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# 1 Introduction

- 1.1 This Report is the NSW Government's third annual report to the National Competition Council on the Government's progress with the implementation of the National Competition Policy. The Report deals with the implementation of National Competition Policy over the 12 months to 31 December 1998.
- 1.2 In April 1995, the Council of Australian Governments (COAG) ratified the National Competition Policy. The Policy is aimed at increasing consumer and business choice, improving efficiencies and creating an overall business environment in which to improve Australia's international competitiveness. Three Intergovernmental Agreements constitute the National Competition Policy. These Agreements are the:
- *Conduct Code Agreement;*
  - *Competition Principles Agreement;*
  - *Agreement to Implement National Competition Policy and Related Reforms.*
- 1.3 The specific components of the National Competition Policy are the:
- extension of the competition provisions of the *Trade Practices Act (Cth) 1974* to persons in each jurisdiction in the manner specified in the *Conduct Code Agreement;*
  - implementation of principles to facilitate the creation of competitive markets for public sector goods and services in the *Competition Principles Agreement;* and
  - implementation of reforms in the electricity, gas, water and road transport sectors identified in the *Agreement to Implement National Competition Policy and Related Reforms.*
- 1.4 Competition policy is of course only one part of the NSW Government's policy aims and its application is intended to sit alongside the Government's other economic, social and environment policy objectives. When applied, competition policy should be able to promote these other policy aims by creating a policy environment in which the costs and benefits of government regulation and service provision are subject to transparent assessment. Exposing public policy to this kind of transparency is essential for the efficient and effective allocation of resources for the benefit of the communities that governments serve.
- 1.5 Importantly, National Competition Policy provides an opportunity for governments to ensure that the principles of competition:
- promote increased consumer choice;
  - promote increased business choice and innovation;
  - facilitate the efficient allocation of resources in the economy; and

- increase the opportunities for Australian business to effectively compete for international market share.

1.6 The NSW Government is committed to achieving these goals whilst ensuring that:

- competition policy is not implemented as an end in itself;
- all customers continue to have access to goods and services;
- goods and services are equitably distributed; and
- consumers are protected in the choices they make.

1.7 NSW is leading the way in implementing many of the reforms needed to make Australia more competitive. Achievements in this area must be seen in terms of the overall effect for the NSW and Australian economy.

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## 2 Independent Pricing Oversight of Government Business Enterprises

### *Requirements of the Agreement*

- 2.1 The Agreement calls on governments to consider establishing independent sources of price oversight advice, for monopolies that remain after pursuing structural reform, and proposes that this source should:
- be independent from the Government Business Enterprise (GBE) which is having its prices assessed;
  - have efficient resource allocation as its prime objective, but have regard to any explicitly identified and defined community service obligations imposed on the GBE;
  - apply to all significant GBEs that are monopoly, or near monopoly, suppliers of goods and services (or both);
  - permit submissions from interested persons; and
  - publish its pricing recommendations and the reasons for them.

### *Application in NSW*

- 2.2 The NSW Government Pricing Tribunal was established in July 1992 to provide independent pricing oversight of the State's GBEs. In January 1996, the Tribunal's role was expanded and it was renamed the Independent Pricing and Regulatory Tribunal (IPART). For declared government monopoly services, the Tribunal is empowered to determine maximum prices (Sections 11(1a) and 12(1a) of the *Independent Pricing and Regulatory Tribunal Act 1992*) and/or carry out a periodic review of pricing policies (Sections 11(1b) and 12(1b) of the IPART Act). In July 1996, the Tribunal took over gas pricing regulation from the NSW Gas Council following commencement of the *Gas Supply Act 1996*.
- 2.3 There are two main ways in which the Tribunal's investigations can be initiated: (a) standing references; or (b) references by the Premier. Schedule 1 of the Act lists a number of government agencies for which the Tribunal has a standing reference. Under Section 11 of the IPART Act the Tribunal may initiate investigations of declared services supplied by standing reference agencies without reference to the relevant Portfolio Minister.
- 2.4 Alternatively, under Section 12 the Premier may require the Tribunal to determine the maximum price or carry out a review of a declared service, including those supplied by standing reference agencies.
- 2.5 As at 31 December, 1998, declarations of government monopoly services under Section 4 of the IPART Act applied to the following areas:
- Urban water (Sydney Water Corporation, Hunter Water Corporation, Gosford City Council and Wyong Municipal Council)

- Passenger transport (Bus and ferry services of the State Transit Authority and railway passenger services supplied under the name 'CityRail' by the State Rail Authority)
- Valuer-General
- Local water (water, sewerage and drainage services provided by councils)
- Waste disposal (disposal of putrescible waste as landfill that is provided by the Waste Recycling and Processing Service of NSW)
- Water supply schemes
- Bulk water (services provided by the Water Administration Ministerial Corporation)
- Electricity (TransGrid and the six NSW electricity distributors) - from July 1999, TransGrid will be regulated by the ACCC under the National Electricity Code. Arrangements provide for distributors to be regulated under the National Electricity Code from January 2001.

- 2.6** The Tribunal regulates gas tariffs and third party access to gas networks in NSW. As at 31 December 1998, the Tribunal was considering gas pricing orders for gas distributed by the Government-owned Great Southern Energy Gas Networks in Wagga Wagga and Albury Gas Company, in Albury and surrounding areas. The Tribunal was also considering the third party access arrangement proposed by Great Southern Energy Gas Networks. The review of the AGL gas pricing order was delayed pending review of the revised third party access arrangement proposed by AGL.
- 2.7** The IPART Act contains a number of provisions to ensure that the Tribunal's activities are carried out through a public process. The main requirement is that the Tribunal must hold at least one public hearing for each investigation. The general assumption of the legislation (Section 22A) is that the public will have access to information provided to the Tribunal for its investigations. Whilst most Tribunal activities are public, the Tribunal may direct that evidence be considered in private and may restrict access to confidential documents.
- 2.8** Under Section 15 of the IPART Act the Tribunal is required to have regard to a range of issues when making determinations and recommendations. These factors are consumer protection (e.g., social impact of decisions), economic efficiency (e.g., the need to promote competition), financial stability (e.g., an appropriate rate of return on public sector assets) and environmental and other standards (e.g., demand management initiatives). Similar issues are to be considered when the Tribunal determines a methodology for fixing prices under Section 14A. The Premier may also require the Tribunal to consider specific matters in its investigations (Section 13(a)).
- 2.9** The Tribunal may fix maximum prices in either of two ways: (a) determining maximum prices; or (b) establishing a methodology for determining maximum prices. If the Tribunal considers that it is impractical to make a determination of maximum prices as in (a) it may determine under Section 14A of the IPART Act a methodology to be used by the agency for fixing the maximum price. This provision was added during

1994–95. The agencies concerned are required to fix prices so that they do not exceed the maximum price determined by the Tribunal (Section 18(1A)). The Treasurer’s approval is required if any agency wishes to charge a price below the maximum price (Section 18(2)).

- 2.10** In their annual reports, all agencies subject to the Tribunal’s determinations must report (Section 18(4) of the IPART Act) on how they have implemented the maximum prices. Information must also be provided on whether Tribunal recommendations made in pricing policy reviews have been implemented and reasons must be given for any non-implementation.
- 2.11** The Tribunal submits its reports to the Premier. Any determination must be published in the NSW Government *Gazette* as soon as possible (Section 17 of the IPART Act). All reports must be made available for public inspection and sale, tabled in Parliament and placed in the Parliamentary Library (Section 19).
- 2.12** The Government believes that arrangements now in place adequately meet the principles in the Agreement concerning independent pricing oversight of the State’s government-owned monopoly businesses.

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## 3 Application of Competitive Neutrality

### 3.1 Application of Competitive Neutrality to Significant Government Business Enterprises

#### *Requirements of the Agreement*

- 3.1.1 The principle of competitive neutrality requires that GBEs operate without net competitive advantage in relation to other businesses as a result of their public ownership.
- 3.1.2 The Agreement (in Clauses 3(4) and 3(5)) indicates the measures that governments are required to implement, where the benefits to be realised from implementation outweigh the costs. In a few cases the cost of implementation will far outweigh the benefits.
- 3.1.3 Overall it is generally believed that there are net economic and social benefits of implementing competitive neutrality principles. The onus is on the GBE to demonstrate that this is not the case for it to be eligible for exemption from the requirements of the Agreement.
- 3.1.4 Governments were required to prepare a policy statement on the application of competitive neutrality in their respective jurisdictions by June 1996 and to publish an annual report thereafter.
- 3.1.5 With respect to significant GBEs, classified as Public Trading Enterprises and Public Financial Enterprises by the Australian Bureau of Statistics, the Agreement (Clause 3(4)) requires governments, where appropriate, to:
- adopt a corporatisation model; and
  - impose on GBEs full Commonwealth, State and Territory taxes or tax equivalent systems, debt guarantee fees directed towards offsetting the competitive advantages provided by government guarantees, and those regulations to which private sector businesses are normally subject on an equivalent basis to GBEs' private sector competitors.

#### *Application in New South Wales*

- 3.1.6 The NSW Government published its *Policy Statement on the Application of Competitive Neutrality* in June 1996. The Statement made it clear that in New South Wales the onus is on a GBE to implement competitive neutrality principles unless it can show that the economic and social costs of implementation outweigh the economic and social benefits. Accordingly, a benefit–cost analysis, showing a net cost to the community, needs to be completed by GBEs that consider it inappropriate to implement these principles.
- 3.1.7 The requirements of clause 3(4) are being achieved through the corporatisation of a large number of non–budget sector agencies in New



South Wales. Corporatisation reforms are based on a comprehensive corporatisation model, the State Owned Corporation (SOC) model, with such organisations deemed to be in the Financial Policy Framework.

### **State Owned Corporations**

**3.1.8** The *State Owned Corporations Act (NSW) 1989* and the *State Owned Corporations Amendment Act (NSW) 1995* provide a comprehensive framework for the corporatisation of GBEs as proxy public companies called State Owned Corporations (SOCs). Those GBEs that have been and are intended to be subject to corporatisation are listed in **Table 3.1**.

**3.1.9** There are two classes of SOC: the company SOC, and the statutory SOC. Both classes of SOC have a board of directors, share capital and a memorandum and articles of association like a public company limited by shares. Unlike a public company, however, the shareholders consist of the Treasurer and one other Minister (or potentially two or more Ministers for a company SOC).

**3.1.10** Both statutory SOCs and company SOCs are subject to certain Commonwealth statutes. For example, Part IV of the *Trade Practices Act (Cth) 1994* applies to both entities. Company SOCs are subject to the *Corporations Law*, however, statutory SOCs are only subject to the provisions relating to officers' duties and liabilities.

The principal (and equal) objectives of every SOC, regardless of class, are to operate:

- efficiently;
- in a way that maximises the net worth of the State's investment;
- in a socially responsible manner;
- in accordance with the principles of ecologically sustainable development; and
- with consideration of regional development.

### **Financial Policy Framework**

**3.1.11** The Financial Policy Framework has been guided by the corporatisation principles specified in 1988 by the NSW Steering Committee on Government Trading Enterprises in *A Policy Framework for Improving Performance of GTEs*. These principles, which mimic those faced by a private sector firm in a competitive market, are:

- the establishment of clear and non-conflicting objectives;
- the granting of managerial responsibility, authority and autonomy in pursuit of such objectives;
- performance evaluation and accountability;
- provision of rewards and sanctions commensurate with performance; and
- the establishment of competition and competitive neutrality.

**3.1.12** The Framework encompasses the following elements that are discussed below:

- the application of commercially based targets of rates of return, dividends and capital structures;
- regular performance monitoring;
- the payment of State taxes and Commonwealth tax equivalents;
- the payment of risk related borrowing fees;
- explicitly funded "Social Programs" or Community Service Obligations (CSOs); and
- equivalent regulation.

**3.1.13** All significant NSW GBEs that are monitored on a quarterly or half-yearly basis by NSW Treasury are considered to be in the Financial Policy Framework. Those GBEs listed in **Table 3.1** as Category 1 or 2 are within the Financial Policy Framework.

**3.1.14** **Table 3.1** lists:

- all those GBEs that have been or are intended to be corporatised under the SOC Act;
- those GBEs that have not been corporatised or privatised, but are subject to the principles of competitive neutrality within the Financial Policy Framework; and
- those GBEs that, on the basis of risk and materiality, have not been corporatised or made part of the Financial Policy Framework.

**Table 3.1:** NSW GBEs subject to corporatisation under the SOC Act or privatisation, as at 1 March 1999

No.	Industry	Government Business Enterprise	ABS PTE <sup>1</sup>	Treasury Monitor <sup>2</sup>	Cat. <sup>3</sup>	Already Priv'n	Corp'n	Date Priv'n/Corp'n	Comments
1	Electricity	Advance Energy	x	x	1		x	1/3/96	Subsidiary of Pacific Power Subsidiary of Pacific Power Corp'n on 1/12/99. Jointly owned with Victoria.
2		Australian Inland Energy	x	x	1		x	1/3/96	
3		Delta Electricity	x	x	1		x	1/3/96	
4		Energy Australia	x	x	1		x	1/3/96	
5		Great Southern Energy	x	x	1		x	1/3/96	
6		Integral Energy	x	x	1		x	1/3/96	
7		Macquarie Generation	x	x	1		x	1/3/96	
8		NorthPower	x	x	1		x	1/3/96	
9		Pacific Power	x	x	1				
		Eraring Holdings Pty Ltd							
		Power Coal Pty Ltd	x						
10		Snowy Mountains Hydro Electricity Authority			3				
11		TransGrid	x	x	1		x		
12	Finance	Axiom Funds Management Corporation			3	x		16/5/97	
13		Government Insurance Office (GIO)		x	4	x		16/7/92	
14		NSW Treasury Corporation (TCorp)	PFE	x	1				
15		State Bank of NSW		x	4	x		31/12/94	
16	Gaming & Recreation	Eastern Creek Raceway		x	1				Site leased on 29/11/96.  Quarterly monitoring to commence 99/00.
17		Newcastle International Sports Centre Trust	x		3				
18		Newcastle Showground & Exhibition Centre Trust	x		3				
19		NSW Lotteries	x	x	1		x	1/1/97	
20		Parramatta Stadium Trust	x		3				
21		State Sports Centre Trust	x	x	3				
22		Sydney Cricket & Sports Ground Trust		x					
23		Sydney Opera House Trust	x		1	x		6/98	
24		Totalisator Agency Board of NSW (TAB)	x	x	4				
25	Wollongong Sportsground Trust	x	x	1					
26		Zoological Parks Board of NSW	x	x	3				
27	Housing	Aboriginal Housing Office		x	1				
28		City West Housing Pty Ltd	x	x	1				
29		Department of Housing	x	x	1				
30		Home Purchase Assistance Authority		x	1				
31		Office of Community Housing		x	1				
32		Teacher Housing Authority of NSW			3				

No.	Industry Enterprise	Government Business	ABS PTE <sup>1</sup>	Treasury Monitor <sup>2</sup>	Cat. <sup>3</sup>	Already Priv'n	Corp'n	Date Priv'n/Corp'n	Comments
33	Ports & Waterways	Darling Harbour Authority	x	x	1				
34		Marine Ministerial Holding Corporation		x	1				
35		Newcastle Port Corporation	x	x	1		x	1/7/95	
36		Port Kembla Port Corporation	x	x	1		x	1/7/95	
37		Sydney Ports Corporation	x	x	1		x	1/7/95	
38	Transport	Freight Rail Corporation	x	x	1		x	1/7/96	
39		Rail Access Corporation	x	x	1		x	1/7/96	
40		Rail Services Australia	x	x	1		x	1/7/98	
41		State Rail Authority of NSW (SRA)	x	x	1				
42		State Transit Authority (STA)	x	x	1				
43	Water	Broken Hill Water Board	x		3				
44		Cobar Water Board	x		3				
45		Coleambally Irrigation	x	x	1		x	1/7/97	
46		Fish River Water Supply Authority	x		3				
47		Hunter Water Corporation	x	x	1		x	1/1/92	
48		Murrumbidgee Irrigation	x	x	1		x	12/2/99	
49	Sydney Water Corporation	x	x	1			x	1/1/95	
50	Misc	Chipping Norton Lake Authority			3				
51					x	1			
52		Department of Public Works and Services			x	1			
53		First Australian National Mortgage Acceptance Corporation (FANMAC)			x	5			
54		Fish Marketing Authority				3			Business of Sydney Fish Market Pty Ltd sold & site leased on 31/10/94.
55		Honeysuckle Development Corporation			x	1			
56		Jenolan Caves Reserve Trust	x			3			
57		LANDCOM	x		x	1			Commercial Advisory Board has been est'd.
58		Land Titles Office			x	1			
59		Lord Howe Island Board			x	3			
60		Public Trustee			x	1			
61		Registry of Births, Deaths and Marriages			x	1			
62		State Forests of NSW			x	1			Feasibility of corp'n under investigation.
63		Sydney Harbour Foreshore Authority			x	1			
64		Superannuation Administration Authority			x	1			Corporatisation legislation proposed for 1999. Corp'n deferred.
65	Waste Service NSW			x	1				

▪ **The Key to Table 3.1 is as follows:**

<sup>1</sup> Public Trading Enterprises (PTEs) and Public Financial Enterprises (PFEs) as defined by the Australian Bureau of Statistics (ABS) in *Government Finance Statistics Australia: Concepts, Sources and Methods*.

<sup>2</sup> GBEs monitored by Treasury on a quarterly or half-yearly basis are within the Financial Policy Framework (FPF).

<sup>3</sup> On the basis of a risk and materiality assessment, Treasury has identified five financial monitoring programs. These are categorised as follows:

(1) Quarterly reporting and monitoring for:

- ◇ all State Owned Corporations (SOCs);
- ◇ all dividend paying GBEs;
- ◇ those GBEs which are assessed as having the potential in the medium term to become dividend paying; and
- ◇ high risk/materiality GBEs.

(2) Half-yearly monitoring for GBEs in the medium risk/materiality category.

(3) Portfolio monitoring exclusively by the relevant Minister, with relatively low risk exhibited.

(4) Post-privatisation monitoring for GBEs which are no longer owned by the Government but in respect of which the Government may bear ongoing financial risks which require identification and management. Frequency of monitoring will vary depending upon circumstances of sale and the right of the Government to access information. Major privatised GBEs are to be reviewed at least on a quarterly basis.

(5) Businesses where the State has a minority interest as a shareholder are monitored quarterly, assuming that the shareholding is material and/or the business is exposed to particular trading/operating risks.

## Performance Targets

**3.1.15** GBE boards and management have clear performance targets, against which performance is assessed. This is set out in an annual contractual agreement between the Government and the GBE called a Statement of Financial Performance (SFP). An equivalent agreement, called a Statement of Corporate Intent (SCI), applies for those GBEs that are SOCs.

**3.1.16** The performance targets focus on commercially based capital structures, return on capital and dividends as well as the economic and business assumptions that underlie the financial projections and targets. The first such agreements were concluded in 1993.

### (a) Capital Structures

**3.1.17** The Government has sought to ensure that GBEs' balance sheets are commercially sound and consistent with competitive neutrality requirements. They feature targeted capital structures based on clearly articulated criteria to achieve appropriate mixes of debt and equity.

**3.1.18** The Government's Capital Structure Policy, which was introduced in 1994, establishes target capital structures on a case by case basis according to a debt level which:

- supports a good investment grade credit rating (i.e. 'A' or above) over the long term (generally five years);
- enables the financing of an approved capital expenditure program having regard to the current phase of the GBE's investment cycle;
- is capable of being repaid within a reasonable period; and
- provides flexibility for relevant contingencies.

**3.1.19** The methodology for establishing target capital structures involves a number of steps:

- development of a business profile;
- review of business plans and forecasts;
- analysis of business risks;
- construction of a model to analyse cash flows;
- sensitivity analysis of the impact of key variables on the cash flows; and
- determination of a notional credit rating applicable to the GBE as a stand alone entity, based on credit rating criteria.

**3.1.20** The methodology for determining capital structures enables GBE managers to conduct their businesses with a greater degree of confidence. It also provides a comprehensive framework within which financial targets are set. A target capital structure enables a unique cost of capital to be determined for each GBE to ensure that investment decisions are made with regard to the opportunity cost of capital given the risk of the particular class of asset involved. It thus provides more certainty to GBE management by limiting

the Government's ability to seek excessive dividends which could result in commercially imprudent debt levels.

**(b) Return on Capital – Shareholder Value Added**

- 3.1.21** Once the capital structure is set at an appropriate level, then the focus of management is on attaining a commercial return on that capital.
- 3.1.22** Treasury uses shareholder value added (SVA) analysis to set financial targets for the major GBEs and it is investigating the use of total factor productivity (TFP) to assist in separating the financial performance of GBEs into productivity, price and volume components. TFP measures relate a weighted index of outputs (weighted by revenue shares) to an aggregate measure of inputs (weighted by cost shares).
- 3.1.23** Shareholder value added (SVA) is an estimate of an entity's true economic profit from employing capital. SVA is calculated as net operating profit after taxes (NOPAT) less a capital charge. The latter is evaluated by multiplying the cost of capital by the total value of capital employed (K). The cost of capital is the minimum rate of return on capital invested required to compensate debt and equity investors for bearing risk. It is calculated using the weighted average cost of capital (WACC) methodology, which takes into account the mix and cost of debt and equity used to fund the entity.
- 3.1.24** SVA is calculated as follows:  $SVA = NOPAT - WACC \times K$ . The net present value (NPV) of future SVAs is equal to Market Value Added (MVA). MVA in turn is that amount of an entity's market value (or NPV of future cash flows) which is above the capital invested. Thus, shareholder value is:
- created where the overall cash flow or NOPAT of the business exceeds the cost of capital invested; and
  - destroyed where the opposite is true.
- 3.1.25** SVA directly accounts for the cost of capital to a GBE and objectively measures the creation of value to its shareholder, who is ultimately the NSW taxpayer. Not only does SVA offer a superior means of measuring the overall financial performance of a GBE, but it can similarly be used within a GBE so that all employees can better assess their contribution to the value of their organisation as well as offering an incentive to increase its value.
- 3.1.26** A growing number of GBEs now provide SVA targets in their SCIs (or SFPs). The date of SVA implementation is shown in Table 3.2.
- 3.1.27** Because the capital charge is a function of asset values an appropriate asset valuation methodology to measure these values is being developed.
- 3.1.28** A committee involving NSW Treasury, IPART and the major SOCs, have investigated a uniform asset valuation approach for NSW GBEs for pricing and performance purposes.
- 3.1.29** A Working Paper, *Valuation of Infrastructure Assets for Pricing Purposes*, has been prepared by NSW Treasury. It is to be released as part of a set of documents on asset valuation. The other documents in this set deal with

asset valuation for accounting purposes. The report addresses the following issues:

- issues that govern a regulatory framework for pricing;
- deprival value as a basis for asset valuation (problems and possible solutions);
- economic base and 'line in the sand' approaches;
- implementation issues; and
- the effect of alternative asset valuation techniques on the way that regulated prices are determined when using price-cap and rate of return measures.

