7 Gas

National Competition Policy commitments

The Council of Australian Governments (COAG) recognised in the 1990s that a well developed and competitive gas industry is vital to Australia's economic and environmental future. It thus struck agreements aimed at creating a national gas market with more competitive supply arrangements:

- The 1994 COAG gas agreement set a timetable and framework to introduce free and fair trade in natural gas.
- The 1995 competition policy agreements, including the Competition Principles Agreement (CPA), linked reform of the natural gas industry to National Competition Policy (NCP) payments.
- The 1997 Natural Gas Pipelines Access Agreement set a framework for governments to enact uniform gas access legislation incorporating the National Third Party Access Code for Natural Gas Pipeline Systems (the National Gas Code).

Table 7.1 summarises governments' NCP commitments in gas. The core commitments are (1) the removal of all legislative and regulatory barriers to free and fair trade in gas within and between jurisdictions, and (2) the provision of third party access to gas pipelines. Other commitments include:

- the adoption of uniform national pipeline construction standards
- the commercialisation of publicly owned gas utilities
- the removal of restrictions on the uses of natural gas (for example, for electricity generation)
- the limiting of gas franchise arrangements to those that are consistent with free and fair competition in gas markets and third party access.

Table 7.1: Summary of government commitments

Commitment	*Source of commitment*
Corporatisation, vertical separation of transmission and distribution activities, and structural reform of government owned gas utilities	1994 gas agreement and the CPA
Ringfencing of privately owned transmission and distribution activities	1994 gas agreement
Implementation of Australian Standard (AS) 2885 to achieve uniform pipeline construction standards	1994 gas agreement
Gas access regime	
Enactment of regime	1997 gas agreement, clause 5
Non amendment of the regime without the agreement of all ministers	1997 gas agreement, clause 6
Amendment of conflicting legislation and no introduction of new conflicting legislation (except regulation of retail gas prices)	1997 gas agreement, clause 7
Certification	1997 gas agreement, clause 10.1
Continued effectiveness of the regime after certification	1997 gas agreement, clause 10.2
Transitional provisions and derogations that do not go beyond annex H and annex I	1997 gas agreement, clause 12
Licensing principles	1997 gas agreement, annex E
Franchising principles	1997 gas agreement, annex F
Legislation review	
Upstream issues, particularly petroleum (submerged lands) Acts and petroleum Acts	CPA
Industry standards, trade measurement Acts and national measurement Acts	CPA
Consumer protection	CPA
Safety	CPA
Other legislative restrictions (for example, shareholding restrictions, licensing Regulations, agreement Acts)	CPA

Progress in meeting commitments

The COAG reforms for free and fair trade in gas are nearing completion. The National Competition Council has previously concluded that two areas of reform were complete: (1) the structural reform of gas utilities and (2) adherence to the COAG franchising and licensing principles.

All states and territories have implemented the National Gas Code.[1] In most states and territories, all gas customers (including households) can enter a contract with a supplier of choice.[2] Governments have also removed most remaining legislative and regulatory barriers to trade, removed most exclusive franchise arrangements and reformed the monopoly utilities that once dominated the gas industry. The NCP assessments facilitate independent monitoring of gas reform implementation and, in the Council's view, have provided strong incentives for jurisdictions to complete the COAG reforms.

NCP gas reform has promoted the gas industry's development. The Parer review considered that the removal of restrictions on interstate trade in gas, the provision of access to pipelines and the removal of exclusive franchises have encouraged exploration for, and the development of new gas reserves and the construction of new pipelines (COAG Energy Market Review 2002).

While governments have substantially completed their implementation of the COAG gas reforms, the 2004 NCP assessment identified areas in which work remained. In the following sections, the Council considers governments' progress in those areas.

National Gas Access Regime

Enactment and certification

The 1997 gas agreement requires governments to enact legislation to introduce a regime for third party access to the services of natural gas pipelines. The regime comprises a national Gas Pipelines Access Law (GPAL), the National Gas Code and state legislation covering the appointment of regulatory and review bodies. Governments are also required to apply for certification of their gas access regimes as being effective regimes under part IIIA of the *Trade Practices Act 1974*.

The Council previously assessed that:

- all governments have met their obligations to enact the National Gas Access Regime

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1 Some jurisdictions implemented derogations (variations) from the code. In most cases, the Australian Government and all state and territory governments approved these derogations.

2 In Queensland, only customers using more than 100 terajoules of gas a year can choose their gas supplier. Queensland advised that it will reduce the threshold to 1 terajoule of gas a year in 2005. In other states and territories, all gas customers can choose their supplier.

- all governments except Tasmania have applied for certification of their access regimes as being effective under part IIIA. It is not an NCP requirement that a regime be granted certification. Nonetheless, the access regimes of all jurisdictions other than Queensland and Tasmania have been certified as effective.[3] Table 7.2 summarises progress in the enactment and certification of state and territory gas access regimes.

