Tasmania

1997 Tasmanian Progress Report

NATIONAL COMPETITION POLICY PROGRESS REPORT

APRIL 1995 TO DECEMBER 1996

MARCH 1997

GOVERNMENT OF TASMANIA

Contents

1. *EXECUTIVE SUMMARY*

The Tasmanian Government is strongly committed to the principles contained in the National Competition Policy (NCP) Agreements signed by all Australian Governments in April 1995. The Government recognises that the competitive reforms that will flow from the implementation of NCP will help develop a more favourable business environment in Tasmania. Such an environment is critical if Tasmania is to support nationally and internationally competitive businesses, attract investment, generate employment and achieve higher levels of economic growth.

The Government expects that NCP will provide a catalyst for significant reforms in both the private and public sectors over the next few years. The general thrust of the NCP reforms is to promote competition within the economy where it is in the public benefit, particularly in those areas which have traditionally been sheltered from the rigours of a competitive market. These reforms are potentially wide-ranging and are aimed at improving the efficiency of the public sector (including local government) and removing unnecessary legislative burdens on the private sector.

The implementation of NCP is likely to see significant reforms over the next few years in the area of the electricity and water industries, transport, port authorities, State and local government business enterprises, occupational regulation and the delivery of many Government services. By making Tasmania's existing economic base more effective and productive, these reforms can be expected to increase the national and international competitiveness of Tasmanian businesses and will help them gain and secure footholds in the rapidly developing global economy.

Through its NCP implementation program, Tasmania is on target to meet its immediate National Competition Policy (NCP) obligations and qualify for the first tranche of competition payments from the Commonwealth in 1997-98. In this regard the following work has been completed:

- The State signed the Competition Principles Agreement (CPA) and the Conduct Code Agreement at the 11 April 1995 COAG meeting and remains a participating jurisdiction;
- The *Competition Policy Reform (Tasmania) Act 1996* has been enacted and commenced on 21 July 1996 (as agreed). This Act extends the coverage of Part IV of the Commonwealth's *Trade Practices Act 1974* to all business activities (public and private) in Tasmania;

- A Legislation Review Program (LRP) has been established, which contains a timetable for the review of all State legislation which restricts competition. The LRP provides that all such legislation must be reviewed and, where considered appropriate by the Government, reformed by the year 2000. Furthermore, the LRP established guidelines and procedures to ensure that any restrictions on competition or significant impacts on business that are contained in proposed legislation are fully justified as being in the public benefit;

- The LRP complements the *Subordinate Legislation Act 1992*, which established a comprehensive review program for existing subordinate legislation and which requires all new subordinate legislation to be assessed as to whether it imposes a significant burden, cost or disadvantage on any sector of the public;

- A policy statement and implementation timetable has been published regarding the manner in which the competitive neutrality principles will be applied to government business activities in Tasmania. These principles are designed to ensure that public sector business enterprises are not unduly advantaged or disadvantaged by their government ownership and compete on fair and equal terms with private sector businesses;

- The *Government Business Enterprises Act 1995* has been enacted. This Act partly fulfils Tasmania's NCP commitments in the area of competitive neutrality by placing Government Business Enterprises (GBEs) on a competitive footing with private sector businesses through the processes of both commercialisation and corporatisation.

- A policy statement and implementation timetable was developed in consultation with local government and has been published specifying how the principles set out in the Competition Principles Agreement (CPA) will be applied to local government activities and functions in Tasmania;

- The Tasmanian Government has moved to implement the policy statements on legislation review, the application of competitive neutrality to the State public sector and the application of National Competition Policy to local government in accordance with published timetables and guidelines. To this end, the implementation of legislation review guidelines has been fully completed. The implementation of the remaining two statements is progressing at a faster rate than initially envisaged and contain stronger policy

responses, in some reform areas, than are actually required under the CPA;

- The *Government Prices Oversight Act 1995* has been passed by Parliament and came into effect on 1 January 1996. The Act established the Government Prices Oversight Commission (GPOC) as an independent body to investigate the pricing policies of monopoly GBEs and agencies;

- A package of legislation has been passed by Parliament relating to the reform of the electricity supply industry in Tasmania. The *Electricity Supply Industry Act 1995* incorporates a number of the national electricity market principles, although the NCP electricity reform requirements as they relate to Tasmania differ from those that relate to a number of mainland States because of the lack of a physical connection between the Tasmanian electricity network and the mainland grid;

- Tasmania has been represented on the Gas Reform Task Force, which is responsible for establishing a framework for free and fair trade in gas. As with the NCP electricity requirements, Tasmania's obligations under the gas reform arrangements differ from those that relate to all mainland States and Territories, due to the absence of a natural gas industry and associated infrastructure in Tasmania;

- The Tasmanian Government is committed to implementing efficient and sustainable water industry reforms, which were agreed at the February 1994 COAG meeting and subsequently included in the package of NCP and related reforms agreed at the April 1995 meeting of COAG. The Government is actively working to implement the major water reform requirements in Tasmania and has initiated a number of reforms in this area to date;

- The State has moved to implement the National Road Transport Commission (NRTC) road transport reforms which were agreed at the April 1995 COAG meeting and subsequently endorsed by the Australian Transport Ministers at their meeting in November 1995. In mid-1996, Parliament passed a package of legislation that implements the NRTC charges for heavy vehicles; and

- The State is committed to the national implementation strategy, with the specified timeframes, for implementing the remaining transport reform modules, as agreed by the Ministerial Council of Road Transport (MCRT) at a meeting held on 14 February 1997. Tasmania notes,

however, that the timely preparation by the National Road Transport Commission of the necessary uniform legislation in certain reform areas will be crucial to the State being in a position to meet the timeframes for legislative change that have recently been re-established (and which, in accordance with the stated position of the NCC, should subsequently be ratified by COAG).

The NCC has already endorsed Tasmania's approach to NCP as outlined in the State Government's policy statements and legislation review timetable. Accordingly, the State Government is confident that it should qualify for the first tranche of NCP payments that are due to commence in 1997-98.

2. INTRODUCTION

At its April 1995 meeting, the Council of Australian Governments (COAG) signed a number of Agreements that are designed to boost the competitiveness and growth prospects of the national economy into the future. The Agreements give effect to a package of micro-economic reform measures that represent the National Competition Policy (NCP).

This Report outlines the Tasmanian Government's progress in the implementation of National Competition Policy and related reforms in Tasmania from the date the Agreements were signed until 31 December 1996.

Specifically, this Report:

- details Tasmania's commitments in implementing agreed NCP and related reforms;
- provides an outline of Tasmania's progress in implementing the reforms to date; and
- outlines the progress towards the full implementation of the reforms that is required to qualify for the first tranche of NCP payments in 1997-98.

The Tasmanian Government's main aim in implementing NCP and related reforms is to develop a favourable business climate that can support nationally and internationally competitive businesses, attract investment, generate employment and result in higher levels of economic growth.

The agreed NCP reforms were generally consistent with a wide range of reforms which had, or were in the process of being, implemented in various sectors of the economy by the Tasmanian Government. Major reform achievements included;

- legislative reform through the Systematic Review of Business Legislation, which involved the staged review of priority legislation identified as imposing a burden on Tasmanian business;
- regulatory reform through the enactment of the *Subordinate Legislation Act 1992*, which established a comprehensive review program for existing subordinate legislation and which requires regulatory impact statements and public consultation for all new subordinate legislation that imposes a "significant burden, cost or disadvantage on any sector of the public";

- reform of Government Business Enterprises (GBEs) through both the *State Authorities Financial Management Act 1990* and the *Government Business Enterprises Act 1995*, which made further improvements to the governance, performance and accountability of GBEs;
- reform of the electricity industry through a electricity supply industry legislative package, which was introduced into Parliament in June 1995, resulting in significant reforms to the operation of that industry in general and the Hydro-Electric Corporation in particular; and
- reform of local government through a program of modernisation, which has resulted in a reduction in the number of local government municipalities from 46 to 29. This move was aimed at achieving greater efficiencies in service delivery and increased autonomy and accountability for local government.

3. THE NATIONAL COMPETITION POLICY AGREEMENTS

The general thrust of the NCP reforms is to promote competition within the economy where it is in the public benefit, particularly in those areas which have traditionally been sheltered from the rigours of a competitive market.

The NCP Agreements were largely based on the recommendations of the Committee of Inquiry into a National Competition Policy. This Committee was established by the Commonwealth after consultation with the States and was chaired by Professor Fred Hilmer ("the Hilmer Report").

The NCP Agreements entered into by Heads of Government are summarised below.

3.1 THE CONDUCT CODE AGREEMENT (CCA)

The CCA provides for:

- the wider application of the restrictive trade practice provisions of Part IV of the Commonwealth's *Trade Practices Act 1974* (TPA) to encompass all private and public sector business activities. This included the removal of the 'Shield of the Crown' protection for certain State business activities, which previously did not have to comply with the requirements of Part IV of the TPA; and
- the establishment of the Australian Competition and Consumer Commission (ACCC), which is charged with administering the TPA and the *Prices Surveillance Act 1983*.

3.2 THE COMPETITION PRINCIPLES AGREEMENT (CPA)

The CPA effectively commits all Australian Governments to progressing, over the next few years, micro-economic reforms in a wide range of areas in accordance with a set of well-defined principles.

The principles included in the Agreement require:

Monopoly Prices Oversight

- consideration to be given to the introduction of a regime to oversee the prices charged by GBEs that are monopoly, or near monopoly, suppliers of goods or services;

Competitive Neutrality

- government businesses to operate such that they do not enjoy any net competitive advantage simply as a result of their public ownership;

Reform of Public Monopolies

- the conduct of an independent review before either privatising, or introducing competition to, a traditional monopoly;

Legislation Review

- the review and, where governments consider it appropriate, the reform of all legislation that restricts competition by the year 2000; and

Access to Services Provided by Significant Infrastructure Facilities

- consideration to be given to introducing a legislated right for third parties to negotiate access to services provided by means of significant infrastructure facilities.

The CPA also makes all Australian Governments responsible for the application of these principles to local government, establishes the National Competition Council (NCC) and sets out the consultative processes to be followed in relation to appointments to the NCC and the establishment of its work program.

3.3 *The Agreement to Implement the National Competition Policy and Related Reforms*

This Agreement provides for a sharing of the financial benefits flowing to the Commonwealth as a result of the States and Territories implementing the proposed reforms. It also requires each State and Territory to effectively implement COAG and other Agreements on:

- the establishment of a competitive national electricity market (for relevant jurisdictions);
- the establishment of a national framework for free and fair trade in gas (for relevant jurisdictions);
- a strategic framework for the efficient and sustainable reform of the Australian water industry; and
- an agreed package of road transport reforms.

In order to qualify for the first tranche of National Competition Policy payments in 1997-98 under the NCP Agreements, Tasmania must:

have signed the Competition Principles Agreement (CPA) and the Conduct Code Agreement (CCA) at the April 1995 meeting of the Council of Australian Governments (COAG);

- have passed the required 'applications' legislation by 21 July 1996 in order to extend the coverage of Part IV of the Commonwealth's *Trade Practices Act 1974* (TPA) to all businesses;
- be a 'fully participating jurisdiction' under the Commonwealth's *Competition Policy Reform Act 1995* and a party to the CPA at the time the payment is to be made;
- meet all its obligations under the CPA;
- take all necessary measures to implement, where relevant, an interim competitive National Electricity Market from 1 July 1995 (or such later date as might be agreed between the Parties), including signing any Heads of Agreement;
    - Tasmania is not a "relevant jurisdiction" for the purposes of these reforms to the electricity supply industry, due to the absence of any physical interconnection with the national network; and
- effectively observe the agreed package of road transport reforms.

The National Competition Council is responsible for assessing Tasmania's progress in implementing NCP and related reforms for the purpose of recommending to the Commonwealth Treasurer whether the conditions for the first tranche of NCP payments have been met.

Under the Agreement, the Commonwealth will firstly maintain the real per capita guarantee on Financial Assistance Grants (FAGs) on a rolling three year basis. This means that each year, the guarantee will be extended for a further year, providing the States and Territories with a continuous, guaranteed FAG pool for three years ahead. The real per capita guarantee was introduced at the 1994 Premiers' Conference and also applies to Commonwealth general purpose payments to local government.

In addition to this guarantee, the Agreement provides for additional 'competition' payments to be made to the States and Territories. These will be provided in three 'tranches' which, together with the per capita

guarantee component of the FAG pool, will be dependent on the States and Territories implementing the agreed reforms. If a State or Territory has not undertaken the required action within the specified time frame, its share of the per capita guarantee on FAGs and of the NCP payments will be forfeited to the Commonwealth.

