16 Tasmania

A3 Fisheries

Marine Farming Planning Act 1995

The Marine Farming Planning Act prohibits marine farming outside of declared zones and provides for the Minister to allocate, via leases, area within declared zones to persons wishing to engage in marine farming. Under the Act, orders may be made in response to threats to farming operations and public health and safety.

In its 2003 National Competition Policy (NCP) assessment, the Council assessed that Tasmania had not met its Competition Policy Agreement (CPA) clause 5 obligations in relation to the Marine Farming Planning Act. The Council considered the review had not adequately demonstrated a public interest case for continuing to restrict entry into the marine farming industry by limiting applications for marine farm leases to those invited by the Minister to apply, and allowing the Minister to decide the criteria for allocating leases among applicants.

Since the 2003 NCP assessment, Tasmania has demonstrated to the Council that the lease allocation process is open and competitive in practice. A statutory body, the Board of Advice and Reference, independently administers the process. It is appointed by the Minister and comprises a qualified legal practitioner, a person experienced in the industry, and a person experienced in business. The board calls for expressions of interest in marine farming leases (via advertising in Tasmania's major newspapers), and the Minister then invites firm applications from those expressions recommended by the board. The board assesses applications against predetermined selection criteria, including the amount tendered, and recommends to the Minister which applications to approve. The Minister has thus far accepted all recommendations of the board. Decisions of Ministers are open to appeal to the Resource Management and Planning Appeal Tribunal. There have been no appeals.

The Council now accepts that the Act, while not prescribing an open and competitive process for allocating marine farm leases, is not restricting competition in practice. It thus assesses that Tasmania has met its CPA clause 5 obligations arising from the Act.

A5 Agricultural and veterinary chemicals

Agricultural and Veterinary Chemicals (Tasmania) Act 1994

Legislation in all jurisdictions establishes the national registration scheme for agricultural and veterinary (agvet) chemicals, which covers the evaluation, registration, handling and control of agvet chemicals to the point of retail sale. The Australian Pesticides and Veterinary Medicines Authority (formerly the National Registration Authority) administers the scheme. The Australian Government Acts establishing these arrangements are the *Agricultural and Veterinary Chemicals (Administration) Act 1992* and the *Agricultural and Veterinary Chemicals Code Act 1994*. Each state and territory adopts the Agricultural and Veterinary Chemicals Code into its own jurisdiction by referral. The relevant Tasmanian legislation is the Agricultural and Veterinary Chemicals (Tasmania) Act.

The Australian Government Acts were subject to a national review (see Chapter 19). Because the Australian Government has not completed reform of the national code, the reform of state and territory legislation that automatically adopts the code has not been completed, and the Council thus assesses Tasmania as not having met its CPA obligations in relation to its legislation.

Agricultural and Veterinary Chemicals (Control of Use Act) Act 1995

Beyond the point of sale, agvet chemicals are regulated by 'control of use' legislation. This legislation typically covers the licensing of chemical spraying contractors, aerial spraying and uses other than those for which a product is registered (that is, off-label uses).

A national review examined 'control of use' legislation in Victoria, Queensland, Western Australia and Tasmania. Tasmania incorporated the review recommendations into the *Agricultural and Veterinary Chemicals (Control of Use) Amendment Act 2002*, which Parliament passed in May 2003. The Act removes the requirement for a permit for low risk off-label use of agricultural chemicals, and limits the exemption of pharmaceutical chemists when they are acting under the instructions of a veterinary surgeon.

Tasmania has completed review and reform activity as far as possible. The Council assesses Tasmania as having complied with its CPA obligations in this area while noting that the report of a national working party examining licensing conditions for aerial spraying businesses may require further legislative change.

A6 Food

Food Act 1998

The principal competition restrictions in the area of food hygiene relate to licensing and registration requirements. In November 2000, the Council of Australian Governments (CoAG) signed an Intergovernmental Food Regulation Agreement. Under the agreement, the states and territories undertook to make their food legislation consistent with the core provisions of the Model Food Act within 12 months. The core provisions relate mainly to food handling offences and the adoption of the Food Standards Code. Adoption of the noncore provisions is voluntary. States and territories may also retain provisions in their legislation that are not in conflict with the enacted provisions of the Model Food Act.