*Table 3.2: GBEs using shareholder value added analysis to set financial targets*

<b>Starting 1997-98:</b>	
Advance Energy	Rail Access Corporation
Australian Inland Energy	State Transit Authority
EnergyAustralia	Hunter Water
Great Southern Energy	Sydney Water
Integral Energy	Port Kembla Ports
NorthPower	Newcastle Ports
Macquarie Generation	Sydney Ports
Delta Electricity	Landcom
Transgrid	State Forests of NSW
Pacific Power	Waste Service
Freight Rail Corporation	
<b>Starting 1998-99:</b>	
Darling Harbour Authority	NSW Lotteries
Department of Housing	Rail Services Australia
Department of Public Works and Services	Registry Births Deaths & Marriages
	Land Titles Office
Marine Ministerial Holding Corporation	Taronga Park Zoo
<b>Starting 1999-2000:</b>	
Parramatta Sports Ground Trust	Fish River Water Supply
Wollongong Sports Ground Trust	Sydney Harbour Foreshore Authority
	Public Trustee
Sydney Cricket & Sports Ground Trust	



### **(c) Financial Distributions (Dividends)**

- 3.1.30** If the structure and the return on capital are appropriate, then the focus, according to the Financial Distribution Policy, is on dividends that should broadly reflect private sector practice.
- 3.1.31** A target dividend payment is negotiated as part of the process of developing a SFP (or SCI) before the commencement of the financial year. Based on the actual audited results, the board of the GBE makes a recommendation on the dividend to be paid to the Consolidated Fund in the following year. The final decision on this is influenced by a range of factors, such as: liquidity, capital expenditure requirements, pricing policy and capital structure. The overriding consideration is that the payment of the dividend should not put the GBE at financial risk. It should be appreciated, however, that dividend raising capability is a function of the prices that are set.
- 3.1.32** As indicated above, maximum prices for designated monopoly government services in New South Wales have been determined by IPART since 1992.

### **Performance Monitoring**

- 3.1.33** As part of the microeconomic reform process, more rigorous measures of performance, and performance monitoring processes, have been established for NSW GBEs. Performance monitoring is informing the microeconomic reform process, as well as being an important tool for the successful implementation of reforms. Performance measures provide:
- information to promote yardstick competition for GBEs that face little direct competition in input or output markets;
  - a means of monitoring public sector managerial performance;
  - a powerful internal management tool that can provide information on efficiency, explain reasons for poor performance and identify appropriate role models; and
  - information that facilitates accountability to Parliament and the community.
- 3.1.34** NSW Treasury has been undertaking, since the start of the 1990s, regular financial monitoring of significant GBEs from a shareholder perspective. This acts as a surrogate for the performance assessment usually done by the debt and equity markets. It requires GBEs to provide Treasury with quarterly reports of performance against the targets established in their SCI/SFP and supported by information such as business plans, operating budgets, cash flow statements, income and expenditure statements, balance sheets and management accounting data.
- 3.1.35** GBEs also report, on an exception basis, any risks which arise throughout the financial year. This acts as an early warning of problems which might arise, so that appropriate action may be taken where necessary.

## Payment of Taxes and Tax Equivalents

### (a) State Taxes

- 3.1.36** Since 1 July 1994, all major NSW GBEs have been progressively required to make direct payments of State taxes, principally payroll tax, stamp duty and land tax. These State taxes were applied to most GBEs from 1 July 1995, although there will be a transition period for others. Such a requirement puts them on a competitively neutral footing with private sector businesses.
- 3.1.37** As required by the Financial Policy Framework, in 1997–98 all GBEs have been directly paying State taxes.

### (b) Commonwealth Tax Equivalents

- 3.1.38** At the March 1994 Premier's Conference it was agreed in principle that States and Territories would impose uniform tax equivalent regimes (TERs) on all GBEs by 1997, while the Commonwealth would amend its income and sales tax legislation to unambiguously exempt State enterprises from Commonwealth tax liabilities.
- 3.1.39** All major NSW GBEs, since 1 July 1994, have been progressively required to make tax equivalent payments to the Consolidated Fund. Tax equivalent regimes were introduced, where applicable, for the balance of GBEs during 1996–97.

## Debt Guarantee Fees

- 3.1.40** GBEs benefit from the Government's Triple-A credit rating by virtue of their Government ownership and are able to obtain borrowings through Treasury Corporation (TCorp) more cheaply than comparable private sector firms.
- 3.1.41** Since 1990, however, GBEs with Government guaranteed borrowings have paid a credit-rating-based fee to the Consolidated Fund. The scheme is intended to:
- make up the difference between the interest paid by GBEs and what they would have paid had they been in the private sector;
  - ensure competitive neutrality with private sector businesses of similar risk, which lack Government backing and face correspondingly higher borrowing costs;
  - correct any distortions in GBE investment and pricing decisions;
  - encourage better debt management practices by GBEs by making them aware of the full cost of borrowing; and
  - compensate the Government for the financial risk of guaranteeing debt repayment by GBEs.
- 3.1.42** The guarantee fee applies to all commercial Government agencies with guaranteed borrowings exceeding \$1M. They reflect the difference between

the Government's borrowing rate and the assessed 'stand alone' credit rating of the particular GBE. They vary according to each organisation's 'stand alone' credit rating. The lower the GBE's stand-alone credit rating, the higher the fee.

## Equivalent Regulation

**3.1.43** Many GBEs gain exemptions from certain State legislation and regulations as a result of their status as an entity of the Crown or statutory authority. When a GBE is corporatised as a SOC, it automatically loses this status and therefore its exemption(s). In effect, this means that SOCs will have to comply with the same regulation imposed on the private sector.

**3.1.44** SOCs are also subject to certain provisions of the Commonwealth *Corporations Law* dealing with duties and liabilities and *Part IV of the Trade Practices(Cth) Act 1974* dealing with restrictive trade practices.

**3.1.45** The SOC Act does not intrinsically alter GBEs' exposure to other legislation and regulations. Rather, it simply establishes the structural, legal and accountability framework to be applied to nominated GBEs. Those Acts that are directly related to these regulatory issues are reviewed under the Government's legislation review framework at the time of corporatisation.

**3.1.46** Other Acts and regulations that may have an indirect impact on the activities of corporatised entities, whilst not being intrinsic to the operation of the regulatory framework governing corporatisation, are reviewed in accordance with the Government's overall policy agenda. The Government's legislation review timetable released in June 1996 is comprehensive in its identification of statutes with potential anti-competitive effects.

## Financial Appraisal Guidelines

**3.1.47** In July 1997, the NSW Treasury issued the Financial Appraisal Guidelines to assist in the financial appraisal of the following projects:

- capital projects of Government Trading Enterprises (GTEs) and State Owned Corporations (SOCs); and
- all projects of Budget sector departments and other Non-Budget sector agencies which involve a financing decision. This may involve partial or full private sector provision.

**3.1.48** The Guidelines outline the steps in preparing a financial appraisal, including:

- defining the objectives and the scope of the project;
- identifying alternative options which meet the objectives of the project;
- identifying and measuring cashflows and their sensitivity for each of the options;

- selecting an appropriate discount rate;
- calculating summary measures of commercial merit for each option; and
- seeking independent review of the appraisal.

The Guidelines will help improve the decision making process for significant projects undertaken by Government and affiliates. In particular, it will improve the transparency, objectivity and rigour of financial analysis in this regard.

## **3.2 Application of Competitive Neutrality to Significant Business Activities of General Government Agencies**

### *Requirements of the Agreement*

**3.2.1** Clause 3(5) of the Agreement applies to agencies that are not significant GBEs within the meaning of Clause. 3(4), but undertake significant business functions as part of a broader range of functions. Clause 3(5) indicates that with respect to these business activities, the parties will:

- where appropriate, implement the principles outlined in clause 3(4); or
- ensure that the prices charged for goods and services will take account, where appropriate, of full Commonwealth or State taxes or tax equivalent regimes, debt guarantee fees and equivalent regulation, and reflect full cost attribution for these activities.

### *Application in New South Wales*

**3.2.2** The NSW Treasury has developed costing and pricing principles for GBEs that compete or potentially compete with private sector entities. A working paper, *Pricing Principles for User Charges*, was released in October 1997 and was distributed to all relevant government agencies to which the principles have applied since 1 July 1998.

**3.2.3** NSW Treasury held three workshops during May 1998 to inform all relevant agencies of their responsibilities to implement the pricing principles for user charges. Treasury is currently preparing final guidelines on pricing principles for user charges based in part on the feedback received from agencies participating in the workshops. The finalised guidelines will be released in the first half of 1999.

**3.2.4** The user charges principles apply to:

- discretionary transactions where government policy does not specify subsidies to be provided; and
- substantial activities.

**3.2.5** Specifically, the principles apply to commercial activities of General Government Sector agencies, Public Trading Enterprises yet to adopt the Financial Policy Framework and those not subject to independent prices oversight.

**3.2.6** An agency meeting the above criteria may be exempt from applying the principles where it can demonstrate that the cost of applying the principles exceeds the benefits of competitively neutral pricing.

**3.2.7** Broadly the aim is for agencies to recover full costs. However, in the short term prices need only cover marginal costs. Pricing below marginal costs will be deemed as predatory and potentially anti-competitive according to Part IV of the *Trade Practices Act (Cth) 1974*.

3.2.8 In determining a competitively neutral cost base all input costs and benefits accruing from government ownership are to be included. Costs will include, among other things, employee costs, materials, maintenance, depreciation, taxes, a return on capital and allocation of joint costs such as administrative support costs.

3.2.9 Pricing guidelines have been released in other jurisdictions including the Commonwealth by way of the Productivity Commission. The pricing principles are not consistent in all respects across jurisdictions and in the case of interjurisdictional competition between GBEs there is a possibility that problems may arise.

3.2.10 New South Wales supports the development of nationally uniform costing and pricing guidelines.

3.2.11 A listing of the NSW General Government Enterprises required to implement the pricing principles is provided below in Table 3.3. The agencies supply goods or services subject to 'user charges' as defined by the Australian Bureau of Statistics.

*Table 3.3. List of NSW General Government Enterprises*

No.	Government Purpose (ABS) <sup>1</sup>	Government Agency/Activity	GGE (ABS) <sup>2</sup>	Treasury Monitor <sup>3</sup>	User <sup>4</sup> Charges	Sig <sup>5</sup>	Min <sup>6</sup>
1	(01) General Public Services	State Records Authority	x	x	x		x
2		Audit Office of NSW	x	x	x	x	
3		Cabinet Office	x	x			
4		Government Actuary	x				
5		Independent Commission Against Corruption	x	x	x		x
6		Internal Audit Bureau	x				
7		Legislature	x	x	x		x
8		Local Government, Dept of	x	x	x		x
9		Ombudsman's Office	x	x	x		x
10		Parliamentary Counsel's Office	x	x			
11		Premier's Department	x	x	x		x
12		State Electoral Office	x	x	x		x
13		Statutory & Industrial Ballots – and Local Government Elections	x	x			
14		Superannuation Administration Authority	x		x	x	
15		Treasury	x	x	x		x
16	(03) Public Order & Safety	Attorney General's Dept	x	x	x	x	
17		Rural Fire Service	x	x	x		x
18		Corrective Services, Dept of	x	x	x	x	
19		Crime Commission, NSW	x	x	x		x
20		Director of Public Prosecutions, Office of	x	x	x		x
21		Fire Brigades, NSW	x	x	x		x
22		Judicial Commission of NSW	x	x	x		x
23		Juvenile Justice, Dept of	x	x	x		x
24		Law Reporting, Council of	x				
25		Legal Aid Commission	x	x	x	x	
26		Legal Practitioners Admission Board	x				
27		Police Service, NSW	x	x	x	x	
28		State Emergency Service	x	x	x		x

No.	Government Purpose (ABS) <sup>1</sup>	Government Agency/Activity	GGE (ABS) <sup>2</sup>	Treasury Monitor <sup>3</sup>	User <sup>4</sup> Charges	Sig <sup>5</sup>	Min <sup>6</sup>
29	(04) Education	Adult Migrant English Service	x	x	x	x	
30		Board of Studies, Office of the	x	x	x	x	
31		Department of Education and Training (merger of Department of School Education and NSW TAFE Commission).	x	x	x	x	
32	(05) Health	Health Care Complaints Commission	x	x	x		x
33		Health, Dept of	x	x	x	x	
34		Cancer Council of NSW	x	x	x	x	
35		Dental Board	x				
36		Health Professionals Registration Board	x				
37		Medical Board	x	x	x	x	
38	(06) Social Security & Welfare	Aboriginal Affairs, Dept of	x	x			
39		Ageing and Disability Department	x	x			
40		Community Services Commission	x	x	x		x
41		Community Services, Dept of	x	x	x	x	
42		Ethnic Affairs Commission	x	x	x	x	
43		Home Care Service of NSW	x	x	x	x	
44		Women, Dept for	x	x	x	x	
45	(07) Housing & Community Amenities	Coastal Council of NSW	x				
46		Crown Land Homesites					
47		Environmental Trusts	x	x			
48		Environment Protection Authority	x	x	x		x
49		Honeysuckle Development Corporation					
50		Lake Illawarra Authority	x				
51		Ministerial Development Corporation	x				
53		Sydney Region Development Fund	x	x			
54		Upper Parramatta River Catchment Trust	x				
55		Urban Affairs and Planning, Dept of	x	x	x		x
56	(08) Recreation & Culture	Anzac Memorial Building, Trustees of	x				
57		Art Gallery of NSW	x	x	x	x	
58		Arts, Ministry for the	x	x	x		x
59		Sydney Entertainment Centre	x		x		x
60		Australian Museum	x	x	x	x	
61		Bicentennial Park Trust	x	x	x		x
62		Casino Control Authority	x	x	x		x
63		Centennial Park and Moore Park Trust	x	x	x	x	
64		Film and Television Office, NSW	x	x	x		x
65		Gaming and Racing, Dept of	x	x	x		x
66		Greyhound Racing Control Board	x	x			
67		Harness Racing Authority of NSW	x	x			
68		Heritage Office	x	x			
69		Historic Houses Trust of NSW	x	x	x		x
70	Museum of Applied Arts and Sciences	x	x	x		x	
71	National Parks and Wildlife Service	x	x	x	x		
72	Olympic Co-ordination Authority	x	x	x		x	
73	Opera House Trust	x	x	x	x		
74	Royal Botanic Gardens and Domain Trust	x	x	x		x	
75	SOCOG	x	x	x	x		
76	Somersby Park Pty Ltd	x					
77	Sport and Recreation, Dept of	x	x	x	x		
78	State Library of NSW	x	x	x	x		
79		State Sports Centre Trust	x	x	x	x	
80	(09) Fuel & Energy	Coal Compensation Board	x	x			
81		Ministry of Energy & Utilities	x	x	x		x
82		Mineral Resources, Dept of	x	x	x	x	
83		Mines Rescue Board	x	x	x	x	
84		Mines Subsidence Board	x	x			
85		Sustainable Energy Development Authority	x	x			

No.	Government Purpose (ABS) <sup>1</sup>	Government Agency/Activity	GGE (ABS) <sup>2</sup>	Treasury Monitor <sup>3</sup>	User <sup>4</sup> Charges	Sig <sup>5</sup>	Min <sup>6</sup>
86	(10) Agriculture, Forestry, Fishing & Hunting	Agriculture, Dept of	x	x	x	x	
87		Agricultural Scientific Collections Trust	x				
88		Banana Industry Committee	x				
89		Dairy Corporation, NSW	x	x	x	x	
90		Dairy Industry Conference, NSW	x				
91		Dumaresq-Barwon Border Rivers Commission	x				
92		Fisheries, NSW	x	x	x		x
93		Hunter Catchment Management Trust	x				
94		Land and Water Conservation, Dept of	x	x	x	x	
95		Luna Park Reserve Trust	x	x	x		x
96		Soil Business	x				
97		Surveyors Board	x				
98		State Valuation Office	x	x	x	x	
99		Marketing Boards:					
100		NSW Grains	x				
101		MIA Citrus Fruit	x				
102		Rice	x				
103		Wine Grapes	x				
104		Meat Industry Authority NSW	x	x	x		
105		Rural Assistance Authority	x	x	x		x
106	Safe Food NSW	x	x	x	x		
107	Info. Tech. and Management, Dept of (Surveyor General)	x	x	x	x		
	(Valuer General)	x		x	x		
108	Tick Control, Board of	x					
109	Veterinary Surgeons Board NSW	x					
110	Wild Dog Destruction Board	x					
111	(11) Mining, Mineral Resources, Manufacturing & Construction	Architects of NSW, Board of Building & Construction Industry	x				
112		- Long Service Payments Corporation	x	x			
113		Public Works and Services, Department of	x	x	x	x	
114	(12) Transport & Communications	Air Transport Council	x				
115		Marine Ministerial Holding Corporation	x	x	x	x	
116		Motor Accidents Authority	x	x	x	x	
117		Olympic Roads and Transport Authority	x	x	x		x
118		Roads and Traffic Authority	x	x	x	x	
119		Tow Truck Industry Council of NSW	x				
120		Transport, Dept of	x	x	x		x
		Transport, Dept of (Marine Administration)	x	x	x	x	
121		Waterways Authority	x	x	x	x	
122	(13) Other Economic Affairs	Fair Trading, Dept of	x	x	x	x	
123		Registry of Encumbered Vehicles	x	x	x	x	
124		Financial Counselling Trust Fund	x				
125		Financial Institutions Commission, NSW	x				
126		Honeysuckle Development Corporation	x				
127		Independent Pricing & Regulatory Tribunal	x	x	x		x
128		Industrial Relations, Dept of	x	x	x		x
129		Insurance Ministerial Corporation	x	x	x		x
130		Insurers Contribution Fund	x				
131		Insurers Guarantee Fund	x				
132		Premiums Adjustment Fund	x				
133		Protective Commissioner	x				
134		State and Regional Development, Dept of	x	x	x		x
135		Sydney Harbour Foreshore Authority	x				
136		Tourism NSW	x	x	x	x	
137		Education and Training, Dept of	x	x	x		x
138		Vocational Education & Training Accreditation Board	x				
139		WorkCover Authority	x	x	x	x	
140		Worker's Compensation (Dust Diseases) Board	x				
141		Workmen's Compensation (Broken Hill) Act - Joint Committee	x				
142	(14) Other Purposes	Crown Transactions	x	x			

The Key to Table 3.3 is as follows:



- 1 Categories as per the Australian Bureau of Statistics (ABS) in Government Finance Statistics Australia: Concepts, Sources and Methods.
- 2 General Government Enterprises (GGEs) as defined by the ABS in GFS Australia: Concepts, Sources and Methods.
- 3 These agencies/activities are monitored by Treasury on the basis of a risk and materiality assessment.
- 4 A user charge is a voluntary payment to a PTE or a general government entity. It is of a commercial rather than a regulatory nature and provides an identifiable benefit to the payer. (ABS: GFS Australia: Concepts, Sources and Methods). The existence of user charges is a broad indicator of a business activity.
- 5 Significant > \$2 000 000 user charges revenue pa. as based on 1997-98 Budget estimates.
- 6 Minor < \$2 000 000 user charges revenue pa. as based on 1997-98 Budget estimates.

### **3.3 Complaints and Non-compliance**

#### *Requirements of the Agreement*

3.3.1 Clause 3(8) of the Agreement requires governments to include a complaints mechanism in their Policy Statements on Competitive Neutrality and publish allegations of non-compliance in their annual reports.

#### *Application in New South Wales*

3.3.2 This section deals with the Government's complaints systems and details of complaints received except in relation to Local Government. Local Government complaints and complaint handling arrangements are addressed in section 7.

3.3.3 An actual or potential competitor of a GBE may wish to make a complaint if it perceives it is being adversely affected or being denied a market opportunity because of a GBEs' net competitive advantage resulting solely from its public ownership.

The arrangements outlined in the *Policy Statement on the Application of Competitive Neutrality* consisted of two stages:

- firstly, the party lodging a complaint is to approach the relevant government agency to clarify and attempt to resolve the matter (this first step also acts as a sieve to eliminate trivial complaints or misunderstandings); and
- secondly, and only if necessary, to refer the matter for independent assessment by a third party complaints mechanism wherever the complainant is not satisfied with the response of the agency involved.

3.3.4 The independent third party complaints mechanisms are the IPART, for generic complaints, and the State Contracts Control Board (SCCB), for complaints relating to tendering. Updated pricing and costing guidelines on the application of competitive neutrality in NSW are currently being prepared for distribution to agencies and members of the public. The Government is also updating its competitive neutrality policy statement.

#### **Complaints**

3.3.5 During 1998 The Cabinet Office received two complaints regarding an alleged breach of competitive neutrality principles by Government businesses. A summary of these complaints is provided below. Each complaint has been investigated by the relevant agency in the first instance. To date complainants have not sought to have these matters subsequently referred to the IPART or the SCCB for investigation.

## **Sydney Hospital**

- 3.3.6 This complaint was brought to the attention of The Cabinet Office in January 1998 and was noted in the New South Wales Government's June 1998 report to the Council. The complainant alleged that Sydney Hospital has an unfair competitive advantage in inspection, monitoring and consulting on hazardous materials in the workplace. The complainant contended that the services provided by the hospital are subsidised in many ways. The matter was referred to NSW Health for consideration. The Department has responded direct to the complainant noting that Sydney Hospital has not contravened competitive neutrality principles.

## **Tenders for tree trimming services to Energy Australia**

- 3.3.7 The complainant alleged that three Government corporations (Rail Services Authority (RSA), NorthPower and Integral Energy) were competing for tree lopping tenders on a non-commercial basis. In line with NSW complaints handling arrangements, The Cabinet Office referred the complaint to the relevant agencies for consideration and response to the complainant and provided advice to the complainant on the application of competitive neutrality in NSW. Agencies have now responded direct to the complainant noting that their operations have been conducted in line with competitive neutrality principles.
- 3.3.8 In addition to the above complaints, the following matters also received consideration.

## **The University of Newcastle Sports and Aquatic Centre**

- 3.3.9 The complainant alleged that the University's Sports and Aquatic Centre offered discount memberships that were unfairly subsidised by Government grants to the University. NSW notes that approaches to the application of competitive neutrality to the higher education sector are still subject to consideration. At present, it appears that universities do not fit neatly within the general category of a State Government business. However, to enable the complaint to be handled in a manner consistent with competitive neutrality principles, The Cabinet Office referred the matter to the University of Newcastle for consideration and response to the complainant. The complainant was also provided with advice on the application of competitive neutrality in NSW. The University responded directly to the complainant noting that competitive neutrality guidelines had not been contravened.