Each of the three NCP payment tranches is a cumulative, annual indexed payment of $214 million to the States and Territories (in 1996-97 prices) and will be distributed between the States and Territories on a per capita basis. The first tranche will commence in 1997-98, the second in 1999-2000 and the third in 2001-2002. After the third tranche is paid, the annual value to Tasmania of the NCP 'competition' payments component will be approximately $16.6 million (in 1996-97 prices). However, the exact size of Tasmania's payment in each year will depend on Tasmania's share of the national population over time.

4. REFORMS UNDER THE CONDUCT CODE AGREEMENT

4.1 Extension of part iv of the Trade Practices Act 1974

Prior to the signing of the NCP Agreements, the rules governing restrictive trade practices (or anti-competitive behaviour) in Australia were contained in Part IV of the TPA. This Part prohibited businesses from engaging in anti-competitive conduct, or conduct the purpose of which was to substantially lessen competition in the marketplace.

Due to constitutional limitations, Part IV of the TPA applied only to incorporated businesses prior to 21 July 1996. Unincorporated businesses were only subject to the provisions of Part IV to the extent that they engaged in interstate or overseas trade, supplied the Commonwealth Government or operated in one of the Territories.

As a first step towards the implementation of the NCP arrangements, the Commonwealth passed the *Competition Policy Reform Act 1995* in late June 1995. This Act created a form of text (included in Schedule 1 of the TPA) that is known as "the Competition Code". The Code contains the rules set out in Part IV of the TPA, modified to refer to "persons" rather than "corporations".

In order to ensure that the Competition Code could be enforced in Tasmania, the Tasmanian Government introduced into Parliament the *Competition Policy Reform (Tasmania) Act 1996*. This Act had the effect of extending the restrictive trade practices provisions of Part IV of the TPA to cover all businesses in Tasmania, whether they are incorporated or unincorporated, or publicly or privately owned. This Act received Royal Assent on 10 July 1996 and commenced on 21 July 1996 (as agreed in the CCA).

The *Competition Policy Reform (Tasmania) Act 1996* is based on "model" applications legislation developed between the Commonwealth and each of the States and Territories. The adoption of "model" applications legislation by each State and Territory ensures that Part IV of the TPA applies as if it were enforced by a single Commonwealth Act. It should be noted that no modifications were made to the Competition Code in its application to persons within the legislative competence of the Tasmanian Parliament.

In addition, the Tasmanian Government introduced the *Competition Policy Reform (Tasmania) Savings and Transitional Regulations 1996* to ensure that existing ACCC authorisations and notifications in place prior to 21 July 1996 continue to be valid under the *Competition Policy Reform (Tasmania) Act 1996*. These authorisations allow for certain anti-competitive conduct which involves some over-riding public benefit to be exempt from the provisions of Part IV of the TPA. A notification allows for an immediate exemption for a type of anti-competitive conduct known as exclusive dealing. This conduct is allowed to continue until the ACCC takes action to rescind the notification on the grounds that the conduct is not justified on public benefit grounds.

The major impact of this reform has been felt by State and local government business enterprises. Unincorporated private sector businesses in Tasmania were considered to be largely complying with Part IV of the TPA, as these anti-competitive provisions were already being complied with by their competitors.

The Tasmanian Government has been active in providing information to interested parties on the impact of the extension of Part IV of the TPA. During July/August 1996, the Department of Treasury and Finance released a public information paper on the impact on Tasmanian businesses of the extension of Part IV of the TPA. Treasury also conducted a number of seminars for local government and State Government business entities.

Treasury is currently completing a Trade Practices Compliance Manual to assist State Government business enterprises to comply with the provisions of Part IV of the TPA. The Manual outlines, among other things, procedures to ensure that proposed exemptions from the provisions of Part IV of the TPA or the Competition Code under section 51(1) are fully justified in accordance with the requirements of the Legislation Review Program (or, in the case of temporary regulations, with the *Subordinate Legislation Act 1992*). The ACCC has recently provided feedback in relation to this document on technical and legal issues and it is expected that the Manual will be finalised and distributed in the near future.

In June 1995, a package of legislation was introduced into Parliament which resulted in a number of significant reforms to the Hydro-Electric Corporation (HEC) and the electricity supply industry in Tasmania. The aim of these reforms was to bring the Tasmanian electricity supply industry into line with national arrangements and reforms as far as is practicable prior to physical interconnection.

The revised arrangements contained within the legislative package include:

- the removal of the HEC's monopoly on generation;
- the removal of the regulatory functions from the HEC;
- the introduction of contestable and non-contestable customers; and
- the introduction of new licensed retailers who will be permitted to sell to contestable customers.

The legislative reform package included two exemptions under section 51(1) of the TPA, which exempt certain conduct in the electricity industry from Part IV of the TPA. These section 51(1) exemptions were included in the legislative reform package as the Tasmanian Government felt that it was essential to retain clear legal authority for very large customers to enter into contracts which contain restrictions on re-selling, because of the critical benefits to these customers, the HEC and the State. Notice of these section 51(1) references was provided to the Commonwealth Treasurer in late 1996, in accordance with the Conduct Code Agreement, in light of the fact that the ACCC had not been established at the time the legislative reform package was passed. The Commonwealth has accepted these exemptions by not over-riding these exemptions by regulation under the TPA in accordance with the agreed timeframe and procedures set out in the CCA.

5. REFORMS UNDER THE COMPETITION PRINCIPLES AGREEMENT

5.1 Competitive Neutrality

The primary objective of the competitive neutrality principles is to promote the efficient use of resources in public sector business activities. In particular, the competitive neutrality principles aim to eliminate resource allocation distortions arising out of the public ownership of entities engaged in significant business activities. That is, government businesses should not enjoy any net competitive advantage simply as a result of their public sector ownership and should compete on fair and equal terms with private sector businesses.

In applying the competitive neutrality principles, the CPA places Government businesses in two categories:

- significant GBEs, which are classified as Public Trading Enterprises (PTEs) and Public Financial Enterprises (PFEs) under the Australian Bureau of Statistics (ABS) Government Financial Statistics Classification; and
- significant business activities undertaken by a Government agency as part of a broader range of functions.

In June 1996, the Tasmanian Government published a policy statement and implementation timetable in accordance with CPA requirements, entitled *Application of the Competitive Neutrality Principles under National Competition Policy*. This statement outlines the manner in which competitive neutrality principles will be applied to State Government business activities in Tasmania and sets down a broad timetable under which this is to occur. The principal components of this policy statement and progress with its implementation is outlined below.

5.1.1 Government Business Enterprises

The CPA competitive neutrality principles are entirely consistent with the reform directions already in place in Tasmania in relation to Government Business Enterprises (GBEs). These directions are embodied in the *Government Business Enterprises Act 1995* (GBE Act). This Act places GBEs on a more competitive footing through the processes of both

commercialisation and corporatisation. The Act fulfils Tasmania's competitive neutrality commitments in relation to significant GBEs by subjecting them to:

- tax equivalent regimes;
- debt guarantee fees directed at offsetting the advantage of government guarantees on borrowings; and
- all regulations normally applying to the private sector.

The Commonwealth Treasury has endorsed the direction taken by Tasmania through the enactment of the GBE Act. In a letter dated 16 September 1996, the Commonwealth stated:

> *'It appears that Tasmania has made a considerable effort to ensure that GBEs are subject to appropriate accountability arrangements and commercial business disciplines. I note the use of economic rates of return for measuring financial performance, application of the full range of Commonwealth tax equivalents and State taxes and charges, the transparency measures taken for the use of community service obligations, and the clear delineation of responsibilities between managers, board members, Portfolio and Other Ministers. These measures will make an important contribution to the task of microeconomic reform.'*

The State has already benefited from increased financial returns from a number of major GBEs.

In order to ensure the full application of competitive neutrality principles to all GBEs, it is the Government's intention to amend the GBE Act and other relevant legislation to ensure that, by 1 July 1997, all GBEs, whether "significant" or not (other than the Housing Division of the Department of Community and Health Services, which is discussed in further detail below), will be subject to tax equivalent, guarantee fee and dividend regimes and pay local government rates. Instructions have been issued to the Office of the Parliamentary Counsel for the preparation of an order under the GBE Act to remove the exemptions from tax equivalent payments, dividends and/or guarantee fees from GBEs effective from 1 July 1997. It should be noted that removing the distinction between significant and insignificant GBEs for competitive neutrality purposes is a stronger policy response than actually required under the CPA.

These changes generally accord with the State Government's responsibilities under its Agreement with the Commonwealth, entitled the *Statement of Policy Intent on the Taxation Treatment of Government Trading Enterprises*. This Agreement requires all State PTEs and PFEs to be subject to a Commonwealth taxation equivalent regime by March 1997. A full list of Tasmanian GBEs at the time the State's competitive neutrality statement was prepared is contained in Table 1.

It should be noted that there is a number of inaccuracies in the list of government businesses contained in the ABS register of Tasmanian public trading and financial enterprises. The following points clarify these inaccuracies:

- the Coal River Irrigation Scheme, Cressy-Longford Irrigation Scheme, Prosser River Water Supply and the West Tamar Water Supply are all part of the Rivers and Water Supply Commission. The Commission is a GBE to which the CPA corporatisation model already applies;
- the Marine Board of Circular Head has been absorbed into the Marine Board of Hobart, to which the CPA corporatisation model will apply;
- the Theatre Royal Board is part of the Theatre Royal Trust, which is listed as a significant business activity in Tasmania's policy statement on competitive neutrality; and
- Transport Tasmania, the Tasmanian Film Corporation, the Government Printer, the Herd Improvement Board of Tasmania, the Potato Industry Authority, the Tasmanian Apple and Pear Marketing Authority, the Devonport Municipal Council Abattoir Undertaking and the King Island Abattoir Undertaking no longer exist. These authorities have been disbanded, privatised in the case of the abattoirs, or their functions absorbed into other statutory authorities.

The Tasmanian Government has reviewed/reformed a number of government businesses. These reforms are detailed below.

Bulk water suppliers

In late 1996, the Hobart Regional Water Board was transferred to Local Government and re-established as a joint authority under the *Local Government Act 1993*. The joint authority services the southern region and will be subject to a full tax equivalent, dividend and guarantee fee regime effective from 1 July 1997.

Table 1:Tasmanian Government Business Enterprises

Significant Government Business Enterprise	PTE or PFE	GBE
Burnie Port Authority	Yes	No
Civil Construction Services Corporation (Works Tasmania)	No	Yes
Derwent Entertainment Centre Management Authority	Yes	No
Egg Marketing Board	Yes	Yes
Forestry Corporation	No	Yes
Hobart Regional Water Board	Yes	Yes
Housing Division	Yes	No
Hydro-Electric Corporation	Yes	Yes
HEC Enterprises Corp'n	Yes	Yes
Marine Board of Flinders Island	Yes	No
Marine Board of Hobart	Yes	No
Marine Board of King Island	Yes	No
Metropolitan Transport Trust	Yes	Yes
Motor Accidents Insurance Board	Yes	Yes
North West Regional Water Authority	Yes	Yes
Port Arthur Historic Site Management	Yes	Yes
Port of Devonport Authority	Yes	No
Port of Launceston Authority	Yes	No
Printing Authority of Tasmania	Yes	Yes
Public Trustee	Yes	Yes
Rivers and Water Supply Commission	Yes	Yes
Southern Regional Cemetery Trust	Yes	Yes
Stanley Cool Stores Board	Yes	Yes
Tasmanian Dairy Industry Authority	Yes	Yes
Tasmanian Grain Elevators Board	Yes	Yes
Tasmanian International Velodrome Management Authority	Yes	Yes
Tasmanian Public Finance Corporation	Yes	Yes
Totalizator Agency Board	Yes	Yes
TT-Line Company Pty Ltd	Yes	Yes

The principles underlying the transfer of the Hobart bulk water supply to Local Government will be the model used for the transfer of other regional bulk water schemes to Local Government, namely:

- all of the major councils within the region must be involved;
- the bulk water supply joint authority must function at arms length from the councils involved, in a proper commercial manner;
- appointments to the joint authority board must be on the basis of skills and experience to manage a bulk water supply, as distinct from representative experience; and
- the joint authority must pay an indexed annual water royalty of $26 per megalitre based on all water on-sold to its customers.

Future transfers are also conditional upon assurances from Local Government that the bulk water operations will be conducted in a manner that enables the State to meet its obligations under National Competition Policy. This means the joint authority will be the subject of tax equivalent, dividend and guarantee fee regimes.

It is anticipated that effective from 1 July 1997, the North Esk and West Tamar bulk water schemes operated by the Rivers and Water Supply Commission will be transferred to Local Government and re-established as a joint authority under the *Local Government Act 1993*. The bulk water supply operation of the Launceston City Council will also transfer to the same authority established to service the northern region.

The future of the remainder of the Rivers and Water Supply Commission, which consists of a number of irrigation schemes, will be considered after the successful transfer of the bulk water schemes.

It was anticipated that the North West Regional Water Authority would also transfer to a north west regional joint authority. However, no firm proposal has yet been received from Local Government, and it appears unlikely that the transfer will occur before 1 July 1997.

