NEW SOUTH WALES GOVERNMENT

Report to the National Competition Council on the Application of National Competition Policy in New South Wales

March 2002

Table of Contents

1. Introduction

1.1 Overview

New South Wales is leading the way in implementing many of the reforms needed to make Australia more competitive.

In terms of National Competition Policy (NCP), substantial progress has been made against obligations contained in the three NCP Agreements signed by the Council of Australian Governments (COAG) on 11 April 1995.

New South Wales has been assessed as complying with the Conduct Code Agreement, which extends Part IV of the *Trade Practices Act 1974 (Cth)* to all jurisdictions.

The Government is also well ahead of other Australian jurisdictions in the reform of the electricity, gas, water and road transport sectors, as required by the Agreement to Implement the National Competition Policy and Related Reforms.

As a result of the electricity reforms, electricity customers have saved an estimated $1.62 billion in real terms on their power bills in the six years to 30 June 2001. More recently, with the introduction of full retail contestability, all electricity and gas customers can now choose their supplier.

In the six years to 30 June 2001, real reductions in charges for electricity, water, freight rail and heavy vehicles have saved the State's businesses an estimated $2.81 billion (in today's dollars).

New South Wales has introduced other major structural reforms under the Competition Principles Agreement (CPA). These reforms include: independent price oversight of certain Government Business Enterprises; the application of competitive neutrality principles to Government Business Enterprises; the systematic reform of public monopolies; and third party access to services provided by significant infrastructure facilities.

Remaining issues for New South Wales, which have been identified by the National Competition Council (NCC), fall predominantly into the legislation review program under clause 5(3) of the Competition Principles Agreement.

The NSW Government has a commitment to complete any outstanding review and, where appropriate, reform activity. However, in view of the substantial progress made overall, these remaining issues are considered to be of lesser importance for the 2002 assessment.

Thus far, a number of NCP reviews have served as a vehicle for broader regulatory reforms. This has resulted in better outcomes for New South Wales, not only in terms of competition, but in other areas of governance and policy as well. For example, removing duplication, streamlining procedures or introducing outcomes-based rather than prescriptive regulation.

Obligations under clauses 5(5) and 5(6) of the CPA have also been incorporated into existing Government processes. For new legislation, all agencies are required to take into account NCP principles in the development of proposals for Government consideration. Additionally, the Government requires legislation that restricts competition to be reviewed at least once every ten years.

1.2 2002 NCP Assessment

This report to the NCC is submitted in accordance with the NSW Government's reporting obligations in the NCP Agreements.

The purpose of the report is to demonstrate the NSW Government's progress in implementing NCP obligations within priority areas defined by the NCC for the period 1 January 2001 to 30 March 2002. The report also forecasts review and reform activity to 30 June 2002.

This report should be read in conjunction with the Government's five previous Annual Reports to the NCC covering the calendar years 1996, 1997, 1998, 1999 and 2000. The Government has also provided a Supplementary Report to the NCC on gambling and liquor legislation for the year ended December 2000.

This year, the main reporting task for New South Wales has been to address remaining issues identified by the NCC in the working papers provided to jurisdictions in August-September 2001, and in the 2001 Assessment Report to the Commonwealth Treasurer.

In preparing this report, the Government has been substantially guided by the outcome of discussions with the NCC in January this year.

As requested by the NCC, the NSW Government will report separately on progress made in non-priority areas by 30 April 2002. Separate arrangements have also been agreed to report on the implementation of water reform obligations.

Inquiries about this report may be directed to the Inter-Governmental and Regulatory Reform Branch, The Cabinet Office, telephone (02) 9228 5414.

1.3 Structure of this Report

This report contains separate chapters, which address outstanding NCP obligations (Chapters 2 to 10) in nine priority areas identified by the NCC. These priority areas are:

(a) Energy;

(b) Transport;

(c) Primary Industries;

(d) Health and Pharmaceutical Services;

(e) Insurance and Superannuation;

(f) Retail Trading Arrangements;

(g) Planning, Construction and Development;

(h) Social Regulation; and

(i) Professional and Occupational Licensing not Covered Elsewhere.

New South Wales does not have any remaining issues to address in the communications sector, which is the NCC's tenth priority area.

The other chapters of the report (Chapters 11 and 12) provide an overview of developments in relation to competitive neutrality and the structural reform of monopolies.

2. Energy

The New South Wales Annual Report to the NCC for the year ended December 2000 confirmed the substantial progress that the Government had made to comply with NCP obligations in the energy sector (refer to pages 34 to 45).

Additionally, the Government has successfully implemented the technical and regulatory arrangements needed to support full retail contestability in electricity and gas in January 2002. This major milestone means that electricity and gas customers in New South Wales can now choose their electricity and gas supplier.

2.1 Electricity

New South Wales has met its NCP obligations in relation to the *Electricity Transmission Act 1994* and the *Energy Administration Act 1987*.

For the 2002 assessment, the NCC has asked for additional information on review activity for the following statutes: the *Electricity Supply Act 1995*; the *Electricity (Pacific Power) Act 1950*; and the *Electricity Safety Act 1945*.

Extensive amendments were made to the *Electricity Supply Act 1995* in late 2000 to facilitate the introduction of full retail contestability for all electricity customers in New South Wales from 1 January 2002. Amendments include: the definition of separate distributor and retailer roles and functions; the rights and liabilities of customers; customer transfer mechanisms; metrology procedures; regulated retail tariffs and charges; and the role of the Independent Pricing and Regulatory Tribunal.

The Act does not contain any distinct anti-competitive provisions. A review of the Act is not appropriate at this stage, as the arrangements for full retail contestability have only just commenced. A review will take place after trends in the newly established competitive market become clear.

The Government does not intend to review the *Electricity (Pacific Power) Act 1950*. The functions of the entity established by this Act have been largely superseded through the establishment of a competitive national electricity market. Pacific Power will not have a continuing role beyond the current calendar year.

The majority of Pacific Power's functions, staff and assets have been transferred to the new entities of TransGrid, Macquarie Generation, Delta Electricity and Eraring Energy. In addition, the Government has announced its intention to sell Pacific Power International and Power Coal, and will complete the winding up of Pacific Power by the end of the calendar year. Upon the wind up of Pacific Power, Pacific Power's equity in Pacific Solar will be transferred elsewhere in the NSW Government sector.

With regard to the *Electricity Safety Act 1945*, review activity is still in progress. The review commenced in 2001, and an Issues Paper was released during August 2001. The review's report is currently being finalised. It is anticipated that the Government will make a decision on the review's recommendations by June 2002.

2.2 Gas

The NSW Government has removed all legal barriers to full retail contestability for gas customers. The NCC has not raised any specific issues for the Government to address for the 2002 assessment.

2.3 Petroleum

For the 2002 assessment, the NCC has indicated that it will examine New South Wales legislation in light of the national review process.

The *Petroleum (Submerged Lands) Act 1982* is part of a national review of legislation, undertaken in 1991, governing offshore petroleum development. The review's final report was released on 25 August 2000.

Given the need for New South Wales to mirror Commonwealth legislation, the Government is awaiting the preparation and introduction of amendments by the Commonwealth before amending its own legislation. The timetable for further action depends on Commonwealth progress.

The Petroleum (On-Shore) Act 1991 is also part of a national review of legislation, recently announced by the Commonwealth, governing on-shore petroleum. The Commonwealth has not yet initiated further discussions with jurisdictions regarding this review. Therefore, further action by New South Wales is not appropriate at this time.

3. Transport

The NCC's working paper on transport includes consideration of review and reform activity relating to the regulation of taxis and hire cars, tow trucks, dangerous goods, rail, and ports and shipping.

3.1 Taxis and Hire Cars

The Independent Pricing and Regulatory Tribunal (IPART) completed its review of taxi and hire car regulations contained in the *Passenger Transport Act 1990* during 1999. The New South Wales Annual Report to the NCC for the year ended December 2000 outlined IPART's recommendations and the Government's response to those recommendations (refer to pages 117 and 118).

For the 2002 assessment, the NCC has indicated that more information is needed from New South Wales to assess whether the Government's response addresses NCP obligations.

Since January 2001, the overall supply of licences for Wheelchair Accessible Taxis has exceeded the demand for them. Interest in these licences remains low. The Government has been working with potential operators to help stimulate interest in order to make services more accessible for people with disabilities.

Overall, the Government supports IPART's recommendation that taxi licences be increased by five per cent each year. Negotiations continue with the industry about a process for the staged release of new general and special licences and the introduction of a public interest test to expedite the licence approval process.

It is important to recognise, however, that the uptake of new taxi licences has been noticeably slower as a result of the decline in travel generally since "September 11" and the collapse of Ansett. Some taxi plates have been handed back to the Department of Transport or put on hold.

The Government is also continuing to work with operators and networks to develop service standards. These standards will be implemented incrementally, with performance monitoring through data reports from operators. A direct data link system into the taxi networks is being developed for this purpose. Once implemented, this will provide a mechanism to encourage improved customer service and to identify areas where changes in licences, regulation or other Government controls are needed.

A consultant has been engaged to advise the Government on reforming complaints handling processes. A new system is being developed to provide a single process for customers, regardless of whether they contact networks or a Government agency. Networks will be made more accountable for the quality of complaints handling. A consistent approach to driver performance management will also be adopted. The new system will also allow the Government to identify trends in the issues generating customer complaints to allow appropriate policy responses to be

developed. It is anticipated that the new complaints handling system will be initiated towards the end of 2002.

Following a recommendation by IPART, the requirement for Government approval of taxi schools has been removed. This has resulted in more taxi schools and lower fees. The Taxi Council currently supplies the course content to all schools. However, it is open for other parties to submit alternative course content to the Department of Transport for appraisal.

IPART also recommended that the regulation of taxis in rural areas be passed to the relevant local councils. Local government and the taxi industry expressed unanimous opposition to this proposal. Therefore the recommendation will not be implemented.

In relation to the hire car industry, the Government implemented the following changes in September 2001 to significantly reduce barriers to competition:

(a) wedding car and other restricted hire car operations are now totally exempt from vehicle licensing and driver authorisation requirements;

(b) vehicle criteria for licensed hire cars have been significantly relaxed with the elimination of arbitrary age limits, while retaining quality standards; and

(c) the fee for a short-term licence for Sydney has been reduced from $16,100 per annum to $8,235 per annum, with a commitment to review this in September 2003.

Further changes have recently been introduced to ensure a more equitable treatment of taxis and hire cars by eliminating inconsistencies in the available terms for short-term licences.

3.2 Tow Trucks

The *Tow Truck Act 1998* gives effect to a series of fundamental regulatory reforms in the tow truck industry. The reforms have been developed in response to an independent review of the industry, which identified corruption and criminal practices within some segments of the industry. The review recommended a fundamental restructure of policy, enforcement and organisational elements governing tow truck regulation. Central to the reforms is the introduction of a Job Allocation Scheme.

The Job Allocation Scheme is being developed through consultation with industry and other stakeholders to establish a system which is fair to legitimate operators and drivers, protects the rights of motorists, and ensures the speedy and safe attendance of tow trucks at accident scenes. The complexity of the system design and the technology issues required to introduce the Scheme across the State requires a careful development and implementation process.

The NSW Government has given the NCC an undertaking that a review of the Act will be initiated six months after the Job Allocation Scheme has commenced.

For the 2002 assessment, the NCC has sought a commitment from the Government regarding the commencement of the NCP review.