## **Using Government purchasing power in retail trading**

- 3.3.10 This matter was reported in the New South Wales Government's June 1998 report to the Council. The complaint related to the use of government purchasing power, authorised for exempt clients e.g. schools and hospitals, to run a retail operation. The complainant held that the Government was able to purchase goods at 10% lower than the wholesale price. The complainant requested that it be demonstrated that the discount was attributable to volume and questioned whether adequate charges for return

on capital, tax and labour costs were being incorporated into retail prices by the Government outlet. The matter was directed to the relevant Minister for consideration. Following a directive from the Minister the retail outlet, which was the subject of the complaint, ceased operation.

### **The manufacture and sale of artificial eyes by Sydney Eye Hospital**

**3.3.11** This complaint was reported in the New South Wales Government's March 1997 report to the Council. The complainant alleged that Sydney Eye Hospital Artificial Eye Maker (a business acquired in 1989 by the former East Sydney Area Health Service) had an unfair advantage in competing against other artificial eye makers due to its connection with Sydney Eye Hospital. The 1997 Report indicated that the Government was considering the application of tax and tax equivalent regimes and debt guarantee fees to the Hospital's artificial eyes business. NSW Health has investigated the complaint and responded to the complainant. The relevant business has sought to comply with NSW pricing principles. Where compliance has not been met, accounting practices are to be reviewed and costs allocated to the business. Full compliance is expected to be achieved by 31 May 1999.

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## 4 Structural Reform of Public Monopolies

### *Requirements of the Agreement*

- 4.1 Clause 4(2) of the Agreement indicates that, before competition is introduced to a sector traditionally supplied by a public monopoly, the non-contestable regulatory or other functions of the monopoly need to be separated from those commercial activities that can be subject to competition. This eliminates any conflict of interest with commercial functions and facilitates competitively neutral regulation of public and private businesses.
- 4.2 Clause 4(3) also specifies that when introducing competition to a market traditionally supplied by a public monopoly, and before a public monopoly is privatised, governments are required to undertake a review into the following matters:
- the appropriate commercial objectives for the public monopoly;
  - 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 of the public monopoly;
  - the most effective means of implementing the competitive neutrality principles set out in the Agreement;
  - the merits of any community service obligations undertaken by the public monopoly and the best means of funding and delivering any mandated community service obligations;
  - the price and service obligations to be applied to the industry; and
  - the appropriate financial relationships between the owner of the public monopoly and the public monopoly, including the rate of return targets, dividends and capital structure.

### *Application in New South Wales*

- 4.3 The NSW Government has been systematically applying the principles of structural reform to its public monopolies.
- 4.4 New South Wales has restructured the regulatory and operating sectors of the State's publicly-owned electricity industry, with the operating sector further divided into its natural monopoly (transmission and distribution) and competitive components (generation and retail). The passage through the NSW Parliament of the *Electricity Supply (NSW) Act 1995*:
- established a unified framework for the industry;

- provided for regulated monopoly transmission and distribution networks;
- fostered competitive retail electricity supply;
- regulated the wholesale electricity market.

New South Wales regulatory arrangements for network operations has developed in line with the national market timetable, with regulation of transmission due to shift to the Australian Competition and Consumer Commission in accordance with the National Electricity Code in July 1999 and distribution to remain with IPART (until January 2001, when arrangements provide for distributors to be regulated under the National Electricity Code).

On 13 December 1998, New South Wales moved from a State wholesale market operating under the *Electricity Supply Act 1995* to the National Electricity Market operating under the National Electricity Code.

4.5 On the public transport side, New South Wales through the Transport Administration Amendment (*Rail Corporatisation and Restructuring*) Act 1996, has separated the operation of rail services from the ownership, provision of access and the maintenance components of the State Rail Authority. Four transport entities now exist:

- State Rail Authority – focused on providing customer services;
- Rail Services Authority – responsible for track maintenance;
- Rail Access Corporation – responsible for managing the rail network and administering access by public and private operators; and
- FreightCorp – responsible for non-passenger freight services.

4.6 The NSW TAB was privatised on 22 June 1998 by way of a public float on the Sydney Stock Exchange, where it was registered as TAB Limited. Approximately 750,000 shareholders invested in TAB limited and in the process allowed the Government to retire \$1 billion of debt. Prior to privatisation the TAB was corporatised on 1 March 1998.

4.7 The privatisation has vested exclusive licences with TAB Limited to undertake the following activities:

- provision of off course totalisator wagering in New South Wales;
- operation of a State-wide linked jackpot system on certain gaming machines in registered clubs; and
- provision of a centralised monitoring system for gaming machines in registered clubs and hotels.

- 4.8 In late 1997, the NSW Parliament passed the Totalizator Legislation Amendment Bill, which amended a range of statutes necessary to enable the proposed privatisation. These amendments included exemptions from the TPA for the exclusive licence arrangements outlined above. As part of the process of notifying the ACCC of the exemptions, an advance copy of the net public benefit report was forwarded to both the ACCC and the NCC in accordance with Clause 2 of the Conduct Code Agreement.
- 4.9 The Murrumbidgee and Colleambally irrigation schemes were corporatised on 1 July 1997. On 12 February 1999, the Government shifted ownership of the Murrumbidgee scheme to local water users. The Government is pursuing a similar model for the Colleambally scheme.
- 4.10 Since 1 January 1997 NSW Lotteries Corporation has operated as a state owned corporation subject to the provisions of the State Owned Corporations Act 1989 and the New South Wales Lotteries Corporation Act 1996. The Minister for Gaming and Racing remains responsible for the regulatory functions associated with licensing and control arrangements in the lotteries market.
- 4.11 The Sydney Market Authority was dissolved under an Act of Parliament from midnight on 31 October 1997. The business of the market is now carried out by Sydney Markets Limited (SML), a private company, owned by the stallholders of the former Authority. SML rents the Flemington site from the Crown under a longer term lease.
- 4.12 The State Valuation Office commenced operations on 1 May 1997 following the separation of the regulatory and operational functions that were previously undertaken by the then Valuer-General's Office. The Valuer General (now within the Department of Information Technology and Management) is responsible for all regulatory functions whilst the State Valuation Office undertakes the operational role. The State Valuation Office has been established as a business unit of the Department of Public Works and Services. The role of the Office is to provide State and Local Government with a property consultancy service to assist in the proper management and utilisation of State and Local Government property.
- 4.13 The Snowy Mountains Hydro Electric Authority is a Commonwealth Statutory Authority. New South Wales is entitled to 58 per cent of its capacity whilst Victoria and the Commonwealth are entitled to 29 per cent and 13 per cent respectively. It is proposed to be incorporated on 1 December 1999 as a public company owned by New South Wales, Victoria and the Commonwealth in shares of 58 per cent, 29 per cent and 13 per cent respectively.
- 4.14 In addition to these initiatives, the State is committed to meeting the requirements of the *Agreement to Implement National Competition Policy and Related Reforms*. This entails structural reform of the State's water, gas and road transport sectors and establishment of an interstate electricity

market. Detail on the application of these reforms is provided in Chapter 8  
*Application of the Agreement to Implement Related Reforms.*



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## 5 Review of Legislation

### *Requirements of the Agreement*

- 5.1 Clause 5 of the Agreement requires jurisdictions to review legislation “that restricts competition” between 1996 and 2000. The Agreement indicates that legislation should not restrict competition unless it can be demonstrated that the benefits to the community as a whole outweigh the costs and that the objectives of the legislation can only be achieved by restricting competition. The determination of whether particular legislation “restricts competition” and requires review is for each jurisdiction to determine. Each jurisdiction was required to have published a Legislation Review Timetable by June 1996.

### *Application in NSW*

- 5.2 An outline of the NSW approach was provided in the March 1997 Report. Legislation scheduled for review is listed in the *NSW Government Policy Statement on Legislation Review*, published in June 1996. During 1998, two changes were made to the NSW schedule. Following a query from the NCC, the *Lord Howe Island Act 1953* was added to the NSW schedule. The Act establishes a statutory marketing board for the export and sale of Kentia palm seeds, seedlings and trees and control over the sale of liquor on the Island. The review will commence during 1999. As foreshadowed in the 1998 report to the NCC, with the concurrence of the NCC, the *Biological Control Act 1985* has been removed from the NSW schedule.
- 5.3 Annexure 2 sets out the outcomes or status of all NSW legislation reviews.
- 5.4 In September 1997, the National Competition Council (NCC) wrote to all jurisdictions outlining the Council’s views on appropriate review processes. NSW practice accords with its suggestions in most respects. Where it differs, there are good reasons based on review experience to date. Some basic elements of NSW practice are set out below

### **Composition of review panels**

- 5.5 Ministers have primary responsibility for reviews within their portfolios, and review panels are generally chaired by a senior officer of the relevant department. NSW believes that Ministerial and Departmental “ownership” of reviews contributes to the effectiveness of the review process, including implementation of recommended reforms. Review panels for all major reviews include central agency representatives (The Cabinet Office and usually The Treasury), or consult closely with central agencies in the preparation of public issues papers and review reports.
- 5.6 Where a review relates to a statutory authority and its role (e.g. the reviews of the *Dairy Industry Act 1979* and the *Meat Industry Act 1978*), the authority

generally participates in the panel. NSW believes that the benefits of inclusion (expertise, knowledge, cooperation by the authority in review and reform implementation) outweigh the disadvantages of actual or perceived lack of objectivity. Experience has shown that the integrity and independence of the review process can be satisfactorily safeguarded by the involvement of central agency representatives on the review panel.

- 5.7 Review panels may also include representatives of major stakeholder groups. The benefits which may flow from inclusion, and the safeguards of review integrity, are similar to those outlined in the previous paragraph. Where there are a large number of stakeholder groups and/or their interests diverge widely, alternative mechanisms, such as formal or informal stakeholder reference groups, may be used.

### **Terms of reference and explanatory material**

- 5.8 Formal terms of reference are developed for each review using the template terms of reference at Annexure 1 as a guide. The template is based on CPA Clause 5(9). The terms of reference are publicly available. Reviews are usually advertised with an outline of the process to be followed. A public issues paper which explains the anti-competitive elements under review, and elicits comment on relevant competition and public interest issues, is prepared for most reviews expected to have a widespread and/or significant impact.

### **Consultative processes**

- 5.9 In 1997, NSW published consultation guidelines entitled '*Consulting on Reform: A Consultation Framework for Review of Anti-Competitive Legislation*'. The publication sets out a number of aspects of review procedure, and comprehensively covers consultation arrangements. These guidelines ensure that reviews are conducted in an open and transparent manner, and that public participation is facilitated. Final reports are made publicly available following Cabinet consideration of the recommendations.

### **National reviews and national coordination**

- 5.10 National reviews of similar legislation may be proposed by any jurisdiction and may proceed where some or all jurisdictions agree on terms of reference and a process for the review. The COAG Committee on Regulatory Reform (CRR) facilitates the identification of possible national reviews and agreement by jurisdictions on review arrangements.
- 5.11 Most reviews are State-based, without any formal mechanism for national coordination. However, NSW ensures that all reviews take account of relevant regulatory regimes in other jurisdictions, and recent reforms or

reform proposals. In 1997, NSW modified its template terms of reference to formalise this requirement (see Annexure 1, para 5).

## **Trade Practices Act exceptions**

### **Notice of continuing exemption from competition laws**

**5.12** New South Wales gave the ACCC notice on 10 July 1998, under sub-clause 2 (3) of the Conduct Code Agreement, of New South Wales legislation that:

- existed at 11 April 1995;
- was enacted or made in reliance on the version of section 51 of the *Trade Practices Act 1974* (TPA) that was in force at 11 April 1995; and
- will continue to except conduct under section 51 TPA after 20 July 1998.

**5.13** The following list is of the New South Wales legislation that includes exemptions of this type:

- *Marketing of Primary Products Act 1983*;
- *Grain Marketing Act 1991*;
- *Co-operatives Act 1992*;

**5.14** All three Acts are either currently under, or scheduled for, competition policy legislation reviews.

### **Other section 51 (1) exceptions**

**5.15** The following legislation has been made during 1998 that includes exceptions made under section 51 of the *Trade Practices Act 1974*:

- *Liquor and Registered Clubs Legislation Amendment (Community Participation) Act 1998* : exemption relates to exclusive investment licence.
- *Marketing of Primary Products Amendment (Rice Marketing Board) Act 1998*: exemption to continue to January 2004, with a further review in 2000.
- *Marketing of Primary Products Amendment (Wine Grapes Marketing Board) Act 1997*: exemption mainly relates to vesting arrangements to continue to July 2000.
- *Dairy Industry Amendment (Trade Practices Exemption) Act 1998*: exemption to continue to July 2003.
- *Farm Produce (Repeal) Act 1996*: exemption arises from repeal of the *Farm Produce Act 1983* and relates to the Flemington Markets Commercial Services Scheme and only to contracts entered into before 1 September 1997.

5.16 In addition, the following Regulations have been made under sections 38 and 39 of the *Competition Policy Reform (New South Wales) Act 1995*:

- Competition Policy Reform (New South Wales) Amendment (Waste) Regulation 1998: exemption to continue to July 2000.
- Competition Policy Reform (New South Wales) Amendment (Grain Marketing) Regulation 1998: exemption to continue to July 2000 or earlier depending on progress with the current legislation review.
- Competition Policy Reform (New South Wales) Amendment (SOCOG and SPOC) Regulation 1998: exemption by regulation to continue until replaced by legislation. Exception to be in place until after the Sydney Paralympic Games. (This exception mirrors the exception already in place for the Sydney Olympic Games).

5.17 A number of these are discussed later in this chapter in the section on remaining first tranche issues. The ACCC has been notified of all these exceptions.

### **New Legislation**

5.18 Since the Government's ratification of the *Competition Principles Agreement* in April 1995 and the passage of the *Competition Policy Reform (NSW) Act* through the NSW Parliament in June 1995, proposals for new legislation are required to take account of competition policy requirements. To ensure that this occurs all proposals for new legislation or amendments to existing statutes are reviewed by officials in The Cabinet Office.

5.19 Inconsistencies between new legislation and competition policy requirements are either referred back to the responsible Minister for further consideration or brought to the attention of Cabinet. Ministers are aware that, should they proceed with anti-competitive legislation, approval must be sought from the Premier for any statutory exemptions or authorisations in relation to the *Trade Practices Act*.

### **The Electricity Supply (NSW) Act 1995**

5.20 In March 1999 the NCC wrote to The Cabinet Office advising of a letter received from an electrical contractor who was concerned that 'only accredited contractors can install underground service mains in NSW, whereas prior to October 1998 any NSW registered electrical contractor could undertake the installation'. The NCC indicated that it had been advised that section 16 of the Electricity Supply (General) Regulation 1996, states that a person who provides electrical services must be accredited to provide those services. The NCC has requested that NSW address this issue in this report in accordance with clause 5(5) of the Competition Principles Agreement.

5.21 In fact, s 16 of the above regulation states that "for the purposes of section 31 of the Act, all contestable services are prescribed". Contestable services are defined as any service provided for the purposes of complying with Division 4 of Part 3 of

the Act and any service comprising work related to an extension or an increase in capacity of a distribution system.

- 5.22 The NSW Government notes that S 31 of the Electricity Supply Act 1995 allows customers to elect to have any electrical or other goods or services required by the Act to be provided by a person chosen by the consumer, provided that person is accredited in accordance with the regulations. Hence, it is s 31 of the Act, which commenced in June 1998, that introduced the original requirement for accreditation, rather than s 16 of the regulation.
- 5.23 The Electricity Supply (General) Regulation 1996 was amended in September 1996 to include a timetable for the progressive introduction of contestability (and the requirement for accreditation) for each category of work. Contestability for the category of work in question was to be introduced by February 1997. However, in Integral Energy's case, the requirement for accreditation was not enforced until October 1998.
- 5.24 As the requirement for accreditation originated in the Electricity Supply Act 1995 rather than any recent regulatory activity, the NSW Government considers that it has not contravened clause 5(5) of the Competition Principles Agreement. It is noted that the Act is scheduled for NCP review in 1999-2000. The requirement for accreditation will be considered as part of that review.
- 5.25 Notwithstanding the above position, the following information is provided to assist clarifying recent pro-competitive reforms in this area.
- 5.26 One of the main purposes of the Electricity Supply Act 1995 is to promote consumer choice and create consumer rights in relation to electricity connections and electricity supply (refer to Section 3 of the Act).
- 5.27 The Act has enabled consumers to employ contractors of their choice to perform work on the distributors' systems for which customers are paying a capital contribution. Previously responsibility for this work rested exclusively with the distributors. Now, any accredited contractor, of which there are approximately 500, may compete for the work. The benefits to the consumer seeking connection to the grid and supply of electricity are freedom of choice of contractors in a competitive environment, resulting in significant savings for the consumer. A market of \$50-\$100 million has been opened up to contractors.
- 5.28 The only restriction on this new competitive market is that the contractors must be accredited. Accreditation is required because the distributors are now liable for the safety, reliability and quality of the system even though under the competitive system they do not have direct control over the personnel carrying out the work.
- 5.29 For reasons of safety (not only safety of the consumers but also for the personnel who may be working in close contact to high voltage and other energised wires) it is considered absolutely necessary that an accredited person is responsible for the work. There are, on average, 2 fatalities and 40 serious accidents per annum to electricity industry employees. There are also 3 fatalities and 19 serious accidents per annum to the general public involving distribution assets. Relaxation of the

accreditation requirements would have an adverse impact on this situation. The benefits to the community of having an accreditation requirement for electrical contractors are considered to outweigh the costs of the restriction on competition.

- 5.30 In regard to work on consumers' installations, the consumers continue to be responsible for this work and may employ any licensed contractor to carry it out. The 1996 and 1999 NSW Service and Installation Rules describe the procedures and practices to be followed in relation to the connection of a consumer's installation to a distribution system. The Rules provide clear definitions of what constitutes consumer installations as opposed to distribution assets.
- 5.31 The Electricity Supply (Safety Plans) Regulation 1997 requires distributors to prepare, lodge and implement a safety and operating plan taking into account the provisions of a code of practice that calls up the Service and Installation Rules. Distributors can vary their practices from the Rules, if they can justify how the variations ensure an equal or better outcome. The Rules are also referenced in the connection contracts between customers and their distributor, as required under the Act; making them legally binding on customers as well as distributors.
- 5.32 With the introduction of contestability, distributors are now adopting definitions as to who owns which assets in accordance with the Rules and are working towards a uniform approach. This will enhance the opportunities for contractors to compete on a State-wide basis. Previously there may have been some variations between distributors in their interpretation of the previous Rules, particularly in regard to the definition of what constitutes consumer installations as opposed to distribution assets.

#### **The Liquor and Registered Clubs Legislation Amendment (Community Partnership) Act 1998**

- 5.33 The NCC has asked the NSW Government to demonstrate that the above Act complies with clause 5(5) of the Competition Principles Agreement. The Government's view is that the Act introduced reforms that increase, rather than restrict, competition. Accordingly, the Government does not believe it is required to demonstrate compliance with clause 5(5). The following information is provided to assist clarification of the issues.
- 5.34 The exception made under section 51 of the *Trade Practices Act 1974* relates to the exclusive investment licence granted to TAB Limited ('TAB') or a wholly owned subsidiary of TAB under Part 13 of the *Liquor Act 1982* for the exclusivity period (being a period of approximately 15 years).
- 5.35 When considered in isolation, the granting of an exclusive investment licence may be perceived as introducing a new restriction on competition. However, if a 'big picture' view of the regulatory environment is taken, it will be seen that the granting an exclusive investment licence in this case, actually increases competition. The investment licence removes a barrier to entry by the TAB into certain markets.
- 5.36 For example, before the introduction of an investment licence:

- approved gaming devices could only be supplied to hoteliers by the holder of an amusement device dealer's licence ('a dealer') or the holder of an amusement device seller's licence ('a seller');
- only a person approved by the Liquor Administration Board ('the Board') could finance the acquisition of approved gaming devices, and the Board would not approve a dealer or a seller; and
- an hotelier could only share receipts from an approved gaming device with a person who had a financial interest in the hotel, which had been declared to the Licensing Court.

5.37 After the introduction of an investment licence:

- a new market entrant (the licensee) is able to *acquire* approved gaming devices; *supply* approved gaming devices to hoteliers; *finance* the acquisition by hoteliers of approved gaming devices; and *share in the profits* of a machine supplied or financed by the licensee.

5.38 Introducing the investment licence is expected to increase competition:

- in the markets for the supply of approved gaming devices and the financing of the acquisition of approved gaming devices, by giving hoteliers a choice between:
  - outright acquisition from a dealer or a seller;
  - outright acquisition from the holder of an investment licence;
  - acquisition from a dealer, seller or the holder of an investment licence with some form of financing from a financier not otherwise connected to the gaming industry; and
  - acquisition from the holder of an investment licence with some form of financing or sharing of profits.
- previously, an hotelier could only acquire an approved gaming device from a dealer or a seller and could only obtain financing for acquisition of an approved gaming device from a financier not otherwise connected to the gaming industry; and
- in the gaming market generally, by assisting smaller hotels to acquire approved gaming devices, enabling them to compete more effectively with other hotels and with registered clubs.

5.39 The Government's reasons for introducing the investment licence were:

- to assist smaller hotels to acquire approved gaming devices that comply with the 'X standard' adopted by the Board in 1995. All approved gaming devices must comply with this standard by 31 December 2000. Many smaller hotels require assistance to finance the replacement of non-complying approved gaming devices; and
- to facilitate the introduction of the State Wide Linked Jackpots System ('SWLJS') by permitting TAB to finance approved gaming devices in hotels. TAB was granted an exclusive licence to operate the SWLJS for approximately 15 years under the *Liquor and Registered Clubs Legislation Amendment (Monitoring and Links) Act 1997* ('the Links

Act'). The NCC has accepted that TAB's exclusive licence in relation to SWLJS and the other exclusive licences granted to TAB under the Links Act and the *Totalizator Legislation Amendment Act 1997* comply with clause 5(5) of the CPA. The exclusive investment licence complements TAB's exclusive SWLJS licence and the net community benefit associated with the SWLJS licence applies equally to the investment licence.

- 5.40 Recognising the social costs of gambling, the Government is particularly concerned to maintain responsible gambling policies. The investment licence will enable the Government to maintain responsible gambling policies.

### **Review of Legislation Timetable**

- 5.41 The Government's legislation timetable is reviewed by the Premier in consultation with other Ministers, in accordance with the Government's overall policy agenda. Any alterations to the timing of reviews are agreed between the Premier and responsible Minister. The NSW Government's timetable for review of legislation is expected to permit the completion of reviews of nominated legislation by the year 2000.

### **Licence Reduction Program**

- 5.42 Details of this program were provided in the March 1997 report. The Licence Reduction Program reviewed 250 licences between August 1995 and February 1997. Of the 85 licences identified for repeal, 72 have already been repealed. Proclamation of the remaining 13 repeals have been made contingent on the outcomes of other review processes, including NCP reviews.