Marine Authorities

(Hobart, Devonport, Launceston, Burnie, King Island and Flinders Island Marine Authorities)

In November 1996 the Minister for Transport signed a Memorandum of Understanding with the port authorities for their corporatisation as companies under the Corporations Law. It is proposed that effective from 1 July 1997:

- the regulatory functions presently undertaken by the ports will transfer to the newly created Marine Authority of Tasmania;
- the ports will be established as companies. It is probable that the King and Flinders Island ports will become subsidiary companies of a major port; and
- the ports will be subject to a full tax equivalent, dividend and guarantee fee regime. Extension of this regime to ports will be achieved from 1 July 1997 within the proposed ports corporatisation legislative package.

Housing Division of the Department of Community and Health Services

In November 1996, the Government agreed to commence the commercialisation of the Housing Division, with a view to its eventual corporatisation at some future time. The commercialisation process has commenced with the establishment of a separate advisory Board and the identification and separation of Housing assets and liabilities from the rest of the Department.

5.1.2 Other Significant Government Business Activities

The Government's policy statement on the implementation of competitive neutrality requires all significant business activities undertaken by budget sector agencies to be identified by 30 June 1997. At the same time, each agency must submit a timetable for the application of the competitive neutrality principles to these activities. Each agency will be required to report at six-monthly intervals on progress in implementing the competitive neutrality principles. Some progress has already been made within individual Departments - for example, the regulatory and service delivery functions of the Valuer-General have already been separated into the Office of the Valuer-General and the Valuation Services Unit respectively, with the latter applying full cost attribution to its activities.

To assist with the application of competitive neutrality principles, policies will also be established during 1996-97 in relation to full cost attribution pricing, corporatisation and public benefit assessment. These policies will

complement the Government's existing policy on community service obligations, which was released in July 1996.

The full cost attribution guidelines to apply at the State Government level will closely align with those to apply to local government. Accordingly, State Government guidelines are being developed in conjunction with the local government guidelines. Both sets of guidelines will be finalised by 30 June 1997.

While reforms associated with the introduction of the competitive neutrality principles have centred on GBEs, some changes have been achieved within Government agencies, including the improvement of financial management and reporting systems and the development of a policy framework for competitive tendering. These changes are necessary pre-conditions to the effective introduction of the competitive neutrality principles to Government agencies.

The NCC has queried a number of significant business activities undertaken by Government agencies which have been listed by other jurisdictions. In each case, these activities are either not applicable to Tasmania, or are listed for reform in the competitive neutrality statement under an alternative title. The current status of these business activities is detailed below:

- The Government no longer has a roadworks function in the inner budget sector. Works Tasmania, a fully corporatised GBE to which the CPA corporatisation model applies, has assumed the Government's roadworks and construction functions. Works Tasmania holds the tender for State road maintenance until June 1997. After that date, all Transport Department tenders will be subject to full competitive tender;
- The Government's irrigation schemes are part of the Rivers and Water Supply Commission, a fully corporatised GBE to which the CPA corporatisation model applies;
- Security within the State Service is a function that is fully outsourced; and
- Vehicle fleet management is presently undertaken by State Purchasing and Sales (SPS), a business unit that falls within the Department of Treasury and Finance.

5.1.3 Complaints Mechanism

Clause 3(8) of the CPA requires the State Government to implement a complaints mechanism in relation to competitive neutrality matters.

In its policy statement on competitive neutrality, the Government indicated that it will be utilising the Government Prices Oversight Commission (GPOC) as the focal point for receiving and dealing with complaints against State and local government businesses in relation to the application of the competitive neutrality principles. However, complaints were to be limited to those that relate to business activities to which the competitive neutrality principles are to apply (as outlined in Tasmania's policy statement).

After some re-consideration of this issue, the Tasmanian Government considers it inevitable that such a body will receive complaints regarding the broad range of State Government businesses. For this reason, the Government is examining the possibility of extending the complaints mechanism to include receiving and reporting on complaints against all government businesses, whether or not they have been specifically targeted in the policy statement as businesses to which the competitive neutrality principles will apply. This responsibility will be contained in a regulation to be made under the *Government Prices Oversight Act 1995* that will specify the complaints function of GPOC.

It should be noted that the Government recently received legal advice that the GPOC Act may not be specified in such a manner to allow the Commission to function as the competitive neutrality complaints mechanism. Accordingly, the Government intends to put the matter beyond doubt in the *Government Prices Oversight Amendment Bill 1997*, which has as its main purpose the extension of the GPOC arrangements to local government monopoly providers in Tasmania. It is expected that the Bill will be introduced and debated in Parliament in April 1997.

The Government has nearly finalised a statement on the Processes for the Application of the Complaints Mechanism. Once the statement has been finalised, the necessary regulation under the *Government Prices Oversight Act 1995* will be made, subject to the legislative amendment outlined above being in place, to enable GPOC to assume this function from 1 July 1997.

A flowchart of the proposed complaints mechanism process is produced on the following page.

The Government believes that such an extension will represent an important vehicle for identifying future Government business activities that should be reformed in line with the competitive neutrality principles and fully expects the arrangements to be in place and operating by 1 July 1997.

5.2 MONOPOLY PRICES OVERSIGHT

The CPA requires that the State consider the establishment of an independent source of prices oversight advice in relation to monopoly, or near monopoly, suppliers of goods and services. Such a mechanism is necessary to ensure that monopoly providers charge prices that are "fair and reasonable" and which do not result in the exercise of monopoly market power to the detriment of consumers and businesses.

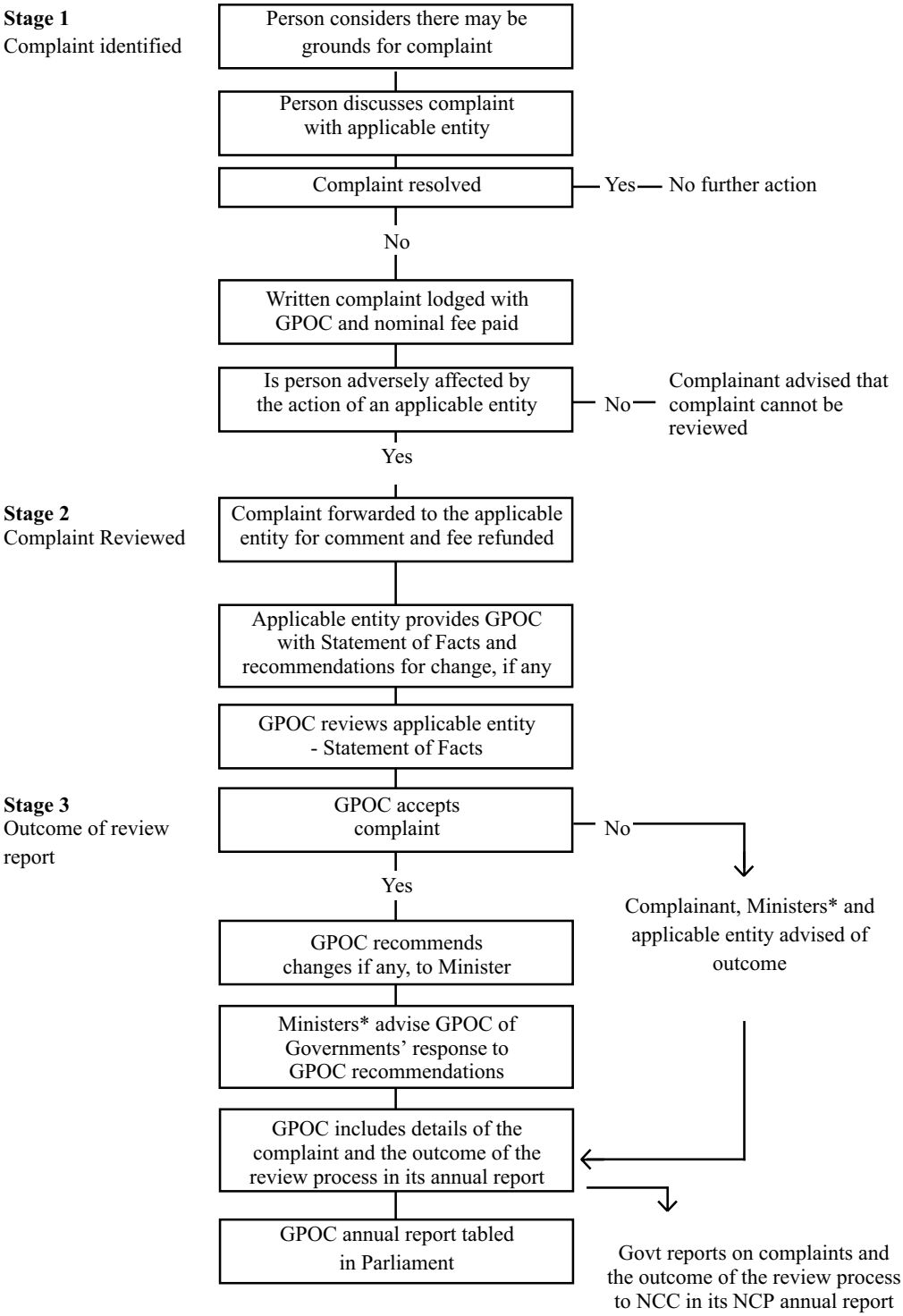
In order to meet this requirement, the Tasmanian Government introduced the *Government Prices Oversight Act 1995,* which came into effect on 1 January 1996. The Act established the Government Prices Oversight Commission (GPOC) as an independent body charged with the responsibility of conducting investigations into, and reporting on, the pricing policies of both GBEs and Government agencies that are monopoly, or near monopoly, suppliers of goods and services in Tasmania. The Tasmanian Government appointed Mr Andrew Reeves as Government Prices Oversight Commissioner in December 1995. He was subsequently appointed by the Commonwealth (with the concurrence of the other States and Territories, as required under the CCA), as an Associate Commissioner of the ACCC in late 1996.

The Act provides for the prices and pricing policies of the most significant public sector monopolies in Tasmania to be automatically investigated at least once in every three years. Five GBEs are scheduled in the Act in this regard. In addition, the Act provides a mechanism under which other monopoly services can be declared and therefore subject to a GPOC inquiry (see section 5.2.3 below).

GPOC has already completed an investigation into the pricing policies of the Hydro-Electric Corporation (HEC) and the pricing policies of the Metropolitan Transport Trust (MTT). These inquiries are outlined in more detail below. GPOC's forward work program for 1997 includes a review

National Competition Policy - Proposed Complaints Mechanism

Flow Chart of Processes



*Ministers mean the Miniister for Finance and the relevant Portfolio Minister

of the Motor Accidents Insurance Board, which is scheduled to commence by no later than 31 May 1997. At this stage, it is expected that the terms of reference for this investigation will actually be issued in early April 1997.

5.2.1 HEC Investigation

GPOC was requested to investigate the pricing policies of the Hydro-Electric Corporation (HEC) for the retail sale and supply of electricity in Tasmania in accordance with Terms of Reference issued to the Commission in January 1996.

GPOC was required to consider all the pricing policies of the HEC for charges under the *Hydro-Electric Commission By-Laws 1994*, the appropriateness of the current pricing policies relating to fixed and variable charges, the services provided by the HEC and the pricing policies for the provision of non-commercial services.

GPOC's Final Report, which was issued in August 1996, contained the Commission's final recommendations in relation to the maximum prices to be charged by the HEC for the three years to the end of 1999.

The major conclusions of the Commission in the Final Report were:

- the existing fixed charges, consisting mainly of the network charge, could not be justified on cost grounds; and

- that major anomalies existed in the HEC's pricing structure, which result in most business sector customers paying significantly more for their electricity than costs would justify.

Maximum prices were recommended in the Final Report in order to deliver the benefits to Tasmanian consumers that they would receive if there were competitive forces in the electricity market.

The recommendations of the Final Report have generally been accepted by the Government and maximum prices for the ensuing 3 year period have been prescribed in the *Government Prices Oversight Commission Order 1996*. The HEC has reset its prices in accordance with the Order, following GPOC's approval that the new pricing arrangements were within the maximum prices established

under that Order. There are currently transitional arrangements in place to assist in the smooth implementation of the new pricing structure (which commenced on 1 January 1997).

The new pricing structure set by the Commission has provided for an immediate reduction in fixed charges and a reduction in prices to the business sector, while keeping average increases for residential customers at the rate of inflation. Electricity accounts are now more closely linked to the amount of energy consumed. The new pricing structure also eliminates cross-subsidies between retail customer classes, without constraining the ability of the HEC to meet competition from alternative sources.

5.2.2 MTT Inquiry

GPOC has also investigated the pricing policies of the MTT in accordance with Terms of Reference issued to the Commission in September 1996.

The Commission investigated the pricing policies associated with the current provision of bus services by the MTT in Hobart, Launceston and Burnie, including the provision of non-commercial services by the MTT.