Work has commenced on the review. The Department of Transport has initiated desktop research to help facilitate the review process. Ministerial approval is being sought for the review's terms of reference and establishment of the review's steering committee.

The review's terms of reference will include an evaluation of the Job Allocation Scheme trial, which will commence shortly. As previously discussed with the NCC, the terms of reference will also include further analysis of the impact of clause 69(2) of the *Tow Truck Industry Regulation* on interstate operators, incorporating advice from the NSW Crown Solicitor on this issue.

3.3 Dangerous Goods

In March 2001, the National Occupational Health and Safety Council formally declared the National Standard and the National Code of Practice as the basis of the national framework for the storage and handling of dangerous goods in the workplace.

For the 2002 assessment, the NCC has indicated that States and Territories will need to comment on their progress with implementing the National Standard.

In 2001, the Government finalised the implementation of the new *Occupational Health and Safety Act 2000* and the *Occupational Health and Safety Regulation 2001*. Both of these pieces of legislation have an impact on the storage and handling of dangerous goods. They impose duties to ensure the health, safety and welfare at work of employees, using a risk management approach similar to that of the National Standard.

Now that the Act and the Regulation have been finalised, the Government has requested WorkCover to prepare a detailed proposal for implementing the National Standard in New South Wales.

This work will require a review of the *Dangerous Goods Act 1975* and its associated regulations, the *Dangerous Goods (General) Regulation 1999* and the *Dangerous Goods (Gas Installations) Regulation 1998*. The review will address any NCP issues arising out of the dangerous goods legislation that are not covered by the National Standard.

The NCC's working paper states that New South Wales has released a proposed Dangerous Goods (General) Regulation for public comment. This is not correct. It is possible that this mistakenly refers to the *Occupational Health and Safety Regulation*, which was released for public comment and has since been finalised.

3.4 Rail

The sale of FreightCorp was finalised on 21 February 2002 and accordingly, issues concerning competitive neutrality no longer exist.

In 1999, the NSW Government completed a statutory review of the *Rail Safety Act 1993*. Proposed amendments arising from this review were deferred, however, pending Government consideration of the final report of the Special Commission of Inquiry into the Glenbrook rail accident.

In November 2001, the Government announced significant rail safety reforms in response to this Inquiry. These include the establishment of a Rail Safety Regulator within the Department of Transport, which has responsibility for safety regulation. The Rail Safety Regulator will use the powers and functions under the *Rail Safety Act* to accredit, audit, inspect, enforce compliance and investigate rail organisations in respect of their safety performance, and to report publicly. In addition, an independent Rail Accident Investigation Panel will be established to investigate more serious accidents and incidents.

For the 2002 assessment, the NCC has noted that responsibility for safety regulation should not be vested in the Rail Infrastructure Corporation, given its commercial operating responsibilities.

As outlined above, the Rail Safety Regulator within the Department of Transport is responsible for rail safety regulation. The Rail Infrastructure Corporation owns and maintains the New South Wales rail network on behalf of the Government and provides access to passenger and freight operators. The Corporation was formed on 1 January 2001, under the *Transport Administration Amendment (Rail Management) Act 2000*, as a statutory State Owned Corporation. Its principal objective is to deliver safe and reliable passenger and freight services in an efficient, effective and financially responsible manner.

The package of amendments to the *Rail Safety Act*, which is consistent with NCP principles, will be introduced into Parliament shortly. Most of the changes have been developed in response to the Glenbrook Inquiry. Further amendments arising from the earlier statutory review include:

(a) abolition of application fees for accreditation in New South Wales. This reform responds to complaints from national operators, who have had to pay separate application fees to each jurisdiction from which they have sought accreditation;

(b) accreditation fees to be assessed according to equitable and transparent formula published by the Minister; and

(c) accreditation application and renewal processes to be streamlined.

3.5 Ports and Shipping

The *Marine Safety Act 1998* remains substantially uncommenced because the Commonwealth is yet to provide New South Wales with advice on international marine safety standards. The Government has made a commitment that the NCP review will be conducted 12 months after the Act is fully commenced.

A statutory review and NCP review of the *Ports Corporation and Waterways Management Act 1995* have both recently been completed. The NCP review's final report was submitted to the Minister for Transport in December 2001.

The NSW Government's response to the final report is currently being prepared. It is anticipated that any subsequent reforms will be initiated by 30 June 2002.

4. Primary Industries

The NCC's working paper on primary industries includes consideration of NCP obligations in agriculture, fisheries, forestry and mining.

4.1 Agriculture

4.1.1 Grains

The review of the NSW Grains Board, which is established under the *Grain Marketing Act 1991*, commenced in 1998. The review's final report was submitted to the Minister for Agriculture in July 1999.

The Government was giving detailed consideration to the review's final report and the industry's various views when it was ascertained that the Board was in serious financial difficulty.

The Government initially decided, in August 2000, to retain the Board's vesting powers over coarse grains and oilseeds for a further five years, and that these powers then be sunsetted. Following further industry consultation, the Government agreed in October 2000, that the Board's powers over barley, canola and grain sorghum would be retained for a five-year transitional period. The Board's wide-ranging powers over all other commodities (ie, oats, sunflower, safflower, linseed and soybeans) would be deregulated immediately.

The New South Wales Annual Report to the NCC for the year ended December 2000 explained the differences between the review's recommendations and the Government's decision (refer to pages 123 and 124).

The *Grain Marketing Amendment Act 2001*, assented to on 14 December 2001, gives effect to the Government's decision. The Board's powers over barley, canola and grain sorghum have been sunsetted at 30 September 2005 in the amending legislation. The legislation also puts in place the final administrative details for the winding up and eventual dissolution of the Grains Board. Some other aspects of the marketing arrangements have been administratively deregulated.

For the 2002 assessment, the NCC has questioned how the Board's insolvency strengthened the public interest in extending the Board's powers beyond the extent recommended by the review. The NCC also asked what less restrictive alternatives were available to the Government and why these were not considered viable.

The Board's insolvency had the potential to undermine the viability of the entire New South Wales coarse grain industry, significantly impacting on employment and regional economies. At the time, there was significant industry concern over the Board's inability to offer trading positions in relation to its vested grains. Under the pressing deadline of an imminent harvest, it was necessary for the Government to act both quickly and largely within the existing legislative framework. This framework was familiar to the financial backers of the Board and potential bidders for the trading business of the Board. Introducing substantially different arrangements

would have involved significant delays, and further undermined industry confidence.

The Government's considered response provided a firm and equitable timetable for the systematic reform of regulated marketing of coarse grains and oilseeds in New South Wales. This approach demonstrably provided the best outcome for all concerned.

4.1.2 Rice

The review of the Rice Marketing Board, which is established under the *Marketing of Primary Products Act 1983*, was undertaken in 1995. The review's final report was submitted to the Minister for Agriculture in December 1995.

The review demonstrated that while the current regulated regime generated a net public cost in domestic markets, this was outweighed by the net public benefit in the regulation of exported product. The NSW Government consequently decided against deregulation, and retained the vesting powers of the Board. A new Proclamation vesting rice in the Board for a further five years to January 2004 was gazetted in December 1997.

The Government advised the Commonwealth Treasurer on 14 April 1999 that New South Wales agreed in principle to remove domestic rice vesting arrangements, conditional on it being demonstrated that all relevant issues have been properly resolved, and in particular that:

(a) the proposed Commonwealth single desk rice export arrangements are feasible and practical, and do not put export premiums under any risk;

(b) industry views are taken into account on the need for a transition period prior to the commencement of proposed arrangements, and on the length of the initial period for which the Ricegrowers' Co-operative Limited would be given an exclusive export licence; and

(c) all other States are in agreement with the proposal.

New South Wales requested that the proposed model for consultation with other jurisdictions include a possible three to five year duration for the proposed national arrangements, and right of veto for rice exports for the Ricegrowers' Co-operative Limited as a transitional measure.

For the 2002 assessment, the NCC has indicated that New South Wales will have met its NCP obligation in relation to the Rice Marketing Board's monopoly powers if it removes these powers under State jurisdiction, following the Commonwealth's establishment of a rice export monopoly.

The NSW Government is awaiting the outcome of the Commonwealth's consultation process before making relevant reforms to State legislation. On 8 March 2002, the Premier wrote to the Commonwealth Treasurer seeking advice on progress of the Commonwealth's consultation with other jurisdictions on the proposed model.

4.1.3 Poultry Meat

The review of the *Poultry Meat Industry Act 1986* commenced in 1998. The review's final report was submitted to the Minister for Agriculture in November 1999. The review was contentious with no common ground being reached between poultry processors and contract growers.

In March 2001, the NSW Government commissioned a second review to undertake a public benefit assessment of the Act. Although this review concluded that the Act involves a net public cost, the benefits to individual consumers from deregulation would be marginal. The potential benefits would be distributed among processors, retailers and many consumers. It is estimated that, if all the benefits were passed through to consumers, the price reduction would be less than one per cent of the retail price of poultry meat, or three cents per kilogram. Whether or not the poultry meat industry is deregulated, it is estimated that approximately 20 per cent of growers will be forced to leave the industry in the short to medium term.

On 13 November 2001, the Government decided not to deregulate the New South Wales poultry meat industry. A formal response to both of the NCP review reports is being considered. In the meantime, the *Poultry Meat Industry Act 1986* will be exempted from the *Trade Practices Act 1974 (Cth)*, so that growers and processors are not subject to legal challenge. The amending legislation will be introduced into Parliament shortly.

4.1.4 Veterinary Surgeons

The review of the *Veterinary Surgeons Act 1986* commenced in 1997. The review's final report was submitted to the Minister for Agriculture in December 1998.

For the 2002 assessment, the NCC has questioned why the NSW Government has not yet responded to the review.

The Government has been undertaking thorough public consultation on a range of competition issues and wider regulatory reform options. A less restrictive regulatory model is currently being prepared for Government consideration. It is anticipated that this matter will be addressed in the current session of Parliament.

4.1.5 Agricultural and Veterinary Chemicals

The *Agriculture and Veterinary Chemicals (NSW) Act 1994* is part of a national review of agricultural and veterinary chemical legislation completed in 1999.

New South Wales is currently working towards the implementation of the national review's recommendations in accordance with the Signatories Working Group's proposed response. The proposed response was referred to the COAG Committee on Regulatory Reform for consideration. Legislation reform in New South Wales will follow the Primary Industries Ministerial Council's consideration and endorsement of a new national framework.

The Government has also undertaken a review of chemical residues legislation in New South Wales. This review included consideration of the *Stock Medicines Act*

1989, the *Stock Foods Act 1940*, the *Fertilisers Act 1985*, the *Stock (Chemical Residues) Act 1975*, and Part 7 of the *Pesticides Act 1978*. The *Pesticides Act 1978* was allocated to the Minister for the Environment on 5 April 1995. The other Acts reviewed are allocated to the Minister for Agriculture.

The review's final report was submitted to the Minister for Agriculture in 1998. The Government responded to the review's NCP-related recommendations by amending the *Fertilisers Act* in November 1999. The *Fertilisers Amendment Act 1999* no longer requires the registration of brand names for soil improving agents. It provides for the setting of composition standards for, and the marketing of parcels of, soil improving agents and trace element products. Other Acts do not require NCP amendments, however, a broader regulatory reform proposal is currently being developed for Government consideration.

4.2 Fisheries

The review of the *Fisheries Management Act 1994* commenced in 1999-2000. The Centre for International Economics was commissioned to undertake the review and the review's final report was submitted to the Minister for Fisheries in May 2001.

