refer to previous entry for health. It would be</p>	<p>Public benefit test by 31 December</p> <p>Indeterminate at this stage.</p> <p>Indeterminate at this stage.</p> <p>Indeterminate at this stage.</p>



<b>SBA / Candidate SBA</b>	<b>Stated or Required Outcome</b>	<b>Status</b>	<b>Proposed outcome</b>
		expected that any reform proposals which have national implications will be the subject of consultation with the Commonwealth. No formal mechanisms for this consultation have been put in place.	

## ATTACHMENT 5

**Summary of competitive neutrality complaints received  
to February 1997**

Complaint	Details	Outcome
<b>Queensland Manufacturing Institute (QMI) - Solid Concepts</b>	Solid Concepts competes with QMI for contracts to prepare rapid prototypes for manufacturers. Solid Concepts claimed that QMI was pricing on a less than full cost basis and was able to do this because of government subsidy.	The Under Treasurer formally requested the Director-General of the Department of Tourism, Small Business and Industry to investigate the pricing policy employed by QMI to ensure that full costs were being attributed by QMI in tender prices.
<b>Queensland Rail (QR) - Coachtrans</b>	Coachtrans alleged that QR has an unfair advantage in the Brisbane to Gold Coast Market as a result of government subsidy. This subsidy (CSO) is provided to QR but not to its competitors.	Coachtrans was informed that the provision of the CSO to QR was for the purpose, amongst other things, to achieve a clear policy objective of alleviating projected traffic congestion on the Brisbane-Gold Coast corridor, and that it was within the Government's prerogative to act in this manner. They were also informed that the Treasurer would raise the matter of the structure of scope of QR's CSO funding with the Minister for Transport, as a matter of priority.
<b>Road Transport Construction Service (RTCS) - Civil Contractor's Federation (CCF)</b>	CCF represents contractors who compete with RTCS for work relating to road maintenance and construction. CCF has formally complained that RTCS has an unfair competitive advantage due to its government ownership. This advantage, CCF alleges, stems from pricing practices and RTCS having an information advantage in tender processes due to insufficient separation of government as purchaser from government as provider.	The Department of Main Roads has employed consultants to undertake audits of its tender processes to identify where there may be instances, or systematic occurrences, of non-compliance with the principle of competitive neutrality. Main Roads Department is engaging in extensive dialogue with the CCF on this matter.

## ATTACHMENT 6

**Overview of Competitive Neutrality Public Benefit Test Guidelines****Introduction**

The purpose of the competitive neutrality public benefit test guidelines is to provide guidance on undertaking, where necessary, a public benefit test in relation to the introduction of competitive neutrality to significant government business activities (SBAs)<sup>5</sup>. The test aims to identify the costs and benefits to the community of proceeding, or not proceeding, with competitive neutrality reform. Such a test is required under the National Competition Policy (NCP) Agreements as a means of ensuring that positive gains to the community will emanate from the competition reform of significant government business activities.

The public benefit test guidelines employ a stakeholder analysis-type methodology. In this regard, the methodology differs from that utilised in the public benefit test guidelines developed for the purpose of undertaking the review of anti-competitive legislation. In particular, the methodology employed in the competitive neutrality public benefit test guidelines does not involve economic modelling and is not based on conventional cost-benefit analysis. The different methodologies were considered necessary to accommodate the different nature of the issues under consideration.

**Procedure**

To ensure that public benefit tests are conducted with the requisite degree of objectivity and rigour, the Guidelines require that a Steering Committee be established by the portfolio department to oversight the process. Membership of these Committees must include:

- a representative from the Department;
- a representative from Treasury;
- a representative from the candidate SBA; and
- a representative from the Audit Commission Implementation Office, where appropriate; and
- a representative from the Department of Premier and Cabinet.

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5 The definition of a Significant Business Activity (SBA) is provided in section 3.1 of the Queensland Government's Policy Statement on competitive neutrality - *Competitive Neutrality and Queensland Government Business Activities*. Readers seeking more information in respect of the context of the NCP Public Benefit Test are referred to this Statement.

It is important that the portfolio department take the lead role in management of the public benefit test process rather than the candidate SBA.

Once a public benefit test is completed, the outcomes and associated recommendations must be presented to Cabinet, either by the portfolio minister or by a joint Cabinet Submission by the portfolio minister and the Deputy Premier and Treasurer.

This process, in conjunction with appropriate consultation with Treasury to ensure that the methodology employed will satisfy the requirements for a public benefit test, will ensure consistency across departments in the application of the public benefit test.

The procedural steps involved are illustrated in Diagram 1.

## **Methodology**

Essentially, what is required for competitive neutrality reviews is an assessment of the costs and benefits to various stakeholders of moving from the existing situation (the ‘base case’) to the various reform options. That is, the focus is on assessing the incremental costs and benefits of moving from the base case to full cost pricing and then to commercialisation and then to corporatisation. This approach is illustrated in Diagram 2.