The Commission released a Final Report in late February 1997. The major conclusions of the Commission in the Final Report were that:

- financial arrangements between the MTT and the Government should be on a commercial footing in the form of a contract for services;
- fares could increase as the existing level of cost recovery could not be justified in economic terms and that fare adjustments should be small and regular; and
- the MTT should develop a set of performance measures for periodic reporting on the quality of service.

5.2.3 Other Investigations

In addition to the investigations into the main GBEs that are monopoly providers and scheduled in the GPOC Act, the

Government is currently considering issuing a number of terms of reference for pricing inquiries in respect of inner-budget sector businesses that have monopoly characteristics.

Preliminary officer level discussions have occurred in this regard between Treasury and the Office of the Auditor-General (in relation to financial audits undertaken), the Land Information Division of the Department of Environment and Land Management (in relation to both base and commercial mapping services) and the Tasmanian Fire Commission (in relation to fire survey reports provided in respect of proposed commercial property developments).

It is expected that terms of reference for these additional pricing investigations will be considered by the relevant Ministers in the course of April 1997.

5.2.4 Prices Oversight and Local Government

Clause 2 of the CPA requires the Tasmanian Government to consider establishing an independent source of prices oversight advice where they do not already exist. As councils operate business activities which are monopoly providers of services within their own area, the Government has been consulting with local government over a proposal to extend the coverage of the *Government Prices Oversight Act 1995* to include local government monopoly services. As indicated in section 5.1.3 above, a Bill in this regard is expected to be introduced and debated in Parliament in April 1997.

5.3 Structural Reform of Public Monopolies

With regard to the reform of public monopolies, the CPA structural reform principles require that:

- prior to introducing competition into a sector traditionally supplied by a public monopoly, governments must remove any regulatory function or responsibility from the public monopoly so as to prevent the former monopolist from having any regulatory advantage over its competitors; and
- prior to introducing competition into a market traditionally supplied by a public monopoly and before privatising a public monopoly, governments must conduct a review into, among other matters:

- the merits of separating any natural monopoly elements from potentially competitive elements of the public monopoly;
- the merits of separating potentially competitive elements of the public monopoly;
- the most effective means of separating regulatory functions from commercial functions;
- the most effective means of implementing the competitive neutrality principles;
- the merits of any community service obligations undertaken by the monopoly and the best means of funding and delivering them; and
- the appropriate financial relationships between the Government (as owner) and the public monopoly, including rate of return targets, dividends and capital structure.

Since the signing of the CPA, the Tasmanian Government has not had cause to apply these principles.

5.4 Legislation Review

In June 1996, the Tasmanian Government published, in accordance with CPA requirements, a policy statement entitled *Legislation Review Program: 1996 - 2000 - Tasmanian Timetable for the Review of Legislation that Restricts Competition*, which established the Legislation Review Program (LRP). The LRP represents a significant strengthening of the Government's previous Systematic Review of Business Legislation. The LRP provides further impetus to the Government's regulatory reform agenda and demonstrates its commitment to reducing the regulatory burden which, in many cases, needlessly restricts the operation of the Tasmanian economy.

In particular, the Government's primary objective is to ensure that the State's legislative and regulatory framework does not unnecessarily impede or restrict overall economic activity. In this way, the Government aims to create the most favourable business climate possible in order to encourage investment in Tasmania. The LRP provides the appropriate policy framework for this to be achieved.

Specifically, the LRP will see the review, by the year 2000, of all State legislation that restricts competition to ensure that the Government only

retains those restrictions that are fully justified in the public benefit. Many existing legislative restrictions on competition impose substantial costs on consumers and society, through either cross-subsidies, barriers to market entry by new businesses, unnecessary additional business costs or reduced incentives for firms to innovate and improve their efficiency.

Clause 5 of the CPA specifies that the guiding principle to be followed by jurisdictions in this reform area is that legislation (both primary and subordinate) should not restrict competition unless it can be demonstrated that:

(a) the benefits of the restriction to the community as a whole outweigh the costs; and

(b) the objectives of the legislation can only be achieved by restricting competition.

The CPA requires this principle to be applied to both existing anti-competitive legislation and new legislative proposals that will impose a restriction on competition.

The LRP timetable contains 242 Acts which are to be reviewed progressively over the four and a half year period to the year 2000. Of these 242 Acts:

- 141 Acts are contained in the 'General' category of the LRP timetable, where restrictions on competition will be subject to thorough review;
- 79 Acts have been nominated for 'National Review', which may address uniform, complementary, application, template or mirror legislation (including national codes and standards, State legislation where reforms may have 'spillover' effects to other jurisdictions or legislation where a joint or national approach to the review would be beneficial to all relevant jurisdictions);
- 20 Acts have been listed in the 'Community Standards' category, where it is felt that certain restrictions on competition in particular areas are justified in terms of the recognised social objectives of the legislation.

  It should be noted that the Tasmanian Government will review these 20 Acts to ensure that any restrictions on competition, other than those deemed to constitute community standards, can be justified as being in the public benefit;

- 13 Acts have been listed in the 'Exclusions' category, where the Tasmanian Government believes that there are sound reasons for excluding some Acts from the LRP process. These Acts fall into the categories of either Taxation or Agreement Acts.

  The NCC expressed some initial concerns about Tasmania's decision to exempt Agreement Acts from review, based on sovereign risk considerations. In response, the Tasmanian Government submitted an explanatory paper to the NCC in August 1996, which provided justification for the exclusion of the four Agreement Acts from the LRP process. Based on the NCC's assessment of the explanatory paper, the Tasmanian Government is confident that the NCC is satisfied with the treatment of these Acts under the LRP .

The remaining 460 Tasmanian Statutes are excluded from the LRP on the basis that they have been assessed by the Government as not impacting on competition in any way. For the purposes of transparency and to assist the NCC in its task, the Tasmanian LRP policy statement actually included a full list of these 460 Acts that have been determined to be outside the scope of the NCP exercise.

It should be noted that the process that LRP reviews must follow is comprehensively outlined in the Tasmanian Government's policy statement, *Legislation Review Program: 1996 - 2000 - Tasmanian Timetable for the Review of Legislation that Restricts Competition*. This process includes utilising a standard terms of reference template for establishing the focus of each review. Furthermore, this policy statement clearly explains the "gatekeeper" arrangements that the Government has put in place to ensure that no legislation is introduced that restricts competition without having first been through a thorough analysis of the costs and benefits.

5.4.1 Progress with the Review Timetable

Under the LRP timetable, 40 Acts were listed for a review to commence during 1996. The status of these scheduled reviews is listed below.

Acts repealed	14
Reviews deferred	7
Reviews deleted	1
Reviews in progress	18
Total	**40**

Of those reviews in progress, seven Acts are being reviewed as part of an ongoing reform process that will see the implementation of the COAG reform agenda for the Australian water industry (see section 7.3 below). A comprehensive report on the status of those Acts listed for a review to commence in 1996 is provided in Appendix A.

A number of Acts listed for a review to commence in 1996 have been scheduled as 'major reviews'. A review of existing legislation is considered to be major where it has economy-wide implications, or where it significantly affects a sector of the economy (including consumers). Examples of some of the Acts where a major review has commenced, or is just about to commence, include:

- *Apple and Pear Industry (Crop Insurance) Act 1982*;
- *Local Government Act 1993*;
- *Liquor and Accommodation Act 1990*;
- *Hospitals Act 1918*; and
- *Inland Fisheries Act 1995*.

The Tasmanian Government notes the views of the NCC in relation to the need for not only all reviews to have been completed by the year 2000, but all associated reforms to also be implemented by that time. While on the basis of current planning this should occur in Tasmania (as the review program contains no reviews scheduled to commence in the year 2000), the Government wishes to remind the NCC that the CPA only contains "firm" commitments to review all anti-competitive legislation by the year 2000.

The CPA contains a qualification in relation to the reform of legislation (and in relation to reform in a range of other areas) which the NCC must bear in mind when undertaking its assessments. Specifically, the words "where appropriate" appear prior to the words "reform of all existing legislation which restricts competition by the year 2000". The Tasmanian Government would suggest that the timing of the reform and the implementation of transitional arrangements is a matter for individual governments to consider, in determining the overall net public benefit associated with particular legislative changes.

The most significant review conducted in Tasmania so far has been that of the *Traffic Act 1925*. This Act has been substantially reviewed in terms of the restrictive provisions of Part III of the Act by the independent

Committee of Review into Public Vehicle Licensing in Tasmania, chaired by Mr David Burton (the "Burton Review").

The Burton Review was established by the Tasmanian Government in October 1995. The Committee undertook a comprehensive investigation into the need for transport reform, which included widespread consultation, before handing its report to the Minister for Transport in October 1996. Building on this review, the Government has developed a plan to revise the public vehicle licensing system and prepare a new legislative framework for taking Tasmanian transport into the next century.

The Government believes that there is an immediate need to overhaul the public vehicle licensing system and has given its "in-principle" endorsement to the recommendations of the Burton Review.

Further work will be done on preparing new legislation to replace the Traffic Act for introduction into Parliament by October 1997. The transport industry and users will be fully consulted in this process.

In the interim, the Government has commenced the reform process by gazetting regulations under the Traffic Act which enable the Commissioner for Transport to exempt four categories of public vehicles from the need to be licensed.

The four categories of vehicles are:

(a) Light commercial vehicles and trailers (of which there are currently approximately 70,000 commercial vehicles (trucks, vans and utilities) and 60,000 trailers);

(b) Hire-and-drive buses;

(c) Aircraft involved in charter or aerial work; and

(d) Classic hire cars used for weddings or special occasions.

The amendments to exempt these categories were introduced in December 1996. This should result in the number of licensed freight vehicles and trailers in Tasmania being reduced from about 7,700 to approximately 3,500.

The more significant recommendations contained in the Burton Report include:

- Repealing the public vehicle sections of the Traffic Act and replacing them with alternative legislation based on recommendations contained elsewhere in the report;
- Recognising that the primary responsibility of Government in relation to public vehicles is safety;
- Establishing the accreditation (either voluntary or mandatory) of public passenger vehicle operators. Accreditation should be provided by independent accreditors;
- Franchising of regular passenger transport routes and establishing the requirement for passenger services to meet minimum service levels with respect to fares, frequency and bus quality;
- Establishing minimum vehicle quality requirements for general hire cars (LTD or better) and converting all remaining cabs to the *Taxi Industry Act 1995* provisions;
- Placing the Metropolitan Transport Trust under the same regulatory framework as private buses, but giving it an exclusive franchise over its current routes for a period not exceeding 10 years; and
- Withdrawing State Government involvement in the regulation of aircraft, with recognition that existing Commonwealth controls in this area are adequate. No public vehicle licenses should be required for charter work, aerial work or regular air passenger transport services.

The Tasmanian Government recognises that there is a number of issues of detail to be resolved and that some of the alternatives outlined in the recommendations of the Burton Report could restrict competition. These alternatives include:

- mandatory bus operator accreditation;
- the granting of open or closed franchises for bus routes;
- requiring hire cars to meet vehicle standards (LTD standard or better); and
- requiring certain controls to clarify the relationship between hire cars and taxis.

The Government has established an Interdepartmental Reference Group to consider these recommendations in light of the Government's NCP

obligations, prior to proceeding with the preparation of legislation to replace the Traffic Act.

In addition to the reforms arising from the Burton Review, the Tasmanian Government is in the process of drafting legislation to amend the Traffic Act and supporting regulations to enable the establishment of private sector Authorised Motor Vehicle Inspection Stations. The establishment of a statewide network of private sector authorised inspection stations will remove the Government's monopoly in the area of vehicle inspections. The stations will be responsible for the inspection of the majority of light vehicles, including clearance of defect and discontinuance notices. Authorisation will be open to any garage or service station in the State. In the longer term, the Authorised Inspection Stations system will be extended to include heavy vehicle inspections.

5.4.2 National Reviews

In the case of national reviews, at Senior Official level efforts have been made to try and progress reviews in relation to those Acts listed in Table 2. Those with a high review priority are expected to be progressed during 1997, while those with medium priority will be progressed once the initial round of high priority reviews has been completed. This will enable the development of a manageable work program that will review several major areas where there is scope for considerable reform under NCP. There is also an option for further additions also to be made to the list over time.

Given that formal processes for developing national review candidates and a preliminary list of possibilities has only recently been agreed at Senior Officials level, the Tasmanian Government will shortly be reassessing the status of those Acts that it nominated for a national review that are not contained in Table 2. The focus of this reassessment will be to decide whether to proceed with a State-based review, or whether to further press for a national review of related legislation. Where a decision is made to conduct a State-based review, the timing of the review will be outlined in the NCP Annual Report for 1997.