The report clearly demonstrated a net public benefit associated with the legislation. The Government has accepted the review's recommendation that the objects of the Act be amended to include the recognition of socio-economic benefits. The *Fisheries Management Amendment Bill 2001* was assented to on 11 December 2001. It is anticipated that the Government's response to the review's remaining recommendations will be made by 30 June 2002.

4.3 Forestry

4.3.1 Forestry Legislation

State Forests is a public trading enterprise but it is not constituted as a State Owned Corporation. New South Wales has met its NCP obligation, relating to competitive neutrality and the separation of commercial and non-commercial activities, by:

(a) applying Part IV of the *Trade Practices Act 1974 (Cth)* to State Forests; and

(b) applying the Financial Policy Framework, which requires the application of commercial based rates of return, dividends and capital structures; performance monitoring; payment of State taxes and Commonwealth tax equivalents; payment of risk related borrowing fees; and explicitly funded Community Service Obligations.

For the 2002 assessment, the NCC has requested additional information on the review and reform process in the New South Wales forestry sector.

The review and reform process, while not part of the NCP program, has identified and removed anti-competitive practices.

For example, in New South Wales, environmental legislation applies equally to public and private enterprises. The *Plantation and Reafforestation Act 1999*, for example, applies uniformly to both Crown and private plantations. Prior to this Act, private plantations were subject to approval processes, such as approval for incidental native vegetation clearing, while State Forests' plantations were not.

The NCC has also queried whether specific clauses of the *Forests Act 1916* (section 17) and the *Plantations and Reafforestation Act 1999* (section 9) are anti-competitive.

Section 17 of the *Forests Act 1916* provides that a specified area of land will be dedicated as a State Forest and, within this, a specified area of land will be kept for reafforestation with exotic coniferous trees. The Government considers that section 17 is not anti-competitive. Instead, it reflects the Government's objective to dedicate Crown land for the purpose of native forestry.

Section 9 of the *Plantations and Reafforestation Act 1999* provides that authorisation is required for plantation purposes. The Act enables authorised plantations to be established and harvested in accordance with a Code of Practice. Authorisation allows plantations to be exempt from some environmental legislation that would otherwise apply.

4.3.2 Threatened Species Conservation Act

For the 2002 Assessment, the NCC has also indicated that New South Wales should add the *Threatened Species Conservation Act 1995* to its NCP legislation review schedule.

As previously reported, the *Threatened Species Conservation Act* is illustrative of steps taken by the Government to streamline approval processes.

The Act aims to prevent threatened species in New South Wales from becoming extinct and to secure their recovery. It also aims to promote ecologically sustainable development while conserving biological diversity through ensuring proper impact assessments. The presence of a threatened species does not prevent the consideration of development or commercial activity. It is assessed together with the social and economic impacts of development.

Under the Act, licences may be issued if harm or damage is likely to occur to a threatened species, population or ecological community. Approval requirements to harm or damage a threatened species are integrated into the planning approval under the *Environmental Planning and Assessment Act 1995*.

If development consents or approvals are required under the *Environmental Planning and Assessment Act*, then no additional approval or licence is required under the *Threatened Species Conservation Act*.

In introducing the *Threatened Species Conservation Act* and subsequently reviewing it under the five-year statutory review requirement, the NSW Government has been mindful of the need to minimise licensing and streamline approval requirements. Such requirements have only been imposed where they are necessary and where there is a net public benefit.

The Government is currently considering a number of amendments to the Act that will further streamline the threatened species assessment and approvals process. Therefore, the Government is of the view that a separate NCP review of the Act is not required.

4.4 Mining

The *Coal Mines Regulation Act (CMRA) 1982* and the *Mines Inspection Act (MIA) 1901* are both subject to parallel NCP review processes that are part of a fundamental review of all mine safety legislation.

In 1996, the Government commissioned a broad review of mine safety. While that review was in progress a disaster occurred at the Gretley mine which caused the loss of four lives, and became the subject of a Judicial Inquiry. The recommendations of the Inquiry were implemented in amendments to the CMRA and the MIA in 1998 and revision of the CMRA Regulations in 1999.

The Mine Safety Review reported while the Judicial Inquiry was underway. The review recommended that alternate legislative models for mine safety be examined. This recommendation was the major trigger for the broad review of the legislation, which has coincided with the NCP reviews. So far, broad discussion papers and NCP issues papers have been prepared for both the CMRA and MIA, and public consultation on the papers has been undertaken.

Important observations arising from the first phase of the review are that:

(a) the CMRA and the MIA need to be amended to be consistent with the *Occupational Health and Safety Act 2000*; and

(b) mines still experience fatalities and serious injuries, and there is a need to move the industry towards a more systematic approach to safety management.

Since August 2001, the Government has released NCP Issues Papers for both the *Coal Mines Regulation Act* and the *Mines Inspection Act*. Stakeholder comments on competition policy issues have been incorporated into the development of position papers for both Acts. Due to the sensitivity of mine safety legislation, extensive stakeholder consultation has also been required in the preparation of the position papers.

On 27 February 2002, the Government approved the release of a position paper for the *Coal Mines Regulation Act* and the preparation of draft amending legislation. It is anticipated that this legislation will be introduced into the current session of Parliament. However, its commencement will be delayed for at least 12 months in order to develop the subordinate legislation.

A position paper for the *Mines Inspection Act* is currently being developed for Government consideration. It is unlikely that subsequent legislation reforms would be introduced into Parliament before 2002-2003.

5. Health and Pharmaceutical Services

The NCC's working paper on health and pharmaceutical services includes consideration of review and reform activity pertaining to the regulation of nurses, physiotherapists, podiatrists, psychologists, dentists and optometrists.

5.1 Nurses

The review of the *Nurses Act 1991* commenced in 1999. The review's final report was submitted to the Minister for Health in February 2000.

The review recommended that nurses and midwives continue to be regulated. However, it also recommended the relaxation of practice restrictions in the area of midwifery, as well as the creation of a separate register of midwives to increase flexibility and opportunities in the workforce.

In November 2001, the Government approved the review's recommendations and the drafting of legislation to implement those recommendations. The review's final report has been publicly released. Amending legislation will be introduced into Parliament during 2002.

New South Wales has also enacted legislation allowing for advanced nurse practitioners to have limited prescribing and referring rights.

5.2 Physiotherapists

The review of the *Physiotherapists Registration Act 1945* commenced in 1999. The review's final report was submitted to the Minister for Health in March 2001.

The review recommended that physiotherapists continue to be regulated. However, it also recommended that controls on the number of professional titles be removed, and that the whole-of-practice restriction on physiotherapists be replaced by a restriction on the use of prescribed electro-physical appliances. The review also recommended that controls on advertising be brought in line with the *Trade Practices Act 1974 (Cth)*.

In March 2001, the Government approved the review's recommendations and the drafting of legislation to implement those recommendations. The review's final report has been publicly released.

The NCC indicated that the *Physiotherapists Bill 2001*, as introduced, appeared to be consistent with NCP principles.

Parliament passed the new *Physiotherapists Act 2001* in October 2001, and the Act received the Governor's assent on 11 October 2001. Draft regulations have been prepared for consultation with stakeholders. It is anticipated that the new Act will commence on 1 July 2002.

5.3 Podiatrists

The review of the *Podiatrists Act 1989* commenced in 1999. The review's draft final report has been completed and the Government is consulting with stakeholders. The major proposal is to replace current whole-of-practice restrictions on podiatry with three core practice restrictions, which would allow podiatrists, nurses and medical practitioners to carry out foot treatments.

It is anticipated that the final report will be completed in April 2002. The Government will then consider the outcome of the review, with amending legislation likely to be introduced into the current session of Parliament.

5.4 Psychologists

The review of the *Psychologists Act 1989* commenced in 1997-1998. The review's final report was submitted to the Minister for Health in December 1999.

The review recommended that psychologists continue to be regulated to minimise the risks of harm and injury. However, the review also recommended the removal of restrictions on advertising and premises. A number of recommendations provide clarity and accountability.

In December 1999, the Government approved the review's recommendations and the drafting of legislation to implement those recommendations. The final report has been publicly released.

Parliament passed the new *Psychologists Act 2001* in October 2001, and the Act received the Governor's assent on 11 October 2001. Draft regulations have been prepared for discussion with stakeholders. It is anticipated that the new Act will commence on 1 July 2002.

5.5 Dentists

The review of the *Dentists Act 1989* commenced in 1999. The review's final report was submitted to the Minister for Health in March 2001. The final report has been publicly released.

Parliament passed the new *Dental Practice Act 2001* in October 2001, and the Act received the Governor's assent on 11 October 2001. The Government is consulting with stakeholders on draft Regulations. It is anticipated that the new Act will commence in the second half of 2002.

The new Act does not implement the review's recommendation that employment restrictions on dentists be removed. This is because the benefits to be obtained from removing the restriction would not offset the costs of establishing and enforcing an alternative scheme of penalties as proposed by the review.

The *Dental Practice Act 2001* does, however, gives effect to the spirit of the review by allowing registered health benefits organisations to employ dentists without the

permission of the Dental Board. It is generally only health funds that have indicated interest in entering the market, and would be expected to be the main source of increased competition if the restriction was removed.

Also, non-dentists will now be able to apply to the Dental Board for permission to employ dentists, and therefore run dental practices, by demonstrating that it is in the public interest that they be allowed to do so. As such, most of the benefits of increased competition that would have resulted from the removal of the employment restriction as proposed by the review will be attained under the Government's approach. These benefits will take place without the additional costs of enforcing the review's proposed offence provisions.

5.6 Optometrists

The review of the *Optometrists Act 1930* commenced in 1997-1998. The review's final report was submitted to the Minister for Health in December 1999. The final report has been publicly released.

The *Optometrists Bill 2001* was introduced into Parliament on 23 October 2001. The Bill lapsed with the proroguing of Parliament on 23 February 2002. It is anticipated that the Government will introduce an amended Bill (*Optometrists Bill 2002*) into the current session of Parliament. The amendments modify the process for authorising optometrists' use of therapeutic drugs in their professional practice.

The *Optometrists Bill* maintains the restriction on ownership of optometry practices and continues to restrict the prescription of glasses and contact lenses to optometrists and medical practitioners.

In relation to the restriction on ownership, the progressive concentration of ownership of optometry services that would result from this change would not be in the public interest. Concentrated ownership has the potential to undermine the viability of independent optometrists and therefore employment opportunities, particularly in small rural and regional areas of New South Wales.

The removal of restrictions on the ownership of optometry practices would, over time, reduce competition in some areas with only marginal improvements in competition in other areas that are already well served by competitive optometry markets. Furthermore, any net benefit arising from increased competition in some areas would not offset the costs involved in establishing a range of offences to ensure that professional standards are maintained in non-optometrist owned practices.

There is also a significant concern that patient care could be compromised by non-optometrist owners of practices because they are not bound by the same professional obligations and duties as optometrists.

In summary, the limited benefit of marginally increased competition would not offset the costs of enforcing the proposed offence provisions, the potential for reduced competition in some optometry markets, or the potential that non-optometrist owners may compromise patient care.

In respect of the review's recommendation that orthoptists be allowed to prescribe glasses and contact lenses, there are concerns that many practising orthoptists have qualifications under a previous, less rigorous qualification regime. Given that the ability to prescribe glasses and contact lenses does not effect most of the business of orthoptists, it is likely that the removal of this restriction would generate insufficient public benefits to offset the public costs that may result from the prescription of glasses and contact lenses by less-qualified orthoptists.