Table 7.2: Enactment and certification of access regimes

Jurisdiction	*Legislation enacted*	*Certified effective*
New South Wales	Yes	Certified effective March 2001 for 15 years
Victoria	Yes	Certified effective March 2001 for 15 years
Queensland	Yes	Recommendation of the Council is with the Australian Government minister. The recommendation is that the regime does not meet the requirements for effectiveness under part IIIA of the Trade Practices Act.
Western Australia	Yes	Certified effective May 2000 for 15 years
South Australia	Yes	Certified effective December 1998 for 15 years
Tasmania	Yes	Application made to Council in October 2004. The Council's draft recommendation (February 2005) is that the regime is effective. The Council's final recommendation was forwarded to the Australian Government minister in April 2005.
ACT	Yes	Certified effective September 2000 for 15 years
Northern Territory	Yes	Certified effective October 2001 for 15 years

Tasmanian gas access regime

Under the 1997 gas agreement, Tasmania's obligations to enact the National Gas Access Regime and apply for certification of its regime were delayed until the state's first natural gas pipeline was approved, or until a competitive tendering process for a pipeline commenced. In 2002, Duke Energy International completed construction of a transmission pipeline from Victoria to Tasmania, with lateral pipelines to the south and north west of the state.

Tasmania signed agreements with Powerco Limited in 2003 to develop the state's distribution network. Work commenced in October 2003, with the rollout of the backbone networks scheduled for completion in 2005. A core urban network for domestic gas reticulation is being progressively built between February 2005 and April 2007.

[3] The Council reviewed Queensland's access regime and recommended in 2002 that it did not meet the requirements for effectiveness. An absence of certification does not limit the operability of a state access regime. However, the services covered by an ineffective regime are open to a declaration application under part IIIA of the TPA. For Tasmania, see table 7.2.

Tasmania implemented the National Gas Code through the *Gas Pipelines Access (Tasmania) Act 2000*, which it passed in November 2002. Tasmania satisfied its NCP obligations in this area by applying for certification of its access regime in October 2004. The Council's recommendation on the effectiveness of the regime is with the Australian Government minister.

Full retail contestability

The 1997 gas agreement requires the introduction of full retail contestability for all gas consumers. This entails the right to enter a gas supply contract with a supplier of choice. Full retail contestability promotes competition between gas retailers and gas producers, thus encouraging better service quality, more efficient energy industries (through opportunities for economies of scale) and lower prices for customers.

The introduction of full retail contestability is important to fully realise the benefits of reform in the gas sector. To do this effectively, governments must remove legal barriers to competition and implement business rules that cover:

- processes for measuring gas use (through metering, profiling or other processes)
- protocols for transferring customers from one supplier to another
- consumer protection
- safety and gas specifications to enable interconnection to take place.

The legal removal of most barriers to competition occurred with the enactment of the GPAL, including the National Gas Code. The business rules must make it practical for customers to select from among suppliers, thus encouraging suppliers to compete to secure customers. Similar processes have promoted competition in industries such as telecommunications.

The 1997 gas agreement nominated 1 September 2001 as the latest date for governments to introduce full retail contestability.[4] Governments experienced significant difficulties with achieving this timeframe, and some announced deferrals of up to 18 months for smaller customers. The difficulties related to:

- the introduction of information technology systems to handle customer billing and transfer
- a need for the industry to develop market rules to allow for the orderly management of customer transfers between retailers
- the choice and costs of a method of metering (that is, how to cost-effectively measure gas use by small customers).

[4] Except for Western Australia, where the date was 1 July 2002.

For the 2004 NCP assessment, the Council considered that New South Wales, Victoria, Western Australia, South Australia, the ACT and the Northern Territory had met their NCP obligations by removing legal and other barriers to full retail contestability. Queensland and Tasmania were yet to implement full retail contestability. Table 7.3 outlines progress in this area.

Table 7.3: Contestability timetables for the National Gas Access Regime (TJ = terajoule)

Date	*New South Wales*	*Victoria*	*Queensland*	*Western Australia*	*South Australia*	*ACT*	*Northern Territory*	*Tasmania*
1 July 1999					>10 TJ a year			
1 September 1999		Customers using >100 TJ a year						
1 October 1999	Customers using >1 TJ a year					Customers using >1 TJ a year	No phase-in arrangements	
1 January 2000				Customers using >100 TJ a year				
1 July 2000					Industrial and commercial customers using <10 TJ a year			
1 September 2000		Customers using >10 TJ a year						
1 July 2001			Customers using >100 TJ a year		All customers[d]			
1 September 2001		Customers using 5–10 TJ a year						
1 January 2002	All customers			Customers using >1 TJ a year		All customers[e]		
1 July 2002				All customers[c]				
1 October 2002		All customers[a]						
2002–05			No scheduled date for customers using < 1 TJ[b]					Expected from 2005[f]

[a] Modified from previous timetable for all customers of 1 September 2001. [b] Modified from previous timetables of 1 September 2001 and 1 January 2003. Contestability for customers using 1–100 TJ a year scheduled for 2005. [c] Practical implementation occurred in May 2004. [d] Practical implementation occurred in July 2004. [e] Modified from previous timetable for all customers of 1 July 2000. [f] From commencement of gas flows through distribution networks, expected to occur progressively between 2005 and 2007.

Queensland

The Council assessed in the 2004 NCP assessment that Queensland had made no progress towards extending contestability to commercial and industrial customers using 1–100 terajoules of gas a year, despite an independent study (commissioned by Queensland) finding that the benefits of extending contestability would outweigh the costs. Queensland's lack of progress meant that consumers of less than 100 terajoules of gas a year were unable to choose their supplier. The affected parties include around 740 industrial and commercial businesses and 150 000 residential customers, comprising about 10 per cent of the Queensland gas market (by volume).

