QUEENSLAND'S SECOND ANNUAL REPORT TO

THE NATIONAL COMPETITION COUNCIL

FOR THE YEAR ENDING 31 DECEMBER 1997

RELATIVE TO THE SECOND INSTALMENT OF

THE FIRST TRANCHE ASSESSMENT

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Glossary

ACCC	Australian Competition and Consumer Commission
BMA	Brisbane Market Authority
CoAG	Council of Australian Governments
CPA	Competition Principles Agreement
CPI	Consumer Price Index
CSO	community service obligation
DLGP	Department of Local Government and Planning
DMR	Department of Main Roads
DNR	Department of Natural Resources
FCP	full cost pricing
GABCC	Great Artesian Basin Consultative Committee
GRIG	Gas Reform Implementation Group
ICM	Integrated Catchment Management
LGAQ	Local Government Association of Queensland
LGOC	local government owned enterprise
NCC	National Competition Council
NCP	National Competition Policy
NEM	National Electricity Market
NWQMS	National Water Quality Management Strategy
PBA	public benefit assessment
PBT	public benefit test
PHS	Plant Hire Service
QCA	Queensland Competition Authority
QSC	Queensland Sugar Corporation
RTCS	Road Transport Construction Service
SBA	significant business activity
TORUM	Transport Operations Road Use Management
TRS	threshhold reduction strategy
TTD	Transport Technology Division

1. INTRODUCTION

Under Clauses 3(10) and 5(10) of the *Competition Principles Agreement (CPA)*, Queensland is required to provide annual reports to the National Competition Council (NCC) on progress on the implementation of the National Competition Policy (NCP) agenda.

Queensland is to be assessed in 1998 as to its eligibility for the 1998/99 instalment of the first tranche of the competition payments on the basis of issues oustanding from the first tranche assessment provided in 1997. This report addresses these issues in some detail.

Additionally, Queensland's Annual Report as at 31 December 1997 provides detail on the progress of reforms under the *CPA*, as well as progress on CoAG related reforms, namely in the areas of electricity, gas, and road transport. Progress on CoAG related water reform is a matter for the second and third tranche assessments but an on-going dialogue is already underway with the NCC.

2. OUTSTANDING ISSUES FROM THE FIRST NCC ASSESSMENT

The following are the three main issues arising from the NCC's first assessment of Queensland's progress against the NCP reform commitments, which were identified as having the potential to impact on the second part of the first tranche payments due in 1998-99.

2.1 Application of the National Gas Access Code

At the November 1997 CoAG meeting, Queensland and other jurisdictions signed the Natural Gas Pipeline Access Agreement which fulfils in part Queensland's commitment to gas reforms under the NCP agreements. Further details are provided in section 8 below.

2.2 Compliance with clause 5 of the *Competition Principles Agreement* in relation to casino agreement legislation

Queensland's four Casino Agreement Acts as listed below were not originally listed for review as they represent commercial-in-confidence arrangements for the provision of private sector infrastructure:

- *Jupiters Casino Agreement Act* 1983;
- *Breakwater Island Casino Agreement Act* 1984;
- *Brisbane Casino Agreement Act* 1992; and
- *Cairns Casino Agreement Act* 1993.

However, in response to a request from the NCC, the four Casino Agreement Acts were added to the State's legislation review program. The exclusive arrangements with the four casino operators and related provisions that technically amount to a restriction on competition are now subject to a limited review under NCP. The NCC has acknowledged that a limited review process is warranted in such circumstances where commercial-in-confidence arrangements with private sector parties are under examination, and where the cost of a full

review may not be justified.

A confidential briefing on this matter has been provided separately to the NCC.

Other casino legislation, namely the *Casino Control Act* 1982 and the *Casino Control Regulation* 1984, which is deemed to contain restrictions on competition, is scheduled for review in 1998/99.

See also section 6 below.

2.3 Progress with application of competition principles to local government

The NCC indicated in its June 1997 *Assessment of State and Territory Progress with Implementing National Competition Policy and Related Reforms,* that progress on implementing reforms at the local government level would be reassessed prior to July 1998, when Queensland's eligibility for the 1998/99 instalment of the first tranche payment is due. Section 3 below outlines significant outcomes from the application of competition principles to local government.

3. LOCAL GOVERNMENT

3.1 Introduction and 1997 outcomes

3.1.1 1997 Queensland local government NCP outcomes

As the following table demonstrates, 1997 was an important year for the application of NCP reforms to Queensland local governments. The following highlights the major outcomes achieved during the year.

Outcomes from 1997 local government reforms

- **The *Local government Act* 1993 and other Acts were amended to provide the framework for NCP reforms as outlined in Queensland's 1996 NCP policy application statement in relation to competitive neutrality, legislation review and CoAG water reform.**
- **A local government NCP financial incentive package was negotiated with local government under which the State has agreed to share up to $150M of its competition payments with councils which implement NCP reforms (primarily the application of competitive neutrality reforms to SBAs). This has provided a major additional incentive for councils to implement the reforms.**
- **An extensive training program, funded in part by $1M from the financial incentive package, was undertaken in 1997 (and will continue in 1998) to assist councils in implementing NCP reforms.**
- **By the end of 1997, all Type 1 and 2 councils had completed their competitive neutrality public benefit assessments (PBAs) and decided on the level of reform to be implemented, as required under legislation. Reforms are to commence from 1 July 1998, although implementation will be staged in some instances.**
- **All councils will apply at least full cost pricing to their Type 1 and 2 businesses, with commercialisation as the most common reform to be implemented. This represents a significant cultural shift towards a more commercial and competitively neutral approach to operating these businesses. Some councils indicated that corporatisation may be considered if the uncertainty about the imposition of Commonwealth taxes is resolved to their satisfaction.**
- **Local governments are required to identify their smaller businesses which compete with the private sector and decide whether to implement competitive neutrality through a Code of Competitive Conduct which is based on full cost pricing. Application of the Code is mandatory for certain categories of competitive roadworks.**
- **The *Local government Act* 1993 was amended to provide a framework for a competitive neutrality complaints mechanism and accreditation process for local government business activities subjected to competitve neutrality reforms.**
- **All councils had identified "possible" anti-competitive provisions in their existing local laws and local law policies by the end of 1997 (around 3300 such provisions were identified). Councils are required to complete the reviews of these provisions, and where necessary, implement consequential reforms by 1 July 1999. For practical reasons, the review of model local laws is being carried out by individual councils, rather than the State government as previously intended.**
- **The NCP process has acted as a catalyst for the repeal of around 2060 local laws as part of a pre-existing more general review which was designed to identify and repeal redundant local laws.**
- **The State Government has approved 'in principle' the application of the State-based third party access and prices oversight regimes to relevant local government infrastructure and significant monopoly business activities.**
- **Councils with Type 1 and 2 water and sewerage activities are required to conduct cost-effectiveness tests on whether to implement two-part tariffs and make a decision in this regard by the end of 1998; implementation is to be complete by July 2000. Strategies to address the other relevant elements of CoAG water reform must be in place by the end of 1998 and implementation completed by July 2000. There has already been significant progress in the introduction of two-part tariffs, by these and other councils.**
- **Other councils will be encouraged to reform their water and sewerage businesses through the provision of technical assistance, education and information programs and access to the local government financial incentive package.**

3.1.2 Approach to local government NCP implementation

As outlined in last year's annual report to the NCC, the Government's strategy for applying NCP reforms to Queensland local government focuses the most important aspects of the reforms, in the first instance, on the State's largest councils; ie. those councils which own/operate "significant business activities (SBAs)" and, as a consequence, have the greatest impact on the Queensland and national economies.