Tasmania repealed its *Public Health Act 1962* and replaced it with the *Food Act 1998*. Following developments at the national level, Tasmania replaced the 1998 Act with the *Food Act 2003*, which is based on the model food legislation. The Act came into operation in October 2003.

The Council assesses Tasmania as having met its CPA obligations in this area.

A8 Veterinary services

Veterinary Surgeons Act 1987

Tasmania completed a minor review of its Veterinary Surgeons Act in February 2000. The review recommended that the Veterinary Board of Tasmania continue to approve educational qualifications and training courses, and regulate practice. The government retained mandatory registration for veterinary surgeons and specialists, and a requirement to keep records. It removed, however, several restrictions on bodies corporate providing veterinary services, via the *Veterinary Surgeons Amendment Act 2002* that came into effect on 1 September 2002.

In its 2003 NCP assessment, the Council expressed concern that Tasmania's NCP review did not consider the composition of Tasmania's Veterinary Board, which consists of five members as follows:

- three members who must be registered veterinary surgeons and who are nominated by the Australian Veterinary Association (Tasmanian Division)

- one member who is an officer of the relevant department and a registered veterinary surgeon, and who is nominated by the Secretary of the department

- one member who is nominated by the Minister.

The Council therefore assessed that Tasmania had not met its CPA obligations.

While the Council considers that broader representation of community interests on the board would be desirable, it accepts the view of Tasmanian officials that the statutory obligations on the Veterinary Board prevent it from implementing anticompetitive measures that would not meet the objectives of the Act.

Because Tasmania has completed significant reforms to the Veterinary Surgeons Act, the Council assesses it as having complied with its CPA obligations in this area.

B1 Taxis and hire cars

Taxi and Luxury Hire Car Industries Act 1995

The Taxi and Hire Car Industries Act allowed the Tasmanian Transport Commission to issue new taxi licences when values exceeded a 'capped value' set by regulation. Tasmania's 2000 NCP review recommended the annual issue of new licences (at a level of 5 per cent of existing licences) via a tender. Until early 2004 no such tender had been held, and taxi numbers had been stagnant for several years. Tasmania allows unlimited entry of hire cars, subject to a $5000 entry fee. At the time of the 2003 NCP assessment, the government had not considered its response to the 2000 NCP review, and the Council assessed that Tasmania's taxi reforms were incomplete.

The Tasmanian Government introduced the Taxi and Luxury Hire Car Amendment Bill to Parliament on 21 October 2003, and the Bill was passed in early December 2003. The government gazetted the amendment Act and Regulations on 17 March 2004. This legislation provides for the Transport Commission to make available by tender, in each 'taxi area' on an annual basis from late 2005 or early 2006, an additional number of perpetual taxi licences equivalent to 5 per cent of the number of existing perpetual taxi licences, or one additional perpetual taxi licence, whichever is the greater. No additional taxi plates will be made available if no bids are equivalent to the Valuer-General's assessed market value for each taxi area. If tender bids are strong, on the other hand, and the average tender price for an area exceeds the average market value by 10 per cent and all available licences for that area are sold, then the legislation requires the Transport Commission to make available a further 5 per cent additional licences for sale by tender.

Regulations associated with the legislation will establish the standard fare as a maximum fare and enable taxi operators to apply to the Transport Commission for approval of an alternative lower fare. If approval is given, the

operators could display this fare on the outside of their cabs, thus establishing the potential for price competition at ranks and elsewhere.

The legislation will also result in the Commission releasing additional wheelchair-accessible taxi licences in accordance with a schedule in the legislation that involves 20 additional licences of this type in Hobart over the first two years (2004 and 2005), nine in Launceston, two in Devonport and two in Burnie. The government advertised for expressions of interest in 16 new wheelchair-accessible taxi licences in late March 2004, and received applications for 15. These taxis will carry able-bodied passengers for about 90 per cent of their trips, and thus their contribution to the supply of taxi services will be significant. The amending legislation provides for additional wheelchair-accessible taxi licences to be issued after the first two years if the Transport Commission considers that these taxis' response times are not equivalent to those of perpetual taxis in a particular area.