In 2004, Queensland provided the Council with two cost–benefit studies by consultants McLennan Magasanik Associates Pty Ltd (MMA 2003), which found that extending contestability would result in:

- positive net benefits for customers using 1–100 terajoules of gas a year (tranches 2 and 3)
- negative net benefits for customers using 0–1 terajoules a year (tranche 4).

The study recommended an extension of contestability to tranches 2 and 3. Queensland informed the Council in September 2004 that it had not implemented the recommendation because it had not identified an equitable method of unwinding historical cross-subsidies in the market.

The 1997 gas agreement recognised that the introduction of retail contestability would pose transitional issues (including cross-subsidy issues) for all jurisdictions, and allowed for a phased implementation by September 2001. Queensland did not meet this time frame and failed to gain the approval of all governments for an indefinite deferral of retail contestability as required by the agreement.

The Council concluded in the 2004 NCP assessment that Queensland had not complied with its obligations under the 1997 agreement and had failed to implement the recommendations of its own cost–benefit assessment. It considered that Queensland's failure to extend contestability was a serious breach of its NCP gas reform commitments. In particular, the consultancy study identified significant benefits in extending contestability, both for medium to large gas users and for the Queensland community.

Queensland reported in 2005 that it had passed a regulation to extend retail gas contestability to commercial and industrial gas customers using 1–100 terajoules a year (tranches 2 and 3) from 1 July 2005. The regulation establishes 1 terajoule as the threshold for customer contestability. The practical extension of contestability requires the implementation of market operation and business rules, of which Queensland released a consultation draft in 2005. Queensland reported it will give effect to the rules in a regulation under the Gas Supply Act. Subject to approval by the Executive

Council, the rules are scheduled to commence on 1 November 2005. There are no other barriers to contestability for tranche 2 and 3 customers.

The Council considers that the practical extension of contestability to tranche 2 and 3 customers will address Queensland's current obligations in this area. Consistent with Queensland's undertakings on this matter, the Council would expect Queensland to review no later than 2007 its decision not to extend contestability to tranche 4 customers.

Tasmania

The *Gas Infrastructure (Miscellaneous Amendments) Act 2003,* passed by the Tasmanian Parliament in July 2003, provides for a fully contestable gas retail market. Tasmania reported that there are no legislative restrictions to full retail contestability. Customers will be free to choose their gas supplier from the commencement of gas flows through the distribution network, which is being progressively developed for 39 500 households between 2005 and 2007. Two retailers, Powerco and Aurora Pty Ltd, have been licensed to retail gas. Tasmania envisages that customer choice will grow as the market develops.

Tasmania reported that it is developing a regulatory framework to clarify the status of embedded distribution networks. The Government intends to consider this matter by late 2005.

Legislative restrictions on competition

Governments agreed to review and, where appropriate, reform by 30 June 2002 all existing legislation that restricts competition. Reform is appropriate where restrictions do not provide a net benefit to the whole community and are not necessary to achieve the objective of the legislation. Any new legislation that restricts competition must also meet this test.

Legislation relating to natural gas generally falls into one or more of the following categories: petroleum (onshore and submerged lands) legislation; pipelines legislation; restrictions on shareholding in gas sector companies; standards and licensing legislation; and state and territory agreement Acts. Other areas might include mining legislation (particularly dealing with coal and oil shale, which can produce coal methane gas) and environmental planning legislation. Governments' progress in reviewing and reforming relevant legislation is reported in table 7.6. The review and reform of natural gas legislation have been completed in most areas, although some reviews have not been finalised and some necessary reform is yet to be implemented.

Upstream issues

An efficient gas production sector ensures gas sales markets can develop and grow. In 1998 the Upstream Issues Working Group reported to COAG on the development of a more competitive gas production (upstream) sector. It identified the key issues as being the marketing arrangements used by gas producers, third party access to upstream processing facilities, and acreage management legislation.

All jurisdictions have been engaged in the review and reform of their acreage management legislation, for both offshore and onshore acreage. The offshore legislation—the petroleum (submerged lands) Acts—was reviewed through a national process. Each state and territory with onshore acreage management legislation is reviewing that legislation individually.

Submerged lands legislation

All states and the Northern Territory have petroleum (submerged lands) legislation that mirrors Australian Government legislation to regulate exploration for, and the development of, undersea petroleum resources. Collectively, the legislation forms a national scheme. A review of the Acts in 1999-2000 concluded that the legislation is essentially pro-competitive and that the benefits of any restrictions on competition (in relation to safety, the environment and resource management, for example) outweigh the costs. The review recommended two specific legislative amendments, focusing on administrative streamlining and measures to enhance the certainty and transparency of decision making. One amendment sought to address potential compliance costs associated with retention leases and the other sought to expedite the rate at which exploration acreage can be made available to explorers. A third recommendation was to rewrite the legislation.

The Australian Government incorporated the specific legislative reforms into the *Petroleum (Submerged Lands) Amendment Act 2002,* which it enacted in October 2002. The government then rewrote the legislation and introduced a new Offshore Petroleum Bill on 23 June 2005. The House of Representatives passed the Bill on 18 August 2005.