### **Reforming Planning, Land Use and Natural Resource Approvals Systems**

- 5.43 The Government's *Policy Statement on Legislation Review* identified a number of inefficiencies in the State's planning and land use approvals systems. The Statement indicated that the Government would address these issues through the application of overarching reform principles within a NCP framework. The reform principles are described in paragraphs 3.5 - 3.15 of the Policy Statement.
- 5.44 Attachment 2 of the Policy Statement listed a program of 30 reform projects. The Government indicated that it would report the outcomes of these projects to the NCC. Annexure 3 of this report provides information on the status of each of the 30 projects, including where applicable, the relevant outcomes. Several of the projects were addressed in the context of recent reforms to the State's development approval system. Information on these reforms is presented below.

### **Reforms to the State's Development Approval System**



5.45 The *Environmental Planning and Assessment (Amendment) Act 1997* passed by the NSW Parliament in December 1997, came into effect on 1 July 1998. The Act introduces reforms that reduce 'red tape' and provide more certain and consistent decisions on development proposals for business and families.

5.46 The Act covers three principal areas of reform:

1. integrating development consents;
2. providing appropriate assessment; and
3. increasing competition in the area of compliance functions.

### **Integrating development consents**

5.47 A clearer, simpler and more certain process is established for obtaining approvals for a project such as construction of a building or a new business. Integration is achieved by:

- providing a single system for the development, building and subdivision aspects of a project under the *Environmental Planning and Assessment Act 1979* (EP&A Act);
- removing the need for subsequent *Local Government Act* approvals, where relevant; and
- linking associated licences, permits and approvals required under other environmental legislation with the development consent (i.e. a 'one stop shop' concept).

### **Providing appropriate assessment**

5.48 A more streamlined decision-making system is established to ensure that the level of assessment reflects the complexity and likely environmental impact of a development. This is to be achieved by the establishment of separate categories of development:

- **State significant development** is development that is of State or regional significance, such as a new coal mine, or major industrial development. The Minister for Urban Affairs and Planning will be the consent authority for these developments. A more consistent and integrated decision-making process applies to these major developments.
- **local development** is development that requires consent, and is not 'State significant development'. In most cases, councils will be the consent authority. Examples include shopping centres and townhouse developments. The Act provides a simplified approach when applying to applications for building and development.
- **complying development** is routine development, which can be certified entirely as complying with predetermined standards. Separate complying

development procedures provide a faster system for assessing development.

- **exempt development** removes the need for any approval for minor development, provided that certain standards are satisfied.

### **Increasing competition in the area of compliance functions**

- 5.49 The Act provides for increased choice and competition in the assessment process. This will be achieved by enabling private sector professionals to perform compliance functions currently conducted by consent authorities.
- 5.50 The Government has also decided to deregulate development control fees where there is competition, and to regulate only where there is a monopoly. To this end the Government has given a terms of reference to the IPART to review and develop a pricing policy and recommended indicative fees charged by Local Government and other consent authorities for development control services under the *Environmental Planning and Assessment Amendment Act 1997*. IPART is to provide its report to the Premier by 31 July 1999.

### **Success in the implementation of the changes**

- 5.51 The Government has spent considerable time and resources on the successful implementation of the new development assessment system. This has involved providing training and assistance to local government and State Government agencies, continued involvement in the monitoring of the effectiveness of the new system, and ongoing work to provide the complete package of reforms.
- 5.52 The Government is reviewing the procedural aspects of the new development assessment system to ensure applications are dealt with in a clear and transparent, as well as a timely manner. This will enable the Government to further improve the operation of the system.
- 5.53 Private certifiers have begun competing with local government in the provision of building and subdivision assessment. At the end of March 1999 there were approximately 60 certifiers who had been accredited under the schemes developed by the Institution of Engineers and the Building Surveyors and Allied Professions Accreditation Board. The Minister for Urban Affairs and Planning approved these schemes in late 1998. Schemes prepared by the Royal Australian Planning Institute and the Professional Surveyors Occupation Association are currently being considered by the Minister.
- 5.54 Exempt and complying development will be introduced across the State by December 1999. This will provide quick simple and effective approval systems for straight forward and routine types of development. The Government has provided assistance to the local government areas willing to introduce exempt and complying development at the local level by preparing a model local environmental plan.

5.55 State agencies are working to improve the effectiveness of their approval requirements following the introduction of integrated development consents. The new system of referrals and integrated consents has seen State agencies lift their performance in terms of providing timely advice on development proposals. This has enabled major proposals to be dealt with in reduced timeframes.

### **Review of Plan Making in NSW**

5.56 The Government has commenced a review of the plan making aspects of the EP&A Act with the aim of developing a more strategic approach to plan making at the local and regional levels.

5.57 There are a large and growing number of plans and strategies prepared outside the EP&A Act especially in the area of natural resource management but also in areas such as transport planning and social planning. The links between these plans and the planning instruments under the Act and the potential for consolidating planning and related natural resource management legislation into a single statute is being explored.

5.58 A Green Paper was released in February 1999 which looks at these and many other issues associated with plan making. The 5 themes of the paper are:

- **improving coordination and integration** between different levels and agencies of government to achieve better integration of plans and policies;
- **reducing complexity** to create a system of better organised plans, where it is clear how various plans relate to one another as well as the more particular issue of what provisions apply to a parcel of land;
- **better communication and participation** through improving the opportunities for involving the wider community in the strategic planning process including the areas of monitoring and review;
- **more effective land use controls** examining the possibility of rationalised zones through to removing prohibitions in plans and continuing the move to a more performance based or outcome focussed consideration of all proposals; and
- **a more efficient process for plan making and review** to streamline these procedures while maintaining an appropriate level of checks and balances.

5.59 The Green Paper also recognises as a key issue for debate, the need for a more holistic approach to environmental management. This issue is referred to in project 30 of Annexure 3. Discussion in the Paper focuses on how to achieve better integration across areas such as social transport, infrastructure, land use, corporate and natural resource planning.

### *Remaining first tranche issues*

5.60 In its second tranche assessment framework, the NCC has identified a number of remaining first tranche matters for NSW. Information on each of these matters follows.

### **Rice Marketing**

5.61 In its June 1997 assessment of NSW's performance, the Council referred to the explanation given in the 1997 NSW Annual NCP Report for the Government's 1996 decision to retain the current rice vesting arrangements for five years beyond their expiry in 1999.

5.62 In its 1997 report NSW had indicated that:

- the benefits from the current regulatory arrangements, when taken as a whole, were estimated to be in the range of \$26 - 35 million in 1996 - 97, rising to \$36 - 45 million in 2000 - 2001. These benefits significantly exceed the domestic costs of the regulation, which were estimated to be between \$2 - 12 million annually;
- Commonwealth export licensing arrangements were unnecessary given that the great majority of Australian rice is produced in NSW. State-based arrangements other than vesting which might retain benefits of single desk export selling, yet achieve deregulation of the domestic market, are unlikely to be feasible.

5.63 The Council responded in its Assessment Report that it was not convinced that the NSW approach was consistent with the Competition Principles Agreement that restrictive arrangements be retained only where a net benefit to the community is demonstrated. The Council noted that "meaningful discussions" had to take place between it and the NSW Government, and that these would be taken into account for the purposes of the second part of the first tranche assessment.

5.64 In June 1998 the NCC recommended to the Commonwealth Treasurer that the Commonwealth deduct \$10 million from NSW's remaining 1998-99 NCP payments as NSW had not demonstrated why the domestic rice market cannot be deregulated.

5.65 In February 1999 the Commonwealth Treasurer presented a proposal for a Commonwealth single export desk arrangement. He asked NSW for an in-principle agreement to remove NSW rice marketing arrangements if it could be shown that the Commonwealth proposal is effective in maintaining export premiums.

5.66 NSW has now given in-principle agreement and further evaluations of the Commonwealth proposal are now taking place.

### **Dairy Industry Act 1979**

- 5.67 The NSW Government has undertaken a comprehensive review of the Dairy Industry Act. The review was undertaken by a Review Group consisting of Government and industry members. The review followed all the requirements of the Government's '*Consulting on Reform - A Consultation Framework for Review of Anti-Competitive Legislation*' document, and involved a significant amount of research. A copy of the final report has been provided to the NCC.
- 5.68 Under the Dairy Industry Act, all milk produced in NSW is formally vested in the NSW Dairy Corporation. The Corporation sets the gross farm gate price to producers, and the processor input price for market milk. To ensure that the Dairy Corporation has sufficient milk to meet demand, it issues a milk quota to farmers.
- 5.69 While the review group agreed that the current pricing arrangements result in an annual transfer to dairy farmers of \$56-87 million per year, a majority of the review group supported continuation of the current pricing arrangements on the basis that:
- they provide farmers with countervailing power against processors and retailers;
  - they 'cushion' the NSW industry against corrupt world prices; and
  - their removal would result in significant negative impacts on dairy regions.
- 5.70 In May 1998, the Government announced that it had accepted the recommendations of the review group majority, and that the current dairy industry pricing and supply management arrangements will continue until 2003.

### **Dentists Act 1989**

- 5.71 The entry in the 1997 report to the NCC incorrectly reported the review as being complete. Pre-consultation on the review is underway and an issues paper is being prepared.

### **Factories, Shops and Industries Act 1992**

- 5.72 The review of Part 3 of the Act is linked to current reviews of the Occupational Health and Safety Act. Review of Part 4 (trading hours & industrial issues) will commence in 1999. Review of Part 6 (hairdressers) will also commence in 1999.

### **Gaming and Betting Legislation**

- 5.73 In the 1997 Annual Report NSW indicated that the Gaming and Betting Act 1912 was to be repealed and remade in three parts to be separately reviewed.
- 5.74 The three new replacement Acts were instituted in 1998 and include:
- Unlawful Gambling Act;

- Gambling (Two Up) Act;
  - Racing Administration Act.
- 5.75 The Unlawful Gambling Act 1998 specifically covers the criminal provisions relating to gambling which were previously bundled with regulatory, licensing and administrative provisions in the Gaming and Betting Act 1912. Basically the Bill's controls can be broken down into 3 types:
- arbitrary prohibitions of certain types of gambling and blanket prohibition of any other gambling except that permitted through separate legislation;
  - universal prohibitions of types of gambling such as gambling of minors; and
  - penalties associated with unlicensed operators involved in legal gambling.
- 5.76 NSW determined that because there are no markets or licensing regimes associated with prohibited gambling activities, there are no anti-competitive features in the Unlawful Gambling Act which merit an NCP review.
- 5.77 The Gambling (Two Up) Act 1998 generally prohibits the playing of two up in NSW, except for permitting play on Anzac Day across NSW, and in Broken Hill (at the Crystal Lane Two Up School run by the Broken Hill Council) all the year. The Act prescribes the rules of the game (even odds) and requires it be played on a non-profit basis on Anzac Day and that profits made in Broken Hill be applied to promotion of tourism in Broken Hill. Two up is also permitted at the Sydney casino authorised under the Casino Control Act.
- 5.78 The general objective of the Act is to ensure that where two up is permitted, games are conducted honestly; games are conducted free from criminal influence; and the adverse social effects of lawful gambling are minimised. The exemptions for Anzac Day and for Broken Hill are based on recognition of the historical and cultural associations of the game.
- 5.79 The Two Up Act was reviewed by an inter-department committee which determined that the Act should be retained on public benefit grounds.
- 5.80 On 17 December 1998, the Premier approved the terms of reference and review arrangements for the Racing Administration Act and the following related Acts:
- Bookmakers Taxation Act 1917;
  - Thoroughbred Racing Board Act 1996;
  - Harness Racing New South Wales Act 1977; and
  - Greyhound Racing Authority Act 1985.

This multi act review will be completed in 1999.

### **Grain Marketing Act 1991**

5.81 As at April 1999, the review is yet to be completed.

### **Legal Profession Act 1987**

5.82 The report of the Legal Profession Act was tabled in Parliament in November 1998. The Government is considering the Report.

### **Superannuation Administration Act 1996**

5.83 Legislation for corporatisation of the Superannuation Administration Authority will be introduced in Parliament in May 1999 and will largely address residual competition issues and clarify the need for any formal legislative review.

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## 6 Development of Third Party Access Regimes

### *Requirements of the Agreement*

- 6.1 Clause 6 of the Agreement indicates that States and Territories can develop regimes for the provision of third party access to services that are provided by means of significant infrastructure facilities. State based access regimes are to apply where:
- it would not be economically feasible to duplicate the facility;
  - access to the service is necessary in order to permit effective competition in a downstream or upstream market; and
  - access can be provided safely.

### *Application in NSW*

#### **Gas**

- 6.2 In August 1996, the Government gazetted the NSW Third Party Access Code for gas distribution infrastructure, along with associated regulations under the *Gas Supply Act 1996*. These measures implemented the NSW Gas Pricing and Access Regime, with application to various sectors of the gas distribution market being phased in over several years. The NSW Access Regime was the first gas access regime of any state or territory to be certified as an effective access regime under section 44M of the *Trade Practices Act 1974*.
- 6.3 The NSW Third Party Access Code is now replaced by the National Third Party Access Code as part of the *Gas Pipelines Access (NSW) Act 1998*, which commenced in August 1998. This is in accordance with the Inter Governmental Agreement on Natural Gas Pipelines Access, and follows the lead legislation passed by SA earlier in the year.
- 6.4 The NSW Government submitted its Access Regime (as embodied in the *Gas Pipelines Access (NSW) Act*) to the National Competition Council on 28 October 1998 for recommendation as an “effective regime” under the *Trade Practices Act 1974*. The Council is expected to make a recommendation for certification to the Commonwealth Treasurer early in 1999.

#### **Rail**

- 6.5 Also in August 1996, the Government gazetted the NSW Third Party Access Regime for all rail services in NSW, along with associated amendments to the *Transport Administration Act 1988*. The Regime was submitted to the NCC for its recommendation to the Commonwealth Minister that the Regime be certified an effective access regime in accordance with the Agreement in June



1997. Discussions between the NCC and the NSW Government as to the effectiveness of the Regime have been continuing. On 9 April 1998 the NCC issued its draft recommendation on the Regime for public comment, and on 2 November 1998 issued a public Circular stating that if NSW gazetted a Regime in the terms set out in the Circular, and provided it to the NCC for assessment, the Council would send its final recommendation to the Commonwealth Treasurer for his decision. New South Wales gazetted an amended Regime on 19 February 1999, which has been provided to the NCC for final assessment.

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## 7 Application of the Competition Principles Agreement to Local Government

### *Requirements of the Agreement*

7.1 Clause 7 of the Agreement indicates that all the principles in the Agreement should be applied to local government. Jurisdictions were required to have prepared a Policy Statement by June 1996 on how they are applying the principles of competitive neutrality, structural reform and legislation review to local government.

### *Application in NSW*

7.2 The NSW Government published its *Policy Statement on the Application of National Competition Policy to Local Government* in June 1996. The Policy Statement, prepared in consultation with local government, details the Government's approach to the application of the Agreement to Local Government and makes a series of commitments with respect to the ongoing implementation of competition reforms.

7.3 The Government has since issued the following guidelines for the assistance of councils:

- *Competitive Tendering Guidelines* (January 1997);
- *Pricing and Costing for Council Businesses: A Guide to Competitive Neutrality* (July 1997); and
- *Guidelines on the Management of Competitive Neutrality Complaints* (November 1997).

7.4 The Government also conducted workshops across NSW and continues to provide assistance, via the Department of Local Government, to councils in applying NCP principles.

7.5 As indicated in the Policy Statement, different requirements apply to council businesses depending on whether they are category 1 or category 2 businesses. Category 1 businesses have an annual sales turnover of \$2M and above, while category 2 businesses have a turnover of less than \$2M.

7.6 As category 2 businesses are less likely to have a significant distortionary impact on resource allocation at either State or national levels, the requirements applying to these businesses are less strict. For example, councils can determine the extent to which category 2 business activities are to be separated from its associated mainstream activities. Similarly, councils are only required to apply full cost attribution where practicable. In contrast, these requirements are mandatory for category 1 businesses. However, in all other respects (e.g. making subsidies explicit and complying with the same regulation as the private sector) the requirements are the same.

7.7 For both Category 1 and Category 2 businesses implementation was to be phased in during 1997-98. The timetable was stated in the *Pricing and Costing Guidelines* to be as follows:

**Table 7.1.** *Timetable for implementation of Local Government NCP commitments.*

Type of Business Activity		Timeframe
<i>Category 1</i> – annual sales turnover \$2M pa and above.	<i>Category 2</i> - annual sales turnover less than \$2M pa.	
Separate internal reporting for business activity (i.e. corporatisation model).	Council may determine the extent of separation of the activity.	From 1 July 1997
Apply full cost attribution, including: <ul style="list-style-type: none"> <li>• Tax equivalent payments</li> <li>• Debt guarantee fees</li> <li>• Return on capital.</li> </ul>	Adopt where practicable. Can use % 'rule of thumb' margin	Phased implementation from 1 July 1997 and full implementation on 1 July 1998
Make subsidies to business activities an explicit transaction.	Make subsidies to business activities an explicit transaction.	Phased implementation from 1 July 1997 and full implementation on 1 July 1998
Comply with the same regulation as the private sector.	Comply with the same regulation as the private sector.	Councils already comply. Not applicable
Establish a complaints handling system for competitive neutrality issues	Establish a complaints handling system for competitive neutrality issues	From 1 July 1997

7.8 In its June 1997 assessment, the Council was not convinced on the basis of the available evidence that the objectives outlined in the NSW Policy Statement had been achieved, particularly in relation to competitive neutrality reform.

7.9 In response, the NSW Government surveyed all councils in January 1998 to assess progress in applying competitive neutrality principles to local government businesses mid-way through the phase-in period. Preliminary findings were reported to the Council in the Government's June 1998 report. The NCC has since indicated that NSW, along with all other

jurisdictions, has demonstrated progress sufficient to meet its first tranche commitments.

7.10 The Government's June 1998 report to the NCC indicated that a follow-up survey would be conducted as soon as practicable after 1 July 1998. The purpose of the survey being to gauge the extent of compliance at the conclusion of the phase-in period and to identify any areas where further follow-up is needed. The results of the survey of 197 councils are discussed below.

### Identification of Business Activities

7.11 The follow-up survey indicates that NSW councils have made significant progress in applying competitive neutrality principles over the nine months to September 1998. Eighty five per cent of councils have completed the task of identifying and categorising business activities. The remaining 15% of councils are expected to complete the task soon.

7.12 The most common reported categories of business are water and sewerage operations (38%), waste collection and related services (8.8%), child care facilities (5.8%), caravan parks (4.5%) and leisure centres and pools (3.9%). These categories collectively account for 61% of reported businesses.

7.13 The following tables indicate the number of businesses in different turnover ranges.

Table 7.2 Category 1 Businesses

TURNOVER RANGE (\$ million)	NUMBER OF BUSINESSES
2 - 5	71
5 - 10	42
10 - 20	9
Over 20	7

Table 7.3 Category 2 Businesses

TURNOVER RANGE (\$'000)	NUMBER OF BUSINESSES (1*)
0 - 50	27 (40)
50 - 100	50 (24)
100 - 1,000	345 (175)
1000 plus	107 (60)

(1) Numbers in brackets represent the situation as at January 1998

\* The net increase in the overall number of businesses, since the earlier survey, reflects the increase in responses received. However, where individual councils have revised earlier categorisations, this has generally caused a fall in the number of businesses reported, per council.

Table 7.4 Progress in applying competitive neutrality principles to Category 1 businesses

REQUIREMENT FOR COUNCILS	LEVEL OF COMPLIANCE (1)-JANUARY 1998	LEVEL OF COMPLIANCE (1)-SEPTEMBER 1998
Apply corporatisation model	80%	88%
Apply full cost attribution: (a) Tax equivalent payments (b) Debt guarantee fees (c) Return on capital	NA NA NA	(a) 100% for State taxes (2) (b) 69% (c) 46% (3)
Subsidies made explicit (4)	60%	70%
Comply with the same regulation as private sector (5)	100%	100%

1. Percentages represent the proportion of businesses complying.
2. 54 % of businesses reported that they are factoring other taxes into prices.
3. The relatively low figure reflects widespread concerns about the impact on prices.
4. Level of compliance includes cases where either the subsidy is made explicit or where there are reported to be no subsidies.
5. Councils are already required to operate under the same regulatory framework as the private sector (e.g. Trade Practices Act and environmental and planning laws).

### **Progress in applying competitive neutrality principles to Category 2 businesses**

7.14 In the context of the more flexible application of the principles to category 2 businesses, it is noted that 63% of these businesses are either applying full or partial cost attribution and 54% are making subsidies explicit (or report that there are no subsidies). However, it should be noted that all council water and sewerage and domestic waste management operations are already required to maintain separate accounting and reporting regimes. This requirement is independent of NCP obligations.

### **Complaints**

7.15 As indicated in the Policy Statement, local councils are responsible in the first instance for dealing with complaints regarding the application of competitive neutrality principles. The Department of Local Government reviews those complaints which councils are unable or have failed to

resolve or where, after consideration by the council, the complainant requests a review by the Department, and in the circumstances, the request is reasonable. Complainants are also able to approach the Department of Local Government in order to obtain additional information concerning the application of competitive neutrality principles.

- 7.16** In contrast to the position in January 1998, nearly all councils now have in place a formal written competitive neutrality complaint handling mechanism, which enables separate reporting of these complaints in their annual reports. As indicated in the Policy Statement, a decision by a council not to apply competitive neutrality principles to a particular business activity requires an independent cost benefit analysis to substantiate the decision. To date, no such exemptions have been sought. Accordingly, all competitive neutrality complaints are investigated as per the above arrangements.
- 7.17** In addition, in June 1998 the Government amended the relevant regulations to require councils to include information on NCP implementation in their annual reports. For the 1997-98 year, this information includes detailed information on Category 1 businesses; a summary of progress in implementing competitive neutrality principles; and information on the establishment of a competitive neutrality complaint handling mechanism and complaints received. In subsequent years, councils will also be required to report on category 2 businesses. Members of the public will be able to get specific information on which businesses have been identified by contacting the relevant Council or the Department of Local Government.
- 7.18** Changes have also been made to the financial reporting and accounting standards applying to councils' businesses to increase the level of accountability and transparency of their operations. Effective from 1998-99, councils are required to include Special Purpose Financial Reports on businesses (both category 1 and 2 businesses) in their annual financial statements. These Reports will give detailed financial information, where applicable, on subsidies, TER payments, debt guarantee fees and notional dividend payments to council as owner of the business. This information will make it easier for complainants to identify any potential instances of non-compliance with competitive neutrality principles. It will also provide the public with valuable information about the performance of council businesses.
- 7.19** Complaints dealt with by councils are reported in their annual reports, as discussed above. However, it is noted that the latest survey of councils indicates that only 6 out of the 197 councils reported receiving a competitive neutrality complaint during 1997-1998. Each of these councils received only one complaint, all of which are complete.
- 7.20** The NCC has advised that only those complaints that progress to the second stage (those formally investigated by the Department of Local Government) are required to be included in this report. However, while no 1998 complaints progressed to the second stage, complaint summary forms are provided for instances where there was significant Department of Local

Government assistance and involvement in examining complaints, and for a pre 1998 complaint previously reported to the NCC.