However, some of the reforms (eg. the review of local laws) are to be applied across local governments irrespective of size. Further, the local government NCP financial incentive package (discussed later in this report) has been structured in a manner to encourage *all* councils to adopt *all* relevant NCP reforms.

Nonetheless, it is to be expected that the most significant NCP reforms at the local government level - notably the application of competitive neutrality to council business activities - will initially be concentrated on the State's 17 largest councils but, over time, will spread more broadly across the State's local government sector.

The Queensland Government's local government NCP strategy dovetails with a number of other local government reform initiatives of recent years. Indeed, the NCP agenda can be viewed as providing a platform upon which Queensland councils can examine previously developed reform strategies which focus on improved delivery of local government services, heightened governance/accountability regimes and more effective regulatory arrangements. For example, the strategy for applying NCP to Queensland's local government provides further encouragement for councils to undertake strategic/corporate planning for their entire operations (and their business activities in particular), implement appropriate benchmarking and performance monitoring regimes, and repeal redundant local laws.

The application of NCP reforms to the local government sector in Queensland can be viewed in three stages which, to a large extent, accords with the NCC annual reporting process. Initially, 1996 saw the development of the *"blueprint"* for the application of the reforms to Queensland local government. This was converted, in 1997, into actual implementation *strategies*, which involved the development of a substantial volume of legislation and training initiatives, along with council decisions on the application of competitive neutrality reforms to their businesses. By contrast, 1998 and 1999 will witness the *implementation* of most of these reforms, particularly the competitive neutrality reforms. The nature and timing of implementation of these reforms is discussed in more detail later.

Against this background, 1997 was a watershed year for the application of NCP reforms to Queensland local governments. It saw the reform agenda change from one which focused on the "big picture" issues (particularly, which of the reforms should be applied and how broadly they should be applied) to the legislating of specific requirements on local governments and the development of implementation frameworks and training initiatives which placed councils in a position to be able to determine their own NCP reform agendas over the next few years. The decisions of councils in this regard are highlighted later in this report.

3.1.3 The legislative framework

The most significant legislative initiative during the year related to the development of corporatisation, commercialisation and full cost pricing models which were consistent with both the *CPA* and the Queensland local government system as specified in the *Local Government Act* 1993. Legislative changes to give effect to the CoAG urban water reform requirements and the review of anti-competitive local laws were also necessary. More specific details on these legislative initiatives are included later in this report.

Specifically, elements of Queensland's local government NCP strategy were given effect through the *Local Government Legislation Amendment Act* 1996 (enacted in November 1996); the *Local Government Legislation Amendment Act* 1997 (May 1997) and the *Local Government Legislation Amendment Act (No 3)* 1997 (December 1997). Details of the NCP components of each of these Acts is included in Attachment 1. A range of subordinate legislation has also been made to support the implementation of the NCP and CoAG water reforms.

3.1.4 Local government NCP financial incentive package

Another significant development during 1997 was the negotiation of an NCP local government financial incentive package. The Queensland Government has continually emphasised to councils that, consistent with the autonomy granted to councils under the *Local Government Act*, responsibility for NCP decisions should rest with each local government, rather than the State itself. This is consistent with the relationship between the Commonwealth and the States, whereby NCP decisions are, generally, left to each of the States.

However, unlike the relationship between the Commonwealth and the States, the 1995 NCP agreements do not provide for any sharing of competition payments with local governments. The Queensland Government rectified this anomaly in its own jurisdiction by earmarking around one-fifth of its competition payments from the Commonwealth for those local governments which implement NCP reforms. This initiative (which is understood is now being considered in other States) provides a substantial encouragement for Queensland councils to reform their activities consistent with the NCP agenda.

The financial incentive package was formalised in April 1997 with the signing of a communique between the Queensland Treasurer, the Queensland Minister for Local Government and Planning, the Local Government Association of Queensland (LGAQ) and the Brisbane City Council (a copy of the communique is attached to this report). The communique detailed the State's commitment to share up to $150 million (in 1994-95 prices) of its competition payments from the Commonwealth with Queensland local governments over the 5 year period commencing 1 July 1997. The package is heavily focussed on reform outcomes, with around 95% of the funds ($141.5 million) allocated to an NCP reform implementation pool. Councils will only receive their maximum funding if they implement the full array of reforms appropriate to their circumstances.

However, a further $7.5 million was allocated to compensating councils for the undertaking of NCP-related reviews, particularly the reviews to determine which competitive neutrality

reforms should be applied to their business activities, reviews of the costs and benefits of implementing aspects of the CoAG urban water agenda, and the reviews of anti-competitive local laws and policies. The package also included a $1 million NCP training and assistance component to be allocated to the LGAQ and the Department of Local Government and Planning (DLGP) for relevant NCP training and assistance initiatives.

See also section 3.2.3

3.1.5 Training initiatives

Inclusion of a training component in the financial incentive package was considered essential. Prior to 1997, most local governments - with the possible exception of a couple of the State's largest councils - could not be considered as well placed to implement the NCP reforms (particularly the competitive neutrality reforms). This was of considerable concern given that the State's 17 largest councils were required, by legislation, to decide on the application of competitive neutrality reforms by the end of 1997. All 125 councils were also required by law to make decisions relating to the review of local laws and, in some cases, prepare for the mandatory application of competitive neutrality reforms to certain roadworks activities. Accordingly, considerable emphasis was placed on providing appropriate training and resource material to councils to enable them to make informed NCP implementation decisions. A list of the most significant training initiatives in this regard is included below:

The emphasis on training will continue, particularly in the first half of 1998 in preparation for the application of competitive neutrality reforms to local government SBAs by 1 July 1998. Both the DLGP and the LGAQ will be involved in developing training material. Training material will be available electronically to all local governments through LGAQ-Net and, by the end of 1998, on the DLGP's web page which is currently under development.

NCP Training Initiatives Undertaken in 1997	
Competitive Neutrality Public Benefit Assessment Guidelines	to provide a framework for councils to identify the benefits and costs to the community of applying competitive neutrality reforms to their SBAs; developed by consultants for the LGAQ.
Guidelines for the Identification of Type 3 Business Activities	to assist councils to identify their Type 3 activities as required under the legislation; developed and workshopped by consultants.
Full Cost Pricing Guidelines	to assist councils in applying full cost pricing and the Code of Competitive Conduct to their business activities; developed by consultants.
Commercialisation Guidelines	to assist councils in commercialising their SBAs; developed by Queensland Treasury - draft released in 1997; currently being finalised (including incorporation of NCC comments).
Corporatisation: A User's Guide	to assist councils in corporatising their SBAs; developed by Queensland Treasury - draft released in 1997; currently being finalised (including incorporation of NCC comments).
Local Government Competitive Neutrality Complaints	to assist councils meet the requirement for a complaint process to be operational from 1 January 1998 (for selected roadworks). The full training program for all local governments and potential local government referees will be delivered in the first half of 1998.
Guidelines for the Identification of Anti-competitive Local Laws and Policies, and associated workshops	to provide a framework for councils to determine which local laws and policies should be reviewed for anti-competitive provisions; developed by DLGP.
Legislation Review Public Interest Test Guidelines	to assist councils in conducting public interest tests on "possible" anti-competitive provisions in local laws and local law policies; developed by DLGP. Further training will be provided in the first half of 1998.
Guidelines for Evaluation of Introducing and Improving Two-part Tariffs	to assist councils in undertaking the cost-effectiveness test required by the CoAG water agreement in relation to the introduction of two-part tariffs for water supply.