In the second reading speech delivered in the House of Assembly on 2 December 2003, the Minister for Infrastructure stated that the government would establish a taxi industry working party to monitor the effect of the additional perpetual licences and discount fares on price and service competition, and the role of radio rooms in promoting competition, innovative practices and new technology.

The amendments to the taxi legislation that the Tasmanian Parliament passed in late 2003 will deliver an increased supply of taxi services. Over the two years to late 2005 or early 2006, when new perpetual plates in the main cities will be put to tender and may be taken up, the increased supply will mainly arise from the additional wheelchair-accessible taxi licences being released. In the main city, Hobart, the existing number of taxis in late 2003 was around 200, and the number of additional wheelchair-accessible taxi licences to be issued over the two year period is 20. The increase in supply of taxi services over the period will thus be around 10 per cent. There will be 33 additional wheelchair-accessible taxis across the state as a whole, representing around 8 per cent of the statewide taxi fleet of around 400 vehicles.

Although the legislation allows for a two-year 'moratorium' on the release of new perpetual taxi licences in all areas, the Minister for Infrastructure stated in the second reading speech for the Bill on 2 December 2003 that the moratorium will be applied only in the metropolitan taxi areas of Hobart, Launceston, Devonport and Burnie to encourage the uptake of wheelchair-accessible taxi licences in those cities. The Minister stated that perpetual licences could be issued in regional areas without a two-year wait. In March 2004 the government advertised for tender bids for one new licence in each of the 20 regional taxi areas, and received tender bids for licences in four of these areas. (All unsold licences will be sold by the Transport Commission at their assessed market value.)

The Tasmanian Government has introduced changes to its taxi and hire car legislation that are consistent with the four broad principles for staged reform in the industry. In the first two years after the amending Act commences,

there will be annual increases in wheelchair-accessible taxi numbers that will contribute significant increases in taxi services, together with some increases in regional taxi numbers. The government will establish a working group to monitor market developments. The legislative changes indicate that the government is committed to the potential for increased taxi numbers in future years. The Council also considers that the scope for price discounting that the new Regulations have introduced is a useful contribution to competition. The easing of restrictions on hire cars in 2000 has contributed to these vehicles being more responsive to consumer needs.

The Council has some reservations, however, that the arrangements for the tendering of perpetual plates may not result in any additional perpetual plates being issued, at least initially, because tender participants may not bid at the Valuer-General's assessed market value (particularly in the first tender). Nevertheless, in subsequent tenders, the assessed market value should adjust to the levels that the market can bear, because the Valuer-General will be able to use information garnered from the first auction. The Council also considers that the government should ensure the taxi industry working party, which will monitor the impacts of the reforms on price and service competition, is not dominated by particular sectional interests.

With the above provisos, the Council assesses that Tasmania has complied with its CPA clause 5 obligations in relation to taxis and hire cars.

C1 Health professions

Medical Practitioners Registration Act 1996

Tasmania's review of the Medical Practitioners Registration Act found that registration of medical practitioners is justified in the public interest, but that restrictions on the ownership of medical practices and controls on advertising were not.

The Tasmanian Government has accepted the review's recommendations, embodying them in amendments in the Medical Practitioners Registration Amendment Bill 2004, which Parliament passed.

Accordingly, the state has met its CPA clause 5 obligations in relation to this profession.

Optometrists Registration Act 1994

The key recommendations of Tasmania's optometry review were to remove restrictions on the ownership of practices and on the advertising of services. For the 2003 NCP assessment, the Council was advised that the government had accepted the recommendations. However, because the reforms had not

been implemented at the time, the Council assessed the state as not having completed its review and reform of optometry regulation.

The review recommendations have now been embodied within the Optometrists Registration Bill 2004 passed by Parliament. Accordingly, the Council now assesses the state as having met its CPA clause 5 obligations in this area.