- 7.21 As a general overview, it is apparent that there are still instances of complainants being unaware of the existing procedures for lodging complaints in the first instance. In 1998 the Department of Local Government received six complaints that had not been made directly to the relevant councils. The Department referred each of these complaints to these councils for consideration and response. In addition, it is apparent that a common misunderstanding concerning the application of competitive neutrality appears to be reflected in the proportion of complaints that contend that competitive neutrality principles prohibit councils from competing at all with private businesses.

### **Structural Reform**

- 7.22 As indicated in the Policy Statement, the Government has no plans to apply the principles of structural reform to local government, beyond those measures that are integral to the application of competitive neutrality.

### **Legislation Review**

- 7.23 As noted in section 6, the Government has completed its review of planning, land use and natural resource approvals systems and has enacted legislation which consolidates and streamlines those parts of the *Environment Planning and Assessment Act 1979* and the *Local Government Act 1993* relating to planning, land use and natural resource approvals systems.
- 7.24 Previously, a development approval for a project such as a commercial building may have required a subsequent approval under the *Local Government Act* for a related activity, such as the operation of a public car park. Under the new system, effective from 1 July 1998, the issuing of a development consent will remove the need for this subsequent approval.
- 7.25 The review of the *Local Government Act 1993* is currently subject to a statutory review pursuant to section 747 of the Act. This review, although not a NCP review, is addressing a number competitive neutrality issues arising as a result of the Act. The report of this review must be tabled in Parliament in the 1999 Budget session. A second stage review of the Act will commence during 1999.
- 7.26 It will address any remaining restrictions on competition in the Act, including occupational licensing of undertakers and mortuaries and councils' ability to provide goods, services and other facilities.

### **Independent Pricing Oversight**

- 7.27 As indicated in the Policy Statement, the Independent Pricing and Regulatory Tribunal (IPART) in NSW has the power to review the pricing

practices of local government business activities that can be declared as monopolies under the IPART legislation. Alternatively, IPART can inquire into industry pricing that may involve local government business activities.

### **Fees for Development Control Services**

7.28 Amendments under the Environmental Planning and Assessment Act 1979 took effect from 1 July 1998. The amendments provide for:

- the introduction of a single, integrated system of providing consent to development;
- a proposed development to be assessed by a process which reflects the significance of that development; and
- the involvement of the private sector in the assessment process and in issuing certificates.

7.29 The IPART is currently reviewing indicative fees to be charged by Local Government and other consent authorities for development control services. The review will establish pricing principles and an indicative fee schedule for fees charged for development assessment services, and provide guidance for fees for the 2 areas opened up to competition – complying development and post-approval processes.

7.30 As part of the review, IPART released its Report on Competitive Neutrality in Pricing in December 1998 and the Report on Miscellaneous Fees in February 1999. A consultation paper outlining options for a major overhaul of fees charged by local councils for development control services was released in July 1998. IPART is currently undertaking further study on the costs of assessing development prior to making its final report to the Government on setting fees for development applications for monopoly services.

### **Third Party Access to Essential Infrastructure**

7.31 To date, no local councils appear to own or operate services that require the application of a State-based access regime. As such, their services will be subject to the generic regime in Part IIIA of the *Trade Practices Act*.



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## 8 Application of the Agreement to Implement Related Reforms

### *Requirements of the Agreement*

- 8.1 Under the *Agreement to Implement National Competition Policy and Related Reforms* (attached as Annexure 2) jurisdictions are required to implement reforms in the electricity, gas, water and road transport sectors, as agreed to by the Council of Australian Governments (COAG). As discussed in Chapter 3 of this Report, jurisdictions are required to implement specified reforms in the electricity, gas and road transport areas, if they are to qualify for the first stage of competition dividend payments.

### *Application in NSW*

#### **Electricity**

- 8.2 Following independent reviews of generation and distribution structure, the electricity industry in NSW has been restructured in order to give effect to the COAG agreements concerning the introduction of the National Electricity Market.
- 8.3 The NSW electricity industry has been separated into its regulatory and operating parts (Generation, transmission, distribution and retail) and the latter then separated into its natural monopoly (transmission and distribution) and potentially competitive parts (generation and retail).
- 8.4 On 1 March 1996 a substantial portion of Pacific Power's electricity generating capacity was segregated into two new generator entities: Delta Electricity and Macquarie Generation. Pacific Power continues to be responsible for the Eraring Power Station and the State's entitlement from the Snowy Scheme. Power from the Snowy Scheme is traded in the National Electricity Market by Snowy Hydro Trading.
- 8.5 A program of amalgamations reduced the number of electricity distributors from 25 to 6, two of which are metropolitan based. While the restructure has involved implementation costs of around \$80 million, the scale economies arising from the revised structure are estimated to generate recurrent savings in excess of \$130 million per annum.
- 8.6 Excluding Pacific Power, the 8 new businesses (2 generators and 6 distributors) were established as State-owned energy services corporations under the *Energy Services Corporations Act (NSW) 1995*. Administered by independent Boards with a strong commercial focus, they are accountable to the Government as their shareholder, and each year must formulate a statement of corporate intent.
- 8.7 The transmission network was transferred from Pacific Power and vested with the Electricity Transmission Authority, trading as TransGrid. In 1998

TransGrid was corporatised as a state-owned energy services corporation.  
TransGrid, as a monopoly, is subject to IPART monopoly prices oversight.

## Pricing

- 8.8 IPART will regulate transmission pricing until 30 June 1999, when it will be taken over by the ACCC. IPART will continue to regulate distribution pricing until 31 December 2000 under the IPART Act and after that under the National Electricity Code. IPART will continue to regulate electricity tariffs applying to the non-contestable sector until effective competition and choice is in place for small consumers.
- 8.9 In order to establish a five year price path for regulated electricity services, the Premier requested IPART, under Section 12A of the IPART Act, to report on transmission and distribution pricing from 1 July 1999. IPART is expected to report to the Premier on 31 May 1999. The ACCC, which is reviewing the appropriate revenue cap for transmission services in NSW, will complete its work in June 1999. In light of both these pricing reviews, price paths for NSW's electricity transmission, distribution and franchise pricing will be established for the period until June 2004. These reviews were necessary, as NECA is not expected to finalise chapter six of the NEM Code relating to pricing in sufficient time to put in place prices.

## Legislative Framework

- 8.10 Legislation to corporatise TransGrid, the *Energy Services Corporations Amendment (TransGrid Corporatisation) Act* was passed during the Budget session of Parliament in 1998. The legislation commenced on 14 December 1998 making TransGrid a statutory State Owned Corporation under the *State Owned Corporations Act*.

## National Electricity Market

- 8.11 Under the *Agreement to Implement the National Competition Policy Reforms*, second tranche payments will be dependent (partly) on the "completion of the transition to a fully competitive NEM by 1 July 1999". The ACCC approved the National Electricity Code, after which the NSW Government, and all other participating jurisdictions, commenced the National Electricity Legislation, bringing the NEM into operation on 13 December 1998.
- 8.12 Now that the NEM is operational, NSW and other jurisdictions are implementing a review of the liability and related governance arrangements of the NEM institutions (NEMMCO and NECA). NSW is also participating actively in the NECA review of transmission and distribution pricing in the National Electricity Code.
- 8.13 In addition, NSW has continued to pursue electricity interconnection with both Queensland and South Australia. NorthPower has begun the development of DirectLink, an interconnection to link the Tweed Valley to the NSW electricity grid. NorthPower expects the project to be completed by January 2000 and will enable the export of NSW electricity to Queensland

- 8.14 The Queensland-New South Wales Interconnector (QNI), to be built by TransGrid and Powerlink (Qld) is in the process of receiving planning approval in NSW. TransGrid and Powerlink propose to complete the interconnector by 2001.

### **Retail Competition**

- 8.15 The development of a policy for retail competition involved a program of industry, customer and community consultation and the preparation of detailed recommendations for the timing, progressive introduction and management of customer choice in retail electricity supply. The policy was announced by the Minister for Energy in June 1996.
- 8.16 Under this policy competition was to be progressively extended to include all customers by 1 July 1999. However due to the need to establish suitable metering and financial settlement systems, the policy has been amended.
- 8.17 As of 1 July 1998, customers in the range of 160 – 750 MWh per annum have been contestable. By 1 July 1999 businesses with multiple small sites of 100 MWh per annum and over will be able to aggregate to become contestable. Small customers below 160 MWh per annum will become contestable over a period commencing 1 January 2001. This will enable suitable customer choice programs, including customer information, to be developed.

### **Consumer Benefits**

- 8.18 The Government's electricity reform program has been aimed at improving the efficiency and performance of the NSW electricity industry, offering customers the choice of supplier, and implementing the National Electricity Market.
- 8.19 Since May 1995, electricity customers have received savings of around \$930 million in real terms on their power bills. A typical small business in NSW pays an average of 34 percent less for its electricity than its counterparts in Victoria, delivering an annual average saving of about \$3000 a year.
- 8.20 As businesses become more competitive through lower input costs, new jobs are created and the overall wealth of NSW will increase. Retail competition has already delivered significant benefits for contestable customers who are able to choose from 25 licensed electricity retailers.

## Gas

- 8.21** New South Wales has been the lead State in introducing competition reform to the gas sector. Because of the slow progress nationally in developing a national third party access regime for gas pipelines and the potential benefits to NSW consumers from this reform, NSW legislated in 1996 to become the first State in Australia to give retailers and customers 'third party access' to the gas distribution networks. The interim NSW access regime was certified by the Commonwealth Treasurer in 1997 as an 'effective' regime under Section 44M of the Trade Practices Act.
- 8.22** As a result of the development of the NSW access regime ahead of other States, NSW has been at the forefront of competition reform implementation in the gas sector. The Independent Pricing and Regulatory Tribunal (IPART) undertook the first determination of an access undertaking for a distribution network in July 1997. AGL supplies 97% of the NSW market and its access undertaking provides access to the gas system for third parties at agreed Reference Tariffs or at negotiated prices. The benefits of the early implementation of reforms were realised as the access undertaking led to reductions in the cost of transporting gas.
- 8.23** The AGL undertaking set a price path which IPART forecast would achieve annual energy cost savings for the State's larger industrial and commercial customers of \$60 million by 1999-2000. The access undertaking covers the period to 30 June 1999. IPART is now considering AGL Gas Networks' next proposed access arrangement under the national access regime.
- 8.24** In March 1998 IPART received a proposed access undertaking from Great Southern Energy Gas Networks (GSN) for access to the Wagga Wagga gas distribution system and from Albury Gas Company for access to the Albury gas distribution system in June 1998. Public hearings were held in Wagga Wagga and Albury on 21 May 1998 and 27 August 1998, respectively. A Draft Decision for GSN was issued in September 1998 and a final decision on 8 March 1999. A Draft Decision for the Albury system is expected in early 1999.
- 8.25** The early implementation of gas reform in NSW also enabled an early start on the transition to full competition. To ensure a smooth transition to a competitive gas market, contestability has been phased in since mid 1996. On 1 July 1998 the third group of customers (new and existing loads greater than 10 terajoules per annum) became eligible as system users for third party access rights. All customers in Greenfield sites are also classified as system users. Greenfield sites are those that, in IPART's opinion, form significant extensions of existing natural gas networks or are new distribution systems.
- 8.26** On 25 February 1999 the NSW Minister for Energy announced that customers using over 1 terajoule per annum would become contestable from 1 October 1999 and all remaining customers, including residential customers, would be contestable from 1 July 2000.

- 8.27 The opening of the market in NSW has created significant market interest. As at January 1999 there were 24 gas suppliers authorised to retail gas in NSW.
- 8.28 NSW continued to pursue market reform at the national level because of the benefits to NSW of removing regulatory barriers in other states to free and fair trade in natural gas across borders. This work culminated in an intergovernmental agreement, the Natural Gas Pipelines Access Agreement, which was signed at the COAG meeting on 7 November 1997.
- 8.29 In 1998 NSW legislation was prepared to give effect to NSW's commitments under the agreement. The Gas Pipelines Access (NSW) Act 1998 passed through Parliament in early June 1998. The Act applies the national Gas Pipelines Access Law and the national Gas Pipelines Access Code in NSW. Savings and transitional provisions provide for the transfer of existing industry arrangements under the interim NSW regime into the national access regime. Commencement of the Act was delayed until 14 August 1998 because of the need for the prior commencement of the complementary legislation by the Commonwealth and South Australia.
- 8.30 Applying a national, uniform regulatory framework for third party access to the State's natural gas pipelines is expected to deliver the following benefits:
- future security of natural gas supplies for NSW through the development of new infrastructure to create an interconnected pipeline grid, which will allow gas to be freely traded in a national market across state borders;
  - wider choice of suppliers and services for customers;
  - lower energy costs for industry and businesses, leading to improved competitiveness and better employment opportunities; and
  - substantial greenhouse benefits from the increased use of natural gas over other fossil fuels for electricity generation and energy consumption.
- 8.31 NSW has sought to promote a consistent national approach to the regulation of pipeline access. Accordingly, the national access regime as it is applied in NSW has the following features:
- access regulation of transmission pipelines, including the Moomba to Sydney pipeline, is undertaken by the ACCC;
  - the Australian Competition Tribunal is the appeal body for decisions by the NSW Minister and IPART; and
  - judicial review of administrative decisions is undertaken by the Federal Court.
- 8.32 NSW has negotiated with neighbouring jurisdictions for the crossvesting of access regulation for distribution networks in Queanbeyan and Yarrowlumla Shire to the Australian Capital Territory, and for the crossvesting of networks in Corowa and Howlong to Victoria. The crossvesting agreements were finalized in February and March 1999 respectively, following the process established under the Gas Pipelines

Access Law. NSW was the first State to crossvest access regulation of networks to other jurisdictions.

- 8.33 The NSW Government submitted its access regime (as embodied in the Gas Pipelines Access (NSW) Act to the National Competition Council on 28 October 1998 for certification as an “effective regime” under section 44M of the Trade Practices Act 1974.
- 8.34 NSW agencies worked with industry stakeholders during 1998 to address the many issues that arise from the implementation of a fully contestable retail market. Again, NSW is at the forefront of reform in Australia in developing responses to these challenges. Regulators and the industry recognise the complexity of the task and are working cooperatively to develop a competitive market design and the supporting business rules and operating framework.
- 8.35 The implementation of competitive reforms in the NSW gas sector is already bearing fruit. The early establishment of third party access rights to the distribution networks has given industry the confidence to come forward with proposals for new pipeline infrastructure. The \$50 million, 150 kilometer pipeline linking Wagga Wagga to Barnawatha, near Wodonga, came into operation on 12 August 1998, joining the Victorian and NSW gas markets for the first time.
- 8.36 The reforms have also led to the Eastern Gas Pipeline proposal which represents a major new source of gas on which new retailers can base their entry into the NSW market. In December 1998 Duke Energy International announced its intention to begin construction in July 1999 of the \$450 million, 800 kilometer pipeline to bring Bass Strait natural gas from Longford to Horsley Park in western Sydney. First deliveries are expected by September 2000. Initial capacity of the pipeline will be 60 petajoules of gas per annum, with the potential to increase to around 100 petajoules of gas per annum. The current NSW market gas consumption is around 110 petajoules per annum.
- 8.37 The two cross-border pipelines will provide for increased trade between interstate gas markets and increased competition between gas producers.

### **Upstream competition**

- 8.38 NSW has no commercial sources of gas within its own borders and has historically been reliant on the one gas field, the Cooper Basin in South Australia. NSW is concerned that barriers to competition in the upstream sector can hinder effective competition in the downstream sector in other states.
- 8.39 Prospective retailers in NSW have been unable to access gas supplies from the upstream sector and thereby compete effectively with the incumbent retailers. The full benefits of gas reform will not be achieved without greater upstream competition.

**8.40** NSW was an active participant in the Upstream Issues Working Group (UIWG) during 1998. The UIWG is a joint COAG and the Australian and New Zealand Minerals and Energy Council (ANZMEC) project to foster competition in the upstream sector of the gas industry. UIWG delivered a final report in December 1998 for consideration by the Council of Australian Governments and ANZMEC Ministers. The UIWG's key recommendations are:

- for industry, in cooperation with jurisdictions, to develop a set of best practice principles for access to upstream facilities;
- on the need for greater transparency and predictability in the onshore acreage award processes; and
- for the longer-term policy objective to be adopted of encouraging separate marketing by joint venture partners as soon as this is feasible.

### **Pipelines Act Review**

**8.41** A fundamental review of the Pipelines Act 1967 was undertaken during 1998 which incorporated the legislative review requirement under the Competition Principles Agreement. The Act and Regulations were examined to determine if any provisions work or could work to restrict competition. In particular:

- transparency and effectiveness of approvals procedures;
- barriers to entry;
- whether government and non-government entities would be treated differently; and
- whether there is any urgent need to remove the third party access provisions of the Act.

**8.42** Accordingly, the review examined restrictions on competition in the context of pipeline approvals, construction and operation. The review identified some provisions of the Act which in theory could be argued to act in a very minor way to restrict competition. These matters have been taken into account in the preparation of an Issues Paper on the Pipelines Act review which is expected to be released for public consultation in the first half of 1999.

### **Road Transport**

**8.43** In 1991 the Commonwealth and States entered the Heavy Vehicles Intergovernmental Agreement in order to develop uniform or consistent road transport law. The National Road Transport Commission (NRTC) was established to manage the reform process. In 1992 the reform process was expanded by the Light Vehicles Intergovernmental Agreement.

**8.44** In 1995, the NRTC reform process was brought within the ambit of National Competition Policy. Consequently, implementation of some of the reforms is subject to assessment under the NCP process.

**8.45** The relevant Ministerial Council, the Australian Transport Council (ATC) has developed a list of agreed road transport reforms to be used in the assessment of the second tranche of competition payments. The ATC is seeking COAG endorsement of this reform framework. NSW recently provided the Prime Minister with its endorsement of the framework for the purposes of COAG. The framework covers reforms in the following areas:

- dangerous goods;
- vehicle registration;
- driver licensing;
- mass and loading regulation;
- vehicle standards;
- driving hours;
- access to road networks for large vehicles; and
- roadworthiness standards.

**8.46** As at 1 March 1999, NSW has implemented all of the nineteen reform projects contained in the ATC proposed framework for the second tranche of competition payments (see Annexure 4). In most cases NSW implemented the reforms ahead of the target dates and prior to other states.

## **Water**

### **8.47 Annual Report to NCC**

NSW provided a comprehensive report to the NCC in 1998, covering actions undertaken by NSW to comply with the COAG Strategic Water Framework to the end of 1997. Subsequently, NSW agreed to participate in a case study assessment. A similar exercise is being undertaken for Victoria

**8.48** Two meetings were held in October and November between NSW officials and the NCC, at which information was provided with which the NCC can make its assessment. This information still stands for the annual report.

**8.49** The only additional item subsequent to the case study meetings has emerged after COAG Senior Officials considered a Report on outcomes of the Tripartite Meeting on Implementation of the Requirements of the COAG Water Reform Framework. Senior Officials agreed to the recommendations in the report, including that, for second tranche payments, jurisdictions would submit individual implementation programs outlining a priority list of river systems and groundwater resources, including all river systems which have been over-allocated, or are deemed to be stressed, and detailed implementation actions and dates for allocations and trading to the NCC for agreement, and to Senior officials for endorsement.

**8.50** NSW is currently preparing its implementation program. It will be ready for submission to the NCC by early June.



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## Annexure 1:

### NSW Template Terms of Reference for NCP Reviews.

- 1 The review of the (*insert name of Act*) shall be conducted in accordance with the principles for legislation reviews set out in the Competition Principles Agreement. The guiding principle of the review is that legislation 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.
- 2 Without limiting the scope of the review, the review is to:
  - (a) clarify the objectives of the legislation, and their continuing appropriateness
  - (b) identify the nature of the restrictive effects on competition
  - (c) analyse the likely effect of any identified restriction on competition on the economy generally
  - (d) assess and balance the costs and benefits of the restrictions identified, and
  - (e) consider alternative means for achieving the same result, including non-legislative approaches.
- 3 When considering the matters in (2), the review should also:
  - (a) identify any issues of market failure which need to be, or are being addressed by the legislation, and
  - (b) consider whether the effects of the legislation contravene the competitive conduct rules in Part IV of the *Trade Practices Act 1974* (Cth) and the NSW Competition Code.
- 4 The review shall consider and take account of relevant regulatory schemes in other Australian jurisdictions, and any recent reforms or reform proposals, including those relating to competition policy in those jurisdictions.
- 5 The review shall consult with and take submissions from (*describe stakeholders*) and other interested parties.

## Annexure 2:

### Status of NSW Legislation Reviews at 31 December, 1998

#### Agriculture

Act	Review Year	Objective	Status
MIA Wine Grapes Marketing Board	1995/96	Constitutes the MIA Wine Grapes Marketing Board - a statutory marketing authority responsible for the marketing of MIA wine grapes and to represent the interests of growers.	<b>Complete.</b> The Wine Grapes Marketing Board vesting power was extended until 31 July 2000, with extension subject to constrained conditions. The Board will be wound up at that date.
Meat Industry Act 1987	1995/96	Constitutes the NSW Meat Industry Authority and provides for the regulation and control of the NSW meat industry.	<b>Complete</b> Act will be amended and regulatory powers transferred to Safe Food Production (a new statutory body) upon commencement of the part of the <i>Food Production (Safety) Act 1998</i> that deals with red and white meat.
Rice Marketing Board	1995/96	The NSW Rice Marketing Board markets, or arranges to market, the annual rice crop in its role as the sole statutory marketing body for rice.	<b>Complete.</b> Legislative arrangements maintained to 2004, with review in 2000. Negotiations with the NCC and the Commonwealth are continuing.
Murray Valley Citrus Marketing Act 1989 (complementary with Murray Valley Citrus Marketing Act (Vic.))	1996/97	Makes provision for a joint NSW-Victorian scheme for marketing citrus fruit.	<b>Underway.</b> Joint review with Victoria.
Dairy Industry Act 1979	1996/97	Constitutes the NSW Dairy Corporation which is responsible for the production, quality, supply and distribution of milk and the production, quality and storage of dairy products.	<b>Complete</b> Legislative arrangements to continue until July 2003 when another review will be undertaken, unless market conditions dictate an earlier review of, or an amendment to, the legislation.