This methodology has three steps:

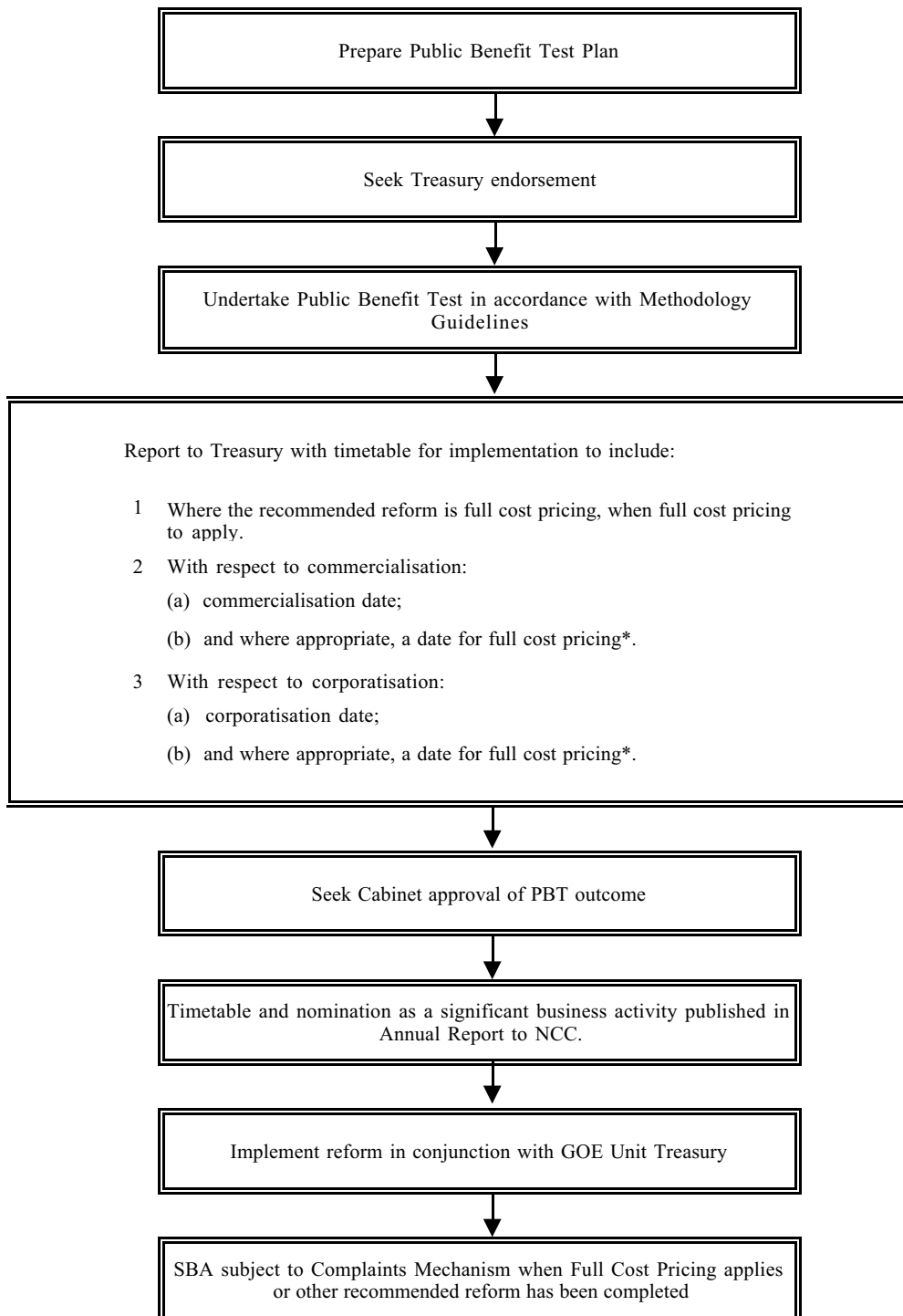
- Step 1            Assess the existing situation by reference to the impact on the market and economic efficiency of a candidate SBA not operating on a competitively neutral basis.
- Step 2            Assess the incremental costs and benefits from reform. Amongst other things, this requires an assessment of the impact of reform on the market, consumers, competitors and the efficiency of the SBA. There is a list of factors which must be considered in making this assessment. This list includes all those factors required by subclause 1(3) of the Competition Principles Agreement (the Agreement) to be considered. The factors in the Agreement are:
- government legislation and policies relating to ecologically sustainable development;

- social welfare and equity considerations, including community service obligations;
- government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;
- economic and regional development, including employment and investment growth;
- the interests of consumers generally or of a class of consumers;
- the competitiveness of Australian businesses; and
- the efficient allocation of resources.