6. Insurance and Superannuation

The NCC's working paper on insurance and superannuation includes consideration of workers compensation.

6.1 Workers Compensation

The Grellman Inquiry into workers compensation recommended competitive market choice of insurer for employers within a compulsory statutory framework. In October 1999, the Government legislated to allow competitive underwriting of workers compensation insurance.

The collapse in 2001 of the HIH Insurance Group heightened interest in the exposure of statutory insurance schemes, including workers compensation, to the fortunes of commercial insurers. Had statutory provisions not protected New South Wales' scheme, the collapse of HIH would have resulted in approximately $800 million of workers compensation policies becoming unfunded liabilities.

The Government decided in late 2001 to repeal those provisions in the *Workplace Injury Management and Workers Compensation Act 1988* that provided for competitive underwriting. This was because the projected increase in premiums in a privately underwritten scheme would have been so great that it would have threatened the viability of some small to medium sized businesses, with significant flow-on social and economic effects to the wider community.

For the 2002 assessment, the NCC has indicated that New South Wales needs to implement competitive underwriting or provide a rigorous public interest case for maintaining the Workers Compensation Scheme.

The Government's position is that the Workers Compensation Scheme has undergone fundamental change, which should be allowed to take effect before further changes are made to the scheme.

Therefore, the Government has decided to conduct a broader, more detailed review of the Workers Compensation Scheme that would examine a number of issues relating to scheme design. In relation to underwriting arrangements, the terms of reference provide that the review should inquire into and make recommendations for the optimum underwriting/ insurance arrangements that would support the Government's policy objectives. One of the options would be private underwriting.

It is anticipated that the review's final report would be submitted for Government consideration in the second half of 2003.

An important consideration is that the review is taking place against a background of other reviews of workers compensation and insurance. This includes the HIH Royal Commission, which is also likely to consider the regulation of State-based insurance.

It also includes a review of the operations of the new Workers Compensation Commission and workers compensation amendments made during 2001, to be

undertaken by the Independent Pricing and Regulatory Tribunal commencing in April 2003.

7. Retail Trading Arrangements

The NCC's working paper on retail trading arrangements includes consideration of legislation regulating shop trading hours, liquor licensing, and fair trading and consumer protection.

7.1 Shop Trading Hours

There are no restrictions on Monday-to-Saturday trading hours in New South Wales. Part 4 of the *Factories, Shops and Industries Act 1962* restricts, in principle, the ability of general shops to trade on Sundays and public holidays. Many exemptions to this restriction are granted to achieve, in practice, an unrestricted trading hours environment.

The process for assessing applications to remove the restrictions on shop trading hours was outlined in the New South Wales Annual Report to the NCC for the year ended December 2000 (refer to page 165). Exemptions are granted on the basis of employment effects, potential tourist demand, impact on the community, other planning restrictions on the site, and any other relevant factors.

There are only a few remaining locality-based restrictions, including Tenterfield, Inverell and Gilgandra.

The NCC has accepted that the anti-competitive effects of Part 4 of the Act are negligible because of the exemptions that are granted. However, for the 2002 assessment, the NCC has indicated that there may be value in New South Wales removing the current provisions.

Several major regional centres are currently reviewing their Sunday trading arrangements. New South Wales will assess the appropriateness of Part 4 of the Act following consideration of the outcome of this review activity.

7.2 Liquor Licensing

The review of liquor and club management provisions in the *Liquor Act 1982* and *Registered Clubs Act 1976* is in progress.

For the 2002 assessment, the NCC has indicated that New South Wales needs to: (a) provide a convincing net community benefit rationale to support the public needs test; or (b) remove the restriction, given that there is little, if any, evidence of public harm due to the absence or abandonment of such tests in other jurisdictions.

The NSW Government will release a Discussion Paper outlining a range of possible reform options shortly. These include a possible reduction in the number of liquor licence types, cutting red tape in the licence application process, and using local council planning controls to better protect local community interests. The appropriateness of the public needs test is being considered in this context.

A copy of this Discussion Paper will be provided to the NCC when it is publicly released.

It is anticipated that a final decision on relevant competition policy issues will be made during 2002-2003, following public consultation and further assessment of reform options.

7.3 Fair Trading and Consumer Protection Legislation

For the 2002 assessment, the NCC has indicated that New South Wales has met its NCP obligations regarding the *Business Licences Act 1990*. This Act was repealed by the *Business Licences Repeal and Miscellaneous Amendments Act 2001*.

The NCC has requested further information regarding the *Prices Regulation Act 1948* and the *Retirement Villages Act 1989*.

New South Wales confirms that the *Prices Regulation Act 1948* was reviewed in 1996. The Government approved the review's recommendation that prices regulation powers be transferred to the Independent Pricing and Regulatory Tribunal. The Prices Commission was subsequently abolished and the requisite amendment giving effect to the proposed transfer of powers was enacted in mid-2000.

New South Wales also confirms that the *Retirement Villages Act 1989* was reviewed in 1997-1998. The review's final report was approved by the Government and publicly released in late 1998. The review's final report considered the net public benefit of introducing a new Act to address consumer issues in the retirement village industry. The new *Retirement Villages Act 1999* commenced on 1 July 2000.

Since the last reporting period, New South Wales has made substantial progress with review and reform activity in other areas as detailed below.

The final report on the review of the *Fair Trading Act 1987* and *Door to Door Sales Act 1967* has been prepared and will be submitted for Government consideration shortly. A number of consumer protection provisions in the existing *Fair Trading Act* mirror those of the *Trade Practices Act 1974 (Cth)*. It is anticipated that any legislative amendments resulting from the review will be introduced into Parliament in the second half of 2002.

The final report on the review of the *Funeral Funds Act 1979* was completed in November 2001. The Government approved the review's recommendations in February 2002, as well as the preparation of an exposure Bill to facilitate further public consultation.

The review found that the impact of the legislation on competition was not significant. However, the proposed new legislation will remove restrictions on funeral funds where these are not justified on public benefit grounds. For example, the provisions relating to minimum and maximum numbers of fund directors and trustees; restrictions on the nomenclature of funeral funds; and the cap on the level of management fees and benefits paid. The final report will be publicly released shortly.

New South Wales will also enter into discussions with the Commonwealth to determine the feasibility and desirability of including funeral funds in the financial services reform proposals or alternative existing prudential supervision regimes.

In relation to the *Trade Measurement Act 1989*, New South Wales is participating in the national review of trade measurement legislation. The review is being conducted in accordance with terms of reference and methodology agreed by COAG.

A scoping study of the competition impacts of the legislation was prepared in 2001. The scoping study found that the legislation generates a net public benefit but that further review of restrictions on non-prepackaged meat was necessary.

A draft report on non-prepackaged meat was circulated to jurisdictions during February 2002 and the review's Working Group is now finalising the report. The Report will need to be considered by the Standing Committee of Officials on Consumer Affairs prior to consideration by the Ministerial Council on Consumer Affairs.

New South Wales is assisting the Queensland Office of Fair Trading to finalise this review. At this stage, it is anticipated that the Working Group's final recommendations will be ready by April 2002 for consideration by the Standing Committee and Ministerial Council.

8. Planning, Construction and Development

The NCC's working paper on planning, construction and development includes consideration of legislation regulating planning approvals, architects, surveyors, valuers, and building and related trades.

8.1 Planning Approvals

The NSW Government's NCP obligations include a commitment to address 30 reform projects. These projects form part of the Government's planFIRST initiative. Of the 30 projects, 19 have been completed. The Government is progressing the remaining projects as shown at Attachment 1.

For the 2002 assessment, the NCC has requested more information from New South Wales regarding the potential use of planning processes by existing businesses to restrict the entry of new businesses.

The Government considers that the interest of all affected parties should be considered as part of the assessment of a development application. Inappropriate use of the planning process to prevent the entry of new businesses is most effectively addressed through a review of local planning provisions. In this regard, the Government has initiated a number of changes to the planning process through planFIRST, which will involve a review of local planning provisions to prevent the potential misuse of the process.

8.2 Architects

The Productivity Commission undertook a national review of legislation regulating the architectural profession. Its report was released in November 2000.

A Working Group was subsequently established, under the auspices of the Senior Officials of the States and Territories, to prepare a joint response to the Productivity Commission's report. New South Wales is participating in this Working Group along with representatives from all States and Territories.

Although the development of the joint response has taken longer than originally anticipated, the process is now well advanced. The Working Group response has received broad acceptance from all jurisdictions, with a delay in formal endorsement by the ACT and Northern Territory. It is anticipated that New South Wales will amend the *Architects Act 1921* during 2002-2003.

8.3 Surveyors

The review of the *Surveyors Act 1929* commenced in 2000. The review's final report was submitted to the Minister for Information Technology in August 2001.

The review recommended that the objects of the Act be clarified and the system of registration of surveyors and the Board of Surveyors be retained. It recommended

current standards and requirements also be substantially retained but subject to ongoing review.

The review further recommended that consideration be given to: deregulating restrictions on the naming and ownership of surveying firms and on advertising; and possible changes to the *Surveyors (Practice) Regulation 2001* to make it less prescriptive about the methods of surveying.

In October 2001, the Government accepted the review's recommendations, in principle, and approved the preparation of amending legislation by 30 June 2002. Further public consultation has taken place in relation to these reforms.

8.4 Valuers

The review of the *Valuers Registration Act 1975* commenced in 1999. The review's final report was submitted to the Minister for Fair Trading in February 2000.

The review recommended a negative licensing scheme to replace the current registration scheme. The proposed scheme would involve core legislation that provides for qualification and practice requirements, and disciplinary action. Continuing professional development and professional indemnity insurance would not be a compulsory pre-condition to carry on business as a valuer.

In April 2000, the Government accepted the review's recommendations, in principle, and approved the preparation of an exposure Bill for further public consultation during 2000-2001. Additional information has subsequently been prepared on the public benefits and costs of alternative regulatory options.

It is anticipated that a final reform proposal will be submitted for Government endorsement shortly. Amending legislation will be introduced into Parliament during 2002.

8.5 Building and Related Trades

For the 2002 assessment, the NCC has indicated that New South Wales has not provided sufficient information on the review of the *Home Building Act 1989* (previously the *Building Services Corporation Act 1989*).

The New South Wales Annual Report to the NCC for the year ended December 2000 provided an outline of the review of licensing in the home building industry and the Government's response (refer to pages 175 and 199).

The Government confirms that the *Home Building Legislation Amendment Bill 2001* was released for public consultation in March 2001 and enacted in July 2001. Various parts of the new *Home Building Legislation Amendment Act 2001* commenced on 10 August 2001, 30 November 2001 and 1 January 2002. It is anticipated that the remaining parts of the Act will be introduced progressively during 2002.

As a result of uncertainties in the insurance market affecting the home warranty scheme, it is anticipated that a number of further changes will be needed to the *Home*

Building Act 1989 and the *Home Building Regulation 1997*. These changes will establish new arrangements in relation to the insurance requirements of the Act.

On 13 March 2002, the New South Wales and Victorian Governments announced uniform changes to the Home Warranty Insurance Schemes of both States. Key features of the changes are:

(a) the threshold for requiring insurance will increase from $5000 to $12,000;

(b) insurance will cover structural defects for seven years and non-structural defects for two years;

(c) high rise, multi-unit developments will not be required to be insured under the scheme;

(d) homeowners will be able to claim against insurance policies as a last resort, where the builder is dead, has disappeared, or become insolvent; and

(e) provision for a catastrophe fund, funded by contributions from insurers and builders, capable of supporting claims above $10 million, and last resort claims arising from owners of high rise units.