3.2 Competitive neutrality (including structural reform[1])

3.2.1 Legislation

3.2.1.1 Coverage

The amendments to the *Local Government Act* 1993 (the Act) required the State's 17 largest

[1] It is likely that the main structural reform initiatives undertaken by Queensland local governments will occur as part of the corporatisation and commercialisation reforms to be implemented. Where competition is introduced into a market dominated by a local government monopoly, the structural reform requirements of the CPA will need to be met.

councils to conduct public benefit assessments (PBAs), during 1997, in relation to their Type 1 and 2 activities (mainly water, sewerage and garbage services) for possible corporatisation, commercialisation or the application of full cost pricing.

The Act provides councils with the final say in deciding whether or not to adopt the recommendations in their PBA reports. Because of this discretion, safeguards have been included in the Act to ensure that the decision-making process is transparent and that councils are accountable for their decisions. This includes a requirement for councils to give public notice of their assessment reports and make a copy available for public inspection.

Unless otherwise agreed to by the Minister for Local Government and Planning, the approved reforms must be implemented by 1 July 1998. However, the Act does allow for sequential implementation. For example, a council might implement full cost pricing by 1 July 1998 and commercialisation one year later.

In addition, a council that chooses not to implement any of the reforms recommended in a report will be required to undertake a fresh PBA of the significant business activity within three years. In addition, the financial incentive package provides a major impetus for councils to implement competitive neutrality reforms as soon as possible.

The Act also requires councils to identify any business activities that grow large enough in the future to qualify as new Type 1 or 2 business activities. The identification of these new Type 1 or 2 activities will be based on thresholds which are equivalent to the amounts published in the July 1996 policy statement, adjusted for movements in the cost of living and changes to accounting arrangements. Councils will be required to assess these new Type 1 and 2 activities in the same way that the 17 councils were required to assess their Type 1 and 2 business activities.

The Act also allows councils to "self select" their business activities that are below the Type 1 and 2 thresholds and carry out a PBA to decide whether or not to apply one of the reform options. Already, one of the large councils (Redland Shire Council) has "self selected" one of its major businesses (i.e. waste management), resulting in the council's decision to commercialise the business.

3.2.1.2 Full cost pricing

The Act sets the framework for the application of full cost pricing to SBAs. Subordinate legislation in the form of amendments to the *Local Government Finance Standard* 1994 and the *City of Brisbane Regulation* 1993 have been enacted on the detailed requirements for full cost pricing and a copy is enclosed.

Where a council applies full cost pricing to a significant business activity, it must ensure that in deciding charges to clients, the total projected revenue from carrying on the activity is enough to cover the projected total costs of carrying on the activity for the council's financial year. Total costs of carrying on an activity include the following:

- operational costs incurred in carrying on the activity;

- administrative and overhead costs;
- costs of resources used in carrying on the activity;
- depreciation;
- equivalents for Commonwealth and State taxes the council is not liable to pay because it is a local government;
- equivalents for the cost of funds advantage the council obtains over commercial rates of interest because of State guarantees on borrowings;
- return on capital; and
- adjustments for other advantages and disadvantages of public ownership that are not able to be eliminated.

Councils applying full cost pricing to a business activity must prepare a budget for that activity as part of the council's budget. This budget must detail each of the items specified as being part of total costs.

3.2.1.3 Commercialisation

The Act sets the framework for the application of commercialisation to SBAs. The Act requires a commercial business unit to be established to carry out the activity. The Act also requires a council to apply a set of commercialisation principles to the unit. Subordinate legislation in the form of amendments to the *Local Government Finance Standard* 1994 and the *City of Brisbane Regulation* 1993 are currently being developed on the detailed requirements for commercialisation. These will be finalised prior to the first local government commercialisations taking effect on 1 July this year.

The requirements for the full cost pricing element of commercialisation are expected to be identical to that outlined above. In addition to meeting these requirements, councils applying commercialisation to their business activities are also required to prepare detailed performance plans and annual statements of operations. The operational plans must contain information to enable an informed assessment to be made of the activity's operations including a comparison of the performance with its annual performance plan. Community service obligations (CSOs) are required to be clearly identified in the activity's performance plan , and separately costed and appropriately funded in a transparent manner.

3.2.1.4 Corporatisation

The Act sets the framework for corporatisation of SBAs. These requirements substantially mirror the requirements for State Government Owned Corporations which centre around four key principles, namely clarity of objectives, management autonomy and authority, strict accountability for performance and competitive neutrality. These principles are essentially the same as those embodied in the possible corporatisation model noted in clause (4)(a) of the *CPA*.

Principle 1 - Clarity of Objectives

Corporations are to be provided with clear and unambiguous objectives which can be linked to commercial performance. The Act also requires that councils separate policy formulation

or functions of a regulatory nature from their Local Government Owned Corporations (LGOCs). Any community service obligations to be performed by an LGOC must be clearly identified in the LGOC's statement of corporate intent, separately costed, explicitly funded, and accompanied by performance targets.

Principle 2 - Management Autonomy and Authority

Subject to an overall strategic direction as agreed with its owner local government, an LGOC's board and management are to be provided with the authority and autonomy to pursue commercial goals with limited council involvement. To facilitate this, the board of directors of an LGOC must be appointed on merit and is required to use its best endeavours to ensure that the LGOC meets its performance targets. The board is to have the ability to make commercial decisions within areas of responsibility defined by the corporatisation framework. The role of the shareholder is to be clearly defined and its power to make decisions on the operation of the business activity will be replaced with procedures for strategic monitoring. The council's reserve powers are required to be exercised in an open way.

Principle 3 - Strict Accountability for Performance

Clear lines of accountability must be established for all aspects of an LGOC's performance. The board of an LGOC is accountable to the shareholder for the LGOC's performance and the LGOC's statement of corporate intent will form the basis for this accountability. Performance will be monitored by the shareholder against performance targets set in the statement of corporate intent. This shareholder monitoring of the LGOC is intended to compensate for the absence of the wide range of monitoring to which listed corporations are subject by, for example, the sharemarket and Commonwealth regulatory bodies.

Principle 4 - Competitive Neutrality

Any special competitive advantages or disadvantages arising solely from public ownership must be removed or made transparent. Fundamentally, this principle requires that government owned corporations operate along private sector lines. The adoption of this principle is important to ensure that the community receives the maximum benefit from the resources used by corporations.

A requirement for full cost pricing has not been separately prescribed for LGOCs. Rather, corporatisation recognises that LGOCs are separate legal entities which are required to operate, as far as practicable, on a commercial basis and in a competitive environment where they will be subject to prices oversight and competitive neutrality complaints processes.

3.2.1.5 Reforms to apply to other business activities

The Act also requires councils to identify other smaller business activities that compete directly with the private sector (referred to as Type 3 business activities) and decide whether they should be subject to a voluntary Code of Competitive Conduct which is based on the principle of full cost pricing.

However, under the Act, it is mandatory for local governments to apply the Code to certain roadworks activities, namely where: a council bids for work on State-controlled roads under

open competition (that is, other than through sole supplier arrangements); submits a competitive tender for construction or maintenance works on its own roads which it has put out to competitive tender; or submits a competitive tender for work called by another council.

All councils are encouraged - through both the financial incentive package and targeted training initiatives - to apply the Code to all business activities which are not subject to other competitive neutrality reforms (ie. commercialisation and corporatisation).