Additional factors included in the guidelines are:

- impact of reform on the market;
- impact of reform on the State Government Budget;
- impact on the financial position of the SBA;
- impact on the SBA's management autonomy and commercial flexibility; and
- implementation costs.

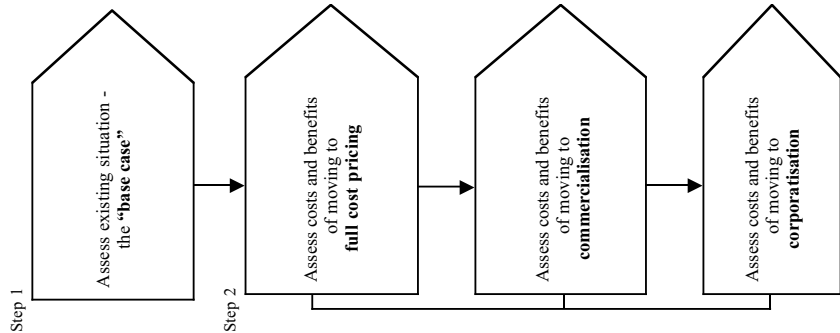
Diagram 1



\* Where the candidate SBA is currently competing, it may be appropriate to adopt full cost pricing in the transition to commercialisation/corporatisation.

Diagram

Steps in public benefit test



Incremental difference between reform options

**Includes an assessment of:**

- structure of market
- advantages from tax exemptions
- regulatory advantages (eg. exempt from planning approvals) or disadvantages
- potential for stronger commercial disciplines and focus to improve productivity
- whether prices are subsidised/ less than full cost
- reasons any monopoly given to the SBA
- commercial and non-commercial objectives (eg. social policy objectives)
- extent of tied markets/restrictions on competition

Key differences from base case:

- no major change in organisational structure required, but preferably regulatory/policy functions should be separated from commercial activities, and 'government as purchaser' should be separated from 'government as provider'
- prices will have to include all fixed and variable costs used to produce the good/service plus a proxy for tax equivalents and must meet rate of return tax equivalents/dividends paid to Consolidated Fund

Key differences from full cost pricing:

- separate business unit/ trust fund (not separate legal entity) - in dept. but off-budget.
- clearly defined commercial objectives and performance targets (performance contract)
- only undertake a non-commercial activity (CSO) if specifically directed by government
- funding of CSOs transparent
- policy/regulatory functions are removed
- service contracts negotiated with clients
- must meet full cost of running business (including tax equivalents)
- management decisions delegated to unit managers

Key differences from commercialisation:

- structured similar to private sector company with: separate legal entity, independent commercial Board of directors, two shareholding Ministers
- commercial and non-commercial objectives and performance targets negotiated and set out in Statement of Corporate Intent (eg. rate of return, dividends, taxes)
- subject to performance monitoring
- not subject to some regulations that apply to public sector (eg. FOI Act)
- public reporting of performance

Incremental benefits and costs from each reform option

**Benefits**

- equity for private sector competitor
- govt. can identify cost of providing service and productivity improvements
- consumers choose on basis of non-subsidised prices - incentive for efficient producers to innovate and improve efficiency in the market

**Costs**

- calculating and establishing pricing policy
- identifying and costing CSOs
- may lose market share initially
- possible loss of employment
- transition to efficient practices for consumers, possible increase in prices

**Benefits**

- More efficient production and investment decisions due to:
  - clearer identification of cost structure
  - clearer commercial objectives
  - more accountability
  - more management autonomy

**Costs**

- cost in management time to establish unit (eg. to separate activities from department, to remove regulatory functions, etc) and to set up performance contracts

**Benefits**

- more efficient production and investment decisions due to having a truly commercial focus
- potentially more immune to complaint from the private sector re competitive neutrality

**Costs**

- management time devoted to establishing the corporate entity, including the preparation of corporatisation charter, legislation, possible restructuring of the entity
- cost of administering a corporate structure

## SUMMARY OF PUBLIC BENEFIT TEST GUIDELINES

### Background

Clause 5 of the Competition Principles Agreement states as a guiding principle that legislation (i.e. both primary and subordinate legislation) should not restrict competition unless it can be shown that the benefits of the restriction to the community as a whole outweigh the costs, and the objectives of the legislation can be achieved only by restricting competition. This requires the review and, where necessary, the reform of existing legislation that contains restrictions on competition. Proposals for new or amending legislation that restrict competition must also conform to this guiding principle.