All relevant jurisdictions are required to amend their mirror legislation to incorporate both the specific amendments and the rewrite of the Act. All jurisdictions indicated that they will make the necessary legislative amendments, but some are awaiting the passage of the Offshore Petroleum Act before changing their own legislation. Others implemented the specific reforms and will draft legislation to mirror the new Australian Government Act once it is passed. Table 7.4 provides a summary of progress in this area.

The Council considers that reform in this area remains incomplete, but recognises that all states and territories have committed to implement the necessary amendments to establish a nationally consistent regime.

Table 7.4: Amendments to petroleum (submerged lands) legislation

Jurisdiction	*Action*
New South Wales	The amendment Bill covering specific reforms was passed on 8 June 2005 and given royal assent on 15 June 2005.
Victoria	The amendment Bill covering specific reforms was passed in the autumn 2004 Parliamentary sitting and given royal assent in May 2004. Victoria will rewrite the Act following the passage of the Australian Government Act.
Queensland	The amendment Act was passed in 2004. Queensland will rewrite the Act following the passage of the Australian Government Act.
Western Australia	The specific reforms are being drafted via the Petroleum Legislation Amendment Bill.
South Australia	The amendment Bill covering specific reforms was enacted on 16 December 2004.
Tasmania	The amendment Bill covering specific reforms was passed in November 2004, but has not been proclaimed. Tasmania is awaiting the finalisation of the new Australian Government Act before proceeding with further amendments.
Northern Territory	The government is awaiting the completion of the Australian Government Act before amending its own legislation.

Onshore acreage management legislation

The Council previously assessed that New South Wales, Victoria and South Australia had met their NCP obligations to review and reform their onshore acreage management legislation. The Australian Government, the ACT and Tasmania do not have this type of legislation.

Queensland's review of the *Petroleum Act 1923* and the *Gas Act 1965* led to the introduction of a package of new legislation to Parliament in May 2004. The legislation is consistent with the intent of the Upstream Industry Working Group's reforms in acreage management, in that it adopts:

- a competitive tender process for the grant of onshore exploration acreage. Authorities to prospect will have a maximum term of 12 years, with progressive relinquishment over that period

- a requirement for strict compliance with work programs submitted through a tender process

- an increase in the size of production tenures, but a change in the criteria for their grant to ensure only areas of identified reserves are included. Acreage with the potential for further discoveries is excluded.

The *Petroleum and Gas (Production and Safety) Act 2004*, the *Petroleum and other Legislation Amendment Act 2004* and associated Regulations commenced on 31 December 2004. Queensland is progressively implementing the legislation, with many provisions taking effect from 1 July 2005.

The Northern Territory reviewed its *Petroleum Act* and approved the implementation of the review recommendations. It implemented eight recommendations via the *Petroleum Amendment Act 2003* and the remaining six recommendations via the *Petroleum Amendment Act 2004,* which commenced on 13 September 2004.

Outstanding legislation review and reform matters

In addition to the natural gas legislation noted above, the review and/or reform of two additional instruments was incomplete at the time of the 2004 NCP assessment: Victoria's *Pipelines Act 1967* and Tasmania's *Launceston Gas Company Act 1982*.

Victoria's Pipelines Act regulates the construction and operation of major gas and petroleum pipelines in the state. Victoria undertook an NCP review of the Act in 1997 and announced a full review of the Pipelines Act in 2000 to develop a regulatory framework that is consistent with other forms of infrastructure. Victoria has completed that review and a Pipelines Bill implementing the NCP recommendations agreed to in the government's response of 2002 has been passed by both houses of Parliament and is awaiting royal assent. Regulations will need to be developed, so the likely commencement of the new Pipelines Act will be late 2006.

Tasmania's Launceston Gas Company Act gives that company powers that are not available to potential competitors in the gas supply market. Tasmania substantially amended the Act via new legislation and intends to repeal the remaining sections in the spring 2005 session of Parliament.

Tasmania has also introduced a substantial body of gas industry legislation since 2000 to coincide with the development of its gas industry. The state's gatekeeping arrangements apply to all proposed legislation to assess consistency with clause 5 of the CPA. The initial assessments are conducted by Treasury's Regulation Review Unit. Where the unit identifies a major restriction on competition, the administering agency must prepare a regulatory impact statement and conduct a public consultation process. The Council is satisfied that the arrangements provide a robust process for assessing compliance with CPA clause 5.

Industry standards

The Australian gas industry has been developing a national gas quality standard so processed gas can move through all interlinked pipeline networks without adversely affecting pipelines or gas appliances. The Council considers that such a standard is important to achieving a national gas market by removing a potential barrier to interstate gas trade.

Following a gas quality appliance testing program, undertaken by the Australian Gas Association and funded by governments and industry, the Natural Gas Quality Specification Committee was formed to write a new gas quality standard specification for general purpose natural gas. The standard, known as AS 4564/AG 864, defines the requirements for providing natural gas suitable for transportation in transmission and distribution systems within or across state borders, and provides the range of gas properties consistent with the safe operation of natural gas appliances supplied to the Australian market. Relevant gas sales contracts, legislation and/or government guidelines provide temporary departures from the standard.

AS 4564/AG 864 was endorsed in January 2003. All governments other than Western Australia and the Northern Territory have stated their intention to implement the standard (table 7.5). New South Wales, Queensland, South Australia and Tasmania have completed this reform. The Council considers that Victoria and the ACT have demonstrated a commitment to doing so.