Table 2: Nationally Agreed Reviews

Legislation Area	Review Priority
Agricultural, veterinary and industrial chemicals	Primary
Food standards	Primary
Occupational health and safety	Primary
Legal profession	Primary
Drugs and poisons	Secondary
Financial legislation (companies, securities, futures and consumer credit)	Secondary
Trade measures	Secondary
Travel agents	Secondary
Biological control	Secondary
Building Code of Australia	Secondary

5.4.3 Audit of Legislation Introduced Since April 1995

An audit has recently been conducted of all legislation passed by the Tasmanian Parliament in the period between the signing of the NCP Agreements on 11 April 1995 and 31 December 1996. The audit revealed that, during this period, the Tasmanian Parliament passed 173 Acts, 131 of which were enacted prior to the commencement of the LRP assessment procedures on 1 July 1996.

Generally, the legislation that was passed by the Tasmanian Parliament in the period between 11 April 1995 and the end of 1996 did not restrict competition. However, the audit revealed that 44 Acts that were not assessed under the LRP, and consequently not subject to the full NCP legislation review principles as outlined in clause 5(5) of the Competition Principles Agreement (CPA), contained some restrictions on competition. In some cases, these Acts were in the legislation pipeline (that is, they were either in Parliament or just about to be introduced) at the time the NCP Agreements were signed, or at the time the LRP commenced. In other cases, the Acts pre-dated the State Government's LRP, which commenced in July 1996.

Where these Acts contain any restrictions on competition, they have been placed on Tasmania's LRP legislation review timetable and will be reviewed and, where appropriate, reformed prior to 31 December 2000. In the few cases where such Acts are not already included in the LRP, they will be added to the program and reported in the NCP Annual Report for 1997. Further details on these Acts can be found in Appendix A.

The fact that the Government has not fully applied the NCP legislation review principles to all primary legislation passed since 11 April 1995 does not reflect a lack of commitment to these principles. Rather, it is a function of not having in place a clear procedure for ensuring that the legislation review principles were applied to all primary legislation until the implementation of the Government's LRP in late June/early July1996.

It should be noted that, despite the absence of a formal process for ensuring the application of the principles contained in clause 5 of the CPA, legislation introduced by the Tasmanian Government in the period 11 April 1995 to 1 July 1996 was required to comply with the guidelines and procedures of the Government's *Systematic Review of Business Legislation*. This program, while not reflecting the clause 5 principles explicitly, required agencies and authorities to appropriately justify proposed legislation with respect to its impact on business.

The only major restriction on competition that the Government introduced during the period in question that may be of significant concern to the NCC was the *Liquor and Accommodation Amendment Act 1995,* which prohibited the sale of liquor in supermarkets. Under the *Liquor and Accommodation Act 1990*, the sale of liquor is confined to premises licensed under the Act. At the time, no supermarkets were licensed for the sale of liquor. However, a major supermarket chain was known to be keen to pursue a liquor licence. The proposed sale of liquor in supermarkets was a contentious issue in the community and the Government decided in mid 1995 that legislation was necessary to put beyond doubt that the sale of liquor in supermarkets was seen to be unacceptable.

Notwithstanding this action, the review of the Liquor and Accommodation Act under the LRP, which was scheduled to commence in 1996, is now underway.

In relation to subordinate legislation, there are no compliance difficulties in Tasmania, as the *Subordinate Legislation Act 1992* was in operation when the NCP Agreements were signed. When the Government

introduced the *Subordinate Legislation Amendment Act 1994* in August of 1994, it took the opportunity to incorporate the legislation review principles espoused by the Hilmer Report, in anticipation of the requirements of the then proposed National Competition Policy. Consequently, the requirements of this Act already reflect clause 5 of the CPA and ensure that all new subordinate legislation is properly justified, whether it restricts competition or not. Tasmania is, therefore, confident that all subordinate legislation passed since 11 April 1995 has been subject to the provisions of clause 5 of the CPA.

With the LRP now in place alongside the Subordinate Legislation Act, the Government is confident that Tasmania has a comprehensive set of legislation review and "gatekeeper" procedures that are in line with the overall requirements of clause 5 of the CPA.

5.5 *Third Party Access*

In accordance with the CPA, the Commonwealth's *Competition Policy Reform Act 1995* amends the Commonwealth's *Trade Practices Act 1974* to provide for a regime for third party access, under certain conditions, to services provided by means of significant infrastructure facilities. However, this access regime does not apply to a service provided by a facility where the State or Territory in whose jurisdiction the service is situated has established an "effective" access regime which covers that facility.

While the Tasmanian Government has no plans at this stage to introduce a State-based access regime, the Government may consider establishing industry-specific regimes on a case-by-case basis if the need arises.

6 LOCAL GOVERNMENT AND NCP REFORMS

6.1 General

Tasmania is required to apply the provisions of the CPA to local government within Tasmania.

In June 1996, the Tasmanian Government published a policy statement, entitled *Application of the National Competition Policy to Local Government*, on the application of the CPA principles to particular local government activities and functions in this State. The statement was developed in close consultation with local government, as required by the CPA, and there is on-going consultation with local government regarding its implementation. Progress to date in applying the CPA principles to local government is detailed below.

6.2 Competitive Neutrality

The policy statement contains a staged approach to the application of the competitive neutrality principles to local government which involves, as a first step, the implementation of full cost attribution to significant local government businesses by 1 July 1997. Under full cost attribution, local government is required to separately attribute to its significant business activities the full costs of production, including:

- State, Commonwealth and local taxes;
- loan guarantee fees;
- full indirect as well as direct costs (including corporate overheads and a component for a return on capital); and
- the cost of complying with the regulations that apply to the private sector.

The full cost attribution stage is to be followed by the application by 1 July 2000 of the corporatisation model, where appropriate, to significant local government business activities. The corporatisation model requires that, where appropriate:

- the business activity be corporatised;
- full Commonwealth, State and Territory taxes or tax equivalent systems be imposed;

- debt guarantee fees directed towards offsetting the competitive advantages provided by government guarantees on borrowings be imposed; and
- those regulations to which private sector business are normally subject be imposed on an equivalent basis to private sector competitors.

The corporatisation model also requires the separation of policy, regulatory and contract management functions from operational or service delivery functions, if this has not already occurred in the application of full cost attribution.

This staged approach to the implementation of competitive neutrality was developed to assist local government to adjust to the significant changes that were expected to arise from the movement to full cost attribution, before embarking on the more involved process of corporatisation.

The Tasmanian Government, through the Department of Treasury and Finance, has been working actively with local government on the implementation of NCP and has assisted in improving local government's understanding of NCP and the benefits that will flow from its implementation. As a consequence, it has now become clear that local government will embrace competitive neutrality principles at a much quicker pace than envisaged when the policy statement was developed. This change in priorities has arisen as councils now realise the advantages that competitive neutrality can deliver in increasing the efficiency of council operations.

The Tasmanian Government is pleased to note that 18 of the 29 councils have already formally indicated to the Minister for Finance that they intend to apply full cost attribution to all their business activities. Clearly, this proposed reform exceeds the requirements of the CPA.

While Local Government is keen to adopt full cost attribution, it is becoming increasingly apparent that the smaller councils, in particular, may not have the skills or accounting systems to enable this to occur. The issues associated with the implementation of the competitive neutrality principles at the Local Government level will be addressed in detail prior to 1 July 1997.

The full cost attribution guidelines are being developed in co-operation with Local Government. It is anticipated that the final discussion draft will be circulated in April 1997 and the final guidelines issued by 1 July 1997.

The lists of significant business activities prepared by councils will be reviewed by a "peer group", which has been established by the Local Government Association of Tasmania (in conjunction with Treasury) and which will recommend to the Minister for Finance whether the lists should be accepted or amended. The Minister for Finance must advise councils by 30 June 1997 of those significant business activities to which the competitive neutrality principles are to be applied. Details of significant business activities prepared by councils are not included in this report to avoid pre-empting the outcomes of the peer review.

In the case of those councils which have indicated that they will apply full cost attribution to all their business activities, the peer review exercise will essentially be a process of endorsing the proposed approach. A more detailed process will be undertaken where councils only intend to apply full cost attribution to their significant business activities.

Further, a general review of the *Local Government Act 1993* has commenced. In part, this review will consider the legislative framework within which local government will apply competitive neutrality principles to its business operations. It is anticipated that the necessary legislative changes identified by the review to allow the application of the corporatisation model to all types of local government activities will be in place during 1997.

The Local Government Act has already been amended to incorporate a full taxation equivalent, dividend and guarantee fee regime for proclaimed local government joint authorities.

The Tasmanian Government anticipates that as councils gain experience in the implementation of the competitive neutrality principles, they will want to extend their application. Indeed, some councils have already commenced corporatisation in some areas, most notably Hobart City Council, which has recently taken steps to corporatise its entire operations workforce (now called Civic Solutions).

The State Government will complete its own corporatisation guidelines during early 1997 and discussions will then commence with the intention of adapting the guidelines for use by local government by 30 June 1997. It is envisaged that future National Competition Policy Reports by the State Government will identify those local government business enterprises that are subject to competitive neutrality reforms in the form of the corporatisation model.

6.3 *Prices Oversight*

As mentioned in section 5.2, the Government is consulting with local government over a proposal to extend the coverage of the *Government Prices Oversight Act 1995* to include local government monopoly services. This will subject a number of business services provided by local government councils, which are monopoly services within their own area, to some form of prices oversight.

6.4 *Treatment of Local Government By-Laws under LRP*

As outlined in the Government's policy statement on legislation review, all by-laws made under the former *Local Government Act 1962* remain in force under the new *Local Government Act 1993* (to the extent that they are consistent with the new Act) for a period of 5 years, expiring on 17 January 1999. As there is no provision to amend these existing by-laws, changes to by-laws made under the old Act can only be made by making new by-laws under the current Local Government Act. Any by-law subsequently made under the new Act is then subject to an eight year sunset clause from the date of its gazettal.

With regard to by-laws introduced after the enactment of the *Local Government Act 1993*, the Local Government Office is currently in the process of implementing procedures to review all proposed or existing by-laws to ensure that any restrictions on competition are fully justified in the public benefit. This process is based on the requirements of the LRP, modified to comply with the legislative requirements for the making of by-laws as set out in the Local Government Act.

7 SECTOR SPECIFIC REFORMS

7.1 ELECTRICITY INDUSTRY REFORMS

The NCP electricity reform arrangements entered into at the August 1994 COAG meeting require, for relevant jurisdictions, the establishment of a fully competitive national electricity market by 1 July 1999.

The main features of a fully competitive national electricity market include:

- the ability for customers to choose which supplier, including generators, retailers and traders, they will deal with;
- non-discriminatory access to the interconnected transmission and distribution network;
- the complete phasing out of vesting contracts; the establishment of franchised supply; and the regulation of the retail supply price of electricity to consumers, down to an agreed technical and economic limit; and
- no discriminatory legislative or regulatory barriers to the entry of new participants in electricity generation or retail supply or to intrastate and/or interstate trade in electricity.

Tasmania's future participation in a fully competitive market will depend on whether the proposal to connect Tasmania to the Eastern Australian network via an underwater cable (Basslink) proceeds. The NCC has confirmed through correspondence with the Tasmanian Government that, while Tasmania remains not interconnected with the mainland grid, it is not regarded as a "relevant jurisdiction" for the purposes of the COAG and NCP Agreements.

Insofar as the first tranche of NCP payments are concerned, Tasmania does not have to meet any specific requirements for the reform of the electricity industry, beyond those general requirements for the reform of structural monopolies, legislation review, competitive neutrality and the prices oversight of public sector monopolies.

Notwithstanding this, the Tasmanian Government attempted to harmonise the reforms it introduced to the electricity supply industry in 1995 as much as possible with developing mainland arrangements. Specifically, when

developing the package of legislative reforms for the industry, the Government had regard to NCP principles, particularly in relation to those concerning access to essential infrastructure services and the reform of public sector monopolies. It must be recognised, however, that the development of the legislative reform package pre-dated the signing of the NCP Agreements.

The legislative reforms introduced a framework for increased competition in the State's electricity supply industry by removing the Hydro-Electric Corporation's (HEC's) statutory monopoly on electricity generation. In particular, the *Electricity Supply Industry Act 1995* prepares Tasmania for future participation in the fully competitive national market by establishing a framework for access to the electricity network for new generators and establishing the concept of a contestable customer - that is, a customer that has the ability to choose a retail supplier of electricity.

The legislative package includes:

- the *Electricity Supply Industry Act 1995*, which sets the framework for the participation of new entrants in Tasmania's electricity industry, provides for non-discriminatory access by other participants to the HEC's grid, provides for the licensing of participants in the Tasmanian electricity market and introduces an independent Regulator to the industry. Under this Act the regulatory functions that were a statutory responsibility of the HEC have been transferred to the Regulator;
- the *Energy Co-ordination and Planning Act 1995*, which gives statutory responsibility to the Office of Energy Planning and Conservation to provide policy advice to the Minister for Energy and a firm basis for energy planning in the public interest; and
- the *Hydro-Electric Corporation Act 1995,* which established the Hydro-Electric Corporation (formerly the Hydro-Electric Commission) and defines its functions (which are centred on generation, transmission and the distribution of electricity). The HEC is a GBE under the *Government Business Enterprises Act 1995*.