<b>Act</b>	<b>Review Year</b>	<b>Objective</b>	<b>Status</b>
MIA Citrus Fruit Promotion Marketing Committee	1996/97	Part of <i>Marketing of Primary Products Act 1983</i> (see below) which relates to the marketing of certain primary products and provides for the establishment of marketing boards and enables the making of marketing orders.	<b>Complete.</b> Committee retained. However, some of its industry functions were removed while others were limited to ensure greater accountability to constituent growers.
Horticultural Stock and Nurseries Act 1969	1996/97	Provides for the registration of certain nurserymen and resellers of horticultural stock and regulates the sale or propagation of certain horticultural stock.	<b>Underway.</b> Final report being prepared by review group.
Poultry Meat Industry Act 1986	1996/97	Constitutes the Poultry Meat Industry Committee and defines its functions and regulates and controls the poultry growing industry.	<b>Underway.</b> Final report being prepared by review group.
Rural Lands Protection Act 1989	1996/97	Establishes Rural Lands Protection Districts and associated boards that levy and collect rates, provide animal health services and control of noxious weeds and animals.	<b>Underway</b> Previous reviews completed. Assessment being undertaken of need for further review to satisfy NCP requirements.
Apiaries Act 1985	1996/97	Regulates the keeping of bees; requires and provides for the registration of beekeepers; prevents the introduction of, and to control and eradicate, certain diseases and pests which afflict bees and apiaries and provides for the payment of compensation to registered beekeepers in certain cases.	<b>Underway.</b> Part of a generic review of disease legislation, including the Exotic Diseases of Animals Act 1991, the Plant Diseases Act 1924, the Stock Diseases Act 1923 and the Swine Compensation Act 1928. The review is linked to the development of an Animal and Plant Health Bill.
Cattle Compensation Act 1951	1996/97	Provides for the establishment of a Cattle Compensation Fund and for payment of compensation to owners of cattle and carcasses of cattle destroyed as suffering from disease.	<b>Underway.</b> Part of a generic review of all disease legislation.
Exotic Diseases of Animals Act 1991	1996/97	Provides for the detection, containment and eradication of certain diseases affecting livestock and other animals.	<b>Underway.</b> Part of a generic review of all disease legislation.

Act	Review Year	Objective	Status
Banana Industry Act 1987	1995/96	Constitutes the Banana Industry Committee (a statutory marketing authority) and links the compulsory grower charges to services provided by the committee.	<p><b>Complete.</b> The Government has agreed to:</p> <ul style="list-style-type: none"> <li>• the retention of the Banana Industry Committee and its powers to provide industry service functions;</li> <li>• the removal of some obsolete and unexercised powers of the Committee; and</li> <li>• remove the Committee's Transport Direction power.</li> </ul> <p>Legislative amendments were considered by Parliament during the Spring 1998 Session, however, the Bill lapsed due to the prorogation of Parliament.</p>
Plant Diseases Act 1924	1996/97	Makes further provisions to prevent the introduction into NSW of diseases and pests affecting plants and fruit, to provide for the eradication of such diseases and pests, and to prevent their spread. Also makes certain provisions regarding the sale and grading of fruit and cotton plants.	<p><b>Underway.</b> Part of a generic review of all disease legislation.</p>
Stock Diseases Act 1982	1996/97	Relates to diseases in stock and repeals the <i>Stock Diseases (Tick) Act 1901</i> and the <i>Stock Diseases (Tick) Amendment Act 1915</i> .	<p><b>Underway.</b> Part of a generic review of all disease legislation.</p>
Swine Compensation Act 1928	1996/97	Provides for the establishment of a Swine Compensation Fund and for payment of compensation to owners of pigs and carcasses of pigs destroyed as suffering from disease.	<p><b>Underway.</b> Part of a generic review of all disease legislation.</p>

<b>Act</b>	<b>Review Year</b>	<b>Objective</b>	<b>Status</b>
Stock Foods Act 1940	1996/97	Regulates the sale of food for stock.	<b>Underway.</b> Part of a generic review of all chemical residue legislation, including the <i>Stock Foods Act 1940</i> , <i>Fertilisers Act 1985</i> ; the <i>Stock Medicines Act 1989</i> , the <i>Stock (Chemical Residues) Act 1975</i> and part 7 of the <i>Pesticides Act 1978</i> . Final report being prepared by review group.
Fertilisers Act 1985	1996/97	Provides for the registration of brand names for fertilisers and liming materials and regulates the sale of fertilisers, liming materials and trace element products.	<b>Underway.</b> Part of a generic review of all chemical residue legislation (as above). Final report being prepared by review group.
Stock (Chemical Residues) Act 1975	1996/97	To prevent the slaughter for human consumption of stock which contain certain concentrations of residues of chemicals or which are otherwise chemically affected and to prevent stock from becoming chemically affected.	<b>Underway.</b> Part of a generic review of all chemical residue legislation (as above). Final report being prepared by review group.
Stock Medicines Act 1989	1996/97	Relates to medicines for stock and other animals for the purposes of enhancing the quality of agricultural production, protecting the environment and safeguarding the health of stock and other animals.	<b>Underway.</b> Part of a generic review of all chemical residue legislation (as above). Final report being prepared by review group.
Noxious Weeds Act 1993	1996/97	Provides for the identification, classification and control of noxious weeds.	<b>Underway</b> Review complete - awaiting Ministerial and Cabinet consideration.
Seeds Act 1982	1996/97	Regulates the sale of seeds and prohibits the sale of certain seeds and plants.	<b>Underway.</b> Final report being prepared by review group.
Prickly Pear Act 1987	1996/97	Provides for the control and destruction of Prickly Pear.	<b>Complete.</b> Act repealed. Provisions now listed under the <i>Noxious Weeds Act 1993</i> .

<b>Act</b>	<b>Review Year</b>	<b>Objective</b>	<b>Status</b>
Poultry Processing Act 1969	1996/97	Provides for the registration of plants in which poultry is processed for sale and to make provisions for the regulation and control of these plants.	<b>Complete</b> Considered with the <i>Meat Industry Act 1987</i> . To be repealed upon the commencement of the <i>Meat Industry Amendment Act 1998</i> .
Prevention of Cruelty to Animals Act 1979	1996/97	Provides for the prevention of cruelty to animals.	<b>Not commenced.</b> Rescheduled to 1999/2000.
Homing Pigeons Protection Act 1909	1996/97	Provides for the protection of homing pigeons during their flights.	<b>Complete.</b> Act repealed.
Agricultural Tenancies Act 1990	1996/97	Regulates the rights of agricultural landowners, tenants and sharefarmers and provides for the determination of disputes by arbitration.	<b>Underway.</b> Final report being prepared by review group.
Farm Debt Mediation Act 1994	1996/97	Makes provision for mediation concerning farm debts.	<b>Not commenced.</b> Scheduled to commence in early 1999.
Sydney Market Authority Act 1968	1996/97	Constitutes the Sydney Market Authority and to define its powers, authorities, duties and functions and to vest certain property in the Authority.	<b>Review Unnecessary</b> Act repealed.
Farm Produce Act 1983	1995/96	Makes provisions for the registration and regulation of farm produce merchants and farm produce agents.	<b>Complete.</b> Act repealed.
Tobacco Leaf Stabilisation Act 1976	1995/96	Makes provisions with respect to the stabilisation of the tobacco leaf industry.	<b>Complete.</b> Act repealed.
Agriculture and Veterinary Chemicals Act 1994	1996/97	Applies certain laws of the Commonwealth relating to agricultural and veterinary chemical products as laws of NSW. Complementary to Commonwealth legislation.	<b>Underway</b> National review.

<b>Act</b>	<b>Review Year</b>	<b>Objective</b>	<b>Status</b>
Wheat Marketing Act 1989	1996/97	Relates to the marketing of wheat and other grains. Complementary to Commonwealth legislation.	<b>Review unnecessary.</b> Legislation to be repealed under the Statute Law Revision Program.
Dried Fruits Act 1939	1997/98	Make provision for the regulation of the dried fruits industry and reconstitutes the NSW Dried Fruits Board.	<b>Review unnecessary.</b> Legislation was repealed on 15/12/97. Consistent with prior resolutions of the Board, the Government decided on 20/10/98 to dissolve the Board; repeal the Act; immediately deregulate the dried vine fruit industry; & provide for transitional arrangements for the prune industry. The transitional arrangements involve the making of a Prune Industry Marketing Order under the Marketing of Primary Products Act. The marketing order expires on 31/12/99. Its main purpose is to constitute the Prune Industry Marketing Committee which is to promote the smooth transition of the dried prune industry from a regulated to a deregulated industry.
Grain Marketing Act 1991	1997/98	Relates to the marketing of coarse grains and oilseeds and to constitute the NSW Grains Board.	<b>Underway</b> Final report being prepared by review group.
Marketing of Primary Products Act 1983	1997/98	Relates to the marketing of certain primary products and to provide for the establishment of marketing boards in relation to certain of those products, and to enable the making of marketing orders.	<b>Not commenced.</b> Act will be reviewed when all marketing boards and marketing orders constituted under it have been separately reviewed.
Murray Valley Wines Grapes Industry Development Committee	1997/98	Constituted under the <i>Marketing of Primary Products Act 1983</i> .	<b>Underway.</b> Joint review with Victoria.
Murray Valley Wines Grapes Industry Negotiating Committee	1997/98	Constituted under the <i>Marketing of Primary Products Act 1983</i> .	<b>Underway.</b> Joint review with Victoria.

Act	Review Year	Objective	Status
Exhibited Animals Protection Act 1986	1997/98	An Act with respect to the exhibition of animals at marine or zoological parks, circuses and other places.	<b>Underway.</b> Being reviewed in conjunction with the review of the <i>Non-Indigenous Animals Act</i> . Final report being prepared.
Non Indigenous Animals Act 1987	1997/98	Controls and regulates the introduction into the State of certain species of animals and the movement and keeping of those animals within the State.	<b>Underway.</b> Being reviewed in conjunction with the review of the <i>Exhibited Animals Protection Act</i> and the part 7 of the <i>National Parks and Wildlife Act 1974</i> . Final report being prepared.
Animal Research Act 1985	1997/98	An Act to protect the welfare of animals used in connection with animal research.	<b>Underway</b> Act rescheduled for review 1999/2000.
Rural Assistance Act 1989	1996/97	Constitutes the NSW Rural Assistance Authority.	<b>Underway.</b> Final report being prepared by review group.
Veterinary Surgeons Act 1986 (1) Stock (Artificial Breeding) Act 1985 (2)	1997/98	(1) Regulates veterinary surgeons and premises; defines acts to be performed by vets; establishes the Veterinary Surgeons Board and disciplinary procedures; controls delegation of duties; regulates advertising and use of the title 'Veterinary Surgeon'.  (2) Repeals the <i>Stock (Artificial Insemination) Act 1948</i> and makes provisions with respect to the artificial breeding of stock.	<b>Underway.</b> Review completed - awaiting Ministerial and Cabinet consideration.

## Arts

Act	Review Year	Objective	Status
Library Act 1939 (Library Regulation 1995)	1995/96	Makes further provisions for the establishment, maintenance and management of libraries, library services and information services and creates certification scheme for librarians.	<b>Complete.</b> Certification scheme abolished.



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### Attorney-General

Act	Review Year	Objective	Status
Public Notaries Act 1985	1995/96	Provides for appointment, enrollment and disciplinary procedures for Public Notaries	<b>Complete.</b> New Act in place.
Public Trustee Act 1913	1995/96	Establishes the Public Trustee as a corporation empowered to conduct personal trust work.	<b>Complete.</b> Legislation was rejected by Parliament. Other measures to implement review recommendations are under consideration.
Monopolies Act 1923	1995/96	Amends the law in relation to monopolies and restraint of trade.	<b>Complete.</b> Possible repeal.
Restraints of Trade Act 1976	1995/96	Provides for Supreme Court action based on applications against activities which create restraints of trade.	<b>Complete.</b> Possible repeal.
Trustee Companies Act 1964	1995/96	Consolidates and amends the law relating to the restrictions, liabilities, privileges and powers of trustee companies.	<b>Underway</b> Draft Standing Council of Attorneys General (SCAG) Bill providing for uniform legislation is well advanced. There will be a NCP assessment of the impact of the Bill prior to implementation. Possible national review.
Legal Profession Act 1987	1996/97	Regulates the admission and practice of barristers and solicitors and repeals the <i>Legal Practitioners Act 1898</i> . Constitutes the Barristers Admission Board and Legal Practitioners Admission Board.	<b>Underway.</b> Report tabled in Parliament in November 1998. Implementation is underway.

Act	Review Year	Objective	Status
Motor Accidents Act 1988 (1) Motor Vehicles (Third Party Insurance) Act 1942 (2)	1996/97	(1) Relates to the recovery of damages and compulsory insurance against liability for the death or injury of persons as a consequence of motor accidents. (2) Requires that owners & drivers of motor vehicles are insured against liability in respect of death or bodily injury, amends the <i>Transport Act 1930</i> & the <i>Compensation to Relatives Act 1987</i> .	<b>Underway.</b> Report complete. Receiving consideration by Government.
Partnerships Act 1892	1998/99	To declare and amend the law of Partnership.	<b>Not commenced.</b>
Standard Time Act 1987	1998/99	Relates to standard time and daylight saving in NSW.	<b>Not commenced.</b> Possible national review.
Council of Law Reporting Act 1969	1998/99	Constitutes a Council of Law Reporting to New South Wales and defines its powers, authorities, duties and functions.	<b>Underway.</b> Terms of reference and membership settled. Discussion paper to be released by July 1999.
Professional Standards Act 1994	1998/99	Provide for the limitation of liability of members of occupational associations in certain circumstances and to facilitate the improvement of the standards of services provided by those members.	<b>Not commenced.</b>
Classification (Publications Films and Computer Games) Enforcement Act 1995	1999/2000	Provides for a classification scheme for publications, films and computer games. Complementary to Commonwealth legislation.	<b>Not commenced.</b> Review may be unnecessary. A revised censorship regime with the support of all Australian jurisdictions came into operation on 1 January 1996.

Act	Review Year	Objective	Status
Theatres and Public Halls Act 1908	1999/2000	Provides for the licensing and regulation of theatres and public halls and of places used for public entertainment or public meetings, and the licensing and regulation of the holding of public entertainment and public meetings in temporary structures.	<b>Not commenced.</b>

### Energy

Act	Review Year	Objective	Status
Energy Administration Act 1987	1995/96	Establishes the Department of Energy, constitutes the Energy Corporation of NSW and defines its functions.	<b>Complete.</b> Licence and approval requirements repealed with proclamation of <i>Electricity Supply Act 1995</i> . Other provisions dealt with as part of structural reform of gas industry.

Act	Review Year	Objective	Status
Pipelines Act 1967	1996/97	Relates to the construction, operation and maintenance of pipelines.	<p><b>Underway.</b>  A fundamental review of the Pipelines Act 1967 was undertaken during 1998 which incorporated the legislative review requirement under the Competition Principles Agreement. The Act and Regulations were examined to determine if any provisions work or could work to restrict competition. In particular:</p> <ul style="list-style-type: none"> <li>• transparency and effectiveness of approvals; procedures;</li> <li>• barriers to entry;</li> <li>• whether government and non-government entities would be treated differently; and</li> <li>• whether there is any urgent need to remove the third party access provisions of the Act.</li> </ul> <p>Accordingly, the review examined restrictions on competition in the context of pipeline approvals, construction and operation. The review identified some provisions of the Act which in theory could be argued to act in a very minor way to restrict competition. These matters have been taken into account in the preparation of an Issues Paper on the Pipelines Act review which is expected to be released for public consultation in the first half of 1999.</p>
Liquefied Petroleum Gas Act 1961 Liquefied Petroleum Gas (Grants) Act 1980	1997/98	Regulates the supply of gas.	<p><b>Complete.</b>  Repealed by the <i>Gas Supply Act 1996</i>.</p>
Electricity (Pacific Power) Act 1950	1999/2000	Provides for the constitution of Pacific Power and to define its principal objectives, powers, authorities, duties and functions. Amends and repeals certain other Acts.	<p><b>Not commenced.</b></p>

<b>Act</b>	<b>Review Year</b>	<b>Objective</b>	<b>Status</b>
Electricity Transmission Authority Act 1994	1999/2000	Establishes the NSW Electricity Transmission Authority and defines its functions.	<b>Review Unnecessary</b> Act repealed by s5 of the Energy Services Corporations Amendment (TransGrid Corporatisation) Act 1998 on 14 December 1998.
Electricity Safety Act 1945	1999/2000	Provides for the development of electricity supply; confers certain powers, authorities, duties and functions on the Energy Corporation of NSW; provides for the regulation of the sale and hiring of electrical apparatus and amends certain Acts.	<b>Not commenced</b> Much of the Act is now the responsibility of the Minister for Fair Trading. A Joint DOE/DFT review is planned for 1999/2000.
Electricity Supply Act 1995	1999/2000	Regulates the supply of electricity in the wholesale and retail markets; sets out the functions of persons engaged in the conveyance and supply of electricity.	<b>Not commenced.</b>
Gas Industry Restructuring Act 1986	1999/2000	Makes provision with respect to the supply and consumption of gas and the regulation of gas distributors.	<b>Not commenced.</b>

## Environment

<b>Act</b>	<b>Review Year</b>	<b>Objective</b>	<b>Status</b>
Pesticides Act 1978	1995-96	Controls the sale, supply, use and possession of pesticides, the application of pesticides from aircraft and provides for the prevention of foodstuff contamination.	<b>Complete.</b> Dealt with under the Licence Reduction Program. However, Part 7 of the Act is currently being subject to further review in the context of a generic review of several Acts dealing with chemical residues (see Agriculture).

Act	Review Year	Objective	Status
Radiation Control Act 1990	1995-96	Makes provision for the regulation and control of the sale, use, keeping and disposal of radioactive substances and radiation apparatus.	<b>Complete.</b> Dealt with under the Licence Reduction Program. A national review of radiation control legislation may have implications for this Act.
Recreation Vehicles Act 1983	1995-96	Regulates the off-road use of motor vehicles.	<b>Complete.</b> Act to be repealed.
National Parks and Wildlife Act 1974	1995-96	Consolidates and amends the law relating to the establishment, preservation and management of national parks, historic sites and certain other areas and the protection of certain fauna, native plants and aboriginal relics.	<b>Complete.</b> Dealt with under the Licence Reduction Program.
Ozone Protection Act 1989	1995-96	Empowers the regulation and prohibition of the manufacture, sale, distribution, use, emission, recycle, storing and disposal of stratospheric ozone depleting substances and articles which contain those substances.	<b>Complete.</b> Dealt with under the Licence Reduction Program.
Environmentally Hazardous Chemicals Act 1985	1995-96	Provides for the control of the effect on the environment of chemicals and chemical waste. Constitutes the Hazardous Chemicals Advisory Committee.	<b>Complete.</b> Dealt with under the Licence Reduction Program. Partially replaced by the <i>Contaminated Land Management Act 1997</i> .
Waste Disposal Act 1970	1995-96	Provides for the constitution of a corporation to be called the 'Metropolitan Waste Disposal Authority'; confers and imposes on the corporation responsibilities, powers, authorities, duties and functions with respect to the transport, collection, reception, treatment, storage and disposal of waste within the Metropolitan Waste Disposal Region.	<b>Review Unnecessary</b> The Act was repealed and replaced by the <i>Waste Minimisation and Management Act 1995</i> .

Act	Review Year	Objective	Status
Unhealthy Building Act 1990	1996-97	Provides for the declaration of certain land as unhealthy building land and for the effect of such a declaration.	<b>Complete.</b> Dealt with under the Licence Reduction Program.
Waste Minimisation and Management Act 1995	1999-2000	Relates to the management, regulation and reduction of waste.	<b>Not commenced.</b>

### Fair Trading

Act	Review Year	Objective	Status
Hawkers Act 1974	1995/96	Provides for the licensing and control of hawkers.	<b>Complete.</b> Act repealed.
Trade Measurement Act 1989	1995/96	Relates to trade measurement in NSW as part of the scheme for uniform trade measurement legislation throughout Australia.	<b>Underway</b> National review being undertaken by Ministerial Council on Consumer Affairs.
Building Services Corporation Act 1989	1996/97	Makes provisions concerning the residential building industry and certain specialist work and to constitute the Building Services Corporation and define its functions.	<b>Underway.</b> Legislative changes arising from the review have abolished the BSC, privatised the compulsory insurance arrangements, and abolished business licensing. Additional reforms to occupational licensing are under consideration.
Door to Door Sales Act 1967	1996/97	Controls and regulates certain agreements relating to the sale or bailment of goods and the provision of services on credit.	<b>Underway</b> Being reviewed concurrently with the review of the <i>Fair Trading Act 1987</i> .
Prices Regulation Act 1948	1996/97	Makes provision for the regulation of prices and rates of certain goods and services.	<b>Complete.</b> Measures to implement review recommendations are under consideration.

Act	Review Year	Objective	Status
<p>Motor Dealers Act 1974 No 52 (1)</p> <p>Motor Vehicles Repair Act 1980 (2)</p>	1996/97	<p>(1) Provides for the granting of licences to people carrying on the business of a motor dealer, an auto-dismantler, a wholesaler, a motor vehicle parts reconstruction, a car market operator or a motor vehicle consultant, or a prescribed business; requires the keeping of certain records; imposes certain obligations on motor dealers; provides for the settlement of disputes and establishes a motor dealers compensation fund.</p> <p>(2) Constitutes the Motor Vehicle Repair Industry Council and confers on it licensing functions concerning repair businesses and tradesman and loss assessors.</p>	<p><b>Underway.</b> Awaiting Cabinet consideration.</p>
Business Names Act 1962	1996/97	Makes provision with respect to the registration and use of business names.	<p><b>Underway.</b> Final report being prepared.</p>
<p>Residential Tenancies Act 1987 (1)</p> <p>Landlord and Tenant (Rental Bonds) Act 1977 (2)</p>	<p>1997/98</p> <p>1996/97</p>	<p>(1) Relates to the rights and obligations of landlords and tenants under residential tenancy agreements; makes provision with respect to excessive rent increases and rents; confers functions onto the Residential Tenancies Tribunal of NSW with respect to landlords and tenants. Repeals and amends certain Acts.</p> <p>(2) Constitutes a Rental Bond Board; confers and imposes certain powers, authorities, duties and functions on the Board; requires lessors of residential premises to deposit rental bonds with the Board; provides for the paying out of rental bonds and enabled the investment of rental bonds and the investment and expenditure of rental bonds.</p>	<p><b>Underway.</b> Review has been expanded to include related general residential tenancies legislation. Final report being prepared.</p>



<b>Act</b>	<b>Review Year</b>	<b>Objective</b>	<b>Status</b>
Funeral Funds Act 1979	1996/97	Controls and regulates contributory and pre-arranged funeral funds.	<b>Underway.</b> Issues paper being prepared.
Property, Stock and Business Agents Act 1941	1996/97	Regulates real estate, stock and station, business and managing agents.	<b>Underway.</b> Final Report being prepared.
Retirement Villages Act 1989	1996/97	Relates to the termination of occupation rights of residents in retirement villages and confers jurisdiction over certain matters relating to retirement villages, on the Residential Tenancies Tribunal.	<b>Underway.</b> Final report being prepared.
Valuers Registration Act 1975	1996/97	Provides for the registration of real estate valuers; regulates the qualifications for and the effect of such registrations and confers and imposes functions on the Property Services Council.	<b>Underway.</b> Final report being prepared.
Travel Agents Act 1986	1997/98	Provide for the licensing of travel agents and the regulation of their operations.	<b>Underway.</b> National review, coordinated by WA.
Cooperatives Act 1992 (1) Cooperation Act 1923 (2)	1997/98	(1) Provides for the establishment of cooperatives and the regulation of their operations.  (2) Amends the law relating to cooperation; provides for the formation, registration and management of co-operative societies.	<b>Underway</b> Issues paper being prepared.
Fair Trading Act 1987	1997/98	Regulates the supply, advertising and distribution of goods and services and, in certain respects, the disposal of interests in land.	<b>Underway</b>
Business Licences Act 1990	1997/98	Relates to business licences.	<b>Underway</b>

Act	Review Year	Objective	Status
Consumer Credit (NSW) Act 1995	1999/2000	Regulates the provision of consumer credit.	<b>Underway</b> National review. The Ministerial Council on Consumer Affairs (MCCA) is undertaking a post-implementation review of the Uniform Credit Code, which includes NCP analysis. Terms of reference have been endorsed by COAG Committee on Regulatory Reform.
Credit (Finance Brokers) Act 1984	1999/2000	Relates to the conduct of business of finance brokers.	<b>Not commenced.</b>
Pawnbrokers and Second Hand Dealers Act 1996	1999/2000	Provides for the licensing of pawnbrokers and dealers in certain classes of second hand goods. Repeals and amends certain Acts.	<b>Not commenced.</b>
Strata Titles Act 1973  Strata Titles (Leasehold Development) Act 1986	1999/2000	Acts replaced by <i>Strata Schemes Management Act 1996</i> which provides for the management of strata schemes and the resolution of disputes in connection with strata schemes.	<b>Not commenced.</b> <i>Strata Schemes Management Act 1996</i> will be reviewed.