Pharmacy Act 1908
Pharmacists Registration Act 2001

CoAG national processes for reviewing pharmacy regulation recommended that jurisdictions remove restrictions on the number of pharmacies that a pharmacist can own and on the ability of friendly society pharmacies to operate in the same way as other pharmacies (see chapter 19). Compliance with these requirements requires Tasmania to remove these restrictions from the Pharmacists Registration Act.

In the context of the Council's request for additional information following receipt of Tasmania's 2004 NCP annual report, the state advised that it had drafted an amendment Bill to implement pharmacy reforms in April 2004. However, this Bill was redrafted following correspondence from the Prime Minister on this issue to contain provisions to increase the number of pharmacies both pharmacists and friendly societies can own from 2 to 4. The Bill was subsequently tabled in Parliament on 19 October 2004.

As the proposed reforms fall short of reforms recommended by CoAG national processes, the Council assesses Tasmania as not yet having met its review and reform obligations in relation to pharmacy.

C2 Drugs, poisons and controlled substances

Poisons Act 1971
Alcohol and Drug Dependency Act 1968
Pharmacy Act 1908 (replaced by *Pharmacy Registration Act 2001*)
Criminal Code Act 1924 (drugs and poisons)

Following the outcome of the Galbally Review (see chapter 19), the Australian Health Ministers Council endorsed a proposed response to the review recommendations. CoAG is now considering the proposed response out of session.

Tasmania has advised that it is drafting a new Poisons Act to account for the outcome of the national review.

The Council acknowledges that the Galbally Review is subject to national processes. However, because Tasmania has not yet fully implemented review recommendations, it has not yet met its CPA obligations in this area.

D Legal services

Legal Profession Act 1993

The recommendations from the Tasmanian review of the Legal Profession Act were to:

- reform the conveyancing market and remove the reservation of conveyancing work
- remove restrictions on advertising and on business structures for legal practices
- permit legal practitioners to arrange their own insurance
- introduce a new disciplinary process.

In the 2003 NCP assessment, the Council noted that Tasmania had not yet implemented reforms to its legal services legislation, and thus assessed the state's progress in this area as being incomplete.

The state has now passed the Conveyancing Bill 2004, which removes conveyancing practice reservations consistent with best practice. The separate Legal Profession Amendment Bill 2004 (introduced into Parliament in April 2004) sought to address advertising and disciplinary recommendations. However, as it has not passed through the Legislative Council, the government has decided not to progress the Bill. The state advises that the Minister is now currently attempting to resolve a number of issues with the Law Society.

As a consequence of the National Model Laws Project (see chapter 19), a final Bill will incorporate the remaining issues. These changes will allow for multidisciplinary practices (for example, to combine accounting and law firms under the one practice) and the use of contingency fees. In this context, Tasmania will consider the requirement that insurance for legal practitioners must be provided by the Law Society of Tasmania.

Tasmania has significantly enhanced competition in the legal profession through the passage of the Conveyancing Bill 2004, with further reforms pending.

However, because Tasmania has not yet completed its review and reform process, it has not yet met its CPA obligations in relation to the legal profession.

E Other professions

Auctioneers and Real Estate Agents Act 1991

The Department of Justice and Industrial Relations released the draft report of its review of the Auctioneers and Real Estate Agents Act for public comment in November 2001. The draft report's preliminary recommendations proposed:

- licensing real estate agents, subject to competency based qualifications and good character checks (both personal and financial), but not licensing:
  - real estate managers and sales consultants, because the educational qualifications and reputation checks of employees should be a matter for the employing agents
  - property managers, but requiring them to comply with general trust accounting and record management requirements
- continuing to exempt legal practitioners and accountants from the licensing requirement in relation to the sale of businesses that do not involve the sale of land
- allowing real estate agents to enter multidisciplinary partnerships
- transferring the regulatory and disciplinary functions of the Auctioneers and Real Estate Agents Council to the Office of Consumer Affairs and Fair Trading.

Tasmania intended to introduce new legislation in the spring 2002 session of Parliament, but was delayed by the state election. The legislation has not been introduced in subsequent sessions.

While the proposed reforms are consistent with the CPA guiding principle, the Council assesses Tasmania as not having met its CPA obligations in this area, because the state has not completed its reforms.