9. Social Regulation

The NCC's working paper on social regulation includes consideration of NCP obligations in education, gambling and childcare.

9.1 Education

For the 2002 assessment, the NCC has asked New South Wales to explain why its education legislation has not been reviewed under the NCP program, or that New South Wales agree to list the legislation for review.

The NSW Government does not intend to review its education legislation under the NCP program at this time. Other existing review processes are underway, or have been completed.

A major review of the Government's curriculum, assessment and reporting arrangements was conducted in 1995 (the Eltis Review). The McGaw Review was also carried out in the same year, with a focus on reforms to the Higher School Certificate.

The Government is currently reviewing the funding, regulation and accountability arrangements for non-government schooling. The review may recommend changes to the *Education Act 1990*.

In addition, New South Wales is leading a national process through the Schools Resourcing Taskforce of the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA) on the funding and accountability of government and non-government schools across Australia. A major part of this work will be to achieve national legislative consistency across all jurisdictions.

In relation to the *Higher Education Act 1988* and the *Vocational Education and Training Accreditation Act 1990*, both Acts have been recently reviewed and amended. Extensive consultations were undertaken with external stakeholders, including private providers and the university sector. Any further changes at present would undermine stability.

Once these initiatives have been fully implemented, there may be an opportunity for the Government to evaluate the legislation against NCP principles.

9.2 Gambling

9.2.1 Casino Licence

The review of the *Casino Control Act 1992* commenced in 1997-1998. The review's final report was submitted to the Government in December 1998. The New South Wales Supplementary Report to the NCC for the year ended December 2000 noted that the Government supported, in principle, the review's recommendations but referred the report to NSW Treasury for updating (refer to pages 4 and 5).

It is anticipated that the revised report will be submitted for Government consideration in April-May 2002.

For the 2002 assessment, the NCC has indicated that New South Wales will need to provide the public benefit arguments supporting its favoured approaches to probity, consumer protection and harm minimisation. It is expected that the revised report will address these public benefit arguments.

9.2.2 TAB

The review of the *Totalizator Act 1997*, undertaken by the Centre for International Economics in 1998, concluded that there is a net public benefit from the TAB's exclusive licensing arrangements. A copy of the clause 5(5) CPA analysis was provided to the NCC.

The New South Wales Supplementary Report to the NCC for the year ended December 2000 made it clear that there were no issues raised in the Productivity Commission's 1999 Report on Australian Gambling Industries that suggested a need to vary the New South Wales position conveyed in the review's final report (refer to pages 6 and 7).

For the 2002 assessment, the NCC has identified further issues for Government consideration.

In relation to wagering, the NCC has questioned the Government's rationale for granting an exclusive licence to TAB Limited.

TAB Limited's exclusive wagering licence expires in 2012. As the Productivity Commission acknowledged in relation to the Australian Jockey Club, the cost of early termination of such a contract would outweigh the public benefit. After the current licence expires, the Government may consider the possibility of multiple wagering licences. In the meantime, New South Wales will continue to work with other jurisdictions through the Australian Racing Ministers' Conference and the COAG Committee on Regulatory Reform to minimise any adverse cross-border impacts.

In relation to gaming machines, the NCC has indicated that New South Wales has not provided a public benefit case to support the TAB's exclusive investment licence. It has also pointed to a potential conflict of objectives in so far as the TAB both monitors the use of gaming machines across all venues, and profits from the use and supply of gaming machines through its investment licence.

New South Wales is firmly of the view that the 1998 review established a strong public benefit case to support TAB Limited's exclusive investment licence. Furthermore, the assertion that TAB Limited may have a conflict of objectives is incorrect.

The legislation provides for a 15-year exclusivity period, which commenced on 14 March 2000. This licence enables TAB Limited to acquire gaming machines for supply to hotels, finance the acquisition of gaming machines by hotels, and share in

profits derived from the operation of gaming machines that TAB Limited has supplied or financed.

The investment licence offers a different way of financing gaming machines in hotels. It competes with the financing options offered by other institutions. The NCC incorrectly assumes that TAB Limited is a gaming machine operator. TAB Limited does not control the operation of gaming machines in New South Wales – that is the responsibility of the hotel, even though ownership of the gaming machines rests with TAB Limited.

Guidelines and operating procedures for TAB Limited under the investment licence have received ministerial approval. These also include harm minimisation strategies and prohibition of exclusive arrangements with one hotel, or a limited number of hotels within a particular geographic district.

The governing legislation authorised a 15-year exclusive licence to be given to TAB Limited for the establishment and operation of a central computer system to monitor the gaming machine operations within registered clubs and hotels for integrity and taxation purposes.

Internal controls and procedures are in place within TAB Limited for the operation of the centralised monitoring system (CMS). These procedures were closely reviewed by the Department of Gaming and Racing, and independently reviewed by the Government's Internal Audit Bureau. The procedures have received ministerial approval.

TAB Limited appears to be diligent in ensuring that staff throughout its CMS and non-CMS operational units are aware that CMS data about club and hotel gaming operations must remain confidential to the CMS unit.

9.2.3 Lotteries

The *Public Lotteries Act 1996* and the *NSW Lotteries Corporatisation Act 1996* were not listed for NCP review as part of the Government's 1996 legislation review schedule.

For the 2002 assessment, the NCC has indicated that formal review of this legislation is not required under the Competition Principles Agreement. However, there is an obligation under clause 5(5) to demonstrate that new legislation is accompanied by evidence of consistency with NCP principles.

NCP principles are being addressed as part of the statutory five-year reviews that are being undertaken for both pieces of legislation. These reviews need to be completed and tabled in Parliament by November 2002. It is therefore anticipated that further information would be provided to the NCC for the June 2003 assessment

9.2.4 Racing and Betting

The NCP review of racing and betting legislation, including the *Racing Administration Act 1998*, commenced in 1998-1999. The review's final report was submitted to the Minister for Gaming and Racing in September 2001.

The final report recommended that existing legislative restrictions on the conduct of racing and betting be retained on the public interest grounds of harm minimisation, and ensuring probity, with the exception of a relaxation in arrangements regarding corporate bookmakers.

The NSW Government accepted the review's recommendations on 3 December 2001. In relation to corporate bookmakers, the Government is presently drafting amending legislation to be introduced into the current session of Parliament. This will give effect to the review's recommendation that licensed bookmakers be permitted to use alternative operating structures. This change will facilitate fairer income tax arrangements, better management of the risks associated with bookmaking, and improved customer service.

Additionally, the Government has recently announced that the State turnover tax on bookmakers, in regard to both racing betting and sports betting, will be abolished from 31 March 2002. It is estimated that this initiative will save the State's bookmakers approximately $2.4 million each year and assist them to remain viable and competitive with bookmakers in other States.

The NCC has subsequently questioned the Government's decision to retain the $200 minimum telephone bet limit for racing bookmakers. The Government's view is that the public benefit case to retain this restriction was sufficiently addressed by the review.

For the 2002 assessment, the NCC has indicated that the Government is still to provide the public benefit arguments for retaining restrictions in the *Australian Jockey Club (AJC) Act 1873*.

This Act was reviewed according to NCP principles in 1998-1999. The Government accepted the review's public benefit assessment and recommendation that the lease arrangements in respect of Crown land be reviewed again in the course of the 10-year NCP review cycle.

The AJC's exclusive occupation and use of the Randwick Racecourse was renewed in 1992 for a term of 50 years. The Government is of the view that this lease agreement needs to be fulfilled. The potential cost of breaking the lease would far outweigh the benefits of doing so.

9.2.5 Gaming Machines

The review of gaming machine provisions in the *Liquor Act 1982* and *Registered Clubs Act 1976* commenced in 1999. The New South Wales Supplementary Report to the NCC for the year ended December 2000 indicated that the review's progress would be considered in light of the final Government policy on the availability of gaming machines in registered clubs and hotels (refer to pages 10 and 11).

The Government's policy, also known as the Gaming Reform Package, was announced on 26 July 2001. NCP principles were addressed as part of the policy development process.

The new policy's primary objective is harm minimisation. The package, however, also incorporates a market-based approach designed to give registered clubs and hotels greater flexibility.

The Gaming Reform Package will be given effect by the *Gaming Machines Act 2001,* due to commence in April 2002. This Act also simplifies and streamlines the regulatory structure for the control and management of gaming machines in New South Wales.

In view of the substantial harm caused by problem gambling, the Government is confident that any costs associated with the Act are far outweighed by the public benefits involved.

For the 2002 assessment, the NCC has indicated that the harm minimisation reforms appear to fall within the range of those endorsed by the Productivity Commission and COAG, and so have already been shown to meet the CPA test. However, New South Wales needs to provide public benefit arguments in support of the other key reforms.

Public benefit issues are being addressed in a report that is currently being prepared for Government consideration.

9.2.6 Minor and Other Gambling

The review of the *Charitable Fundraising Act 1991* and the *Lotteries and Art Unions Act 1901* commenced in 2000. The Department of Gaming and Racing released an Issues Paper for public consultation in December 2000. It is anticipated that the final report will be submitted to the Minister for Gaming and Racing by the end of May 2002.

9.3 Childcare

For the 2002 assessment, the NCC has indicated that New South Wales will need to provide the net public benefit arguments to support restrictions on competition in new childcare legislation.

The *Children (Care and Protection) Act 1987* currently regulates commercial childcare services in New South Wales. The Government will replace this legislation with regulatory provisions in the *Children and Young Persons (Care and Protection) Act 1998.*

A new consolidated Regulation is being finalised. Consultants are currently preparing a Regulatory Impact Statement that is required by the *Subordinate Legislation Act 1989.* NCP principles are being addressed as part of this process. It is anticipated that the draft Regulation and Regulatory Impact Statement will be released shortly.

The 1996 Regulations are due to be repealed on 1 September 2002. The new Regulation, which supports the Proclamation of Chapter 12 of the *Children and Young Persons (Care and Protection) Act 1998,* will be introduced before that date.

10. Professions and Occupations not Covered Elsewhere

The NCC's working paper on professions and occupations not covered elsewhere includes consideration of NCP obligations in the legal profession, commercial agents, inquiry agents and security providers, as well as other professional and occupational licensing.

10.1 Legal Profession

New South Wales leads most other jurisdictions in the transparency of regulation of the legal profession. It is also leading two working parties on legal profession reform under the auspices of the Standing Committee of Attorneys General.

The final report on the NCP review of the *Legal Profession Act 1987* was completed in 1998. As outlined in the New South Wales Annual Report to the NCC for the year ended December 2000, the Government is making good progress with the implementation of reforms (refer to pages 144 and 145).

For the 2002 assessment, the NCC has indicated that New South Wales will need to provide a public interest case for the recent restrictions placed on the nature of advertising of workers compensation services by legal practitioners.

Since then the *Legal Profession (Advertising) Regulation 2002* ("the Regulation") has also been gazetted (on 1 March 2002). The Regulation will prevent lawyers from advertising personal injury services in the electronic media, and restricts the manner of advertising in the print media.

The Government acknowledges that the restrictions raise NCP issues. However, there is a clear net public benefit in maintaining affordable public liability insurance to which this restriction will contribute.

The Regulation was made on the basis of evidence that the increasing number of claims and the cost of these claims are contributing to an increase in public liability insurance premiums. This, in turn, is adversely affecting non-government service delivery and small business. The evidence is set out in the February 2002 J P Morgan Interim Insurance Survey ("the Trowbridge Report") and the February 2002 Report of the Queensland Government's Liability Insurance Task Force.