3.2.1.6 Competitive neutrality complaints mechanism

The *Local Government Legislation Amendment Act (No 3)* 1997 provides the framework for a complaint process and an accreditation process for local government business activities that are subject to competitive neutrality reforms. This framework is based on the complaint process that applies to State government business activities using the Queensland Competition Authority (QCA). However, the local government arrangements provide the opportunity (at least for those council businesses where it is mandatory to apply a complaint process) for complaints to be investigated by a "referee" appointed by the relevant council, before recourse is available to the QCA.

This Act builds on the local government competitive neutrality model as developed in earlier legislation (ie. the *Local Government Legislation Amendment Act* 1996 and the *Local Government Legislation Amendment Act* 1997 as outlined above). This Act complements these reforms by requiring Councils to have a process to deal with allegations of competitive neutrality breaches for any business activity to which a council has applied competitive neutrality reforms.
The time frame for establishing the complaint processes are:

- for roads business activities to which the Code of Competitive Conduct applies from 1 January 1998 - a Council must have a complaint process operational for when it submits a tender for roads business activities after 1 January 1998;
- for other business activities to which competitive neutrality reforms apply from July 1998 - a complaint process must be operational from 1 July 1998; and
- for other business activities to which competitive neutrality reforms are applied in future financial years - a complaint process must be operational from the time of application of competitive neutrality.

The legislation provides for the following complaints processes to apply:

- for *SBAs* and *roads business activities*, a Council can set up its own complaint process by appointing an independent referee to investigate complaints and make reports to the local government. The local government would then decide whether or not to accept any recommendations made by a referee. Complainants dissatisfied with the outcome of the initial investigation will be able to refer it to the QCA. The outcome of the QCA's investigation would also be a recommendation, on which the local government will have to make a decision. For these activities, a Council can, alternatively, decide to have the QCA act as a referee to deal with complaints. The QCA would investigate these complaints and make a report to the local

government. The local government would decide whether or not to accept any recommendations made by the QCA;

- for *Type 3 business activities* to which the Code of Competitive Conduct applies, a local government will be required to establish an in-house complaint process. There is no scope at this stage for complaints to be referred to the QCA if the complainant is not satisfied with the outcome of this process. In addition, a local government will not be able to appoint the QCA as its referee;

- local governments may also seek accreditation from the QCA for any of their business activities. Any business activity with a current accreditation does not require a complaint process. This accreditation process would be the same as that available to State Government business activities under the *Queensland Competition Authority Act* 1997; and

- for any business activity that is subject to a complaint process, there will be a preliminary and informal process where a local government business activity alleged to be failing to comply with competitive neutrality principles, must attempt to resolve concerns.

Flow charts detailing these processes are included as Attachment 2.

3.2.2. Competitive neutrality implementation

Local government councils with Type 1 and Type 2 business activities have completed their competitive neutrality PBAs for their business activities and made a decision on the level of reform to implement. All councils have decided to implement at least full cost pricing, however, the most common form of reform will be commercialisation. In general, this means that councils have decided to implement the level of reform recommended in their PBA reports. The main exceptions relate to those councils which have linked any decision to corporatise to resolution of whether LGOCs will be subject Commonwealth income and sales taxes, or whether a satisfactory (from councils point of view) tax equivalents regime applies. The outcome of PBAs and councils decisions are shown at Attachment 3.

The council decisions to implement competitive neutrality reforms in every instance represents a significant cultural shift for the majority of Queensland's largest local governments. It highlights a willingness to adopt a more commercial approach to the operation of their main business activities.

3.2.3 Financial Incentive Package

Of all the NCP policy reforms, the competitive neutrality reforms offer the greatest scope for achieving significant and sustainable economic improvements in the Queensland local government sector[2]. The structure of the local government NCP financial incentive package

[2] This is due to the substantial size and breadth of business activities undertaken by Queensland local governments. Whilst other NCP reforms (such as third party access, prices oversight and Part IV of the *Trade Practices Act*) will impact the operation of these business activities, it is the introduction of a more commercial, and competitively neutral, approach to the operation of these businesses that will be of most long-term importance.

reflects this importance. More than 80% of the implementation pool component of the package (ie. around $115M) is to be allocated to encourage Queensland councils to implement full cost pricing, commercialisation and corporatisation. This includes a component to encourage councils to consider additional competitive neutrality reforms, when appropriate (but only within the five years for which funding is available); for example, those councils which initially commercialise would receive additional funding if they were to subsequently corporatise their business activities.

The financial incentive package has also been developed in such a way as to encourage all councils to apply the NCP reforms and (as outlined above) the competitive neutrality reforms in particular. In this manner, whilst the *Local Government Act* initially focuses NCP reforms on the State's largest 17 councils, there is a substantial financial incentive for all 125 councils to implement the NCP reforms during the five year period commencing 1 July 1997.

The assessment of the extent to which councils have implemented competitive neutrality and other NCP reforms is proposed to become a function of the QCA from 1 July 1998. This is consistent with the role of the NCC at the national level, where the recommendations to Government on the appropriate level of competition payments is made by an independent body with expertise in competition matters. Payments which have been made to councils to date, approximately $4.5M in total, have come from the (smaller) review pool on the recommendation of the Queensland Treasury and DLGP - i.e. not the (larger) reform implementation pool, for which the QCA will have assessment responsibility.

See also section 3.1.3.

3.2.4 Taxation

No Queensland councils are proposing to corporatise their business activities in the first instance. A significant deterrent for councils in this regard has been the continued uncertainty over the destination of tax payments by LGOCs. Both the Queensland Government and the State's local government sector have made repeated claims to the Commonwealth for this issue to be clarified. However, the Commonwealth has had difficulty in providing the requested level of certainty given the current reconsideration of various Commonwealth/State taxation arrangements and the more general review of the entire taxation system.

Nonetheless, it should again be emphasised that the issue is of considerable importance to Queensland's largest local governments which undertake businesses of a size which would ordinarily require serious consideration of corporatisation. This is due, in most instances, to the current arrangements whereby local governments undertake water and sewerage businesses, rather than the State (as happens in other States).

The Queensland Government and the local government sector in this State have argued for the Commonwealth to agree to a tax equivalent regime for LGOCs, similar to the arrangements that currently apply to State Government corporations. Under this proposal, LGOCs would make income and sales tax equivalent payments back to their parent council.

The Commonwealth Treasurer has made a commitment to the LGAQ that councils would not

be financially disadvantaged and that the Commonwealth is prepared to examine arrangements whereby councils would pay Commonwealth income and sales taxes (presumably through the Australian Taxation Office system), but with those tax payments by LGOCs being returned, via the State, to the respective councils.

Whilst this has appeal to Queensland local governments, the councils require these arrangements to be formalised (preferably in legislation) before they would be in a position to reconsider their decision on whether to corporatise their business activities. For the State's several largest councils, this issue is one of great significance. The size of potential income and sales tax payments from water and sewerage business, in particular, from these councils are such that in the absence of any certainty on these taxation flows it would be extremely difficult for a council to commit to the corporatisation of its business.

A Local Government Tax Equivalents Manual, as required under amendments to the *Local Government Act*, has been prepared to establish a tax equivalents regime for local government businesses which are commercialised or corporatised, to apply from 1 July 1998. It is planned to have the Manual issued in March/April, once some minor issues in relation to State taxes are resolved. It is not clear how long the regime will operate in full because the current review of inter-jurisdictional tax arrangements has not yet considered local government issues in any detail. However, the State Government has proceeded with the Manual because it is essential that a suitably rigorous regime is in place prior to the implementation of competitive neutrality reforms for local government SBAs from 1 July 1998.