Travel Agents Act 1987

Governments are taking a national approach to reviewing their travel agent legislation. The Ministerial Council on Consumer Affairs commissioned the Centre for International Economics, overseen by a Ministerial council working party, to review legislation regulating travel agents. The findings of the review and the working party response are outlined in chapter 19. Tasmania has implemented the majority of the recommendations from the review, but further legislative change may be required in connection with national changes to travel agents' qualifications.

The Council assesses Tasmania as not having met its CPA obligations in relation to travel agents legislation because it has not completed reform.

F1 Compulsory third party motor vehicle insurance

Motor Accidents (Liabilities and Compensation) Act 1973

The Tasmanian Government stated in its 2001 and 2002 NCP annual reports that it was examining the Victorian review of the Transport Accident Commission before making decisions about its Motor Accident Insurance Board, which is the statutory monopoly provider of compulsory third party motor insurance. The 2003 NCP annual report stated that the government had completed this examination and decided to make no changes to the legislation. Tasmania's 2004 annual report confirmed this decision.

For reasons outlined in chapter 9, the Council has not assessed Tasmania's compliance with its CPA obligations in this area for the 2004 NCP assessment.

I1 Education

Vocational Education and Training Act 1994

The Vocational Education and Training Act restricts competition by establishing conditions for the registration of training providers and the accreditation of training courses. Tasmania completed a review of the Act in 2001, which recommended simplifying the legislative provisions regarding vocational placements. Amendments arising from the review were enacted through the *Vocational Education and Training Amendment Act 2003*, which was proclaimed in November 2003.

The Council thus assesses Tasmania as having met its CPA obligations in this area.

I3 Gambling

Racing Act 1983
Racing and Gaming Act 1952 (except minor gaming)
Racing and Gaming Act 1952 (relating to minor gaming)

The Racing and Gaming Act (except for minor gaming) is now called the *Racing Regulation Act 1952*. The latter Act provided an exclusive licence for

TOTE Tasmania (formerly the TAB) to conduct totalisator betting and regulated the relationship of TOTE Tasmania with the racing industry. The provisions of the Racing Regulation Act that relate to totalisator betting subsequently became the *Gaming (Totalisator Betting) Act 1952*.

Following a restructure of its racing industry, Tasmania prepared three new Bills to replace the Racing Act and the Racing Regulation Act and these were assessed under Tasmania's gatekeeper arrangements. A regulatory impact statement prepared by representatives from the Department of Infrastructure, Energy and Resources found all major restrictions in the Bills as being in the public benefit. It is expected that the Bills will be debated in the spring 2004 session of Parliament. The Council notes that independent reviews in other jurisdictions did not find a public interest case for several of the restrictions which were subsequently relaxed or removed — for example:

- a prohibition on racing codes other than thoroughbred, harness and greyhound racing entering the regulated industry
- the requirement that bookmakers operate only as individuals or partnerships
- restrictions on the time, place and manner of betting with bookmakers
- a minimum telephone betting limit ($100).

In addition, the Council considers that it would be difficult to implement the recommended continuation of the prohibition on bookmakers (and other persons) transmitting bookmaker betting odds off course.

The provisions of the Racing and Gaming Act that relate to minor gaming were initially reviewed as part of a review of Tasmania's gaming legislation. In 2001, the gaming components of this Act were transferred to the *Gaming Control Act 1993* and were assessed under Tasmania's gatekeeper provisions. The Council's assessment of this Act is provided below.

TOTE Tasmania had a monopoly in the provision of wagering services from approved locations (over the counter) in Tasmania. Apart from totalisator wagering, this monopoly ended on 31 December 2003. From 2004, a Tasmanian gaming licence holder with fixed odds or sports betting endorsements will be able to provide services either over the counter or at an approved sporting event. However, the new legislation will retain TOTE Tasmania's monopoly on the provision of totalisator wagering services. This monopoly was not considered in the review of Tasmania's racing and betting legislation which reported in July 2003.