Furthermore, Section 51 of the *Trade Practices Act* (TPA) enables the Queensland Government to legislate exemptions from the anti-competitive conduct provisions of Part IV of the TPA or the State's Competition Code. Such exemption is on the basis that the legislation specifically refers to the TPA/Competition Code, and the legislation specifically authorises the activity or conduct in question. An alternative means of authorising particular anti-competitive conduct (after firstly considering the legislative exemption option) is by authorisation of that conduct by the Australian Competition and Consumer Commission (ACCC). For either a legislative exemption or ACCC authorisation, a case would need to be mounted on public interest grounds.

### The Public Benefit Test Process in Queensland

A Public Benefit Test (PBT) process has been developed to satisfy the above Clause 5 requirements, and as the basis for exemption or ACCC authorisation under the TPA. The PBT process will involve several stages.

Terms of reference and project scoping (i.e. PBT Plan) will be developed for each review, and agreed by the Treasury NCP Unit, in consultation with other relevant central agencies, where appropriate. The terms of reference will contain the mandatory elements stated in Clause 5 of the Competition Principles Agreement. The PBT Plan will include an outline of the following:

- the legislation to be reviewed and its objectives;
- the nature of the restrictions on competition;



- realistic alternatives;
- key groups affected by the introduction, retention or reform of restrictions;
- a brief description of major impacts on those key affected groups;
- the likelihood that the assessment will require a major or minor review;
- the type of review process, including the composition of review panel, proposed;
- consultation strategy; and
- timing of the review.

Cabinet approval of the terms of reference and PBT Plan would be sought in certain cases, such as for a review of legislation relating to a major industry, and/or where there are presently significant restrictions on competition, and/or where there are sensitive or complex issues to be addressed. The terms of reference and PBT Plan would be used to determine the need for Cabinet endorsement and the form of each review. Cabinet would be advised periodically of progress in reviewing and reforming anti-competitive legislation.

Each review would be undertaken on the basis of the agreed terms of reference and PBT Plan.

The Treasury NCP Unit would monitor progress, advise departments where they are responsible for the review or alternatively the review panel, on technical aspects of NCP or the PBT methodology, and ensure that the review process and outcomes satisfy NCP requirements.

The Public Benefit Test requires the use of benefit-cost methodology. Wherever possible, the impacts of competitive restrictions or their removal on key stakeholders groups will be valued in dollar terms. Where this is not possible due to data not being available or too costly to obtain, impacts will still be identified to the fullest extent, but will be described in more qualitative terms.

A key aspect of the methodology is defining “with” and “without” states. This means describing firstly the situation that applies to the present regulatory situation and secondly one or more alternative future states with different regulatory arrangements. All major impacts of moving from the “without” to the “with” state/s are then identified, and valued or described.

The option of a major or minor review takes account not only of matters covered in the PBT Plan such as the magnitude of competitive restrictions and

their impacts, but also the extent of any present or ongoing reform process, recent public consultation on the legislation in question and the availability, reliability and cost of obtaining data that can be valued in dollar terms. Regardless of whether the review is major or minor, the methodology remains the same. The difference amounts to the degree to which impacts can be valued over time in dollar terms.