Western Australia's Gas Standards (Gas Supply and System Safety) Regulations 2000 include a gas quality specification that applies to gas entering a gas distribution system. The specification has similarities to the national standard but specifies a higher heating value range and a different hydrocarbon dewpoint. The higher heating value range is considered important in Western Australia because it forms the basis for billing customers on an energy basis, and a number of contracts reflect higher heating value. Legislation does not specify gas quality in transmission pipelines, but pipelines covered by an access arrangement must include a gas quality specification in the arrangement.

Following discussions with industry in 2004, the government decided not to adopt the national standard. Western Australia will review and, where appropriate, amend its standards to reflect the national standard if interconnection with interstate pipelines occurs. It considers that the adoption of the national standard would not have a material effect on the performance of gas appliances, but could in the longer term restrict some of the state's producers in shipping their gas.

The Northern Territory reported in 2004 that it has no plans to introduce the national standard in the near future. As for Western Australia, it is not linked to the interconnected gas networks of south and east Australia, and has few consumers of natural gas. At present, its specifications for natural gas are set out in the provisions of contracts with the Power and Water Corporation, which consumes most of the natural gas sold in the Territory. The Northern Territory will review its position on the national standard if there are active plans to interconnect local pipelines with another jurisdiction (for example, to transport Timor Sea gas).

Adoption of the national standard is important for building a national gas market, and its implementation needs to be effective. The Council accepts that a decision not to implement the national standard will not hinder interstate trade in natural gas at this stage for those jurisdictions that do not have interstate pipelines. Nevertheless, the inconsistent application of the

standard across jurisdictions may have adverse impacts in other areas—for example, the production, sale or use of gas appliances. The Council will continue to monitor how jurisdictions are implementing the national standard, and any issues that may arise as a result of the standard's part application.

The ACT indicated that it intends for gas industry participants to adopt the national standard. The Council considers that the national standard, to be effective in reducing barriers to interstate trade in gas, needs to be clearly implemented. Adopting the national standard legislatively would be a suitable means of implementation.

Table 7.5: Implementation of AS 4564/AG 864

Jurisdiction	*Action*
New South Wales	The government has adopted gas specifications that are identical to the national standard. The state Regulations were amended to reference the national standard in 2004.
Victoria	Victoria is updating its Regulations in consultation with industry to make them fully consistent with, and reference, the national standards. It is finalising a working draft of the Regulations and is preparing a regulatory impact statement. It expects to implement the amendments in the second half of 2005.
Queensland	The government implemented the national standard by Regulation in 2003. The Regulation includes exemptions allowed under s1.1.2 of the national standard, which will cease when Queensland natural gas is supplied to interstate markets.
Western Australia	The state's gas quality standards differ from the national standard in some areas. Following discussions with industry in 2004, the government decided not to adopt the national standard. Western Australia will review and, where appropriate, amend its standards to reflect the national standard if interconnection with interstate pipelines occurs.
South Australia	The South Australian Regulations set the same natural gas quality specifications as those in the national standard. The government amended the Regulations in 2004 to call up the standard.
Tasmania	The government formally adopted the national standard through Regulation in 2004. The state's only gas distributor complies with the standard under system specifications developed under the Gas Act.
ACT	The government expects ActewAGL to adopt the national standard in the access arrangement for its gas distribution network, which will apply from 2005.
Northern Territory	The government does not intend to adopt the national standard until there are active plans to interconnect Northern Territory pipelines with another gas market (for example, to transport Timor Sea gas).

Table 7.6: Review and reform of legislation relevant to natural gas

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Commonwealth	*Petroleum (Submerged Lands) Act 1967*	Regulates exploration for, and the development of, undersea petroleum resources. This legislation forms part of a national scheme.	National review was completed in 1999-2000 and endorsed by the Australian and New Zealand Minerals and Energy Council (ANZMEC) ministers.	Two specific legislative amendments flowed from the review. One addresses potential compliance costs associated with retention leases and the other expedites the rate at which exploration acreage can be made available to explorers. These amendments were incorporated into the *Petroleum (Submerged Lands) Amendment Act 2002,* which was enacted in October 2002. A third recommendation was for the Act to be rewritten. The Australian Government introduced the Offshore Petroleum Bill in June 2005. The House of Representatives passed the Bill in August 2005. All relevant amendments are to be reflected in mirror state and territory legislation.	Review and reform incomplete. The Council assesses below the states' and territories' progress in amending their petroleum (submerged lands) Acts and rewriting counterpart legislation.
New South Wales	*Petroleum (Submerged Lands) Act 1982*	Regulates exploration for, and the development of, undersea petroleum resources. This legislation forms part of a national scheme.	National review was completed in 1999-2000 and endorsed by ANZMEC ministers.	An amendment Bill was passed on 8 June 2005. New South Wales is awaiting the passage of mirror legislation by the Australian Government (expected in 2005) before implementing further amendments.	Review and reform substantially complete

(*continued*)