The Council considers that Tasmania needs to make a stronger public interest case to support its proposed retention of restrictions in its racing legislation. In addition, Tasmania has not reviewed the TOTE Tasmania monopoly of totalisator wagering services.

The Council thus assesses Tasmania as not having met its CPA obligations in relation to racing and betting legislation because the state has not completed the review and reform of its legislation.

Gaming Control Act 1993 (gaming machines, casino licensing and minor gaming)

Tasmania completed a minor review of its Gaming Control Act, finding that the restrictions on gaming machine operations should be retained on the grounds of probity. The review specifically excluded the 1993 deed between the Crown and Federal Hotels that gave Federal Hotels an exclusive 15-year licence to conduct casino, gaming machine and minor gaming (keno) operations. The deed is not a public document.

In correspondence dated 13 December 2001, Tasmania advised the Council that:

- a compensation claim would arise from revoking the exclusive licence
- it did not intend extending or renewing the licence with Federal Hotels beyond its expiry date.

In response, the Council indicated that it:

- accepted Tasmania's argument that the likely compensation claim from terminating the exclusive licence early may exceed any benefits from ending the licence before its expiry date
- sought a clear undertaking that Tasmania would not consider any exclusivity arrangements beyond 2008 with any potential operator.

On 6 May 2003, the Tasmanian Treasurer advised that the government intended to extend the exclusive licence to conduct keno, casino and gaming machine operations until 2018. The Treasurer also announced the introduction of a statewide legislative cap of 3680 on gaming machines — 287 more than the current number of machines in Tasmanian venues. The arrangements provide for a limit of 2500 gaming machines to be accessible through hotels and clubs. Venue limits for machines are to remain at 30 for licensed hotels and 40 for licensed clubs.

Tasmania's regulatory impact statements show that Tasmania currently has:

- the second lowest number of machines per thousand adults in Australia
- a below average spend per machine
- a relatively low level of problem gambling.

The regulatory impact statements maintain that the extension of exclusivity provides a public benefit by enabling the introduction of a statewide cap and legislated venue caps, which will prevent the proliferation and intensified use

of gaming machines and resultant increases in harm. They state that current deed arrangements prevent the state from limiting the growth in gaming machine numbers before 2008 because any attempt to do so would introduce significant sovereign risk issues and be likely to invoke lengthy legal proceedings involving financial compensation to the licensee. The Government considers that it would also have sent an extremely negative signal to the business community about the risks of doing business with the Tasmanian Government.

The regulatory impact statements state that if the government had not extended exclusivity, Federal Hotels would have exercised its right to increase gaming machine numbers resulting in an estimated increase of approximately 1500 machines before the expiration of its licence exclusivity in 2008. This estimate is based on the number of currently licensed venues that would be entitled to more machines and an estimate of the number of currently unlicensed venues (hotels predominantly) that could accommodate gaming machines in future.

Referring to the Productivity Commission finding that caps on gaming machine numbers can encourage gaming operators to operate existing machines more intensely and locate them in areas in which they achieve highest returns, the regulatory impact statements argue that retaining venue caps will limit this behaviour by Federal Hotels. Also, the limit on the total number of machines that may be installed in hotels or clubs means Federal Hotels will be unable to increase the wider availability of machines through clubs and hotels by reducing the number of machines at the state's two casinos.

The regulatory impact statements reject counteracting the potential increase in gaming machine numbers with increased player protection and harm minimisation measures, on the grounds that the gambling industry is already highly regulated and that further regulation would impinge on the legitimate nature of gambling as a form of entertainment for the community.

In addition to ceding its rights to increase gaming machine numbers, Federal Hotels agreed to other concessions in return for licence exclusivity. These included an increased contribution rate to the Community Support Levy, a commitment to improved player protection measures, payment of higher annual licence fees and taxes, and the provision of higher financial returns to venues that will have an enhanced ability to choose the machine/game mix for their particular venue. Tasmania considers that the latter offsets venues' lack of choice of gaming machine operator.