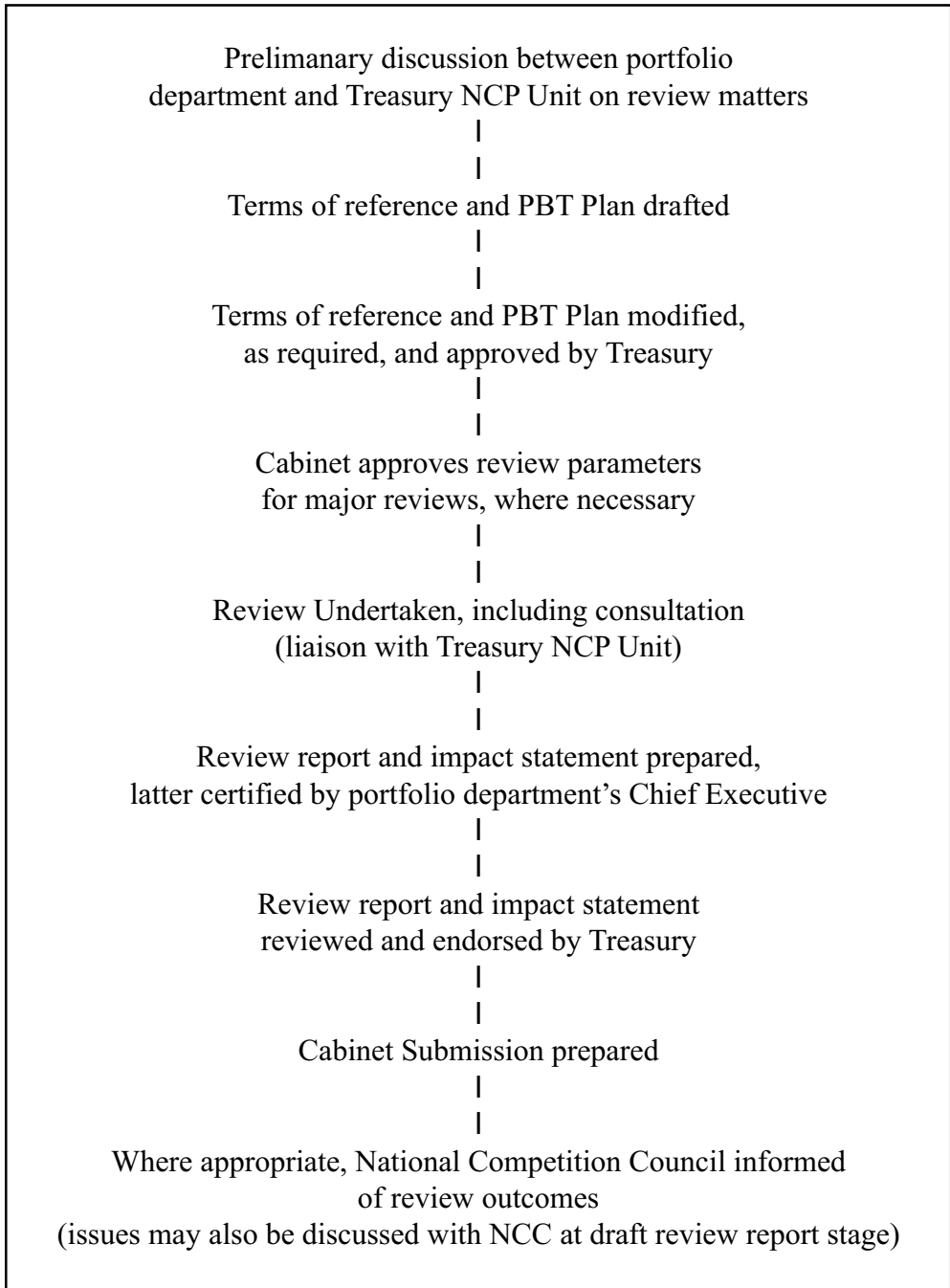
In addition to arriving at a “net” impact (where this is possible), the analysis will identify the impacts on individual stakeholder groups as it is important to determine how NCP reform options affect the various parts of the community.

A software package has been developed to undertake the more mathematical aspects of the analysis and to aid the production of a competition impact statement. This impact statement will summarise the results of the Public Benefit Test and accompany any proposals for new or amending legislation containing restrictions on competition, or for the reform or retention of competitive restrictions in existing legislation.

Cabinet will consider submissions detailing the results and recommendations flowing from the review of anti-competitive legislation. Where appropriate, the National Competition Council will be apprised of the results of significant reviews.

The following diagram shows the stages in the PBT process.

### STAGES IN PBT PROCESS



## ATTACHMENT 8

**LEGISLATION ENACTED AFTER 11 APRIL 1995 WHICH  
CONTAINS ANTI-COMPETITIVE PROVISIONS**

Agency	Legislation	Proposed review date	Status/Comment
Consumer Affairs	Consumer Credit Legislation Amendment Act 1996	To be determined (see *)	This act amended the Consumer Credit Act (QLD) 1994, Credit Act 1987, Consumer Credit Code to provide a negative licensing scheme for credit providers.  *If provisions require assessment, this will occur when the Consumer Credit Act (Qld) 1994 and Consumer Credit Code are reviewed as part of joint or cooperative Commonwealth - State regulatory arrangements.
Education	Education (General Provisions) Amendment Regulation (No1) 1996	1998/99	Scheduled for review in 1998/1999. Restricts type of food sold at school tuckshops.
Natural Resources	Water Resources Act 1989		Amended by the Natural Resources Amendment Act 1996 (No. 68). The first amendment allows the Minister to limit water licence applications when water reserves in a catchment are such that no more water should be allocated, or where allocations should be reduced, to protect the environment. The second amendment clarifies the purpose of a dam or dam site to ensure that applications (that are not on a watercourse, nor in designated areas), are assessed only for ensuring the protection of life and property.
	Land Act 1994		Amended by the Natural Resources Amendment Act 1996 to enable the administration of the restriction on land holdings. This was necessary as an interim measure while the full review is conducted. Agreement to this effect was reached with the NCP Unit in September 1996, prior to the completion of the submission to Cabinet.
Premier and Cabinet	South Bank Corporation Amendment Regulation 1996	1998/1999	Timetabled for review with other legislation relating to South Bank
Primary Industries	Amendment to Grain Industry (Restructuring) Act 1991	1996/1997	Extends sunset date for the vesting arrangements for certain grains from 30 June 1997 to 30 June 1998 pending the final outcome of the review of the Act. NCP review is underway.
Training and Industrial Relations	Workcover (Queensland) Act 1996		Replaces the Workers' Compensation Act 1990 and contains similar anti-competitive provisions. The new Act will be reviewed in line with the review of the previous statutes, set for 1999/2000.
Transport and Main Roads	Transport Operations (Passenger Transport) Act 1994	1998/1999	Amended to allow chief executive, in lieu of Governor in Council, to decide maximum taxi fares. Act scheduled for NCP review in 1998/1999.