Table 7.6 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
New South Wales (continued)	*Energy Administration Act 1987*	Establishes the Ministry of Energy and the Energy Corporation of New South Wales, and defines their functions.	Review completed.	Licence and approval requirements were repealed by the *Electricity Supply Act 1995*. Sections 35A and 35B were dealt with as part of structural reform of the gas industry.	Meets CPA obligations (June 1999)
	Gas Industry Restructuring Act 1986	Makes provisions regarding the structure of AGL.	Review unnecessary due to repeal of Act.	Act was repealed by the *Gas Supply Act 1996*, which corporatised AGL.	Meets CPA obligations (June 1997)
	Liquefied Petroleum Gas Act 1961 and *Liquefied Petroleum Gas (Grants) Act 1980*		Review completed.	Act was repealed by the Gas Supply Act, among others.	Meets CPA obligations (June 1997)
	Petroleum (Onshore) Act 1991	Regulates the search for, and mining of, petroleum.	Review completed.	Review recommendations were dealt with under the licence reduction program. Authority for exploration is retained. Business compliance costs are minimised.	Meets CPA obligations (June 1999)
	Pipelines Act 1967	Regulates the construction and operation of pipelines in New South Wales.	Review completed, finding that the legislation did not contain any significant anticompetitive provisions.	No reform is planned.	Meets CPA obligations (June 2001)
Victoria	*Energy Consumption Levy Act 1982*			Act was repealed.	Meets CPA obligations (June 2001)

(*continued*)

Table 7.6 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Victoria (continued)	*Gas Industry Act 1994* and amendment Acts	Provide for: (1) a licensing regime administered by the Office of Regulator-General; (2) market and system operation rules for the Victorian gas market; (3) cross-ownership restrictions to prevent re-aggregation of the Victorian gas industry; and (4) prohibitions on significant producers (the Bass Strait producers) engaging in anticompetitive conduct.	In June 2003 the Essential Services Commission completed a review of, and recommended the repeal of, the significant producer provisions of the *Gas Industry Act 2001*.	The 1994 Act was replaced by the *Gas Industry Act 2001* and the *Gas Industry (Residual Provisions) Act 1994* on 1 September 2001. The new Gas Industry Act gives effect to the implementation of full retail contestability. The Gas Industry (Residual Provisions) Act contains provisions of historical import, particularly the restructure and privatisation of the gas industry. Victoria repealed the significant producer provisions through the *Energy Legislation (Regulatory Reform) Act 2004*, which was given royal assent on 25 May 2004. The 'safety net' provisions, which include interim reserve price regulation power, will be reviewed before their scheduled expiry on 31 December 2004.	Meets CPA obligations (June 2003)
	Gas Safety Act 1997 and Regulations	Introduce new restrictive regulations in relation to the Gas Appeals Board, gas installations, and gas quality and safety. Uniform gas quality specifications aim to ensure gas in distribution pipelines is safe for end use.		Efforts were made to minimise compliance costs by limiting the scope of restrictions to minimum functional requirements and avoiding the prescription of style or format. No further reforms are planned.	Meets CPA obligations (June 2001)

(*continued*)

Table 7.6 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Victoria (continued)	*Petroleum (Submerged Lands) Act*	Regulates exploration for, and the development of, undersea petroleum resources. This legislation forms part of a national scheme.	National review was completed in 1999-2000 and endorsed by ANZMEC ministers.	An amendment Bill was passed in 2004. Victoria is awaiting the passage of mirror legislation by the Australian Government (expected in 2005) before implementing further amendments.	Review and reform substantially complete
	Petroleum Act 1958			Act was repealed and replaced by the *Petroleum Act 1998*. New Act retains Crown ownership of petroleum resources and permits a lease system, and removes obstacles to exploration, production and administrative efficiency.	Meets CPA obligations (June 1999)
	Pipelines Act 1967	Regulates the construction and operation of pipelines in Victoria.	An initial review was completed in February 1997. The government released its response in 2002. It undertook a broader review of the Act in 2004.	Victoria has taken account of the recommendations from both reviews and a new Pipelines Bill has been passed by both houses of parliament and is awaiting royal assent. The new Act is expected to commence in late 2006 after Regulations have been developed.	Review and reform incomplete

(*continued*)

Table 7.6 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Queensland	*Gas Act 1965* and Gas Regulations 1989	Establishes a virtual statutory monopoly via provisions to grant gas franchises and to require government approval of large contracts. Enables the government to restrict gas supply in emergencies, and allows the Gas Tribunal to recommend price restrictions.	Queensland reviewed the *Petroleum Act 1923* in conjunction with the *Gas Act 1965*. The review covered those parts of the two Acts that were not the subject of the national review of the *Petroleum (Submerged Lands) Act*.	Queensland drafted the Gas Supply Bill to replace the existing Act. The Gas Supply Bill regulates distribution pipeline licensing, retail sale of fuel gas and insufficiency of supply. It was passed by Parliament and became operational on 1 July 2003.	Meets CPA obligations (June 2003)
	Gas Suppliers (Shareholding) Act 1972	Statutory limitation on the level of ownership of shares in a nominated gas supplier.	Review not undertaken.	Act was repealed in October 2000.	Meets CPA obligations (June 2001)
	Petroleum Act 1923		Act reviewed in conjunction with the Gas Act (see above).	The Petroleum and Gas (Production and Safety) Bill 2004 and Petroleum and other Legislation Amendment Bill 2004 were passed on 29 September 2004 and commenced on 31 December 2004. The provisions take effect progressively from July 2005. The *Petroleum Act 1923* will continue on a limited basis for some authorities to prospect and for some petroleum leases.	Review and reform substantially complete