The Government is exploring other means of maintaining affordable public liability insurance but did not believe that this particular measure could be introduced effectively in a less restrictive manner, or by relying on the general provisions in respect of misleading or deceptive advertising under the *Trade Practices Act 1974 (Cth)*.

For the 2002 assessment, the NCC has also raised the issue of professional indemnity insurance.

The review of the *Legal Professions Act 1987* recommended that the market for insurance for solicitors be deregulated.

In December 2001, the Government approved the preparation of legislation to establish new arrangements for solicitors' insurance.

The Government's proposal is to establish a new mutual fund to cover all solicitors except those who have exemptions. Solicitors would be required to meet the cost of running the fund through a levy on their premiums. The levy would be approved by the Attorney General. It is anticipated that the fund would be administered by an insurer that is selected by an independent Board, which does not represent the Crown. All or part of the liabilities of the fund would be re-insured by commercial insurers.

The proposed arrangements will also accommodate firms that operate in more than one jurisdiction and seek to effect insurance in another jurisdiction.

It is anticipated that legislation to give effect to the new arrangements will be introduced into the current session of Parliament. The mutual fund will be reviewed after it has been in operation for two years, having regard to changing market conditions.

Currently, the Government considers that the proposed mutual fund is the most appropriate way forward.

The cost of professional indemnity insurance has risen significantly in the past 12 months. The Trowbridge report found that considerable displacement in the market for professional indemnity insurance occurred following the demise of HIH, and premiums rose by approximately 20 per cent. A mutual fund is cushioned against such fluctuations.

The Government's concern is that deregulation could lead to a substantial number of solicitors being unable to obtain insurance because of present market conditions. Such a result could reduce the number of legal service providers, and therefore competition. Insurers confirmed this concern during public consultations. They did not support deregulation at present because of uncertainty in world insurance markets following the events of 11 September and the HIH collapse.

In particular, insurers expressed a reluctance to participate in a scheme that involved direct contracting between solicitors and insurers. The perceived problem for insurers is the risk that a single insurer might attract a disproportionate number of the poor risk solicitors, resulting in a loss. Insurers' representatives indicated that this risk would probably deter them from participation in a deregulated market at the moment.

Insurers expressed a willingness to act as re-insurers for all or part of the liabilities of a mutual fund because this was perceived to limit their exposure. The risk of the

legal profession as a whole is relatively clear because of the extensive claims history held by LawCover, which has arranged insurance for solicitors since 1987. To ensure that the cost of insurance reflects the risk of an individual solicitor, the legislation will provide for risk rating of insured practitioners.

The mutual fund approach is supported by a report provided by actuaries, which confirms that a mutual arrangement offers the most cost effective model and offers very good consumer protection, especially for run-off cover.

10.2 Commercial Agents, Inquiry Agents and Security Providers

The review of the *Commercial Agents and Private Inquiry Agents Act 1963* commenced in November 2001. An Issues Paper was released in January 2002 to assist interested parties to participate in the review process. The review's final report is in preparation and, at this stage, it is anticipated that any legislative reforms will be introduced into the current session of Parliament.

For the 2002 assessment, the NCC has indicated that there is insufficient information on the review of the *Security (Protection) Industry Act 1985*. The NCC also indicated that the Government's public interest justification for the restrictions in the *Security Industry Act 1997* is not adequate to enable assessment of NCP compliance.

The *Security (Protection) Industry Act 1985* was repealed by the *Security Industry Act 1997*, which came into effect on 1 July 1998.

The 1997 Act follows the recommendations in the Report of the Inquiry by Mr Justice Peterson of the Industrial Relations Commission into the *Transport and Delivery of Cash and Other Valuables Industry*. This inquiry resulted from a reference from the Minister of Industrial Relations under the s 345(4) of the *Industrial Relations Act 1996* made after incidents of armed robbery and shootings of security guards led to concerns about safety in the security industry.

The inquiry was public and heard extensive evidence from the security industry, clients of the security industry and others with an interest. The report is publicly available.

Another report taken into account in drafting the legislation was the Report of the Royal Commission into the NSW Police Service (the Wood Royal Commission) in 1997. This report also resulted from extensive public hearings.

The Government did not list the *Security Industry Act 1997* for NCP review as part of the 1996 legislation review schedule. However, NCP principles were addressed in developing the legislative proposal. The legislation is fundamentally based on public interest grounds. It is primarily intended to reduce: the risk of criminal activity in the security industry; the risk of financial loss to businesses; the risk to public safety; the risk to security guards working in the industry; and the risk from dishonest or untrained security guards, who sometimes carry firearms.

10.3 Other Professional and Occupational Licensing

10.3.1 Property, Stock and Business Agents

The review of the *Property, Stock and Business Agents Act 1941* commenced in 1997. The review's final report was submitted to the Minister for Fair Trading in February 2001.

The recommendations included competency standards as a component of entry requirements, compulsory professional indemnity insurance, and annual licence renewal.

In July 2001, the Government accepted the majority of the review's recommendations, in principle, and approved the preparation of an exposure Bill for further public consultation. The Government decided not to adopt the review's proposal to replace the current multi-licensing system with a single licence regime. The reason was that a single licensing scheme could decrease the competency of agents and erode consumer protection.

Consultation on the exposure Bill has been completed. It is anticipated that the Government will reintroduce the Bill into the current session of Parliament.

10.3.2 Conveyancers

The review of the *Conveyancers Licensing Act 1995* commenced in 1999. The review's final report was submitted to the Minister for Fair Trading in October 2001.

The Government is currently considering a proposal arising from the recommendations of the review. It is anticipated that amending legislation will be introduced into Parliament during 2002.

10.3.3 Employment Agents

The review of the *Employment Agents Act 1996* commenced in 2000. The review's final report was submitted to the Minister for Fair Trading in February 2001.

The review recommended that the requirement to be licensed as an employment agent be abolished. It also recommended the repeal of the Act and the amendment of the *Fair Trading Act 1987* to include specific consumer protection mechanisms in relation to the use of employment agents.

In February 2002, the Government accepted the review's recommendations, in principle, and approved the preparation of an exposure Bill for further public consultation during 2002.

It is anticipated that a final reform proposal will be submitted for Government endorsement shortly. The final report will also be publicly released. It is anticipated that amending legislation will be introduced into Parliament during 2002.

10.3.4 Finance Brokers

The review of the *Credit (Finance Brokers) Act 1984* commenced in 2000. The review's final report was submitted to the Minister for Fair Trading in June 2001.

The review recommended the repeal of the Act and the insertion of a new part into the *Consumer Credit Administration Act 1995* to regulate the conduct of finance brokers. It also recommended a number of amendments to improve the effectiveness of consumer protection.

In February 2002, the Government accepted the review's recommendations, in principle, and approved the preparation of an exposure Bill for further public consultation during 2002.

It is anticipated that a final reform proposal will be submitted for Government endorsement shortly. The final report will also be publicly released. It is anticipated that amending legislation will be introduced into Parliament during 2002.

10.3.5 Pawnbrokers and Second Hand Dealers

The review of the *Pawnbrokers and Second Hand Dealers Act 1996* commenced in 2000. The review's final report was submitted to the Minister for Fair Trading in November 2001.

It is anticipated that the Government will make a decision on the final report shortly, with any legislative amendments introduced into Parliament during 2002.

10.3.6 Motor Dealers and Repairers

The review of the *Motor Dealers Act 1974* and *Motor Vehicle Repair Act 1980* commenced in 1996-1997. The review's final report was submitted to the Minister for Fair Trading in 2000.

The Government considered the results of the review in April 2000. In February 2001, the Minister released an exposure Bill containing a number of key proposals arising from the review for public comment. These proposals were outlined in the New South Wales Annual Report to the NCC for the year ended December 2000 (refer to pages 149 and 150). Consultations followed with peak industry, insurer and consumer groups. As a result a number of changes were made to the exposure Bill.

In October 2001, the Government approved the *Motor Trades Amendment Bill 2001* for introduction into Parliament. The Bill contained amendments intended to free-up competition in the motor trade and repair industry, whilst at the same time ensuring consumer protection. The first stage of the *Motor Trades Amendment Act 2001* commenced on 1 March 2002.

10.3.7 Hairdressers

The review of Part 6 of the *Factories, Shops and Industries Act 1962* relating to the regulation of hairdressers commenced in 2000. An Issues paper was released in June 2000 to facilitate public consultation.

Further discussions and negotiations with a range of stakeholders are taking place in the preparation of the review's final report. It is anticipated that the Government will make a decision on the final report by 30 June 2002.

10.3.8 Boxers and Wrestlers

The review of the *Boxing and Wrestling Control Act 1986* commenced in 2000. The review's final report was submitted to the Minister for Sport and Recreation in February 2002.

It is anticipated that a final reform proposal will be submitted for Government endorsement shortly. It is anticipated that amending legislation will be introduced into Parliament during 2002.

10.3.9 Entertainers

The review of the *Entertainment Industry Act 1989* commenced in 2001. An Issues Paper was released in September 2001 to facilitate public consultation.

The review's final report is currently being prepared. It is anticipated that the Government will make a decision on the final report by 30 June 2002.

10.3.10 Driving Instructors

The review of the *Driving Instructors Act 1992* commenced in 1997. The review's final report was submitted to the Minister for Transport in September 2001. It is anticipated that the Government will make a decision on the final report by 30 June 2002.

11. Competitive Neutrality

11.1 Application in NSW

New South Wales has complied with its competitive neutrality obligations as required under the Competition Principles Agreement. The New South Wales Annual Report to the NCC for the year ended 2000 provided a comprehensive account of the application of competitive neutrality in New South Wales, including the complaints handling mechanism (refer to pages 3 to 28). This report will focus on subsequent developments.

The NSW Government Policy Statement on the Application of Competitive Neutrality was first published in June 1996, as required under the Competition Principles Agreement. This was revised in January 2002 to provide an update to the 1996 Policy Statement in relation to:

(a) the framework applying to NSW Government businesses;

(b) costing and pricing guidelines for NSW Government businesses; and

(c) mechanisms for considering competitive neutrality complaints against NSW Government businesses.

The updated Policy Statement on the Application of Competitive Neutrality is available on the NSW Treasury website (www.treasury.nsw.gov.au).

The NSW Government's Policy Summary of the Competitive Neutrality Complaints Handling Mechanism was also issued in January 2002. It is available on The Cabinet Office website (www.cabinet.nsw.gov.au).

In June 2001, NSW Treasury released Guidelines for Pricing of User Charges to provide advice on how Government agencies should ensure that goods and services sold in contestable markets are costed and priced in a competitively neutral manner. These Guidelines, which replace the NSW Treasury Working Paper Pricing Principles for User Charges issued in October 1997, are available on the NSW Treasury website. The NSW Government agencies that are required to implement pricing principles are shown Attachment 2.

The NSW Government is in the process of providing comment on the NCC's Staff Research Paper on competitive neutrality policy.

11.2 Complaints about Government Businesses

The competitive neutrality complaints handling mechanism in New South Wales involves two stages. Firstly, the party lodging a complaint is to approach the relevant Government agency to clarify and attempt to resolve the matter. Secondly, if necessary, the Premier refers the matter to the Independent Pricing and Regulatory Tribunal or the State Contracts Control Board for independent assessment. This may

happen in circumstances where the complainant is not satisfied with the response of the agency concerned.