Agency	Legislation	Proposed review date	Status/Comment
Health	Health Regulation 1996 under the Health Act 1937	1997/1998	Consolidates existing regulations under the Health Act 1937 and will be reviewed in the context of the development of the new Public Health Act. An existing expiry provision, of 1 July 1998, was included in the new regulation to ensure that there was no extension of the regulatory impact beyond what would have occurred if the consolidation had not taken place.
	Speech Pathologist's By-Law 1995, Occupational Therapists By-Law 1995, Optometrists By-Law 1996 and Podiatrists By-Laws 1996	Underway (as per Health Practitioner Legislation Review)	Deal with regulation of various professions (registration procedures, fees, advertising, use of practice names etc). The by-laws are being reviewed in the context of the current Health Practitioner Legislation Review that addresses NCP. These regulations contain expiry provisions.
	Health (Drugs and Poisons) Regulation 1973.	Conditional on outcome of national review process	Largely remakes the Poisons Regulation 1973. Candidate for National Review. Need to determine if restrictions are anti-competitive.

## LEGISLATIVE REVIEWS SCHEDULED TO COMMENCE IN 1996/97

Agency	Legislation	Proposed review date	Status/Comment
Consumer Affairs	Auctioneers and Agents Act 1971 & Auctioneers and Agents Regulation 1986	1997	Currently subject of extensive rewrite. A number of provisions which are considered to restrict competition have been identified in the re-write process. They will either be removed or subject to a Public Benefit Test (PBT). National Competition Policy (NCP) review has not yet formally begun.
	Co-operative and Other Societies Act 1967, Co-operative and Other Societies Regulation 1968,  Primary Producers' Co-operative Associations Act 1923 and Primary Producers Co-operative Association Regulation	1997	Queensland to participate in national cooperatives legislation. This will result in the repeal of the Other Societies Act 1967 and the Co-operative and Primary Producers' Co-operative Associations Act 1923, and the introduction later this year of co-operatives legislation containing core provisions and regulations consistent with other jurisdictions. NCP work done by Victoria related to this area is presently being examined by Queensland Treasury.
	Land Sale Act 1984 & Land Sale Regulation 1989	1996/97	This legislation is currently the subject of an amendment taking into consideration NCP issues. PBT to be undertaken before Authority to Introduce new Bill.
	Retirement Villages Act 1988 & Retirement Villages Regulation 1989	1997	A draft exposure Bill has been released for public comment. Terms of NCP review not yet agreed. Any anti-competitive provisions subject to PBT.
	The Travel Agents Act 1988 and Travel Agents Regulation 1988	1997	Originally tabled for review in 1997/98, progress on national review through Ministerial Council on Consumer Affairs means that the review will be brought forward to 1997. Draft terms of reference proposed by Western Australia, but subject to amendment to adequately address NCP.
Corrective Services	Corrective Services Act 1988 and Corrective Services (Administration) Act 1988	1996/1997	NCP review yet to begin
Local Govt & Planning	Local Government (Planning and Environment) Act 1990	1996/1997	To be replaced with the Integrated Planning Act in May 1997. Competition policy has been taken into consideration when drafting the new act. Not likely to restrict competition, but will be examined under NCP prior to introduction into Parliament.
Environment	Contaminated Land Act 1991 & Contaminated Land Regulation 1991		This legislation to be included in the Environmental Protection Act 1994 without any increase in regulatory burden or any new restrictions on competition. The Environmental Protection Act 1994 will be subject to a full review under NCP in 1998/1999, as scheduled.
Health	Cremation Act 1913 and Cremation Regulation 1978	1996/1997	Restrictive provisions have been repealed and it is likely that enabling Act will be proclaimed in May 1997.
	Fluoridation of Public Water Supplies Act 1963 & Fluoridation of Public Water Supplies Regulation 1964	1996/1997	Sole restriction in regulation relates to purchase of testing equipment. NCP process has not yet begun, although it is likely the new legislation will not prescribe the particular brand of testing equipment to be used.