7.2 GAS INDUSTRY REFORMS

Under the NCP gas reform arrangements, relevant jurisdictions are required to establish a national framework for free and fair trade in natural gas. In particular, the arrangements are to establish third party access

arrangements that apply to specified gas pipelines. However, as with the NCP electricity reform requirements, Tasmania's requirements under the gas reform arrangements differ from those that relate to all mainland States and Territories, in view of the fact that there is no natural gas industry in Tasmania and therefore no gas infrastructure to which third party access can be provided.

The absence of a natural gas industry in Tasmania has been recognised under the arrangements for establishing the Gas Reform Task Force, where Tasmania is the only jurisdiction not required to contribute to the administration costs of the Task Force. Furthermore, the draft Intergovernmental Agreement on Natural Gas, which was prepared by the Task Force, contains the provision that jurisdictions agree that Tasmania is only required to introduce any necessary legislation to promote free and fair trade in gas once a proposal for a natural gas pipeline in the State has been approved.

For these reasons, Tasmania does not have to meet any specific requirements for gas industry reforms under NCP in order to qualify for the first tranche of NCP payments in 1997-98.

7.3 Water Industry Reforms

The Tasmanian Government is committed to implementing efficient and sustainable water industry reforms, which were agreed at the February 1994 COAG meeting and subsequently included in the package of NCP and related reforms agreed at the April 1995 meeting of COAG.

The water industry reforms principally require the implementation of pricing reforms, with greater emphasis on user pays and cost recovery principles and the development of arrangements for trading in water entitlements. The benefits of these reforms will extend beyond the benefits derived from competition policy, with significant positive impacts on community welfare and the environment expected in the longer term.

While the Government is actively working to implement the major water reform requirements in Tasmania, amendments to legislation and the development of policies are required before the following issues can be addressed:

- the integrated management of the State's water resources;
- the establishment of trading in water entitlements;

- the introduction of cost reflective water pricing;
- the development of tariff systems for urban water service delivery;
- the devolution of irrigation scheme management; and
- the increased use of catchment management planning.

While no specific actions with respect to water industry reforms are required for receipt of the first tranche of NCP payments, the Tasmanian Government has initiated a number of reforms in this area to date. The most significant of these reforms include:

- The establishment of the Rivers and Water Supply Commission (incorporating the North Esk Regional, Prosser, Togari and West Tamar Water Supply Schemes; the Cressy-Longford, South-East and Winnaleah irrigation schemes; and seven River Improvement/ Drainage Schemes) and the North West Regional Water Authority as GBEs to allow greater autonomy and more business orientated management of Government owned water schemes;
- Increases in water prices for Government owned irrigation schemes to achieve the COAG requirements for the full recovery of operating and maintenance costs and a contribution to asset replacement;
- The establishment of management committees for the Government owned irrigation schemes, with representatives from irrigation users and the Department of Primary Industry and Fisheries. The committees have been delegated responsibility for the day-to-day operation of the schemes;
- The transfer of ownership of, and governance responsibility for, the Hobart Regional Water Board to a consortium of local councils in the South of the State (previously its clients). The resulting local government joint authority (the Hobart Regional Water Authority) will pay an annual water royalty to the State, based on water use;
- The development of the principles for two-part tariff systems for urban water supplies;
- Implementation of a moratorium on approvals for the issue of new permanent Commission Water Rights for the extraction of water from rivers and streams where data on environmental flow requirements is not yet available; and

- Increased use of catchment management principles and community input into streamflow management in high irrigation use areas.

In relation to the reform of local government water and sewerage undertakings, these will be dealt with under the NCP competitive neutrality principles as they apply to local government. In the case of many rural based councils, the scale of these undertakings is relatively insignificant and the potential for efficiency reforms is likely to be limited. However, it is considered that many of the city based water and sewerage undertakings will undergo significant reform.

7.4 TRANSPORT INDUSTRY REFORMS

The Tasmanian Government has adopted a staged approach to the implementation of the National Road Transport Commission (NRTC) reforms, which were agreed at the April 1995 COAG meeting and subsequently endorsed by the Australian Transport Ministers at their meeting in November 1995.

The NRTC reforms are defined by two intergovernmental agreements - the Heavy Vehicles Agreement and the Light Vehicles Agreement, which are embodied as schedules in the Commonwealth's *National Road Transport Commission Act 1991*. These agreements involve the development and implementation of six national reform modules relating to:

- heavy vehicle charges;
- the road transport of dangerous goods;
- vehicle operations;
- vehicle registration;
- driver licensing; and
- compliance and enforcement.

The aim of the NRTC reforms is to introduce consistency and uniformity to the rules governing road transport in Australia. This, in turn, will facilitate the development of a competitive national market in road transport services. The NRTC reforms will provide benefits to Tasmanians through improved road safety and transport efficiency, as well as enabling the Tasmanian Government to administer road transport in a more cost effective manner.

The focus to date has been on developing and implementing reforms in relation to the Heavy Vehicles Agreement.

The first stage of the adoption of the NRTC reforms took place in 1993 when local industry transport operators were provided, under permit, with access to increased vehicle weights and dimensions, in line with national standards. Permits were conditional on the payment of charges in line with the then proposed national heavy vehicle charges.

The second stage required amendment of Tasmanian legislation and departmental administrative procedures to adopt agreed NRTC reforms. This included adoption of the main components of the national "10 point plan" of priority NRTC reforms.

The second stage legislative package:

- introduced national registration charges for heavy vehicles and trailers (those over 4.5 tonnes), subject to limited State concessions;
- set uniform heavy vehicle design and roadworthiness standards;
- adopted uniform mass limits for heavy vehicles (16.5 tonnes for a tandem axle group and 42.5 tonnes gross mass);
- adopted the national Load Restraint Guide for vehicle loading requirements;
- increased the maximum driving hours for drivers of heavy vehicles from 11 hours to 12 in any 24 hour period;
- introduced the framework for nationally uniform operational standards for the movement of large and heavy loads;
- created a smooth transition in Motor Tax between State and national charges for vehicles between 3.0 and 4.5 tonnes; and
- abolished local road tolls (local government in Tasmania previously had the right to levy separate tolls on heavy vehicles for damage to local roads).

The target date for the introduction of these reforms, as agreed by Australian Transport Ministers, was 1 July 1996. Due primarily to the delays in Parliamentary process resulting from the State election in February 1996, it was not possible to pass the package of legislation required to implement the second stage reforms until August 1996. These

NRTC reforms came into effect in Tasmania on 1 October 1996. Delays were also introduced as a result of some minor changes to the concession scheme made by the Legislative Council, which then had to be endorsed by the House of Assembly.

As previously advised by the Department of Treasury and Finance to the NCC in October 1996, the special State concessions introduced do not in anyway undermine the integrity of the national charging system. They are designed to address specific local issues where it was considered that the simple adoption of the new national charges would result in categories of vehicles or trailers paying more than cost recovery charge levels.

The particular concessions introduced were:

- An extension of the historical 40 per cent reduction in motor tax for farm vehicles to also apply to heavy farm trailers (limited to those directly involved in farm operations);
- The treatment of tag-axle buses that travel less than 60 000 kilometres a year as 2-axle buses for motor tax purposes;
- A 40 per cent concession on motor tax for interchange semi-trailers, provided they travel less than 20 000 kilometres per year and are only towed by a prime mover registered in the same manner; and
- A 40 per cent concession on motor tax for "plant trailers", provided they are less than 10 tonnes gross mass and only carry a machine owned and used by the owner of the trailer.

A further package of amendments to Tasmanian legislation is expected to be prepared for introduction during 1997 and 1998. These legislative amendments will apply further NRTC reforms to Tasmania (once they have been adopted by Australian Transport Ministers) in accordance with the timetable agreed by the Ministerial Council of Road Transport on 14 February 1997. These reforms will relate to matters such as:

- Driver Licensing Bill and Regulations;
- Australian Road Rules;
- Light Vehicle Standards;
- Truck Driving Hours Regulations;
- Compliance and Enforcement; and
- Alternative Compliance Proposals.

In addition, amendments will be made separately to Tasmanian legislation in late 1997 with regard to the proposed NRTC Transport of Dangerous Goods by Road Regulations. These changes will have the effect of adapting the NRTC reforms relating to the carriage of dangerous goods by road.

The Tasmanian Government notes, however, that the timely preparation by the NRTC of the necessary uniform legislation in certain reform areas will be crucial to the State being in a position to meet the timeframes for legislative change that have recently been re-established (and which, in accordance with the stated position of the NCC, should subsequently be ratified by COAG).

Once all the components of the NRTC legislation have been adopted, it is then proposed to take action to ensure that the consistency that has been achieved with respect to national road transport law will be maintained in the long term. This can probably be best achieved by overhauling the Tasmanian Traffic Act and supporting regulations by adopting simple template legislation. Other options are available, however, and these will all be considered as part of the final stage of the National Road Transport Reform Program for Tasmania.

8 PRELIMINARY VIEWS OF THE NATIONAL COMPETITION COUNCIL

The Tasmanian Government is pleased to note the National Competition Council's (NCC) clear endorsement, on two occasions, of Tasmania's approach to NCP. The initial endorsement is provided in a letter dated 16 October 1996 regarding the NCC's assessments of governments' progress on the implementation of NCP reforms.

In this letter, the NCC states:

> *"My purpose in writing to you now is to record that, with respect to assessment of these documents, the Council is very satisfied with the general approach to reform proposed in your Government's policy statements and legislation review timetable. ...we believe that the reform directions outlined in your Government's statements indicate a strong commitment to these components of the NCP program."*

This endorsement is reiterated in a more recent letter where, in passing assessment on Tasmania's NCP policy statements, the NCC indicated its:

> *"...appreciation of the way in which Tasmania has approached the NCP process to date. The Council believes.....that Tasmania's policy statements and legislation review timetable provide a solid framework for future reform."*

These statements by the NCC provide Tasmania with considerable comfort that the approach taken by the Government towards NCP to date is fully in line with its obligations under the NCP Agreements.

9 CONCLUSIONS

The Tasmanian Government considers that the reform principles encapsulated in the NCP Agreements are fully in line with the reform directions that Tasmania was already taking prior to the NCP Agreements being signed in April 1995. For this reason, Tasmania is using NCP and the processes that have been consequently established as a focal point for its ongoing microeconomic reform program.

The Government recognises the benefits that will flow from good policy processes and properly targeted and well-considered reform. For this reason, Tasmania remains strongly committed to the implementation of the principles contained in the three Inter-governmental Agreements signed at the April 1995 Council of Australian Governments (COAG) meeting.

As has been outlined in this Report, the Tasmanian Government is well on track in implementing NCP and related reforms - both legislatively and procedurally. Accordingly, the Tasmanian Government believes that Tasmania has met both the spirit and the letter of its immediate NCP obligations and will qualify for the first tranche of competition payments from the Commonwealth in 1997-98.

10 CONTACTS AND PUBLICATIONS

The Tasmanian Government has produced a number of policy statements, public information papers and reference manuals in relation to the implementation and operation of National Competition Policy and related reforms in Tasmania.

Policy Statements

Application of the National Competition Policy to Local Government, Government of Tasmania, June 1996.

Application of the Competitive Neutrality Principles under National Competition Policy, Government of Tasmania, June 1996.

Legislation Review Program: 1996 - 2000 - Tasmanian Timetable for the Review of Legislation that Restricts Competition, Government of Tasmania, June 1996.

Public Information Papers

Tasmania's Reform Obligations and the New Financial Arrangements, Department of Treasury and Finance, August 1995.

Monopoly Prices Oversight and the Tasmanian Government Prices Oversight Commission, Department of Treasury and Finance, January 1996.

Reviews of Legislation that Restrict Competition, Department of Treasury and Finance, July 1996.

Extension of Part IV of the Trade Practices Act to all Businesses in Tasmania, Department of Treasury and Finance, July 1996.

Application of the National Competition Policy to Local Government, Department of Treasury and Finance, July 1996.

The Application of Competitive Neutrality Principles to the State Government Sector, Department of Treasury and Finance, July 1996.

Guidelines for Considering the Public Benefit Under the National Competition Policy, Department of Treasury and Finance, December 1996.

Reference Manuals

Legislation Review Program: 1996 - 2000 - Procedures and Guidelines Manual, Department of Treasury and Finance, June 1996.

Restrictive Trade Practices: Processes and Procedures Manual, Department of Treasury and Finance, March 1997.

Copies of these publications may be obtained by contacting:

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APPENDIX A

PROGRESS REPORT - LEGISLATION REVIEW PROGRAM

This Appendix details the status of existing legislation listed for a review to commence during 1996 under the Tasmanian Government's LRP. It also provides a comprehensive summary of an audit of all new legislation enacted by the Tasmanian Parliament since the signing of the NCP Agreements in April 1995.