During the reporting period, the Government did not receive any new requests for competitive neutrality complaints to be referred either to the Independent Pricing and Regulatory Tribunal or the State Contracts Control Board for investigation.

11.3 Freight Rail Corporation

The sale of FreightCorp was finalised on 21 February 2002 and accordingly, issues concerning competitive neutrality no longer exist.

11.4 ARRB Transport Research Limited

As noted in the previous report, the Commonwealth Competitive Neutrality Complaints Office (CCNCO) had written to the Premier in November 2000, advising that it had received a complaint against ARRB Transport Research Limited. ARRB is a public company whose ten members are the State and Territory road authorities, the Commonwealth Department of Transport and Regional Services, and the Australian Local Government Association. It provides technical and research services addressing transport problems.

The complainant alleged that ARRB was in breach of the competitive neutrality policy of each of its member Governments. As ARRB is controlled by more than one Government, New South Wales agreed that the complaint should be referred to the CCNCO for investigation.

In August 2001, the CCNCO released the report of its investigation into ARRB. It found that the operations of ARRB did not breach the competitive neutrality principles of its member Governments.

11.5 Other Complaints

During the reporting period, The Cabinet Office received three written complaints regarding alleged breaches of competitive neutrality. The parties were informed of the NSW Government's competitive neutrality complaints handling mechanism and advised to address their complaints to the relevant Government agencies in the first instance. No further action has been required from The Cabinet Office to date.

11.6 Complaints about Local Government

During the reporting period, the Department of Local Government did not receive any competitive neutrality complaints that needed to be referred to a local council for initial investigation. Similarly, the Department of Local Government was not requested to review any responses to complaints against local councils.

12. Structural Reform of Public Monopolies

Comprehensive information on the structural reform of public monopolies was provided in the New South Wales Annual Report to the NCC for the year ended 2000 (refer to pages 29 to 33). The report identified those NSW Government Business Enterprises that have been corporatised or privatised or have been assessed as potential candidates for corporatisation or privatisation in the medium term. Update information is provided at Attachment 3.

13. Attachments

Attachment 1: Update on planning and land-use reform projects

Attachment 2: Significant NSW general Government sector agencies required to implement pricing principles

Attachment 3: NSW Government Business Enterprises that have been or are intended to be corporatised or privatised

Attachment 1: Update on planning and land-use reform projects

Project	Original Timeframe	Status at December 2001	Current Status (March 2002)
1. Development of policy options for integrated approvals system.	Discussion Paper 1996		***Complete*** Integrated Development amendments commenced 1 July 1998.
2. Review of referral and concurrences in local planning policies.	1996-98	***Underway*** Current review of plan making (planFIRST) is seeking to remove referrals and concurrences in local plans via a more strategic approach to local planning. It is proposed that local plans will take account of the requirements of other agencies in the permissibility and assessment of development.	***Underway*** The provision of greater strategic direction provided by the planFIRST reforms will have the effect of reducing the level of referrals and concurrences.
3. Extend Guarantee of Prompt Service to concurrent approvals under the *Environmental Planning and Assessment (EP&A) Act*.	1997		***Complete*** 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.	1996 Report on SEPP 46 to be submitted to the Premier before 1996.		***Complete*** 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.

Project	Original Timeframe	Status at December 2001	Current Status (March 2002)
5. Integration of total catchment management objectives in planning instruments.	1996-97 TCM review report was submitted to Parliament March 1997	***Underway*** A Government White Paper: *Plan First – Review of Plan Making* released February 2001. The White Paper proposes to integrate catchment management objectives into new *Regional Strategies*: integrated, strategic planning instruments under the EP&A Act, that will apply to every region of NSW.	***Underway*** It is expected that the planFIRST legislation will require that aspects of natural resource management plans that relate to land use and environmental planning and require regulation will be implemented through the EP&A Act. This will occur through their inclusion in Local Plans. Draft legislation is being finalised for introduction into Parliament in the first half of 2002.
6. Examine feasibility of incorporating plans for: river, land, and habitat management; environmental protection; and forestry reserves into planning instruments under the EP&A Act.	1997	***Underway*** Government White Paper: *Plan First - Review of Plan Making*, released February 2001. A key theme of the White Paper is the integration of all policies and plans for environmental and land use issues into one local planning instrument for each Local Government Area (LGA), one regional strategy for each region and one state planning policy document.	***Underway*** See previous.

Project	Original Timeframe	Status at December 2001	Current Status (March 2002)
7. Review and reform of regulations affecting mining.	Amalgamate to planning frameworks from 1997-2000	***Underway*** NSW Department of Mineral Resources is currently conducting reviews of the *Mines Inspection Act 1901* and the *Coal Mines Regulation Act 1982*.	Comprehensive review of mines legislation is underway. Position paper completed in August 2001.
8. Review and reform of regulations affecting mariculture.		***Underway*** NCP review of the *Fisheries Management Act 1994* has commenced. An issues paper was released in November 2000 and the final report is in preparation.	***Complete*** NCP Review complete. The Review confirms net public benefits from current regulations.
9. Review and reform of regulations affecting forestry including the corporatisation of State Forests.	Legislation to be introduced in Autumn Session 1997 to achieve phased implementation.	***Underway*** The *Plantations & Reafforestation Act 1999* codified environmental standards and provided a streamlined, integrated scheme for establishing, managing, and harvesting timber on public and private land. The *Act* is a key part of NSW's forestry reform process and is also designed to meet NCP obligations for structural and competitive neutrality.	The *Plantations and Reafforestation Act* and Code commenced in December 2001 The option to establish State Forests as a State Owned Corporation has been canvassed. However, the decision has been made not to proceed with this approach. State Forests is a Public Trading Enterprise and operates under a framework which requires: - the application of commercially based targets of rates of return, dividends and capital structures; - regular performance monitoring; - the payment of State taxes

Project	Original Timeframe	Status at December 2001	Current Status (March 2002)
			and Commonwealth tax equivalents; - the payment of risk-related borrowing fees; and - explicitly funded social programs ie. 'Community Service Obligations'.
10. Review of s90 EP&A Act 'heads of consideration' for development consent.			***Complete*** 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'.	1996-97		***Complete*** Completed with the introduction of State-wide complying/ exempt development in April 2000. 85 per cent of councils in NSW have some form of complying/ exempt development.
12. Consider potential for private certification of building, sub-division water and sewerage approvals.	1996-97		***Complete*** Reforms to development assessment system introduced 1 July 1998 contain certification for building and subdivision.

Project	Original Timeframe	Status at December 2001	Current Status (March 2002)
13. Integrate building and planning approvals.	1996-97		***Complete*** 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.	1996-97	***Underway*** The White Paper: *Plan First - Review of Plan Making* proposes a locality planning approach as opposed to that of land-use zoning in local plans. This approach places emphasis on desired planning outcomes thereby minimising the need for prescriptive lists of permissible and prohibited land uses. A general aim of the reforms is to reduce the unnecessary use of prohibitions in planning instruments.	***Underway*** See No. 18 below.
15. Review and reform development without consent (SEPP 4) for change of use in industrial areas.	1998		***Complete*** 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.	1998		***Complete*** EP&A Act amended to allow for this situation.

Project	Original Timeframe	Status at December 2001	Current Status (March 2002)
17. Review heritage approvals and consider better integration with Development Approval/ Building Approval (DA/ BA) processes.	1996-97		***Complete*** Heritage approvals now integrated under the EP&A Act. Heritage Act amendments streamline the process if development accords to a Conservation Plan.
18. Consider potential for standardising consent conditions, zoning classifications and definitions of performance standards.	1998	***Underway*** DUAP[1] working with councils via advisory notes to improve consent conditions. A set of standard conditions or principles of conditions is being worked on to achieve greater consistency. The White Paper: *Plan First - Review of Plan Making* proposes a locality approach to local planning to remove zoning classifications. DUAP is aware of the work of the	***Underway*** Under planFIRST it is expected that each local council will develop a new single local plan based on a locality planning approach. It is therefore likely that there will be fewer zoning classifications. In addition, as councils will have the assistance of PlanningNSW staff to develop these plans it is likely that there

[1] DUAP has been renamed as PlanningNSW

Project	Original Timeframe	Status at December 2001	Current Status (March 2002)
		Development Assessment Forum (DAF) to develop national standard definitions and will make a submission on the DAF discussion paper on these issues.	will be greater standardisation of definitions and standards across local plans. PlanningNSW is reviewing the final set of standard definitions produced by DAF for inclusion as part of the planFIRST reforms.
19. Stage II review of pollution control acts to streamline and rationalise licensing procedures.	1996-97		***Complete*** The *Protection of the Environment Operations Act 1997* (PoEO Act) and regulations commenced on 1 July 1999, replacing five core pollution control statutes and providing for stronger environment protection, while streamlining the licensing process. Businesses now require only one environment protection licence that recognises the ongoing, long-term nature of operations.
20. Review water legislation and licensing.	1996-97		***Complete*** Review completed. New *Water Management Act 2000* being implemented.

Project	Original Timeframe	Status at December 2001	Current Status (March 2002)
21. Develop framework for Coordinated/ Integrated Development Approval Conditions and other requirements and advice on the use of the framework.	1996-97	***Underway*** DUAP has been working on Best Practice Guidelines and education requirements with agencies involved in Integrated Development as part of the publication of *Guiding Development: better outcomes*.	***Underway*** Practice notes on conditions relating to integrated development have been released as part of the publication *Guiding Development: better outcomes*. Further education initiatives are likely to be forthcoming with the expected amendments to Part IV of the EP&A Act.
22. Develop Best Practice Guidelines for a Co-ordinated/ Integrated Development Approval System for Mining and Extractive Industry.	1996-97		***Complete*** Guidelines were issued in September 1997. Relevant amendments to the EP&A Act came into effect in July 1998.
23. Develop Best Practice Guidelines for Planning Focus.	1996-97		***Complete*** Guidelines have been prepared.

Project	Original Timeframe	Status at December 2001	Current Status (March 2002)
24. Develop Best Practice Guidelines for Community Consultation.	1996-97	***Underway*** In conjunction with the plan making review, a companion document to the *Plan First* White Paper has been placed on public exhibition. The document, *Ideas for Community Consultation: A discussion on principles and procedures for making consultation work* will form the basis for a DUAP guideline document for best practice in community consultation.	***Underway*** Guidelines will be released as part of the planFIRST package. Expected mid 2002.
25. Review of endangered species legislation so as to integrate licences and DAs.			***Complete*** The *Threatened Species Conservation Act 1995* amended the *National Parks and Wildlife (NP&W) Act 1974* to integrate licences and development applications/ consents with respect to harming, picking threatened species populations or ecological communities. See s18A (3) (b) of the NP&W Act. The amendment took effect on 1/ 1/ 96.
26. Adopt reformed Australian Building Code (as performance standards) with minimal variations.	1996-97		***Complete*** Performance-based 1996 Building Code of Australia was adopted in NSW.