Agency	Legislation	Proposed review date	Status/Comment
	Health (Nursing Homes) Regulation 1982 under the Health Act 1937	1996/1997	Queensland Health is currently examining the Commonwealth's Aged Care Bill 1997 to determine its impact on the Regulation. Regulation currently to expire on 1/7/97. As concluded by the review undertaken in 1994, one option is the removal of all licensing controls on State legislation relating to nursing homes. NCP review has yet to formally begin.
	Health (Private Hospitals) Regulation 1978 under the Health Act 1937	1996/1997	Review under way. Terms of review developed late in 1996. Aged Care Bill 1997 to determine its impact on the Regulation
	Health Services (Public Hospitals Fees and Charges) Regulation 1992 under the Health Services Act 1991	1996/1997	The continuing need for the anti-competitive provision in this Regulation is currently being investigated by Queensland Health in advance of NCP review. NCP review terms yet to be agreed 1996/1997
	Health Practitioner Legislation	1996/1997	Review under way. A draft Policy Paper outlining the Government's preferred policy position for the broad review of the legislation, including NCP issues, was released publicly in September 1996
	Mental Health Act 1974 (review date previously listed as "to be determined")	1997/1998	New Act drafted now. The only anti-competitive provision is that for statutory monopoly allowing the Public Trust Office sole responsibility for managing the estates of specified persons.
Mines and Energy	Electricity Act 1994 & Electricity Regulation 1994	Act - 1996/97; Reg - 1998/99.	Departmental review of legislation is currently under way in connection with COAG agreed reforms. The Queensland Electricity Reform Unit has been established to further develop and implement the Government's electricity supply industry reform program. Amendments to the legislation will be enacted prior to the interim market's commencement and will ensure consistency with the Competition Principles Agreement and the Trade Practices Act 1974. In relation to anti-competitive restrictions, the formal review process has yet to begin.
	Gas Act 1965 & Gas Regulations 1989	Act - 1996/97; Reg.- 1998/99.	Being examined from two perspectives -anti-competitive provisions within the Act, which is yet to commence, and gas reform with respect to post- COAG Prime Ministerial initiatives.
	Coal Industry (Control) Act 1948 & Orders made under that Act	1996/1997	Legislation is currently under review. Act to be repealed in May - June 1997.
Natural Resources	Land Act 1994	1996/1997	A preliminary test was undertaken to assess the need for a full review. It concluded a full review will be required in the absence of clear community support for the removal of the restrictions.

Agency	Legislation	Proposed review date	Status/Comment
	Surveyors Act 1977 and Surveyors Regulation 1992	1996/1997	Reforms are underway and a new replacement Bill is proposed. To be reviewed with Valuers Act. An "in principle" agreement to a minor review and a process for undertaking the review has been approved verbally. The terms of the review are currently being written in consultation with the NCP Unit. NCP review has not yet commenced.
Valuers Registration Act 1992 and Valuers Registration Regulation 1992	1996/1997	Terms of the review are currently being written. NCP review has not yet commenced.	
Primary Industries	Chicken Meat Industry Committee 1976	1996/1997	Draft Terms of Reference received on 5 December 1996. NCP Review likely to begin in April 1997.
	Forestry Act 1959 & Forestry Regulation 1987	1996/1997	NCP review has not yet begun.
	Grain Industry (Restructuring) Act 1993	1996/1997	NCP Review is underway.
	Primary Producers' Organisation and Marketing Act 1926 and Orders in Council pertaining to the commodity tobacco leaf	1996/1997	Act contains a review clause which effectively requires a review of the entire Act (not just for NCP purposes) by October 1997. NCP review has not yet begun.
	Sawmills Licensing Act 1936 & Sawmills Licensing Regulation 1965	1996/1997	Currently being reviewed by Primary Industries as part of the development of new and consolidated natural resources legislation. NCP review has not yet begun.
	Sugar Industry Act 1991, Sugar Industry Regulation 1991, Sugar Industry (Assignment Grant) Guideline 1995 also	1996/1997	Review completed.
	Sugar Milling Rationalisation Act 1991		
	Dairy Industry Act 1993	1997	Not originally timetabled for review until 1997-1998, but will commence earlier in accord with request from industry bodies.
Tourism, Small Business & Industry	Indy Car Grand Prix Act 1990 & Indy Car Grand Prix Regulations 1990	1996/1997	Steering Committee established to oversee the review. Terms of reference are currently being developed.
	Industrial Development Act 1963	1996/1997	Steering Committee established to oversee the review. Terms of reference are currently being developed.
Transport and Main Roads	Transport Operations (Marine Safety) Act 1994 & Transport Operations (Marine Safety) Regulation 1995	1996/1997	Review of Regulation prescribing sole provider of pilotage services in port of Brisbane commenced by Queensland Transport. Options have been developed, method of review determined and a draft terms of review prepared and forwarded to the NCP Unit for consideration.
	State Transport Act 1960 & State Transport Regulation 1987	1996/1997	Preliminary work by department on review has commenced. Options have been developed, method of review determined and a draft terms of review prepared. The remaining regime of regulations for heavy and light vehicles is a component of COAG reform.