Tasmania also considers that additional competition would be of limited economic benefit, given the heavy level of regulation that exists in the gaming market. The second regulatory impact statement states that 'the impact of removing exclusivity is likely to be a small transfer of gains between participants rather than increased employment, economic efficiency or economic growth' (DTF 2004c, p. 9). It considers that the transfers could be in the form of 'higher player returns to consumers, or increased profits to venue owners through lower costs', but that these 'would be at the expense of higher

government licence fees and taxes that can be levied when a franchise is provided' (DTF 2004c, p. 9).

Tasmania supports its argument about the limited benefits of more competition by referring to Victoria, where two operators compete and attempt to maximise the return from each machine, resulting in Victoria having the highest gross profit per machine in Australia, the second highest spend per machine and the second highest level of problem gambling.

The changes to the Gaming Control Act that extend the exclusive licence were passed by Tasmania's Parliament in October 2003. Central to the Council's assessment is Tasmania's contention that the 1993 deed entered into with Federal Hotels means extending licence exclusivity is the only way in which to achieve the objective of limiting gaming machine numbers — that is, without licence exclusivity, Tasmania faced the prospect of Federal Hotels installing another 1500 machines.

While the Council can see benefits in the statewide cap, it has reservations as to whether, in the absence of exclusivity, Federal Hotels would have expanded machine numbers to the extent claimed. The Council notes that the annual reports of the Tasmanian Gaming Commission show that in 2001-02 and 2002-03, more gaming machine licences were surrendered than new licences issued. This suggests that the gaming machine market had reached saturation point, at least under current licensing requirements.

In the event that it did not gain an extension of exclusivity, Federal Hotels foreshadowed changes to its business model (presumably a relaxation of the conditions imposed on new licensed venues) in order to expand gaming machine numbers. However, if Federal Hotels faced the prospect of losing exclusivity in 2008, expansion of machine numbers would be a strategy of doubtful merit, as it would result in the company owning a large number of near new gaming machines without certainty about the right to operate them in future.

The Council considers that the principal beneficiaries from competition are likely to be venue owners and consumers, although the extent of their gains is unlikely to be substantial. It is not clear that any benefits to these groups would be offset by lower licence fees and taxes as claimed by Tasmania. Without a competitive tender for the right to operate machines it is difficult for Tasmania to demonstrate that its current arrangements maximise government revenue from the gaming machine licences on issue.

The Council thus assesses Tasmania as not having complied with its CPA obligations in relation to the areas subject to the deed — gaming machines, casinos and minor gambling (keno).

J3 Building occupations

Architects Act 1929

A national review of state and territory legislation regulating the architectural profession was completed in 2002. Chapter 19 provides more details on this national review.

When the Council completed the 2003 NCP assessment, Tasmania had not completed legislative amendments to account for recommendations arising from the national review process. In its 2004 NCP annual report to the Council, Tasmania reported that the *Building Act 2000*, which commenced in 2003, and the *Building (Consequential Amendments) Act 2003*, which amends the Architects Act, implemented all of the recommendations arising from the national review of state and territory architects' legislation.

The Council assesses Tasmania as having met its CPA clause 5 obligations.

Plumbers and Gas-fitters Registration Act 1951

Tasmania completed a review of the Plumbers and Gas-fitters Registration Act in October 1998. The Act restricts competition by requiring licensing and registration of plumbers and gasfitters, and specifying entry requirements, the reservation of practice for activities, and disciplinary processes. The review recommendations included allowing any person to work under the direct supervision of a registered plumber or gasfitter; allowing any person to do simple plumbing tasks; reducing the existing levels of registration; and limiting the qualifications and experience required for registration to a demonstration of competence.

When the Council prepared the 2003 NCP assessment, the Tasmanian Government had not considered the 1998 NCP review recommendations, and the assessment found review and reform activity was incomplete. Tasmania has since proposed new occupational licensing legislation to provide for the licensing and registration arrangements for plumbers, gasfitters and electricians. The government accepted all of the review recommendations and proposes to introduce the legislation to Parliament in the autumn 2005 session to amend the Act to reduce areas of reservation of practice, limit the qualifications and experience required for registration, implement a self-certification system, and amalgamate registration and plumbing inspection systems.

The Council assesses Tasmania as not having met its CPA clause 5 obligations because the state has not completed the reform process.