Competitive Neutrality - Summary of Progress

- **In 1997 the *Local Government Act* 1993 was amended to:**
  - **require the State's 17 Type 1 and Type 2 councils, by the end of 1997, to complete the PBAs for their SBAs and make decisions on the level of reforms to be implemented, with implementation required by 1 July 1998 (this amendment was made in late 1996);**
  - **require all councils to identify any new Type 1 or Type 2 business activities which emerge (through growth or otherwise);**
  - **provide the framework for full cost pricing, commercialisation, and corporatisation (including the four key principles: clarity of objectives; management autonomy and authority; accountability for performance; and competitive neutrality);**
  - **require all councils to identify those of their smaller business activities which compete directly with the private sector (referred to as Type 3 activities) and decide whether to apply the Code of Competitive Conduct (which comprises the application of full cost pricing) to these activities;**
  - **require all councils to apply the Code to certain competitive roadworks; and**
  - **provide a framework for a competitive neutrality complaints mechanism and accreditation process for business activities subjected to competitve neutrality reforms.**
- **All Type 1 and Type 2 councils completed the PBAs for their SBAs and made decisions on the level of reform by the end of 1997:**
  - **all such councils have decided to adopt at least full cost pricing (most commonly commercialisation). Councils have generally supported the recommendations of the PBAs, although some have qualified their decision because of the uncertainty about the taxation of LGOCs; and**

- **in total, 26 council businesses are to have competitive neutrality reforms applied from July 1998. The businesses to be reformed have a combined annual expenditure of more than $700M. This represents a significant shift towards a more commercial - and competitively neutral - approach to operating these businesses.**

- **The State Government has agreed to share $150M of its competition payments with councils which implement relevant NCP reforms:**
  - **to be paid over 5 years to encourage early implementation of reforms; and**
  - **payments are to be concentrated on the implementation of competitive neutrality reforms to the SBAs of the 17 Type 1 and Type 2 councils (given that these are the NCP reforms that offer the greatest gains to the State and national economies).**

- **The continued uncertainty about taxation of LGOCs is inhibiting councils' consideration of corporatisation.**

3.3 Legislation review

In relation to legislation review, the 1996 Queensland local government policy application statement[3] indicated that the 1996-1999 review of anti-competitive provisions would apply to:

- existing model local laws;
- new model local laws;
- existing local laws; and
- new local laws.

The reviews of the model local laws were to conducted by the State Government, while individual local governments are responsible for the identification and review of their own local laws. The *Local Government Act* 1993 (the Act) was amended in mid-1997[4] to set out the processes and obligations of local governments in relation to legislation review.

3.3.1 Model Local Laws (Existing and New)

Under the timetable set out in the policy application statement, existing model local laws were required to be reviewed by 31 December 1997, and new model local laws are required to be reviewed, before introduction, for anti-competitive provisions.

The existing model local laws were examined and the likely anti-competitive provisions were identified as far as possible prior to that deadline. However, the review of the model laws by DLGP proved to be inconclusive and of use as a guide only for local governments. This is because the model local laws are generic and have little meaning in a legislative review context until they are applied to specific local government circumstances. For example, councils often use "local law policies" to give effect to model local laws, and the different local law policies may mean that a provision of a model local law which is anti-competitive

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3 *National Competition Policy and Queensland Local Government*, July 1996

4 *Local Government Legislation Amendment Act* 1997

when applied by one council may not be anti-competitive when applied by another council. Therefore, where local governments have adopted model local laws, they have been advised of those provisions of the model local laws which are likely to be anti-competitive, and that they should include these in their review of their existing local laws.

For new model local laws, the Act prohibits a local government from adopting a model local law with an anti-competitive provision unless the local government has undertaken a public interest test in accordance with the Act.

3.3.2 Existing Local Laws (and Local Law Policies)

3.3.2.1 Inclusion of Local Law Policies

Under the Act, local governments can make policies about a matter relating to a local law. Local law policies have the force of law and are binding on the local government. The process for making a local law policy is outlined in the Act and provides for public consultation and notification. Because local law policies can be important instruments by which local governments regulate matters under their control (including matters that may restrict competition), the local government NCP legislation review program has been extended to include them. Local law policies have no equivalent in State legislation.

3.3.2.2 Identification of anti-competitive provisions

Under the Act, local governments were required to carry out a preliminary review of their existing local laws and existing local law policies, identify any provision that they considered may be an anti-competitive provision, and advise the Minister for Local Government and Planning accordingly. Type 1 and 2 councils[5] were required to provide a preliminary list by 31 July 1997. Subsequently, all councils were required to advise the Minister of their "possible anti-competitive provisions" by the end of 1997. This is in accordance with the timetable outlined in the policy application statement.

Guidelines produced by DLGP to assist local governments identify "possible" anti-competitive provisions in their local laws and local law policies were adopted by Regulation as the processes which must be followed by local governments when identifying "possible" anti-competitive provisions for NCP purposes (these guidelines are attached to this report).

Workshops were also conducted for local governments aimed at providing participants with the necessary skills to be able to identify local law and local law policy provisions which are anti-competitive. The first round of ten workshops was held during September 1997 across the State (Gatton, Nambour, Roma, Mackay, Rockhampton, Emerald, Mount Isa, Cairns, Townsville and Bundaberg) with 77 local governments attending and a total of 166 attendees. A second round of three workshops was held by DLGP during November 1997 to enable local governments to raise any specific concerns or queries regarding the identification of anti-competitive provisions. The workshops were held at Brisbane, Toowoomba and Bundaberg, with approximately 35 attendees.

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[5] i.e. the 17 largest councils which carry on a Type 1 or Type 2 business activity

All 125 local governments have completed the identification process and submitted their lists of "possible" anti-competitive provisions to the Minister for Local Government & Planning.[6] In all, approximately 3300 anti-competitive provisions were identified.

The most common possible anti-competitive provisions identified relate to the prohibition of business activities, unless they are licensed by the local government (e.g. entertainment venues, pet shops, dog kennels, itinerant vending, extractive industries, caravan parks and advertisements). These permit regimes usually allow local governments to impose conditions and restrictions on these business activities.

[6] In identifying possible anti-competitive provisions, local governments were required to include any which may arise through the existence of joint local government entities or operations.

3.3.2.3 Public interest tests[7]

The Act provides that a local government must ensure a public interest test is carried out and a public interest test report prepared for each of its possible anti-competitive provisions. The Act also provides that for an existing local law or local law policy, a local government must make a resolution on whether to implement the recommendations of the public interest test and, where necessary, implement the resolution, before 1 July 1999. Therefore, public interest tests and any consequent reforms, must be carried out on existing local laws and local law policies before 1 July 1999.

Guidelines produced by DLGP to assist local governments in conducting public interest tests to review their "possible" anti-competitive provisions were adopted by Regulation as the processes which must be followed by local governments (these guidelines are attached to this report). The guidelines provide for minor or major reviews, depending on, in particular, the extent of the restriction on competition, but also the number of stakeholders and the size of the impact, the complexity of the issues and the level of community concern.

Workshops are being held to explain the public interest test process and to provide participants with the necessary skills to be able to conduct a public interest test. Sixteen workshops are being held across the State[8] during February-March 1998. To date, 4 workshops have been conducted with 29 local governments attending. It is anticipated that, in total, approximately 100 local governments will attend the workshops. Three local governments have also advised DLGP that they have begun to carry out public interest tests on their local laws.

3.3.2.4 Reviews/repeals

As outlined in the July 1996 policy application statement, the NCP legislation review exercise is being coordinated with the requirement (under section 802 of the Act) for a more general review of councils' local laws, which was designed to identify and repeal redundant provisions where appropriate. Therefore, the March 1997 deadline for the general review has been extended to coincide with the NCP review deadline of July 1999.