Agency	Legislation	Proposed review date	Status/Comment
	State Transport (People-movers) Act 1989	1996/1997	Only preliminary work has been done at this stage to determine internal departmental responsibilities for the review.
Treasury	Superannuation (Government and Other Employees) Act 1988, Superannuation (State Public Sector) Act 1990, State Service Superannuation Act 1972, Parliamentary Contributory Superannuation Act 1970 and Police Superannuation Acts 1968 & 1974	1996/1997	A broad review of the superannuation offered in the Queensland public sector has been approved by Cabinet and a report is expected to Cabinet before the end of the financial year. The review will consider the many changes in superannuation at the Federal level, as well as changes brought on by NCP in the Queensland public sector. In summary, NCP review has yet to begin although a Public Benefit Test assessment and formal position on the statutory monopoly position of Queensland Investment Corporation may now be completed in 1997/1998.
	Keno Bill 1996		In line with the Queensland Government time frame for legislative review, the contents of the Keno Bill 1996 were reviewed from a NCP perspective during drafting to ensure compliance upon enactment. The final Keno Act 1996 administers Government regulation and licensing of keno operation, it does not contain any restrictions on competition nor does it give rise to any Trade Practices Act or other NCP implications for the Queensland Government.
Public Works and Housing	State Housing Act 1945, State Housing (Freeholding of Land) Act 1957, State Housing Regulation 1986 & Interest Rate Orders under these Acts	1996/1997	Extensive departmental review of this legislation underway and at an advanced stage. Consideration is currently being given to the repeal of the legislation. A review of the Act pursuant to the NCP requirements has not yet commenced and will be subject to any decision to repeal the legislation.

## ATTACHMENT 10

Agency	Legislation	Objective / Comment
Environment	Wet Tropics World Heritage and Management Act 1993	Provides for protection and management of world heritage listed, wet tropics in Queensland pursuant to Commonwealth-State agreement. This Act provides for the preparation of management plans and regulation to control type of activities, land use, access and the taking of soil, gravel and other materials. Act also provides for review of all plans within seven years of their approval.
	Recreation Areas Management Act 1988 and relevant subordinate legislation	Provides for setting apart of land and waters throughout Queensland as recreational areas and for management of recreational activities in recreational areas. Certain activities are prohibited without a permit.
	Marine Parks Act 1982 and subordinate legislation	Provides for the setting apart of tidal lands and tidal waters as marine parks and for related purposes, including the preparation, implementation and enforcement of zoning plans and management plans.
Mines and Energy	Mineral Resources Act	Provides for the assessment, development and utilisation of mineral resources to the maximum extent practicable, yet consistent with sound economic and land use management. The objectives as stated in Section 2 of the Act are to encourage and facilitate prospecting and exploring for, and mining of, minerals; enhance knowledge of the mineral resources of the State; minimise land use conflict with respect to prospecting, exploring and mining; encourage environmental responsibility in prospecting, exploring and mining; ensure an appropriate financial return to the State from mining; provide an administrative framework to expedite and regulate prospecting and exploring for, and mining of, minerals; and encourage responsible land care management in prospecting, exploring and mining.
	Petroleum Act	The Petroleum Act has similar objectives to the Mineral Resource Act and is currently subject to departmental review.
Department of Primary Industries	Forestry Act 1994	<p>Only certain provisions have been excepted from review on natural resource management exemption. The remaining provisions will be reviewed regarding possible anti-competitive aspects of the legislation. The objective of this legislation is to provide for the management of the State owned forest estate, notably the management of commercial forestry activities and grazing in State forests and State timber reserves.</p> <p>The following sections have been excluded: s.21 - prohibition of forestry Officers trading in timber and other material covered by permits issued under the Act; s.45 - all forestry products and quarry material within declared State forests and State timber reserves vested in the Crown; s.34 - allows the Primary Industry Corporation (PIC) to determine the maximum quantities of forest products which may be removed from State forests (note however, that arrangements under the Sawlog Allocation System will be reviewed); s.s 35, 35A and 37 - provides for PIC to issue permits for various activities to be carried out on land in State forests and State timber reserves; s.54 - prohibits harvesting of timber, extraction of quarry material or any other use of land within State forests and State timber reserves unless appropriate licence or permit obtained; s.s 55-58 - gives PIC power to issue licences for the harvesting of timber, the extraction of quarry material and for certain other activities (such as small scale timber processing) s. 61A - prohibition of sale of Aboriginal and Torres Strait Islander artefacts found in State forests and State timber reserves; s. 64 - prohibition of certain persons (eg. if convicted of an offence under the Fire Services Act) from obtaining permits under this Act; and Forestry Regulation 1987 - prescribes conditions in respect of licences and permits issued under the Act.</p>
	Fisheries Act 1994	Provides for management use and protection of fisheries resources and fish habitats and for the management of aquaculture activities. As with the Forestry Act, only certain provisions were exempted for the purposes of natural resource management.