## Fisheries

Act	Review Year	Objective	Status
Fisheries Management Act 1994	1999/2000	Relates to the management of fishery resources.	<b>Not commenced</b> NSW review to commence mid-1999 following the meeting of the Standing Committee on Fisheries and Aquaculture which will consider outcomes of scoping NCP review undertaken in Western Australia.

## Gaming and Racing

Act	Review Year	Objective	Status
<p>Australian Jockey Club Act 1873 (1)</p> <p>Sydney Turf Club Act 1943 (2)</p>	1995/96	<p>(1) Extends the period for which the trustees of the Randwick Racecourse are enabled to grant leases and to enable members of the Australian Jockey Club to sue and be sued in the name of the Chairman.</p> <p>(2) Constitutes and incorporates the Sydney Turf Club and declares its objects, functions and powers and provides for associated matters.</p>	<p><b>Underway.</b></p> <p>Final report being prepared.</p>
<p>Registered Clubs Act 1976 (1)</p> <p>Liquor Act 1982 (2)</p>	1996/97	<p>(1) Makes provisions with respect to the registration of clubs and their rules and management.</p> <p>(2) Regulates the sale and supply of liquor and regulates the use of premises at which liquor is sold.</p>	<p><b>Underway.</b></p>
<p>Gaming and Betting Act 1912</p>	1997/98	<p>Consolidates Acts relating to games, wagers and betting houses, the restriction of race meetings and the licensing of race courses. Act was repealed and remade in three parts to be separately reviewed:</p> <ul style="list-style-type: none"> <li>• core gaming and betting provisions (Unlawful Gambling Act);</li> <li>• racecourse licensing (new Racing Administration Act); and</li> <li>• two-up (Gambling (Two Up) Act).</li> </ul>	<p><b>Completed /Underway</b></p> <ul style="list-style-type: none"> <li>• Unlawful Gambling Act (Complete -exempt from review);</li> <li>• Racing Administration Act and associated Acts- review underway; and</li> <li>• Two Up Act (inter-department review complete). (for expanded discussion on gaming and betting legislation see Chapter 5).</li> </ul>
<p>Racing Administration Act 1998</p> <p>Greyhound Racing Control Board Act 1985</p> <p>Harness Racing Act 1977</p> <p>Bookmakers Taxation Act 1917</p> <p>Thoroughbred Racing Board Act 1996</p>	VARIOUS	<p>These Acts establish controlling bodies for these race codes.</p>	<p><b>Underway</b></p> <p>Reviews of theses Acts merged with Racing Administration Act review. An issues paper was released in early 1999, and a report is expected in late 1999 (see chapter 5 for detail).</p>

Act	Review Year	Objective	Status
Innkeepers Act 1968	1997/98	To make provision with respect to certain rights and liabilities of innkeepers and persons having dealings with innkeepers.	<b>Underway</b> Inter-departmental review.
Lotteries and Art Unions Act 1901	1999/2000	An Act with respect to the conduct of lotteries, games of chance and art unions.	<b>Not commenced.</b>
Lotto Act 1979 NSW Lotteries Act 1990 Soccer Football Pools Act 1975	1999/2000		<b>Not commenced.</b> The Acts were repealed and replaced by the <i>NSW Lotteries Corporatisation Act 1996</i> and the <i>Public Lotteries Act 1996</i> .
Casino Control Act 1992	ADDITIONAL ITEM	Establishes the Casino Control Authority and issues exclusive license for Sydney casino.	<b>Underway</b> Review in final stages. Awaiting outcomes of Productivity Commission's review of Gambling Industries.
Totalizator Act 1916	1999/2000	Amends and consolidates the law as it relates to the conduct of totalizators and the regulation of totalizator betting.	<b>Complete</b> Act repealed by Totalizator Act 1997 which privatised the TAB. Clause 5(5) CPA analysis submitted to NCC. NCC reported analysis adequate in "Framework for the NCP Second Tranche Assessment: June 1999" page 16.
Totalizator (Off-Course Betting) Act 1964	1999/2000	Makes provision with respect to off-course betting by means of the totalizator system; provides for the conduct of sweepstakes in respect of certain events; establishes a Totalizator Agency Board and defines its powers, authorities, duties and functions.	<b>Complete.</b> Act repealed by Totalizator Act 1997 which privatised the TAB. Clause 5(5) CPA analysis submitted to NCC. NCC reported analysis adequate in "Framework for the NCP Second Tranche Assessment: June 1999" page 16.

## Health

Act	Review Year	Objective	Status
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Act	Review Year	Objective	Status
Therapeutic Goods and Cosmetics 1972	1995/96	Regulates the manufacture, distribution and advertising of certain therapeutic goods and imposes standards in relation to certain therapeutic goods and cosmetics.	<b>Complete.</b> Act repealed. Provisions relating to cosmetics not re-enacted. Licences for wholesalers of therapeutic goods eliminated. Remaining provisions incorporated into the <i>Poisons Act 1966</i> and the <i>Therapeutic Goods Act 1972</i> .
Poisons Act 1966	1995/96	Regulates, controls and prohibits the sale and use of poisons, restricted substances, drugs of addiction and certain dangerous drugs and establishes a Poisons Advisory Committee.	<b>Not commenced.</b> NSW has agreed to participate in a national review.
Dentists Act 1989	1995/96	Regulates the practice of dentistry.	<b>Underway.</b> Pre-consultation underway and issues paper being prepared.
Medical Practice Act 1992	1995/96	Provides for the registration of medical practitioners and medical students, the making of complaints and disciplinary action.	<b>Underway</b> Final report tabled in Parliament in December 1998. Further consultation needs to be completed prior to Cabinet consideration.
Tobacco Advertising Prohibition Act 1991	1995/96	Prohibits the advertising of tobacco and tobacco products, trade marks, brand names and logos.	<b>Complete.</b> Act repealed. Advertising restrictions were minimised and incorporated into the <i>Public Health Act 1991</i> .
Podiatrists Act 1989	1996/97	Regulates the practice of podiatry; makes provisions for the registration of podiatrists and regulates the qualifications for and the effect of such registration; constitutes the Podiatrists Registration Board and specifies its functions.	<b>Not commenced.</b> Act will be reviewed in 1999.

<b>Act</b>	<b>Review Year</b>	<b>Objective</b>	<b>Status</b>
Human Tissue Act 1983	1996/97	Relates to the donation of tissue by living persons, the removal of tissue from deceased persons and the conduct of post-mortem examinations of deceased persons.	<b>Underway.</b> Issues Paper released. Review is examining the regulation of blood and blood products.
Optometrists Act 1930	1996/97	Provides for the registration of optometrists and regulates the practice of optometry.	<b>Underway</b> Issues paper released in August 1998. Final report being prepared.
Psychologists Act 1989	1996/97	Makes provision for the registration of psychologists; regulates the qualifications for the effect of such registration and constitutes the Psychologists Registration Board and specifies its functions.	<b>Underway.</b> Final report awaiting Cabinet consideration.
Nurses Act 1991	1997/98	Regulates the practice of nursing.	<b>Underway</b>
Physiotherapists Registration Act 1945	1997/98	Makes provision for the registration of physiotherapists; regulates the qualifications and effect of such registration; provides for the constitution of a Physiotherapists Registration Board and defines the powers and functions of that Board.	<b>Underway</b>
Public Health Act 1991	1997/98	Regulates the funeral industry, skin penetration, microbial control and other matters.	<b>Underway</b> Issues Paper being prepared.
Nursing Homes Act 1988	1997/98	Provides for the licensing and control of nursing homes.	<b>Underway</b> Terms of reference have been finalised. Department is considering whether to engage a consultant to assist with the review.

Act	Review Year	Objective	Status
Friendly Societies Dispensaries Enabling Act 1945	1997/98	Enables Friendly Societies to operate pharmacies.	<b>Complete.</b> Act repealed. Relevant provisions were incorporated into the <i>Pharmacy Act</i> , which is scheduled for national review in 1999.
Chiropractors and Osteopaths Act 1991	1997/98	Regulates the practice of chiropractic and osteopathy and repeals the <i>Chiropractic Act 1987</i> .	<b>Underway</b> Final report being prepared.
Pharmacy Act 1964	1997/98	Regulates the carrying on of the business of a pharmacist; authorises friendly societies and trading and rural societies established under the <i>Co-operation, Community Settlement and Credit Act 1923</i> to carry on the business of a pharmacist in certain circumstances. Amends relevant Acts.	<b>Not commenced.</b> National review in 1999
Private Hospitals and Day Procedures Centres Act 1988	1997/98	Provides for the licensing and control of day procedure centres.	<b>Underway.</b> Issues Paper being prepared.
Optical Dispensers Act 1963	1999/2000	Makes provision for the licensing of optical dispensers; regulates the qualifications and the effect of such licensing; provides for the constitution of an Optical Dispensers Licensing Board and defines the powers and functions of that Board.	<b>Not commenced.</b>
Dental Technician Registration Act 1975	1999/2000	Constitutes the Dental Technicians Registration Board & defines its powers, authorities, duties and functions; makes provisions for the registration of dental technicians; regulates the qualifications for, and the effect of, registration.	<b>Not commenced.</b>
Pathology Laboratories Accreditation Act 1981	1999/2000	Provides for the accreditation of Pathology Laboratories.	<b>Complete.</b> It is expected that the Act will be repealed in 1999.

Act	Review Year	Objective	Status
Food Act 1989	1999/2000	Consolidates and amends the law relating to the preparation and sale of food.	<b>Underway</b> National review.

### Industrial Relations/Workcover

Act	Review Year	Objective	Status
Bread Act 1969	1995/96	Makes provisions in respect of times for the baking and delivery of bread, licensing of bread manufacturers, certification of operative bakers, standard bread size; constitutes a Bread Industry Advisory Council and amends other Acts.	<b>Complete.</b> Repealed.
White Phosphorous Matches Prohibition Act 1915	1995/96	Prohibits the use of white phosphorus in the manufacture of matches and prohibits the sale of matches made with white phosphorous.	<b>Complete.</b> Repealed.
Occupational Health and Safety Act 1983	1999/00	To secure the health, safety and welfare of persons at work and to amend certain other Acts.	<b>Not commenced.</b> The OH & S Act has been the subject of several significant reviews with a view to making a consolidated OH & S regulation. Competition issues to be addressed in drafting of new regulation.
Industrial Relations Act 1991	1996/97	Restates and reforms the law concerning industrial relations.	<i>Industrial Relations (IR) Act 1991</i> repealed & replaced with <i>IR Act 1996</i> . Regulation of employment agents was separated from IR Act into <i>Employment Agents (EA) Act 1996</i> . The EA Act is being transferred from the administration of the Dept. of Industrial Relations to the Dept. of Fair Trading from 1/7/98. The EA Act may be reviewed in light of recent Cwth reforms to employment services.



Act	Review Year	Objective	Status
Rural Workers Accommodation Act 1969	1999/00	Provides for the accommodation of rural workers and constitutes the Rural Workers Accommodation Advisory Council. Creates certificate of compliance for accommodation.	<b>Not commenced.</b> Some industrial issues involved. To review concurrently with new OH&S regulation.
Factories, Shops and Industries Act 1962	1999/00	Makes provisions with respect to the supervision and regulation of factories, shops and certain other industries and to the health, safety and welfare of employees; restricts trading hours; controls advertising and description of goods; regulates outdoor work in clothing trade; restricts hours of trade and labour; controls advertising; creates licensing regime for hairdressers and prescriptive requirements for hairdressing premises.	Part 3: <b>Not commenced.</b> Linked to current reviews of the Occupational Health and Safety Act.  Part 4: <b>To commence in 1999</b> Trading Hours.  Part 6: <b>To commence in 1999</b> Hairdressers.
Construction Safety Act 1912	1999/00	Provides for the regulation and inspection of construction work and consolidates the Acts controlling scaffolding and lifts.	<b>Not commenced.</b> Linked to Occupational Health and Safety Act review. Creates several certificates of competency, some have already been reviewed and removed under the Licence Reduction Program.
Dangerous Goods Act 1975	1999/00	Consolidates and amends the law relating to explosives and other dangerous substances.	<b>Not commenced.</b> Draft national standard on storage and handling has been released for public comment. Legislative amendments involving the transport of dangerous goods commenced 20 April 1998 to give effect to the first module of reforms to national road transport law developed through the National Road Transport Commission. The proposed Dangerous Goods (General) Regulation was released for public comment in January 1999 and is expected to be finalised in September 1999. NCP review to take place after the current process is complete.

Act	Review Year	Objective	Status
Funeral Services Industry (Days of Operation) Act 1990	1998/98	Regulates the days of operation of businesses providing funeral, burial or cremation services.	Not commenced.
Entertainment Industry Act 1989	1999/2000	Relates to the regulation of the entertainment industry and amends and repeals certain legislation.	Not commenced.

#### Department of the Surveyor-General

Act	Review Year	Objective	Status
Surveyors Act 1929	1995/96	Provides for the registration of surveyors of land, regulates the making of surveys.	<b>Underway.</b> Issues Paper being finalised. Some delay has occurred as a result of a transfer of Ministerial responsibility for this legislation.

#### Local Government

Act	Review Year	Objective	Status
Local Government (Theatre and Public Halls) Amendment Act 1989	1995/96	Amends the <i>Local Government Act</i> to make provision for approval and regulation of places of public entertainment and certain structures.	<b>Complete.</b> Dealt with under the Licence Reduction Program. Licence retained. Issues of public safety outweigh costs.

Act	Review Year	Objective	Status
Local Government Act 1993	1997/98	To provide for Local Government in New South Wales.	<b>Not commenced.</b> Partly dealt with under the Licence Reduction Program and the recent reform of planning laws. However, the Act requires review under S 747 of the Act. Restrictions on competition that were not addressed during the aforementioned processes will be addressed in a NCP review commencing in 1999.

### Mineral Resources

Act	Review Year	Objective	Status
Petroleum (Onshore) Act 1991	1995/96	Regulates the search for, and mining of, petroleum.	<b>Complete.</b> Dealt with under the Licence Reduction Program.
Petroleum (Submerged Lands) Act 1982	1995/96	Relates to the exploration for, and exploitation of, petroleum resources and certain other resources adjacent to the coast of NSW.	<b>Not commenced</b> Some portions dealt with under the Licence Reduction Program. Remainder to be examined as part of a national review.
Mining Act 1992	1995/96	Makes provisions with respect to prospecting for and mining minerals.	<b>Complete.</b> Dealt with under the Licence Reduction Program.
Coal Ownership (Restitution) Act 1990 (1)  Coal Acquisition Act 1981 (2)	1996/97	(1) Provides for the restitution of certain coal acquired by the crown as a result of the Coal Acquisition Act 1981.  (2) Vests all coal in the Crown.	<b>Complete.</b> Acts will be superseded by new legislation - Coal Acquisition Amendment Act. The Acts are likely to be repealed when the Coal Compensation Board is abolished.

Act	Review Year	Objective	Status
Mines Inspection Act 1901 (1)  Coal Mines Regulation Act 1982 (2)	1996/97  1999/2000	(1) Makes better provision for the regulation and inspection of mines, other than coal and shale mines, and regulates the treatment of the products of such mines.  (2) Regulates coal mines (and oil shale and kerosene shale mines) and certain related places.	<b>Underway.</b> A review of mine safety legislation is underway in response to the Mine Safety Review, which reported in April 1997. The review will impact on both metalliferous and coal safety legislation and will take account of NCP requirements.

### Police

Act	Review Year	Objective	Status
Wool, Hides and Skins Dealers Act 1935	1995/96	Regulates the buying and selling of wool, hides and skins.	<b>Underway.</b> Report complete and under Government consideration.
Security (Protection) Industry Act 1985	1995/96	Provides for the licensing and regulation of persons carrying on, or employed in, the business of providing security and protection for persons or property.	<b>Complete.</b> Act has been repealed and replaced by the <i>Security Industry Act 1997</i> .
Commercial Agents and Private Inquiry Agents Act 1963	1996/97	Provides for the licensing and control of commercial agents, private inquiry agents and their subagents.	<b>Underway.</b>

## Ports and Waterways

Act	Review Year	Objective	Status
Marine Safety Act 1998		<p>Marine Safety Act 1998 repealed and consolidated the following Acts</p> <ul style="list-style-type: none"> <li>• Commercial Vessels Act 1979 Regulates the use of certain vessels and of certain motors for propelling vessels; provides for marking of load lines and the carriage of certain equipment by vessels.</li> <li>• Maritime Services Act 1935 Provides for the constitution of the Maritime Services Board of NSW and its powers.</li> <li>• Marine Pilotage Licensing Act 1971 Provides for the licensing of pilots.</li> <li>• Navigation Act 1901 Consolidates the Acts relating to navigation.</li> </ul>	<p><b>Not commenced</b></p> <p>Some anti competitive elements of former Acts dealt with under Licence Reduction Program with 10 licences and permits abolished from 2 February 1997 under the <i>Regulatory Reduction Act 1996</i>.</p> <p>Remainder of NCP issues in new Marine Safety Act still to be reviewed.</p>
Ports Corporatisation and Waterways Management Act 1995	1999/2000	Establishes statutory state-owned corporations to manage the State's port facilities on major ports; transfers waterways management and other marine safety functions to the Minister; establishes the Waterways Authority and provides for port charges, pilotage and other marine matters.	<b>Not commenced.</b>

## Public Works and Services

Act	Review Year	Objective	Status
Architects Act 1921	1995/96	Provides for the registration of architects and regulation of the practice of architecture.	<p><b>Underway.</b></p> <p>NSW has indicated its willingness to participate in a national review. A State-based review had commenced, but has been terminated pending outcome of governments' consideration of a national review.</p>

Public Sector Management (Goods and Services) Regulation 1995	1998/99		<b>Not commenced.</b>
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### Roads

Act	Review Year	Objective	Status
Driving Instructors Act 1992	1995/96	Provides for the licensing of driving instructors and repeals the <i>Motor Vehicle Driving Instructors Act</i> 1961.	<b>Underway.</b> Issues Paper being prepared.
Traffic Act 1909	1997/98	Provides for the regulation of vehicles and of vehicular and pedestrian traffic.	<b>Not commenced.</b>
Roads Act 1993	1997/98	Makes provision with respect to the roads of NSW. Repeals certain Acts.	<b>Not commenced.</b>

### Sport and Recreation

Act	Review Year	Objective	Status
Motor Vehicle Sports (Public Safety) Act 1985	1995/96	Makes provision for the control and regulation of meetings for motor vehicle racing.	<b>Underway.</b> Issues Paper being prepared.
Boxing and Wrestling Control Act 1986	1995/96	Regulates the conduct of professional boxing; constitutes the Boxing Authority of NSW and defines its functions; regulates the conduct of wrestling and amateur boxing contests.	<b>Underway.</b> Terms of Reference approved by Premier.

### State Development

Act	Review Year	Objective	Status
Country Industries (Payroll Tax Rebates) Act 1977	1996/97	Allows rebates of pay-roll tax in respect of certain country manufacturing or processing industries.	<b>Underway.</b>

Retail Leases Act 1994	1997/98	Makes provision with respect to the leasing of certain retail shops and the rights and obligations of lessors and lessees of those shops.	<b>Not commenced.</b> Retail Leases (Amendment Act) 1998, assented to by the Governor of NSW on 14/12 98.
State Development and Industries Assistance Act 1966	1997/98	Constitutes the Minister administering the Act as a corporation sole and confers certain powers on that sole relating to the establishment, expansion and development of certain industries and to the acquisition of land.	<b>Underway</b>
<b>Act</b>	<b>Review Year</b>	<b>Objective</b>	<b>Status</b>
Small Business Loans Guarantee Act 1977	1997/98	Authorises the execution of guarantees for the repayment of loans made to certain small businesses.	<b>Underway</b>

## Transport

<b>Act</b>	<b>Review Year</b>	<b>Objective</b>	<b>Status</b>
Tow Truck Act 1989	1995/96	Provides for a licensing and certification scheme for tow truck drivers and operators; regulates other matters and constitutes the Tow Truck Industry Council.	<b>Not commenced.</b> Act repealed and replaced by Tow Truck Act 1998. New regulatory scheme being developed for introduction in 1999. NCP review will commence after 6 months operation of new scheme.
Air Transport Act 1964	1995/96	Prohibits, in certain circumstances, the carriage by aircraft of passengers or goods from one place to another within NSW except if a licence is granted by the Minister. Amends certain Acts.	<b>Completed</b> NCP review completed and legislation to repeal Act introduced to Parliament in 1998. Legislation currently being considered by Parliamentary Committee.
National Rail Corporation (Agreement) Act 1991	1996/97	Approves and gives effect to an agreement between NSW, the Commonwealth and other States relating to the National Rail Corporation Ltd.	<b>Not commenced.</b> Will need to be a national review.