The NCP review has provided a strong incentive for councils to, where appropriate, repeal outdated local laws and local law policies to minimise the number of provisions which they must review as part of the NCP process. As a result, prior to undertaking the NCP review, local governments have repealed approximately 2060 pre-existing local laws (as at 28 January 1998) as part of the general review. For example:

> Wondai Shire Council repealed 26 pre-existing local laws immediately prior to undertaking the NCP review, including laws regulating the installation of petrol pumps, aerodromes, the

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7 The assessments in relation to legislation review have been described as Public Interest Tests to avoid confusion with competitive neutrality PBA.

8 2 workshops in Brisbane, Toowoomba, Cairns, Townsville, Rockhampton, and Bundaberg, and 1 at Mackay, Roma, Charleville, and Longreach

keeping of pigs, meetings and processions and dairies.

Hinchinbrook Shire Council repealed 44 pre-existing local laws immediately prior to undertaking the NCP review, including laws regulating tramways, private caravan parks, theatres, boarding houses, flats, motels and tenement buildings, swimming baths, jetties and loading ramps and food establishments.

3.3.3 New Local Laws (and Local Law Policies)

In relation to new local laws and local law policies, the Act has been amended to require local governments to identify "possible" anti-competitive provisions and complete a public interest test *prior* to the local law or local law policy being made. A local government must keep the community and the Minister advised during the process of making the local law and local law policy. Once a local law or local law policy is made, the local government must notify the Minister of the inclusion of any anti-competitive provisions and the reasons for their inclusion.

Legislation Review - Summary of Progress

The *Local Government Act* was amended to require all councils to identify, by the end of 1997, the possible ompetitive provisions in their existing local laws and local law policies as required in the 1996 pplication statement:

- **guidelines were prepared and adopted by Regulation, and workshops conducted to assist counc identifying the anti-competitive provisions; and**
- **all councils completed their identification of anti-competitive provisions by the end of 1997 (around such provisions were identified).**

ocal law policies have been included in the program because of the important role (unique to councils) ney play in regulation of activities by councils.

mendments to the Act provide for councils to ensure public interest tests are carried out and reported onsequent reforms implemented, by 1 July 1999:

- **guidelines were prepared and adopted by Regulation (and workshops are being conducted) to councils in reviewing the anti-competitive provisions.**

he NCP legislation review excercise is being coordinated with a pre-existing general review program:

- **the NCP process has provided an incentive for councils to repeal redundant provisions under the ge review (around 2060 pre-existing local laws have been repealed).**

mendments to the Act provide for councils to carry out public interest tests prior to making any new local r local law policies.

he possible anti-competitive provisions in existing model local laws were identified before the end of 199 r practicality reasons, their review will be undertaken by individual councils which have adopted the rel odel local laws.

3.4 Other local government NCP initiatives

3.4.1 Trade Practices Act

The State Government provided funding to LGAQ to enable it to conduct workshops for councils on compliance with the *Trade Practices Act* (this followed the LGAQ's adaptation in 1996 of the State's compliance manual to the local government context). The workshops were held in conjunction with those dedicated to the identification of possible anti-competitive provisions in local laws and local law policies.

3.4.2 Third Party Access and Prices Oversight

In Queensland, local government business activities and infrastructure are currently subject to Commonwealth third party access and prices oversight regimes. The July 1996 local government policy application statement indicated that:

- significant local government monopoly or near monopoly business activities will be subject to State prices oversight arrangements, should the State Government decide in favour of State based regulation (as it has done through the establishment of the QCA); and
- in relation to local government infrastructure, the question of whether the State or Commonwealth third party access regime should apply was also left open to further discussion. The application statement indicated that a State-based third party access regime would be considered for implementation by late 1996, however, further consideration was deferred until the QCA became operational.

Following consultation with local governments, the Queensland Government has approved 'in principle' the application of the State third party access and prices oversight regimes to services using local government infrastructure and significant local government monopoly business activities. It is anticipated that the necessary amendments to the QCA Act will occur later in 1998.

3.4.3 CoAG Water Reforms

3.4.3.1 CoAG water reform framework recommendations

At the February 1994 meeting of CoAG, participating jurisdictions became signatories to an agreement to implement a strategic reform framework for the Australian water industry. The framework is premised upon the principles of economic efficiency and ecological sustainability. The key components of the framework for local governments in Queensland (as the deliverers of virtually all urban water and sewerage services[9]) relate to recommendations 3(a) and (b) from the February 1994 agreement, namely:

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[9] In contrast to most other States, where these services are generally delivered through State Government authorities or corporations, rather than local governments.

- the adoption of pricing regimes based on the principles of consumption-based pricing, full-cost recovery and desirably the removal of cross-subsidies which are not consistent with efficient and effective service, use and provision. Where cross-subsidies continue to exist, they be made transparent[10];
- that where service deliverers are required to provide water services to classes of consumers at less than the full cost, the cost of this be fully disclosed and paid to the service deliverer as a community service obligation (CSO);
- for urban water services, the adoption by no later than 1998 of charging arrangements for water services comprising an access or connection component together with an additional component or components to reflect usage (i.e. two-part tariffs) where this is cost effective; and
- that supplying organisations, where they are publicly owned, aiming to earn a real rate of return on the written-down replacement cost of their assets, commensurate with the equity arrangements of their public ownership.

Proposed responses to these key urban pricing and cost-recovery requirements of the framework were the subject of a discussion paper jointly released by DLGP and the Department of Natural Resources (DNR) in February 1997. As outlined in the discussion paper, to provide consistency with the application of competitive neutrality reforms to local government water and sewerage business activities, the application of the above reforms is focussed, in the first instance, on the 17 large Type 1 and Type 2 councils (and any other council water and sewerage activities which attain Type 2 status in the future). The *Local Government Act* 1993 and *Local Government Finance Standard* 1994 have been amended to give effect to these policy positions.

3.4.3.2 Two-part tariffs

In relation to two-part tariffs, the Act provides that a Type 1 or Type 2 council must:

- assess the cost effectiveness of introducing two-part tariffs. Guidelines to assist councils in undertaking assessments and designing an effective tariff structure have been developed by DNR (in conjunction with DLGP and LGAQ) and adopted by Regulation (copy attached);
- resolve whether to apply a two-part tariff (including the extent of application and strategies for its application - including a timetable); and
- for existing Type 1 or 2 water and sewerage business activities, make the resolution by 31 December 1998, or a day (not later than 31 March 1999) approved by the Minister.

Nine of the Type 1 or Type 2 councils have already adopted, or are in the process of, adopting two-part tariffs. A number also have tariffs based on a "free" allocation and excess use charges, which, depending on the size of the "free" allocation, can provide price signals similar to those under two-part tariffs. A summary of the tariff schedules for the Type 1 and Type 2 councils is included at Attachment 4.

3.4.3.3 Other Charging and Operational Arrangements

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10 Queensland, South Australia and Tasmania endorsed these pricing principles but have concerns on the details of the recommendations.

In relation to the other relevant sections of the CoAG agreement, the Act provides that a Type 1 or Type 2 council must ensure that:

(a) if it has resolved that a two-part tariff is to be applied - a two part tariff is applied;
(b) consumption is the basis for utility charges for water services;
(c) full cost recovery is applied for water and sewerage services;
(d) cross-subsidies between classes of consumers and CSOs in the provision of water and sewerage services are identified and disclosed (guidelines to assist councils in identifying and disclosing cross-subsidies are currently under development. It is proposed that they be adopted by Regulation); and
(e) the classes of consumers who are provided with water and sewerage services at an amount below full cost, and the amount, are disclosed.