(*continued*)

Table 7.6 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Queensland (continued)	*Petroleum (Submerged Lands) Act 1982*	Regulates exploration for, and the development of, undersea petroleum resources. This legislation forms part of a national scheme.	National review completed in 1999-2000 and endorsed by ANZMEC ministers.	An amendment Bill was passed in 2004. Queensland is awaiting the passage of mirror legislation by the Australian Government (expected in 2005) before implementing further amendments.	Review and reform substantially complete
Western Australia	Dampier-to-Bunbury Pipeline Regulations 1998		No review undertaken.	Regulations were repealed on 1 January 2000.	Meets CPA obligations (June 2001)
	Energy Coordination Act 1994	Amended to introduce a gas licensing system that provides for the regulation of companies operating distribution systems and supplying gas to customers using less than 1 TJ a year.	Review of new provisions found restrictions were minimal and the most cost-effective means of protecting small customers.	No reform is planned.	Meets CPA obligations (June 2001)
	Energy Operators (Powers) Act 1979 (formerly *Energy Corporations (Powers) Act 1979*)	Provides monopoly rights over the sale of LPG and provides energy corporations with powers of compulsory land acquisition and disposal, powers of entry, certain planning approval and water rights, and indemnity against compensation claims.	Review completed in 1998. It recommended removing the monopoly over sale of LPG and retaining the land use powers of energy corporations. Land use powers are necessary to facilitate energy supply.	Restrictions on LPG trading were lifted with the enactment of the *Energy Coordination Amendment Act 1999* and the *Gas Corporation (Business Disposal) Act 1999*.	Meets CPA obligations (June 2001)

(*continued*)

Table 7.6 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Western Australia (continued)	*Gas Corporation Act 1994*	Creates the Gas Corporation to run certain publicly owned gas assets.		Act was repealed December 2000.	Meets CPA obligations (June 2001)
	Gas Transmission Regulations 1994	Contains access provisions.		Regulations were repealed. Access and related matters are now regulated under the *Gas Pipelines Access (WA) Act 1998*.	Meets CPA obligations (June 2001)
	North West Gas Development (Woodside) Agreement Act 1979		Not for review.	Act was repealed and replaced by the 1994 Act of same name (see next entry).	Meets CPA obligations (June 1999)
	North West Gas Development (Woodside) Agreement Amendment Act 1994	Provides for differential treatment.	Review completed in 1998.	Act was retained without reform in view of sovereign risk implications of unilateral amendment or repeal.	Meets CPA obligations (June 1999)

(*continued*)

Table 7.6 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Western Australia (continued)	*Petroleum Act 1967*	Regulates exploration for, and the development of, onshore petroleum reserves.	The government endorsed a review of the Act in February 2003, which recommended (1) implementing the findings of the national review of submerged lands Acts and (2) retaining potentially restrictive provisions in the Act on the grounds that they do not restrict competition and that they provide a net public benefit.	See entry for *Petroleum (Submerged Lands) Act 1982* and Regulations.	Review and reform incomplete
	Petroleum (Submerged Lands) Act 1982 and Regulations	Regulate exploration for, and the development of, undersea petroleum resources. This legislation forms part of a national scheme.	National review completed in 1999-2000 and endorsed by ANZMEC ministers.	Review recommendations are to be implemented via legislative amendments.	Review and reform incomplete
	Petroleum Pipelines Act 1969 and Regulations	Regulate the construction and operation of petroleum pipelines in Western Australia.	Review completed in 2001. Recommended one amendment relating to issuing pipeline licences.	Review recommendation is to be implemented via legislative amendment.	Meets CPA obligations (June 2001)

(*continued*)

Table 7.6 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
South Australia	*Cooper Basin (Ratification) Act 1975*	Ratifies the contract for the supply of gas by Cooper Basin producers to AGL.	Review completed, finding substantial public benefits in continuing granted concessions and exemptions on the grounds of sovereign risk.	Amendments were introduced to Parliament in 2003.	Meets CPA obligations (June 1997)
	Gas Act 1997	Provides for separate licences to operate pipelines and to undertake gas retailing.	Review in 1999 found restrictions to be in the public interest.	No reform is planned.	Meets CPA obligations (June 1999)
	Natural Gas (Interim Supply) Act 1985	Provides for ministerial power to restrict the production and sale of gas from outside the Cooper Basin, determine the use of ethane from the basin, and restrict the Natural Gas Authority from interstate trading in gas.	Review completed in 1996.	Key restrictions were repealed in 1996.	Meets CPA obligations (June 1997)
	Natural Gas Pipelines Access Act 1995	Establishes the access regime for natural gas pipelines in South Australia.		Act was repealed by s50 of the *Gas Pipelines Access (South Australia) Act 1997*.	Meets CPA obligations (June 1999)

(*continued*)