Project	Original Timeframe	Status at December 2001	Current Status (March 2002)
27. Convert siting rules to performance standards.	1996-97		***Complete*** Fire standards provisions were repealed on 1 July 1999. These siting standards are now controlled via the performance-based Building Code of Australia, and councils' Local Environment Plans (LEPs) and Development Control Plans (DCPs). Other siting requirements are controlled under LEPs and DCPs where necessary.
28. Extend and improve performance benchmarking of local councils.	1996-97	***Complete*** NCP obligations are completed. This is however an ongoing process for NSW.	***Ongoing*** The Govt continues to improve its local council comparative performance information. PlanningNSW is working on a program to measure the effectiveness of the development assessment system. An auditing program of councils' performance will further decentralise development assessment fees.
29. Public consultation to improve operation of current approval rights and dispute resolution system.	1997	***Underway*** Proposed changes to plan making will see increased opportunities for community consultation before and during the plan making process. As a result of increased community 'ownership' of planning instruments, reduced disputes at the development assessment and approval stage are expected.	***Underway*** It is expected that the planFIRST reforms will lead to a simplified planning system with greater room for community consultation. This is expected to reduce disputes at the development assessment and approval stage.

Project	Original Timeframe	Status at December 2001	Current Status (March 2002)
30. Examine the potential for consolidating land, water and related natural resource management legislation into a single statute.	1996-97		***Complete*** NSW has examined the potential for consolidating relevant statutes into a single Act. NSW has decided, however, on an integrated policy framework, which will continue to involve separate environmental planning and natural resource management legislation.

Attachment 2: Significant NSW general Government sector agencies required to implement pricing principles

No.	Government Purpose (ABS)[1]	Government Agency/Activity	GGE (ABS)[2]	Treasury Monitor[3]	User[4] Charges	Sig[5]	Min[6]
	(01) General Public Services						
1		Audit Office of NSW	x	x	x	x	
2		Cabinet Office	x	x			
3		Community Relations Commission	x	x	x	x	
4		Independent Commission Against Corruption	x	x	x		x
5		Legislature	x	x	x		x
6		Local Government, Dept of	x	x	x		x
7		Ombudsman's Office	x	x	x		x
8		Parliamentary Counsel's Office	x	x			x
9		Premier's Department	x	x	x		x
10		Public Trustee	x	x	x	x	
11		Registry of Births, Deaths and Marriages	x	x	x	x	
12		State Electoral Office	x	x	x		x
13		State Records	x	x	x		x
14		Treasury	x	x	x	x	
	(03) Public Order & Safety						
15		Attorney General's Dept	x	x	x	x	
16		Corrective Services, Dept of	x	x	x	x	
17		Crime Commission, NSW	x	x	x		x
18		Director of Public Prosecutions, Office of	x	x	x		x
19		Fire Brigades, NSW	x	x	x	x	
20		Judicial Commission of NSW	x	x	x		x
21		Juvenile Justice, Dept of	x	x	x		x
22		Legal Aid Commission	x	x	x	x	
23		Police Integrity Commission	x	x			
24		Police, Ministry for	x	x	x		x
25		Police Service, NSW	x	x	x	x	
26		Rural Fire Service	x	x			
27		State Emergency Service	x	x	x		x
	(04) Education						
28		Board of Studies, Office of the	x	x	x	x	
29		Department of Education and Training	x	x	x	x	
	(05) Health						
30		Health Care Complaints Commission	x	x	x		x
31		Health, Dept of	x	x	x	x	
	(06) Social Security & Welfare						
32		Aboriginal Affairs, Dept of	x	x			
33		Ageing, Disability and Homecare, Dept of	x	x	x	x	
34		Commission for Children and Young People			x		x
35		Community Services Commission	x	x	x		x
36		Community Services, Dept of	x	x	x		x
37		Home Care Service	x	x	x	x	
38		Office of the Children's Guardian	x	x			
39		Rental Bond Board	x	x			
40		Women, Dept for	x	x			
	(07) Housing & Community Amenities						
41		Aboriginal Housing Office		x	x	x	
42		Environmental Trust	x	x			
43		Environment Protection Authority	x	x	x		x
44		Honeysuckle Development Corporation	x	x	x	x	
45		Ministerial Development Corporation	x	x	x	x	
46		Planning, Dept of	x	x	x	x	
47		Storm Water Trust	x	x			
48		Waste Planning & Management Fund	x	x			

No.	Government Purpose (ABS)[1]	Government Agency/Activity	GGE (ABS)[2]	Treasury Monitor[3]	User[4] Charges	Sig[5]	Min[6]
	(08) Recreation & Culture						
49		Art Gallery of NSW	x	x	x	x	
50		Arts, Ministry for the	x	x	x		x
51		Australian Museum	x	x	x	x	
52		Casino Control Authority	x	x	x	x	
53		Centennial Park and Moore Park Trust	x	x	x	x	
54		Film and Television Office, NSW	x	x	x		x
55		Gaming and Racing, Dept of	x	x	x		x
56		Heritage Office	x	x	x		x
57		Historic Houses Trust of NSW	x	x	x	x	
58		Luna Park Reserve Trust	x	x	x		x
59		Museum of Applied Arts and Sciences	x	x	x	x	
60		National Parks and Wildlife Service	x	x	x	x	
61		Olympic Coordination Authority	x	x	x	x	
62		Royal Botanic Gardens and Domain Trust	x	x	x		x
63		Sport and Recreation, Dept of	x	x	x	x	
64		State Library of NSW	x	x	x	x	
65		State Sports Centre Trust	x	x	x	x	
66		Sydney Entertainment Centre	x		x		x
67		Sydney Olympic Park Authority	x	x	x	x	
	(09) Fuel & Energy						
68		Coal Compensation Board	x	x	x		x
69		Electricity Tariff Equalisation Ministerial Corp.	x	x			
70		Ministry of Energy and Utilities	x	x	x		x
71		Mineral Resources, Dept of	x	x	x	x	
72		Sustainable Energy Development Authority	x	x			
	(10) Agriculture, Forestry, Fishing & Hunting						
73		Agriculture, Dept of	x	x	x	x	
74		Fisheries, NSW	x	x	x	x	
75		Land and Water Conservation, Dept of	x	x	x	x	
76		Rural Assistance Authority	x	x			
77		Safe Food Production NSW	x	x	x	x	
	(11) Mining, Mineral Resources, Manufacturing & Construction						
78		Building & Construction Industry					
		- Long Service Payments Corporation	x	x			
79		Public Works and Services, Department of	x	x	x	x	
	(12) Transport & Communications						
80		Information Technology and Mgmt, Dept of	x	x	x	x	
81		Motor Accidents Authority	x	x			
82		Office of the Co-ordinator General of Rail	x	x			
83		Roads and Traffic Authority	x	x	x	x	
84		Transport NSW	x	x	x		x
85		Waterways Authority	x	x	x	x	

No.	Government Purpose (ABS)[1]	Government Agency/Activity	GGE (ABS)[2]	Treasury Monitor[3]	User[4] Charges	Sig[5]	Min[6]
	(13) Other Economic Affairs						
86		Fair Trading, Dept of	x	x	x	x	
87		Independent Pricing & Regulatory Tribunal	x	x	x		x
88		Industrial Relations, Dept of	x	x	x		x
89		Insurance Ministerial Corporation	x	x	x		x
90		Land and Property Information NSW	x	x	x	x	
91		Registry of Encumbered Vehicles	x	x	x	x	
92		State and Regional Development, Dept of	x	x	x		x
93		Superannuation Administration Corporation	x	x	x	x	
94		Tourism NSW	x	x	x		x
95		WorkCover Authority	x	x	x	x	
96		Worker's Compensation (Dust Diseases) Board	x				
	(14) Other Purposes						
97		Crown Property Portfolio	x	x	x	x	
98		Crown Transactions	x	x	x	x	

Key to Attachment 2:

1 Categories as per the Australian Bureau of Statistics (ABS) in *Standard Economic Sector Classifications of Australia (SESCA) 1998*.

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 paid by a consumer for services provided. 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 million user charges revenue p.a. (as based on 2001–2002 Budget estimates).

6 Minor < $2 million user charges revenue p.a. (as based on 2001–2002 Budget estimates).

Attachment 3: NSW Government Business Enterprises that have been or are intended to be corporatised or privatised

No.	Industry	Government Business Enterprise	ABS PTE[1]	Treasury Monitor[2]	Cat.[3]	Already Priv'n	Already Corp'n	Date Priv'n(P)/Corp'n	Comments
	Electricity								
1		Australian Inland Energy and Water	x	x	1		x	1/3/96	Absorbed Broken Hill Water Board
2		Country Energy	x	x	1		x	1/7/01	Merger of former Advance Energy, Great Southern Energy and NorthPower.
3		Delta Electricity	x	x	1		x	1/3/96	
4		Energy Australia	x	x	1		x	1/3/96	
5		Eraring Energy	x	x	1		x	2/8/00	
6		Integral Energy	x	x	1		x	1/3/96	Formerly part of Pacific Power
7		Macquarie Generation	x	x	1		x	1/3/96	
8		Pacific Power International	x	x	1				Former subsidiary of Pacific Power – intention to sell announced
9		Power Coal Pty Ltd	x	x				mid 2002(P) (target)	Former subsidiary of Pacific Power.
10		Snowy Mountains Hydro Electricity Authority	x	x	3			mid 2002 (target)	Jointly owned with Victoria and the Commonwealth.
11		TransGrid	x	x	1			14/12/98	
	Finance								
12		Axiom Funds Management Corporation			3	x		16/5/97(P)	
13		Government Insurance Office (GIO)	PFE	x	4	x		16/7/92(P)	
14		NSW Treasury Corporation (TCorp)		x	1		x	1983	
15		State Bank of NSW		x	4	x		31/12/94(P)	
	Gaming & Recreation								
16		NSW Lotteries	x	x	1		x	1/1/97	
17		Totalizator Agency Board of NSW (TAB)	x	x	4	x		6/98(P)	

No.	Industry	Government Business Enterprise	ABS PTE[1]	Treasury Monitor[2]	Cat.[3]	Already Priv'n	Already Corp'n	Date Priv'n(P)/Corp'n	Comments
	Ports & Waterways								
18		Newcastle Port Corporation	x	x	1		x	1/7/95	
19		Port Kembla Port Corporation	x	x	1		x	1/7/95	
20		Sydney Ports Corporation	x	x	1		x	1/7/95	
	Transport								
21		Freight Rail Corporation	x	x	3	x		21/2/02(P)	Sold in conjunction with sale of NRC
22		Rail Infrastructure Corporation	x	x	1		x	1/1/01	Merger of RAC and RSA
	Water								
23		Coleambally Irrigation	x		1	x		9/6/00(P)	
24		Hunter Water Corporation	x	x	1		x	1/1/92	
25		Murrumbidgee Irrigation	x	x	1	x		12/2/99(P)	
26		Sydney Water Corporation	x	x	1		x	1/1/95	
	Misc								
27		Department of Public Works and Services		x	1				
28		First Australian National Mortgage		x	5	x			NSW Gov 25% shareholder only
29		Acceptance			3	x		31/10/94(P)	
30		Fish Marketing Authority	x		3				Advisory Board has been established.
31		Jenolan Caves Reserve Trust	x	x	1			1/1/02	
32		Landcom		x	1				
33		State Forests of NSW	x	x	1		x	26/7/99	
34		Superannuation Administration Corporation						1/11/97(P)	
35		Sydney Market Authority	x	x	1		x	1/9/01	
		Waste Recycling and Processing Corporation							

Key to Attachment 3:

[1] Public Trading Enterprises (PTEs) and Public Financial Enterprises (PFEs) as defined by the Australian Bureau of Statistics (ABS) in *Standard Economic Sector Classifications of Australia (SESCA) 1998*.

[2] GBEs monitored by Treasury on a quarterly or half–yearly basis are within the Commercial Policy Framework (CPF).

[3] 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 that are no longer owned by the Government. As the Government may bear ongoing financial risks, these 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.