If a council approves strategies for the application of a two-part tariff to an existing Type 1 or 2 business activity, the council must ensure work is started from the time of the approval of these strategies, and implementation must be completed by 1 July 2000 (or for a new Type 1 or 2 business activity, 2 years after it is identified as such). In relation to (b) to (e) above, councils must approve and start implementing strategies for their application by 31 December 1998, and complete implementation by 1 July 2000.

By implementing at least full cost pricing from 1 July 1998 under the competitive neutrality reforms, all local government councils with Type 1 and Type 2 business activities will be implementing the full cost recovery component of the CoAG reforms from that date. As Attachment 4 indicates, all but two of these councils are already meeting the consumption-based charging requirement under the Act.

3.4.3.4 Other local government water and sewerage businesses

Local governments operating smaller water and sewerage activities will be encouraged to adopt the reforms. In part, encouragement will come in the form of technical assistance, and education and information programs. The most important incentive will come from the opportunity for local governments applying the CoAG water resource policy to share in the payments under the financial incentive package.

Other Local Government NCP Reform Initiatives - Summary of Progress

- **Trade Practices Act (TPA):**
  - **workshops for councils on TPA compliance were conducted in late 1997 (following the adaptation of the State's compliance manual to the local government context in 1996).**
- **Third party access and prices oversight:**
  - **the State Government has approved 'in principle' the application of the State-based third party access and prices oversight regimes to local government infrastructure and significant monopoly business activities;**
- **CoAG water reforms:**

- **the implementation of CoAG water reforms is, like competitive neutrality, focussed in the first instance on the water and sewerage activities of Type 1 and 2 councils;**
- **Type 1 and 2 councils are required to undertake cost effectiveness tests and make decisions in relation to the introduction of two-part tariffs by the end of 1998. If such a council resolves to apply a two-part tariff, implementation must be completed by July 2000. All but two of these councils already have two-part tariffs or at least part of their charges based on consumption;**
- **in relation to the other CoAG related charging and operational arrangements, Type 1 and 2 councils must approve and start implementing strategies by the end of 1998, and complete implementation by July 2000;**
- **the implementation, as part of competitive neutrality reforms, of at least full cost pricing for all Type 1 and 2 water and sewerage business activities from July 1998, has provided further impetus for the application of CoAG water reforms to these activities; and**
- **other councils will be encouraged to reform their water and sewerage businesses through the provision of technical assistance, education and information programs and access to the local government financial incentive package.**

4. COMPETITIVE NEUTRALITY

4.1 Overview

Queensland was assessed by the NCC in 1997 as having satisfied the competitive neutrality reform agenda requirements for eligibility for the first tranche payments. The following information is provided on specific competitive neutrality reviews currently in progress. Some of the competitive neutrality reviews below have been combined with legislation and structural reform reviews.

4.2 1997 reviews

4.2.1 Sunlover Holidays (Queensland Tourist and Travel Corporation)

Sunlover Holidays is a division of the Queensland Tourist and Travel Corporation (QTTC). The prime roles of Sunlover Holidays are to achieve improved industry profitability, effective distribution and promotion of Queensland tourism product, and partnerships with industry which result in mutually beneficial outcomes.

Sunlover Holidays was formed in 1982 to address a market failure when the then existing holiday wholesalers carried a limited range of products which resulted in increased airline seat sales. This market failure meant that smaller and regional tourist operators were effectively excluded from wholesale operations and were too small to efficiently market directly to consumers. Currently, Sunlover Holidays provides exposure to 2,400 Queensland tourist products from 750 operators.

Sunlover Holidays was identified as a significant business activity required to undergo a review to identify competitive neutrality issues and to see whether these could be addressed through structural reform.

Accordingly, Sunlover Holidays was subjected to a PBT carried out by an independent consultant. The consultant's report concluded that there was a net public benefit in introducing competitive neutrality reforms to Sunlover Holidays and recommended introduction of full cost pricing.

However, the steering committee overseeing the process believed that further reform was necessary and recommended a modified commercialisation model. The Queensland Government approved the commercialisation of Sunlover in October 1997 with implementation targetted for 1 July 1998.

The commercialisation process is being managed by a specifically convened steering committee with Queensland Treasury representation. Terms of reference have been developed for the project and consultants are providing an assessment of the extent of progress to date by Sunlover against a comprehensive list of commercialisation criteria. This gap analysis will form the basis of the work necessary to ensure implementation by the target date.

4.2.2 Public Trust Office

The Public Trust Office is currently the subject of a competitive neutrality public benefit test (PBT), commenced in October 1997, to identify any potential areas of operation where reforms can be implemented. A committee comprising representatives from Queensland Treasury, the Public Trust Office and the Department of Justice and the Attorney General (which chairs the committee) has been formed to steer the process.

The Public Trustee in Queensland offers a broad range of services to clients as well as other

areas of Government, undertakes a number of CSOs and supports various businesses which have evolved out of its core business of estate management.

As such, a number of reform options must be examined with a view to increasing the transparency of funding for the various non-commercial elements of the Office's operations and to identify those discrete aspects of the business which can be realistically and profitably commercialised. Completion of this process is expected by the end of June 1998.

4.2.3 Brisbane Market Authority

The Brisbane Market Authority (BMA) is undergoing a combined legislation and competitive neutrality review, and if appropriate a structural reform review. (The BMA was identified as a "significant business activity" in the Queensland Government's *Competitive Neutrality Policy Statement* 1996.) At the same time, the Queensland Commission of Audit recommended in June 1996 that the BMA be privatised. Accordingly, the BMA has been required to undergo a PBT to determine competitive neutrality issues and whether structural reform is necessary to address those issues.

To this end, an independent Review Committee was appointed in 1997.

The Committee finalised and released its Issues Paper in October 1997, preceding an extensive round of consultation in a number of locations throughout the State. A consultant was appointed at the same time to undertake the technical aspects of the review and provided the Review Committee with a draft report in December 1997. The Review Committee is currently undertaking detailed consideration of the consultant's draft report. The Committee is expected to finalise its report to Government by the end of June 1998.

4.2.4 Queensland Sugar Corporation

The Queensland Sugar Corporation (QSC) was listed as a candidate significant business activity in the Queensland Government's *Competitive Policy Statement* 1996. The QSC was to be reviewed following the outcome of the 1996 Sugar Industry Review.

The QSC is a statutory body established under the *Sugar Industry Act* 1991 and absorbed the marketing responsibilities of the Sugar Board (1923-1991) and the production regulation responsibilities of the Central Sugar Cane Prices Board (1915-1991). It is constituted as a body corporate having perpetual succession and a common seal, but does not represent the Crown. QSC's operations are funded entirely by Queensland's raw sugar producers through a charge against proceeds from sales of raw sugar. The QSC does not receive any government funding.

The QSC is accountable to the Minister for Primary Industries who, subject to certain limitations, may direct the conduct of the QSC's activities. Following the NCP review of sugar industry legislation, the Minister, in June 1997, directed the QSC to apply export parity prices in relation to raw sugar in the domestic market from 1 July 1997.

In October 1997, Queensland Treasury formulated terms of reference for a competitive

neutrality review of QSC and appointed independent consultants to conduct the review. The consultant's task was to provide an analysis of the extent to which the QSC meets the requirement of the competitive neutrality reform options under subclause 3(4) of the *CPA*. The review took the form of a 'base case' assessment and a review of the incremental costs and benefits of moving to three competitive neutrality options, namely full cost pricing, commercialisation or corporatisation. In undertaking the review, the consultant liaised with the key affected groups.