A1. REVIEWS OF EXISTING LEGISLATION

Under the LRP timetable, 40 Acts were listed for a review to commence during 1996. The status of the scheduled reviews is summarised in Table 1 and is followed by a more detailed explanation regarding progress with the LRP timetable.

Table 1: Status of Reviews

Acts repealed	14
Reviews deferred	7
Reviews removed	1
Reviews in progress	18
Total Number	**40**

A1.1 ACTS REPEALED

Fourteen of those Acts scheduled for a review to commence in 1996 have since been repealed. These Acts are listed in Table 2.

Table 2: Acts Repealed

Fisheries Act 1959
Hobart Bridge Act 1958
Hobart Regional Water Act 1984
Huon Valley Pulp and Paper Industry Act 1959
Launceston Savings Investment and Building Society Act 1955
Mount Lyell and Strahan Railway Act 1892
Mount Lyell and Strahan Railway Act 1893
Mount Lyell and Strahan Railway Act 1896
Mount Lyell and Strahan Railway Act 1898
Mount Lyell and Strahan Railway Act 1900
North Mount Lyell and Macquarie Harbour Railway Act 1897
North Mount Lyell Mining and Railway Act 1901
The Mount Lyell Mining and Railway Company Limited (Continuation of Operations) Act 1985
The Mount Lyell Mining and Railway Company Limited (Continuation of Operations) Act 1987

A further eight Acts have been repealed that were scheduled for a review to commence in later years. The *Firearms Act 1996* will, however, replace the *Guns Act 1991* on the review timetable.

Table 3: Acts Repealed

Name of Act	Scheduled Review
Hydro-Electric Commission (Doubts Removal) Act 1972	1997
Hydro-Electric Commission (Doubts Removal) Act 1982	1997
Hydro-Electric Commission Act 1944	1997
Loan (Hydro-Electric Commission) Act 1957	1997
Mining Act 1929	1997
Guns Act 1991	1998
Pawnbrokers Act 1857	1999
Second-hand Dealers Act 1905	1999

In addition, four Acts that were listed for national review have been repealed. In each case, the repealing Act has now replaced the repealed Act on the review timetable in the national review category. These Acts are outlined in Table 4.

Table 4: Acts Listed for National Review

Name of Act	Repeal Date
Medical Act 1959	21 August 1996 by the *Medical Practitioners Registration Act 1996*
Nursing Act 1987	1 July 1996 by the *Nursing Act 1995*
Podiatrists Registration Act 1974	1 July 1996 by the *Podiatrists Registration Act 1995*
Stock Act 1932	1 September 1996 by the *Animal Health Act 1995*

A1.2. Reviews Deferred

Seven Acts have had their reviews deferred. These Acts and their new review schedules are outlined in Table 5.

Table 5: Deferred Reviews

Name of Act	Scheduled Review
Child Welfare Act 1960	This Act is expected to be repealed by the proposed new Children, Young Persons and their Families legislation, which is currently being developed by a Joint Parliamentary Select Committee. This new Act will be required to comply with the LRP gatekeeper provisions prior to its introduction to Parliament.
Mental Health Act 1963	This Act will be repealed by the new *Mental Health Act 1996*. Accordingly, a review of the *Mental Health Act 1996* will be undertaken in place of the scheduled review of the *Mental Health Act 1963*.
Mineral Resources Development Act 1995	Given that this legislation has only been recently enacted, the LRP review has been rescheduled for 1998.
Railways Clauses Consolidation Act 1901	This review has been deferred to 1997, at which time the Department of Transport will conduct a review of all its legislation relating to railways.

Table 5: Deferred Reviews (Continued)	
Name of Act	Scheduled Review
Gas Franchises Act 1973	The Workplace Standards Authority is examining the option of repealing this Act, which grants franchise holders exclusive rights to supply town and LPG gas by reticulation or in bulk in specified franchise areas.
Substandard Housing Control Act 1973, Local Government (Building and Miscellaneous Provisions) Act 1993 - (in so far as it relates to health issues)	The Substandard Housing Control Act and the relevant parts of the Local Government (Building and Miscellaneous Provisions) Act are expected to be repealed by the proposed new Food Act and Public Health Acts. These Acts will be required to comply with the LRP gatekeeper provisions.

A1.3. Reviews Removed

The *Workers' (Occupational Diseases) Relief Fund Act 1954* was mistakenly assessed as imposing a restriction on competition as at 1 July 1996. The restriction on competition initially identified was repealed by the *Workers' Compensation Legislation Amendment Act 1993* on 1 February 1994.

A1.4. Reviews In Progress

Seven Acts are being reviewed as part of the implementation of the COAG reform agenda for the Australian water industry. These Acts include those listed in Table 6 below.

Table 6: Water Acts - Reviews In Progress
Clyde Water Act 1898
Irrigation Clauses Act 1973
North-West Regional Water Act 1987
North Esk Regional Water Act 1960
Rossarden Water Act 1954
Water Act 1957
Waterworks Clauses Act 1952

The status of the remaining 11 Acts is summarised in Table 7 below.

Table 7: Reviews in Progress

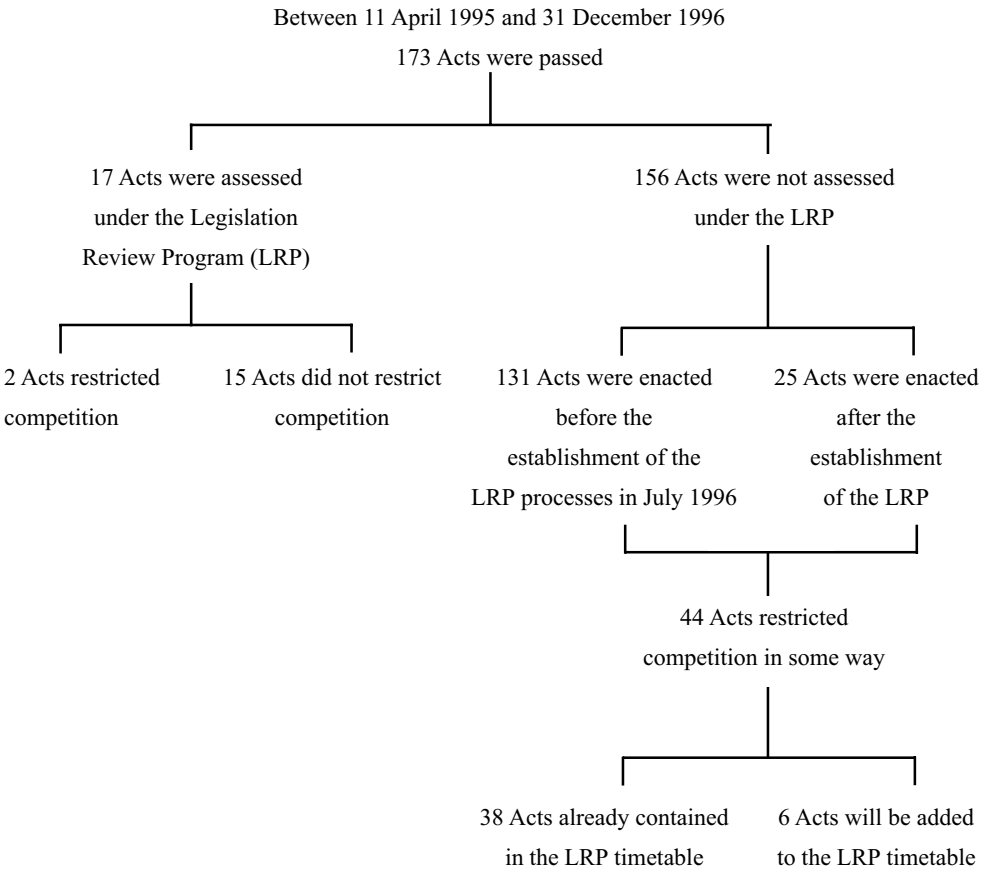
Name of Act	Status
Apiaries Act 1978	A minor review of this Act has commenced and is nearing completion.
Apple and Pear Industry (Crop Insurance) Act 1982	This review is currently underway.
Botanical Gardens Act 1950	The Terms of Reference for this review are awaiting approval.
Dog Control Act 1987	This review is to be coupled with a current review being undertaken in relation to domestic animal control by the LGO. The Terms of Reference for the review are awaiting approval.
Hospitals Act 1918	The review of the *Hospitals Act 1918* is to be conducted as two separate reviews and these will cover broader issues than would be required by the LRP review. The Terms of Reference for each review are awaiting approval.
Inland Fisheries Act 1995	Commencement of this review has been delayed pending finalisation of the first stage of a broader review of the Act which is currently is progress. The review is expected to commence in March/April 1997.
Liquor and Accommodation Act 1990	A review of this Act will shortly commence.
Local Government Act 1993	A review of this Act has commenced and is being undertaken by the Local Government Office.
Radiation Control Act 1977	Given the similarity of the controls contained in this Act with legislation in other States, this Act is to be nominated for a national review.

Table 7: Reviews in Progress (Cont) Name of Act	Status
Traffic Act 1925	The anti-competitive provisions of this Act have been substantially reviewed by the Burton Inquiry into Part III of the Act. The remaining anti-competitive provisions of this Act will be reviewed in 1997.
Workers' Rehabilitation and Compensation Act 1988	Parliament has recently established a Joint Select Committee to examine the further reform of this legislation. In addition, the Commonwealth's Small Business Deregulation Task force has recommended that a nationally consistent approach to workers compensation be established. In response, the Commonwealth has proposed a process for working towards this goal, which will be considered in the near future by the Council of Australian Governments (COAG). In light of these national developments, the scheduled review of the Act has been delayed pending the outcome of COAGs deliberations.

A2. AUDIT OF ALL NEW LEGISLATION

This section provides a comprehensive summary of the audit of all new legislation enacted by the Tasmanian Parliament since the signing of the National Competition Agreements in April 1995. The outcome of this audit is represented diagrammatically in Chart 1. A comprehensive list of the 17 Acts assessed under the LRP is provided in Tables 8 and 9. Similarly, a list of the 44 Acts which were not assessed under the LRP and restrict competition are provided in Tables 10 and 11.

Chart 1: Audit of all new legislation enacted since the signing of the NCP Agreements in April 1995



Acts Assessed Under the LRP

Of the 17 Acts assessed under the LRP, 2 Acts restricted competition in some way, although the restrictions were of a minor nature. These Acts are listed in Table 8. The remaining 15 Acts did not restrict competition and are listed in Table 9.

Table 8: Acts Which Restrict Competition

Name of Act	Description of the (minor) restriction
Co-operative Housing Societies Amendment Act 1996	The Act made provision for co-operative housing societies to pay a supervision levy to assist in meeting the cost of the supervisory and other functions and imposes a number of other regulatory provisions, including reporting requirements.
Dental Prosthetists Registration Act 1996	This Act removed many of the restrictions on dental prosthetists' practices contained in the *Dental Act 1982*, but retains registration for this occupation. The Act removed restrictions on the shareholdings/directorships of such practices, although any services need to be supervised by a dental prosthetists for public protection purposes.

Table 9: Acts Which do not Impose a Restriction on Competition

Civil Aviation (Carriers' Liability) Amendment Act 1996
Environmental Management and Pollution Control (Consequential Amendments) Act 1996
Evidence Amendment (Analysts' Certificates) Act 1996
Gaming Control Amendment Act 1996
Goldamere Pty Ltd (Agreement) Act 1996
Hydro-Electric Commission (Contributions) Amendment Act 1996
Inveresk Railyards Management Authority Act 1996
*Land Tax Act 1996**
Motor Vehicles Securities Amendment Act 1996
Retirement Benefits (Consequential and Miscellaneous Amendments) Act 1996
Statutory Salaries Act (Repeal) Act 1996
Sullivans Cove Planning Amendment Act 1996
Tasmanian Symphony Orchestra (Financial Assistance) Amendment Act 1996
Tobacco Business Franchise Licences Amendment Act 1996
Traffic Amendment (Fees) Act 1996

* These Acts are listed in the LRP but are excluded from review as they are Taxation Acts.

A2.2. Acts Not Assessed Under the LRP Which Restrict Competition

Of the 156 Acts not assessed under the LRP, 44 restricted competition. These Acts are listed in Tables 10 and 11 (according to the timing of their enactment relative to the establishment of the LRP). It should be noted that a number of these Acts are of an amending nature where the principal Act is already listed in the LRP timetable.

The Acts listed in bold in Table 11 are to be added to the LRP timetable. For the remaining Acts in Tables 10 and 11, the LRP timetable already contains a scheduled review of the Act, or in the case of amending Acts, a scheduled review of the principal Act.