Table 7.6 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
South Australia (continued)	*Petroleum (Submerged Lands) Act 1982*	Regulates exploration for, and the development of, undersea petroleum resources. This legislation forms part of a national scheme.	National review completed in 1999-2000 and endorsed by ANZMEC ministers.	An amendment Bill was enacted in 2004. South Australia is awaiting the passage of mirror legislation by the Australian Government (expected in 2005) before implementing further amendments.	Review and reform substantially complete
	Petroleum Act 1940	Regulates onshore exploration for, and development of petroleum reserves.		Act was replaced by the *Petroleum Act 2000*. The new Act incorporates principles proposed by the ANZMEC Petroleum Sub-Committee in regard to acreage management. The government directed efforts to facilitate new explorers entering Cooper Basin and to encourage the development of a voluntary access code for access to production facilities.	Meets CPA obligations (June 2001)
	Santos Limited (Regulation of Shareholdings) Act 1989	Restricts any one shareholder from having more than a 15 per cent shareholding in Santos Limited.	Review completed in July 2001.	In July 2001, the government announced that it had considered the findings of the independent review and resolved to make no change to the Act. It considered that the benefits of the restrictions outweigh the costs, and that the objectives of the legislation can be achieved only through restrictions on competition. The main reason is the importance to South Australia of gas supply from the Cooper Basin, where Santos has a majority interest in the production of gas.	Meets CPA obligations (June 2002)

(*continued*)

Table 7.6 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
South Australia (continued)	*Stony Point (Liquids Project) Ratification Act 1981*	Authorises behaviour contrary to the Trade Practices Act.	Review completed in October 2000. It concluded, given that many of the benefits to the producers constituted past or historic benefits, that no significant continuing effect would amount to a restriction on competition. No reform was recommended.	No reform is planned.	Meets CPA obligations (June 2002)
Tasmania	*Gas Act 2000*	Regulates the distribution and retailing of gas in Tasmania. It includes provisions for the appointment of the Director of Gas and the Director of Gas Safety and for the licensing of gas distributors and retailers.	Act assessed as complying with the legislation review program gatekeeper requirements.	The Act has been amended several times to address issues arising from the development of the state's natural gas industry. Tasmania expects further amendments in 2004.	Meets CPA obligations (October 2004)
	Gas Franchises Act 1973			Act was repealed.	Meets CPA obligations (June 2001)
	Hobart Town Gas Company's Act 1854			Act was repealed	Meets CPA obligations (June 2001)
	Hobart Town Gas Company's Act 1857			Act was repealed.	Meets CPA obligations (June 2001)

(*continued*)

Table 7.6 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Tasmania (continued)	*Launceston Gas Company Act 1982*	Gives the Launceston Gas Company powers that are not available to potential competitors in the gas supply market — for example, the power to 'break up public roads' without council approval, needing to give only 24 hours notice.		Act was substantially amended by new legislation. Remaining sections to be repealed in 2005.	Review and reform incomplete
	Petroleum (Submerged Lands) Act 1982	Regulates exploration for, and the development of, undersea petroleum resources. This legislation forms part of a national scheme.	National review was completed in 1999-2000 and endorsed by ANZMEC ministers.	An amendment Bill was passed in 2004. Tasmania is awaiting the passage of mirror legislation by the Australian Government (expected in 2005) before implementing further amendments.	Review and reform substantially complete
ACT	*Essential Services (Continuity of Supply) Act 1992*		Review not required.	Act was repealed and replaced by the *Utilities Act 2000*.	Meets CPA obligations (June 2001)
	Gas Act 1992			Act was repealed.	Meets CPA obligations (June 1999)
	Gas Levy Act 1991			Act was repealed in 1998.	Meets CPA obligations (June 1999)
	Gas Supply Act 1998			Act was repealed and replaced by the *Utilities Act 2000* and the *Gas Safety Act 2000*.	Meets CPA obligations (June 2001)

(*continued*)

Table 7.6 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Northern Territory	*Energy Pipelines Act*	Establishes the regulatory framework for the construction, operation and maintenance of energy pipelines in the Northern Territory.	Review was completed and found anticompetitive provisions in the Act were justified in the public interest. Impact of restrictions was considered to be low. Approaches such as negative licensing, co-regulation and self-regulation were rejected as being unlikely to achieve the objective of the Act more efficiently than the existing legislative framework achieves it.	No reform is planned.	Meets CPA obligations (June 2001)
	Oil Refinery Agreement Ratification Act	Imposes conditions on the Mereenie Joint Venture in relation to the proposed oil refinery in Alice Springs. Refinery was not constructed because it is uneconomic, so legislation is of no practical effect.	Review was completed. Act is not considered to be anticompetitive.	Act was repealed effective November 2002.	Meets CPA obligations (June 2003)

(*continued*)

Table 7.6 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Northern Territory (continued)	*Petroleum Act*	Regulates onshore exploration and recovery of petroleum in the Territory; grants exclusive rights; and provides for technical and financial prescriptions.	Review was completed in 2002.	Recommendations were implemented by the *Petroleum Amendment Act 2003* and the *Petroleum Amendment Act 2004.*	Meets CPA obligations (September 2004)
	Petroleum (Submerged Lands) Act	Regulates exploration for, and the development of, undersea petroleum resources. This legislation forms part of a national scheme.	National review was completed in 1999-2000 and endorsed by ANZMEC ministers.	The Territory is awaiting the passage of mirror legislation by the Australian Government (expected in 2005) before implementing amendments.	Review and reform incomplete
	Petroleum (Prospecting and Mining) Act			Act was repealed by the *Petroleum Act*.	Meets CPA obligations (June 1999)