<b>Act</b>	<b>Review Year</b>	<b>Objective</b>	<b>Status</b>
Parking Space Levy Act 1992	1996/97	To discourage car use in business districts by imposing a levy on off-street parking and using the revenue to develop infrastructure and encourage the use of public transport.	<b>Complete.</b> Act retained on the basis that competition restrictions were notional only.
Passenger Transport Act 1990	1997/98	Regulates public transport services – buses, taxis, hire cars and ferries	<b>Underway.</b> Buses segment is complete. Taxis/hire cars – IPART conduction inquiry for report in 1999. Ferry segment yet to commence.
Rail Safety Act 1993	1999/2000	To promotes the safe construction, operation and maintenance of railways.	<b>Not commenced.</b>

### Treasury

<b>Act</b>	<b>Review Year</b>	<b>Objective</b>	<b>Status</b>
Business Franchise Licence (Petroleum Products) Act 1987	1995/96	Provides for the licensing of people carrying on the business of selling certain petroleum products.	<b>Complete</b> Legislation was repealed in December 1997.
Business Franchise Licence (Tobacco) Act 1987	1995/96	Provides for the licensing of people carrying on the business of selling tobacco.	<b>Complete</b> Legislation was repealed in December 1997.



Payroll Tax Act 1971	1995/96	Imposes a tax upon employers in respect of certain wages and provides for the assessment and collection of the tax.	<b>Underway</b> State Heads of Treasury have commenced a national review of compliance arrangements associated with payroll tax. The Victorian Government is providing the Secretariat.
Public Finance and Audit Act 1983 (1)  Public Authorities (Financial Arrangements) Regulations 1997 (2)	1995/96	(1) Makes provision with respect to the administration and audit of public finances.  (2) Makes provisions with respect to certain financial arrangements and investments of public authorities; constitutes the NSW Capital Works Financing Corporation.	<b>Underway</b> Treasury is finalising a clause 5 (5) public benefit assessment for the statutory borrowing and investment control components of new omnibus legislation. A green paper, incorporating competition policy issues, was released and submissions received.

Act	Review Year	Objective	Status
Friendly Societies Act 1989	1997/98	Provides for the formation, registration, management and regulation of friendly societies and to consequently appeal and amend certain other legislation.	<b>Review unnecessary</b> NSW has adopted national template legislation (following Victorian NCP review) which became effective on 1/11/97. Since this date, NSW has entered into negotiations with the Commonwealth regarding the transfer of prudential regulatory responsibilities for credit unions, building societies and friendly societies to the Commonwealth, with a view to this being concluded on or before 1/7/99. The Victorian template legislation will be repealed once the transfer has being executed.
Petroleum Products Subsidy Act 1965	1997/98	The Act implements a Commonwealth scheme that provides for the subsidisation of fuel transport costs in rural areas.	<b>Review unnecessary</b> The Act is expected to be repealed.
Government Guarantees Act 1934	1997/98	Validates certain guarantees given to certain banks by the Treasurer or pursuant to Minutes of the Governor and Executive Council; authorises the Treasurer to execute certain guarantees in certain cases; makes certain contingent appropriations out of the Consolidated Revenue Fund and to amend certain Acts.	<b>Underway</b> Review commenced in March 1999.
Superannuation Administration Act 1996	N.A.	Provides for trustees for State public sector superannuation schemes and the provision of investment and administration services for such schemes. Constitutes the Superannuation Administration Authority of NSW.	<b>Not commenced.</b> Legislation for corporatisation of the Superannuation Administration Authority will be introduced in Parliament in May 1999 and will largely address residual competition issues and clarify the need for any formal legislative review.

## Urban Affairs and Planning

Act	Review Year	Objective	Status
Land Development Contribution Act 1970	1997/98	Levies a contribution in relation to certain land within the Sydney region.	<p><b>Review unnecessary.</b></p> <p>The Act was introduced to collect contributions from developers who benefit from rezonings. The Act has not been used to collect contributions for several years, and the subordinate legislation which provided the power to collect contributions has been repealed. The Act is likely to be repealed when the funds have been spent or allocated to other funds.</p>

## Annexure 3:

### State Reviews of Regulatory Restrictions on Competition - Planning, Land Use and Natural Resource Approvals Systems

Projects	Status
1. Development of policy options for integrated approvals system.	<b>Complete</b> Integrated Development amendments commenced 1 July 1998.
2. Review of referrals and concurrences in local environmental planning policies.	<b>Underway</b> The first stage of the review is complete with approximately 1420 clauses identified with around 650 marked for deletion and approximately 300 to be retained.
3. Extend Guarantee of Prompt Service to concurrent approvals under the Environmental Planning and Assessment Act.	<b>Complete</b> New concurrence processes in place since 1/7/98 reduce timeframes from 80 days to 60 days.
4. Review of multiple controls on land clearing State Environmental Planning Policy (SEPP) 46.	<b>Complete</b> SEPP 46 was replaced by the Native Vegetation Conservation Act 1997, which came into force on 1/1/98, following a detailed public consultation and review process.
5. Integration of total catchment management objectives in planning instruments.	<b>Underway</b> To be considered as part of the Department of Urban Affairs and Planning (DUAP) discussion paper ' <i>Plan Making in NSW: Opportunities for the future</i> '. The paper canvasses options to improve the plan making system under the Environmental Planning and Assessment Act 1979 (EP&A Act).  In addition, the <i>Outcomes of the review of Total Catchment Management in NSW</i> was published in December 1997 and its 35 actions are currently being implemented, including: <ul style="list-style-type: none"> <li>• a State Catchment Management Coordinating Committee and local councils joint strategy to achieve greater local government participation and commitment to TCM;</li> </ul>

	<ul style="list-style-type: none"> <li>the Department of Land and Water Conservation, in consultation with DUAP and the Department of Local Government, will examine measures to promote consistency and compatibility between Catchment Management Committee and Catchment Management Trust strategies and policies, and the requirements of the Environmental Planning and Assessment Act (1979) and the Local Government Act (1993).</li> </ul>
6. Examination of feasibility of incorporating plans for: river management; land management; habitat management; environment protection; forestry reserves into planning instruments under the Environmental and Planning Assessment (EP&A) Act.	<p><b>Underway</b> To be considered as part of the DUAP discussion paper '<i>Plan Making in NSW: Opportunities for the future</i>'.</p>
7. Review and reform of regulations affecting mining.	<p><b>Underway</b> NSW Department of Mineral Resources is currently conducting reviews of the Mines Inspection Act 1901 and the Coal Mines Regulation Act 1982.</p>
8. Review and reform of regulations affecting mariculture.	<p><b>Not commenced</b> Regulations will be reviewed as part of the NCP review of the Fisheries Management Act 1994, which is due to commence in mid 1999.</p>
9. Review and reform of regulations affecting forestry including the corporatisation of State Forests.	<p><b>Underway</b> The Forestry and National Parks Estate (FNPE) Act (1998): Provides for the making of Forest Agreements in NSW; and Streamlines and integrates the existing regulatory environment by linking existing licences under an Integrated Forestry Operations Approvals (IFOAs) process.</p> <p>Full corporatisation of State Forests' commercial activities is yet to occur.</p>

10. Review of s90 EP&A Act 'heads of consideration' for development consent.	<b>Complete</b> Section 79C of the reformed EP&A Act introduces generic heads of consideration streamlining old processes.
11. Review potential for increasing 'as of right developments'.	<b>Complete</b> Completed with the introduction of State-wide complying/exempt development by December 1999. Some councils have already introduced complying/exempt Development.
12. Consider potential for private certification of building, sub-division water and sewerage approvals.	<b>Complete</b> Reforms to development assessment system introduced 1/7/98 contains certification for building and subdivision.
13. Integrate building and planning approvals.	<b>Complete</b> Reforms to development assessment system combined the development, building and subdivision approval processes.
14. Examine zoning prohibitions for anti-competitive effects; consider wider adoption of performance standards.	<b>Underway</b> Discussion Paper on Plan Making Process will examine this issue. DUAP encouraging performance standards in other areas, ie NSW Model Code for Multi-Unit Housing.
15. Review and reform development without consent (SEPP 4) for change of use in industrial areas.	<b>Complete</b> Undertaken through the establishment of the new categories of Exempt and Complying Development under the EP&A Act.
16. Consider combining development and re-zoning applications.	<b>Complete</b> EP&A Act amended to allow for this situation.
17. Review heritage approvals and consider better integration with Development Approval/Building Approval (DA/BA) processes.	<b>Complete</b> Heritage approvals now integrated under the EP&A Act. Heritage Act amendments streamline the process where development is in accordance with a Conservation Plan.

<p>18. Consider potential for standardising consent conditions, zoning classifications and definitions as performance standards.</p>	<p><b>Underway</b> DUAP will be working with councils through advisory notes to improve consent conditions. Discussion Paper on Plan Making process will examine zoning.</p>
<p>19. Stage II review of pollution control acts to streamline and rationalise licensing procedures.</p>	<p><b>Complete</b> The Protection of the Environment Operations Act 1997 (POEO Act) and regulations (due to commence in July 1999) will replace five core pollution control statutes and provide for stronger environment protection, while streamlining the licensing process. As a result, businesses will only require the one environment protection licence that recognises the ongoing, long term nature of operations.</p>
<p>20. Review water legislation and licensing.</p>	<p><b>Underway</b> In the Spring 1997 session of Parliament the following amendments were passed: Amendments to the Water Administration Act to require decision makers to have regard to ESD; Amendments to the Water Act to enable – large water users to be appropriately licensed (e.g. Sydney and Hunter Water Corporations); new rules for temporary trading in regulated river systems; new groundwater licensing powers.</p> <p>The paper ‘Water Sharing in NSW, Access and Use’ was released in April 1998 to develop policy on which to base changes to water licensing legislation. Community response to this paper is now being examined.</p>
<p>21. Develop framework for Co-ordinated/Integrated Development Approval Conditions and other requirements and advice on the use of the framework.</p>	<p><b>Underway</b> DUAP will be working on Best Practice Guidelines with agencies involved in Integrated Development.</p>

22. Develop Best Practice Guidelines for a Co-ordinated/Integrated Development Approval System for Mining and Extractive Industry.	<b>Complete</b> Guidelines were issued in September 1997. Relevant amendments to the Environmental Planning and Assessment Act came into effect in July 1998.
23. Develop Best Practice Guidelines for Planning Focus.	<b>Underway</b> Draft guidelines being prepared for consultation.
24. Develop Best Practice Guidelines for Community Consultation.	<b>Underway</b> NSW Minerals Council has released 'Best Practice Community Consultation Guidelines'. The DUAP Discussion Paper on Plan Making Process will also address community consultation issues.
25. Review of endangered species legislation so as to integrate licenses and DAs.	<b>Complete</b> The Threatened Species Conservation (TSC) Act 1995 amended the National Parks and Wildlife Act 1974 to integrate licences and development applications/consents with respect to harming, picking threatened species populations or ecological communities. The relevant section of the National Parks and wildlife Act is Section 18A (3) (b). This amendment took effect on 1 January 1996.
26. Adopt reformed Australian Building Code (as performance standards) with minimal variations.	<b>Complete</b> Performance based 1996 Building Code of Australia was adopted in NSW.
27. Convert siting rules to performance standards.	<b>Complete</b> In relation to fire standards, these provisions are to be repealed on 1 July 1999 and regulated under the performance based Building Code of Australia. In other respects the EP&A Act siting requirements will form part of Local Environmental Plans by individual councils if required.
28. Extend and improve performance benchmarking of local councils.	<b>Underway</b> The IPART has released its final report on benchmarking local government performance in NSW. The Government is considering the report's recommendations.



<p>29. Public consultation to improve operation of current approval rights and dispute resolution system.</p>	<p><i>Underway</i> DUAP is monitoring implementation of this issue as part of its ongoing assessment of the operation of the planning system.</p>
<p>30. Examine the potential for consolidating land, water and related natural resource management legislation into a single statute.</p>	<p><i>Underway</i> Examined in the Discussion Paper on the Plan Making Process – integration of planning and natural resource management.</p>

## Annexure 4:

### National Road Transport Reform

Legislation Modules	Reform Strategy	First Heavy Vehicle Reform Package	Second Heavy Vehicle Reform Package
Charges	<ul style="list-style-type: none"> <li>• Second Charges Determination</li> </ul>	<ul style="list-style-type: none"> <li>• Uniform Registration Charges</li> </ul>	
Vehicle Operations	<ul style="list-style-type: none"> <li>• Vehicle Operations - Restricted Access Vehicles, Mass and Loading and Oversize and Overmass</li> <li>• Heavy Vehicles Standards Regulations</li> <li>• Combined Vehicle Standards</li> <li>• Australian Road Rules</li> <li>• Truck driving Hours Regulations</li> <li>• Bus Driving Hours Regulations</li> </ul>	<ul style="list-style-type: none"> <li>• Common Mass and Loading Rules</li> <li>• Improve Network Access</li> <li>• Common Pre-Registration Standards</li> <li>• Common Roadworthiness Standards</li> <li>• Enhanced Safe Carriage and Restraint of Loads</li> <li>• Adoption Of National Bus Driver Hours</li> </ul>	<ul style="list-style-type: none"> <li>• Improve Fatigue Management for Truck Drivers</li> <li>• Mass Limits Review</li> <li>• Truck/Trailer Mass Ratios</li> <li>• Axle/Mass Spacing Schedule (above 42.5 tonne)</li> <li>• Reduction in Truck Noise</li> </ul>
Heavy Vehicle Registration	<ul style="list-style-type: none"> <li>• National Vehicle Registration Scheme for Heavy Vehicles</li> </ul>		<ul style="list-style-type: none"> <li>• NEVDIS (First Stage)</li> <li>• Short Term Registration</li> </ul>
Driver Licensing	<ul style="list-style-type: none"> <li>• National Driver Licensing Scheme for all Drivers (other than learner and novices)</li> </ul>	<ul style="list-style-type: none"> <li>• One Driver/One Licence</li> <li>• Interstate Conversions of Driver Licence</li> </ul>	<ul style="list-style-type: none"> <li>• Information on Driver Offences and Licence Status</li> </ul>
Compliance and Enforcement	<ul style="list-style-type: none"> <li>• Consistent Compliance and Enforcement Arrangements</li> </ul>	<ul style="list-style-type: none"> <li>• Alternative Compliance Program</li> </ul>	<ul style="list-style-type: none"> <li>• Management of Speeding Heavy Vehicles</li> <li>• Consistent On-Road Enforcement for Roadworthiness</li> </ul>
Dangerous Goods	<ul style="list-style-type: none"> <li>• Uniform Arrangement for the transport of Dangerous Goods</li> </ul>		

**REFORM STRATEGIES  
STATUS REPORT DECEMBER 1998**

<b>REFORM</b>	<b>PROGRESS</b>
<p><b>National Reform Project 5</b> <i>Heavy Vehicle Standards Regulations (including amendments)</i> - these Regulations provide all the standards for the construction and performance of heavy vehicles and trailers.</p>	<p>These Regulations have been in place in NSW law since October 1995. They were incorporated into the Motor Traffic Regulations made under the Traffic Act 1909.</p>
<p><b>Linked to National Reform Project 5</b> <i>Combined Vehicle Standards</i> - the NRTC proposes to combine its current work on construction and performance of light vehicles and trailers into a combined heavy/light vehicle standards package.</p>	<p>The NRTC submitted Regulations to Ministerial Council for vote by end of January 1999.</p> <p><i>Regulations approved by Ministers January 1999. NSW expects to implement by June 1999.</i></p>
<p><i>Australian Road Rules</i> – these Rules deal with basically all issues relating to the duties of drivers, riders (including bicycle riders) and pedestrians, apart from the more serious offences like drink-driving, dangerous driving etc. They cover matters such as, speed limits, use of seat belts, parking regimes, rules about footpath cycling, roundabout rules; use of mobile phones while driving etc.</p>	<p>The NRTC submitted an Australian Road Rules package to Ministers for vote by end of January 1999.</p> <p><i>Ministers approved the Australian Road Rules package in February 1999. NSW expects to implement the Rules on 1 December 1999.</i></p>
<p><b>National Reform Project 6</b> <i>Truck Driving Hours Regulations</i> - cover all the rules for drivers and operators in regard to hours spent behind the wheel, rest break requirements, other work related activities which may cause fatigue etc. They also stipulates requirements for a Transitional Fatigue Management Scheme (TFMS) for organisations which meet agreed training and medical requirements. The Regulations were approved by Ministerial Council in January 1998.</p>	<p>The RTA is now consulting with industry on the new arrangements. A new log book was introduced in August 1998 and new driving hours Regulations became effective from November 1998.</p>

**REFORM STRATEGIES  
STATUS REPORT DECEMBER 1998**

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**REFORM STRATEGIES  
STATUS REPORT DECEMBER 1998**

<b>REFORM</b>	<b>PROGRESS</b>
<p><b>National Reform Project 7</b>  <i>Bus Driving Hours Regulations</i> - covering all rules for bus drivers and operators. These Regulations were rejected by NSW, but endorsed by the majority of Ministerial Council in late 1994.</p>	<p>The key elements of the national Regulations (from the bus industry's viewpoint) have already been adopted in NSW law. These are basically the time allowed for driving. However, the NSW rest break requirements (which are non-existent in the national Bus Regulations) have been kept.  Regulations effective from September 1996.</p>
<p><i>Consistent Compliance and Enforcement Arrangements</i> - this part of the National Law covers issues such as monetary penalties, powers of enforcement officers (including powers of entry and stopping vehicles), review of administrative decisions, production of records etc.</p>	<p>The NRTC has indicated that this program is now under review.</p>
<p><i>Second Charges Determination</i> - including fixing anomalies from initial charges. NRTC has now set a target date of late 1999 for the finalisation of a Ministerial Council vote.</p>	<p>NSW is actively participating in the determination of new national charges.</p>

**FIRST HEAVY VEHICLE REFORM PACKAGE  
STATUS REPORT DECEMBER 1998**

<p><b>National Reform Project 12</b> <b>Common Roadworthiness Standards and Consistent Management of Defective Vehicles</b> * National roadworthiness guidelines * Mutual recognition of defect clearance</p>	<p>Adopted October 1995 - as the basis for in-service inspections and as a resource for the training of inspectors.</p> <p>In place - NSW is participating, with other jurisdictions, in mutual recognition and clearance of defects.</p>
<p><b>National Reform Project 13</b> <b>Enhance Safe Carriage and Restraint of Loads</b> * Load restraint guide - adopt Regulations and promote load restraint guide</p>	<p>Adopted - the "performance standards" of the national Load Restraint Guide were adopted into NSW law in October 1995. RTA continues to promote the use of the Guide.</p>
<p><b>National Reform Project 14</b> <b>Adoption of national Bus Driving Hours Regulations</b></p>	<p>NSW has adopted the legal framework of the national Bus Driving Hours regime. NSW adopted the 12 hours regime, 15 minute breaks, 28 day cycle and two-up requirements from September 1996. NSW has retained its extending definitions of rest. NSW has not adopted the 1999 NRTC Bus Driving Hours regime.</p>
<p><b>National Reform Project 9</b> <b>One Driver-One Licence</b> * Common licence classifications  * National exchange of vehicle and driver information system (NEVDIS)  * National heavy vehicle driver licence &gt;15 tonne GVM</p>	<p>NSW adopted national licence classes on 28 July 1997.</p> <p>NSW is managing this project - to exchange registration and licensing information between jurisdictions to ensure (among other things) one driver-one licence. Stage one was implemented from August 1998.</p> <p>In place - all NSW drivers are now required to have this licence.</p>
<p><b>National Reform Project 15</b> <b>Interstate conversions of driver licences</b> Portability of licence between States - no re-testing required - no transfer fee required</p>	<p>Agreed and in place from August 1997. Agreed and in place from August 1997.</p>

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<p><b>National Reform Project 15</b> <b>Interstate conversions of driver licences</b> Portability of licence between States - no re-testing required - no transfer fee required</p>	<p>Agreed and in place from August 1997. Agreed and in place from August 1997.</p>

**National Reform Project 16  
Alternative Compliance**

NSW participated in trials. Trials are now complete and NSW now participates in a national implementation group. In February 1998 NSW recognised the Road Transport Forums' industry accreditation program Trucksafe. Operators recognised by Trucksafe are exempt from the RTA annual Heavy Vehicle Inspection Scheme.



**SECOND HEAVY VEHICLE REFORM PACKAGE  
STATUS REPORT DECEMBER 1998**

<b>REFORM</b>	<b>PROGRESS</b>
<i>Improve Fatigue Management for Truck Drivers</i> - This involves the introduction of uniform regulated driving hours across all jurisdictions except WA and NT, the introduction of a Transitional Fatigue Management Scheme for industry and the issue of a national logbook for drivers.	Regulations and logbook format implemented in NSW in November 1998.
<i>Mass Limits Review</i> - This involves the consideration of increases to heavy vehicle mass to facilitate improvements to industry capacity and productivity.	NSW has generally opposed the MLR recommendations without guaranteed financial supplementation to offset costs imposed on infrastructure and clarification of implementation issues.
<i>Truck/Trailer Mass Ratios</i> - This involves a review of safety and performance effects for truck/trailer combination of increasing towed mass ratio above 1:1 to determine whether greater mass may be safely carried in trailers.	The Minister approved extra gross mass for truck/dog trailer combinations, effective from March 1998.
<i>Axle/Mass Spacing above 42.5 tonne</i> - This involves determining the axle/mass spacing schedule for vehicles above 42.5 tonne to provide certainty for bridge designers, vehicle manufacturers and purchasers, without compromising road and bridge infrastructure.	NSW opposes the recommendations of the NRTC discussion paper since they are based on vehicles operating at higher mass limits. The NRTC is in the process of revising its submission to be put to Ministerial Council.
<i>Reduction in Truck Noise</i> - This involves developing a code of practice for drivers to help reduce the frequency and impact of use of engine brakes.	This project is to be developed by industry through the Road Transport Forum.

**SECOND HEAVY VEHICLE REFORM PACKAGE  
STATUS REPORT DECEMBER 1998**

REFORM	PROGRESS
<p><b>National Reform Project 19</b> <i>National Exchange of Vehicle and Driving Information Systems (NEVDIS)</i> - This involves the development of a national data service facilitating the transfer of approved information between registration and licensing authorities.</p>	<p>NSW is project managing NEVDIS. NSW commenced operation in August 1998 with the Vehicle Identification Numbers component. Commenced registration transactions on 5 October 1998 for NSW and Victoria. NSW commenced licensing from November 1998.</p>
<p><b>National Reform Project 17</b> <i>Short term Registration</i> - This provides for optional 3 month registration period for heavy vehicles to provide flexibility and to better match user needs, including cashflow.</p>	<p>Optional 3 monthly registration has been available in NSW prior to reform initiative. Six monthly registration introduced with national registration scheme, effective from 1 June 1998.</p>
<p><b>National Reform Project 18</b> <i>Information on Driver Offences and Licence Status</i> - This involves the development of guidelines to govern the provision of information to owners of vehicles and driver license status and offences.</p>	<p><i>NSW introduced this policy with the National Licensing Scheme in March 1999.</i></p>
<p><i>Management of Speeding Heavy Vehicles</i> - This involves the development of an agreed warning and penalty regime for speeding vehicles.</p>	<p>NSW implemented the enforcement regime in July 1998.</p>
<p><i>Consistent on-road enforcement for road-worthiness</i> - This involves the development of nationally agreed guidelines for the identification, classification and clearance of vehicle defects.</p>	<p>Implemented in NSW with National Registration Scheme in June 1998.</p>