In both Tables 10 and 11, the Acts marked by an asterisk are listed in the LRP, but are excluded from review as they are "Taxation Acts", the primary purpose of which is to raise Government revenue. The Tasmanian Government believes that these Acts serve a higher public policy purpose, such that economic justification is not necessary or desirable.

Table 10: Acts Enacted Prior to the Establishment of LRP

Agricultural and Veterinary Chemicals (Control of Use) Act 1995
Animal Health Act 1995
Animal Welfare Amendment Act 1995
Ben Lomand Skifield Management Authority Act 1995
Classification (Publications, Films and Computer Games) Enforcement Act 1995
Crown Lands Amendment (Business Licences) Act 1995
Electricity Supply Industry Act 1995
Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995
Fire Service Reform Act 1995
Guns Amendment Act 1996
Historic Cultural Heritage Act 1995
Inland Fisheries (Savings and Transitional) Act 1995
Inland Fisheries Act 1995
*Land Tax Act 1995**
Land Use Planning and Approvals Amendment Act (No. 2) 1995
Liquor and Accommodation Amendment Act 1995
Living Marine Resources Management Act 1995
Local Government (Building and Miscellaneous Provisions) Amendment Act 1995
Marine Farm Planning Act 1995
Medical Practitioners Registration Act 1996

Mineral Resources Development Act 1995
National Parks and Wildlife Amendment (Business Licences) Act 1995
National Parks and Wildlife Amendment (Miscellaneous Amendments) Act 1995
Nursing Act 1995
Podiatrists Registration Act 1995
Police Offences Amendment (Liquor) Act 1995
Primary Industry Activities Protection Act 1995
Racing and Gaming Amendment (Telephone Sports Betting) Act 1995
Racing and Gaming Amendment Act 1995
*Stamp Duties Amendment Act 1995**
Taxi Industry (Miscellaneous Amendments) Act 1995
Taxi Industry Act 1995
Threatened Species Protection Act 1995
Universities Registration Act 1995
Workers Rehabilitation and Compensation Reform Act 1995
Workplace Health and Safety Act 1995

Table 11: Acts Enacted After the Establishment of the LRP

Consumer Credit (Tasmania) Act 1996
Firearms Act 1996
Legislation Publication Act 1996
Mental Health Act 1996
Motor Vehicles Taxation Amendment (National Road Transport Reform) Act 1996*
*Pay-roll Tax Amendment Act 1996**
Public Health Amendment Act 1996
Traffic Amendment (National Road Transport Reform) Act 1996

1998 Tasmanian Supplementary Information

The Hon. Ronald Cornish, M.H.A.

Mr G Samuel
President
National Competition Council
GPO Box 250B
MELBOURNE VIC 3001

Dear Mr Samuel

The National Competition Council deferred consideration of the 1998-99 component of Tasmania's first tranche assessment, pending greater evidence that the Government is on target with the application of the competitive neutrality principles to local government. Specifically, the Council suggested that such evidence could be provided through identification of all businesses considered to be significant at local government level, the reforms implemented for these businesses, or the anticipated timing of these reforms.

As you are aware, in April 1997 the Premier announced in his *Directions Statement* that a review of the boundaries Of the municipal areas of all councils in Tasmania would be undertaken by the Local Government Board, taking into account a number of policy objectives, including a reduction in the number of councils to not more than fifteen (from the current level of 29), and a commitment that the Government will end the longstanding arguments over State and local government financial relationships.

The final report of the Board recommending the new Council boundaries was provided to the Minister for Local Government early in February 1998. However, the Minister referred the report back to the Board to reconsider its recommendations based on a number of issues raised by councils. The Board is to report back to the Minister by 31 May 1998. It is expected that elections for new councils will be held in mid to late August 1998, with new councils established from 1 September 1998.

Given the impact of these reforms, the Tasmanian Government considered it necessary to temporarily suspend the current timetable for applying the competitive neutrality principles to local government. The Tasmanian Government recognised that there was little benefit in proceeding with this timetable until the new structure for Tasmanian councils was finalised, given that many of the National Competition Policy (NCP) issues will be different following the amalgamation process.

This suspension was discussed with yourself and officers of the Department of Treasury and Finance at a meeting on 12 May 1997. At this meeting, it was explained that the amalgamations would result in far more significant microeconomic reform than would have been achieved by the continued implementation of the NCP principles to smaller local government bodies. As previously outlined to the Council, the amalgamations will result in fewer, but larger, local government bodies and present the opportunity for the wider application of the NCP competitive neutrality principles.

Furthermore, the Government's announced intention to rationalise the financial flows between State and local government, which will see each party pay all taxes, charges and rates of the other, is clearly a major initiative that is entirely consistent with the competitive neutrality principles. It is a key component in moving to a more transparent and reflective pricing regime.

As previously explained to the Council, some progress was made in relation to the implementation of the competitive neutrality principles to local government prior to the suspension of the timetable. Specifically, all councils were required to identify, by 31 December 1996, their significant business activities to which full cost attribution would apply.

The second stage of implementation required the lists of significant business activities to be reviewed by a "peer group" (established by the Local Government Association of Tasmania (LGAT) in conjunction with the Department of Treasury and Finance), in order to recommend to the Minister for Finance, by 31 March 1997, whether the lists should be accepted or amended. An information package containing the recommendations from the peer group on the significant business activities of Tasmanian councils was provided to the Minister for Finance on 11 April 1997 by the LGAT. These timeframes were entirely consistent with the timetable agreed to by the Council in June 1996 as part of the policy statement on the *Application of the National Competition Policy to Local Government.*

This exercise highlighted the advantages that competitive neutrality can deliver in increasing the efficiency of council operations and has established the framework for the application of competitive neutrality principles to local government.
As part of this process, it became apparent that local government was embracing the competitive neutrality principles at a much quicker pace than was originally envisaged when the policy statement was originally developed. This change in priorities arose as councils began to realise the advantages that competitive neutrality could deliver in increasing the efficiency of council operations. This was demonstrated by the fact that 18 of the 29 councils decided to apply full cost attribution to all their business activities (not just those identified as "significant"). The majority of the remaining councils

chose to apply full cost attribution to their public trading enterprises (water and sewerage services) and road maintenance.

Local government's continuing commitment to the application of the NCP principles has also been demonstrated through the LGAT's recent submission as part of the development of the 1998-99 State Budget. As part of this process, the LGAT requested that Stale Government engage local Government in the establishment of a process to resume the application of competitive neutrality principles to local government.

With the outcome of the local government amalgamations process imminent, it was considered an appropriate time to engage local government in discussions in relation to the application of NCP to the new councils. In order to progress this matter, officers of the Department of Treasury and Finance have entered into negotiations with the LGAT in order to re-invigorate the application of NCP to local government. As part of this process, it is proposed to enter into an agreement with the LGAT 'm relation to a revised timetable for the application of NCP to local government, as soon as the new council boundaries are announced.

In developing this timetable, it is considered that councils will be enthusiastic to apply the competitive neutrality principles from the date of establishment of new councils. It is therefore proposed to obtain a commitment that fall cost attribution will be applied from 1 September 1998. This will ensure that there is only a delay of two months from the timeframes originally established in the Applications Statement. Also, in view of local government's commitment to the NCP process, it is proposed to review the remaining dates in the original timetable to allow for the implementation of the corporatisation process twelve months prior to that proposed in the original timetable, that is, by 1 July 1999. Notwithstanding this timetable, councils will be encouraged to adopt the corporatisation model as soon as possible after amalgamation. In view of councils' increasing awareness of the benefits of the NCP competitive neutrality reforms, it is expected that the amalgamated councils will choose to extend the reforms at a much faster pace than will be outlined in the proposed timetable.

It is also proposed to obtain a commitment from local government to reform financial relationships between the State and local government. These reforms will address the removal of taxation, rate and charging exemptions, subsidies, concessions and levies. The aim of the reforms is not to lower the cost of services (although this may arise), nor to reassign taxing powers. The aim is to generate greater transparency in financial relations and promote more efficient resource allocation, consistent with the micro-economic reform principles which underpin NCP.

In pursuit of further micro-economic reform at the national level, the Commonwealth and States are in the process of negotiating reciprocal taxation arrangements. This will involve a national income taxation equivalent regime and full reciprocal taxing between the Commonwealth and the States for indirect taxes. The Commonwealth has already held discussions with the Australian Local Government Association (ALGA) concerning the extension of these arrangements to local government. Reform of financial relations between the State and local government constitute an obvious element of a national reciprocal taxation regime.

The National Taxation Equivalent Regime (NTER) is planned to commence on 1 July 1999, with full reciprocal taxation expected to be in effect the following year. As part of the negotiations with the LGAT in relation to the re-invigoration of the application of NCP to local government, it is proposed to also obtain a commitment from local government that the implementation of State-local financial relations coincides with commencement of the NTER, that is, that it commences on 1 July 1999. The reform of existing State-local financial relationships is a significant one, both in terms of progress that has already been made in relation to the NCP principles, in terms of the central thrust of the Premier's *Directions Statement* and in terms of the national move towards reciprocal taxation arrangements.

Despite the suspension of the timetable for the application of NCP to local government, there is evidence of continuing progress toward the implementation of the competitive neutrality principles. As reported in the *National Competition Policy Progress Report: April 1995 to 31 July 1997,* some councils have commenced corporatisation in some areas, most notably the Hobart City Council, which has recently taken steps to corporatise its entire workforce (now called Civic Solutions). Also Hobart City Council has adopted full cost attribution for virtually all of its other activities, as have Burnie and Glenorchy City Councils. Clarence and Launceston are also close to adopting full cost attribution for their business activities- There are also some examples where service providers have been separated from service purchasers, competitive tendering is being utilised and corporate business structures are being established. A number of businesses such as the Hobart Aquatic Centre, the Derwent Entertainment Centre, the Tasmanian Travel Centre, recently acquired by the Burnie City Council, and a number of other smaller operations, such as the Killafaddy Sale Yards and Launceston's four pools, are run as separate businesses units on a commercial basis.

More importantly, the Hobart Regional Water Authority (HRWA) and the Esk Water Authority (EWA) have recently been transferred from State Government to local government and established under the *Local Government Act 1993* as joint local government authorities. Both these authorities are subject to full taxation equivalent, dividend and guarantee fee regimes. Legislation has passed to enable the North West Regional Water Authority (NWRWA) to be transferred to local government from 1 July 1998. Similarly, the Dulverton Regional Waste Management Authority, with its four participating owner councils, has taken steps to implement provisions for taxation equivalents and dividend returns on capital invested.

The Tasmanian Government has also made considerable progress in relation to the application of a number of the other elements of NCP to local government. As previously advised, the *Government Prices Oversight Amendment Bill 1997* was introduced into Parliament in April 1997 and was subsequently passed. This Act extends the coverage of the *Government Prices Oversight Act 1995* to include local government monopoly services. Terms of Reference have recently been issued to the Government Prices Oversight Commission in relation to a review of the pricing policies associated with the supply of bulk water by the HRWA, the EWA and the NWRWA. In the area of legislation review, the Local Government Office has implemented procedures for the review of all existing by-laws to ensure that restrictions on competition are fully justified in the public benefit. The *By-Law Making Procedures*

Manual was released in August 1997 and all by-laws proposed since that date have been required to comply with these procedures.

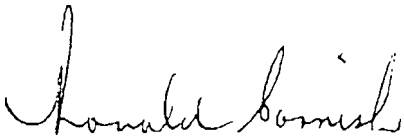
Notwithstanding this, the Tasmanian Government considers that the reduction in the number of local councils will provide a one-off opportunity to significantly reduce the number of local government by-laws. Section 151 of the *Local Government Act 1993* requires a new council created by restructuring to adopt, within 14 days, those existing by-laws which it requires for its ongoing administrative purposes, while all others will automatically cease to have effect, obviating the need for their review.

It is proposed to obtain local government's agreement not to adopt any by-laws made under the old *Local Government Act 1962.* This agreement will also require the review of all by-laws proposed to be adopted by the amalgamated councils to ensure that they comply with the NCP Legislation Review requirements. It is expected that this will result in a reduction in by-laws from approximately 760 at present to about 100.

It continues to be the opinion of the Tasmanian Government that the amalgamation process will result in far more significant microeconomic reform than would have been achieved by the continued implementation of the NCP principles to smaller local government bodies. As noted previously, the larger councils present the opportunity for the wider application of the NCP competitive neutrality principles. Despite the suspension of the timetable, there will be little slippage from the timetable originally agreed to by the Council in the 1996 Applications Statement. In fact, once amalgamations have been completed, it is likely that there will be a more accelerated application of the principles to the new councils.

On this basis, 1 believe that the Tasmanian Government has demonstrated that it has complied with the spirit of the NCP agreements and, therefore, any obligations required to receive the 1998-99 component of the first tranche assessment. 1 look forward to the Council's recommendation to the Commonwealth Treasurer in June 1999 along these lines.

Yours sincerely



Ronald Cornish
MINISTER FOR FINANCE