The consultant concluded that the QSC as currently structured, substantially meets the requirements of competitive neutrality and that its corporate structure is equivalent to that of a private sector co-operative. Because of "return to producers" payments, QSC typically records a negligible profit before taxtion. The consultant also recommended that QSC's income tax position under competitive neutrality be further investigated.

The Sugar Industry Review Working Party also recommended that the ownership of the bulk sugar terminals be transferred to the industry. This matter is currently being addressed and will have implications for QSC.

4.2.5 Private patients in public hospitals

The provision of services to private patients in public hospitals was identified as a candidiate significant business activity in the Queensland Government's *Competitive Neutrality Policy Statement* 1996. Accordingly, Queensland Health commissioned independent consultants to undertake a PBT to determine whether there was a net public benefit in applying competitive neutrality to these services.

As the provision of services to private patients in public hospitals is not a discrete activity, the application of structural reform (in particular, corporatisation) was not considered suitable. The PBT essentially involved identifying and analysing the costs and benefits (in both quantitative and qualitative terms) of moving from the current arrangements to full cost pricing (FCP) for private patient services. In arriving at its core recommendations, the consultant was required to also take account of the results of community consultation already undertaken by the Department of Health on a discussion paper on the issue released in February 1997.

The potential costs identified in the application of FCP to private patients in public hospitals included:

- the impact on the level of outlays by health insurance funds;
- the impact on private health insurance premiums and consequential impact on the privately insured;
- a consequential diminution in the level of health insurance cover across the community; and
- increased pressure on the public hospital system and lengthier queues for public patients awaiting surgery.

The potential benefits identified in the application of FCP to private patients in public

hospitals included:

- removal of price distortion between private and public hospitals;
- a possible consequential improvement in the overall efficiency of the private health insurance market;
- possible improvement in the quality of services through more effective competition in the medium to longer term, provided that public hospitals were able to compete effectively with private hospitals under contracts with health funds (at present public hospitals are constrained from doing this by the Medicare Agreement, as Principle 2 of the Agreement requires that access to public hospital services be on the basis of clinical need only); and
- if public hospitals could enter into contracts with health funds and charge private patients on a full cost recovery basis, and in doing so engender greater competition in the private health insurance market, there could be flow on effects for private patients in the form of lower premiums. This, however, would be in the longer term and only if the effect is of sufficient magnitude to offset the increase in premiums arising from moving from the current subsidised arrangements to full cost recovery.

The renegotiation of the Australian Health Care Agreement between the Commonwealth and the various jurisdictions is a major underlying factor which has to be taken into account and has a direct impact on the issue. This matter will be pursued as part of the broader health funding agenda.

4.2.6 Totalisator Agency Board

In Queensland, a comprehensive process of structural reform of the TAB and its relationship with the Queensland racing industry is underway. This process will improve the commercial structure of the TAB, the structure and level of wagering taxation, and the regulatory regime. Furthermore, it is expected to lead to the privatisation of the TAB, subject to the satisfactory completion of these reforms.

Under the *Racing and Betting Act* 1980, the TAB, which is a Government Owned Enterprise, has the control and general supervision throughout Queensland of investments on its totalisators, has the power to make rules over the operation of its totalisators, and to dispose of unclaimed dividends. The TAB faces heightened competition from a wider gambling market and other privatised, and soon to be privatised, totalisator businesses.

A legislative package comprising the *Wagering Act* 1998 and the *Racing Legislation Amendment Act* 1998 is a key component of the reform process underway. It will transfer those regulatory functions from the TAB to the Treasury Department's Queensland Office of Gaming Regulation (QOGR) consistent with the NCP Agreements and the State's corporatisation policy, as well as being supported by the Queensland Commission of Audit.

4.2.7 TAFE

TAFE has been nominated as a candidate SBA and, as such, a PBT is being undertaken to assess whether to introduce competitive neutrality reforms. The first stage of the test (a base case assessment) has been completed and is awaiting approval internally in the Department of Training and Industrial Relations.

The second stage of the test involves completing a cost benefit analysis on reform options and will commence in 1998.

In a related development, new legislation is currently being considered in the Queensland Parliament to establish a structure for TAFE Queensland and the TAFE Institutes which will devolve greater management responsibility and autonomy to TAFE Institutes and make them more accountable for resources.

4.2.8 Urban water boards

The four urban water boards, namely: South East Queensland Water Board (SEQWB); Gladstone Area Water Board (GAWB); Townsville-Thuringowa Water Board (TTWB); and the Mt Isa Water Board (MIWB) were listed as candidate SBAs in the Queensland Government's *Competitive Neutrality Policy Statement* 1996. Consideration was given in 1997 to the removal of the MIWB from the list of candidate SBAs because it was at an early stage of business development and had a number of significant asset issues to resolve. However, after consultation with the NCC, it was agreed that the MIWB would remain on the list of candidate SBAs.

Accordingly, PBTs have been completed for all four urban water boards. It is anticipated that the outcomes of these assessments will be considered by the Queensland Government in 1998 with a view to making an 'in-principle' decision regarding commercialisation reform.

4.3 Complaints against significant business activities - 1997

The QCA received two competitive neutrality complaints in 1997 and the details are supplied in the standard reporting format as Attachment 5.

4.4 Local government

See section 3.2 above.

4.5 Road Transport Construction Service

Queensland's first annual report to the NCC contained reference to a competitive neutrality complaint against the Road Transport Construction Service (RTCS), which is a business unit of the Department of Main Roads (DMR). DMR contracted a consultant to advise on those aspects necessary to ensure the RTCS complied with the competitive neutrality principle. Since the last Annual Report, DMR has formally sought accreditation from the Queensland Competition Authority in order to receive independent confirmation of the competitive

neutrality of the RTCS and Plant Hire Services (PHS) (see Attachment 6). Input will be sought from competitors of both SBAs.

As part of DMR's strategy to ensure that the RTCS and the PHS comply with the principle of competitive neutrality, DMR has implemented a "Commercialisation and Competitive Neutrality Policy" which ensures all competitive neutrality charges such as taxation and dividend equivalents, government fees and charges, and corporate services charges are borne by all departmental business units. This ensures that any departmental inputs into the RTCS and PHS do not provide a benefit to them by virtue of their government ownership.

SBA status for the Transport Technology Division (TTD) was included in the Government's *Competitive Neutrality Policy Statement* 1996. Queensland's first annual report to the NCC noted that a date had still to be determined for TTD to reach stage three commercialisation (as a precursor to it becoming an SBA). TTD is now operating on a fully commercial basis in compliance with DMR's commercialisation and competitive neturality policy.

It is proposed to declare the TTD as a SBA under s.39 of the *Queensland Competition Authority Act* 1997 (the RTCS and PHS are already declared SBAs). It is also proposed to seek accreditation from the QCA for TTD.

5. STRUCTURAL REFORM OF PUBLIC MONOPOLIES

There has been considerable progress in a number of areas on structural reform of public monopolies. Those monopolies currently under review include:

- Public Trust Office
- Brisbane Market Authority, and
- Totalisator Agency Board.

The Public Trust Office, Brisbane Market Authority and TAB are reported on under the Competitive Neutrality section of this report (4.2.2, 4.2.3 and 4.2.6).

6. LEGISLATION REVIEW

6.1 Progress in implementing Queensland's legislation review program

The NCC expressed concern in its first assessment of jurisdictions' progress in implementing the NCP reforms that there was an element of slippage in some jurisdictions' legislation reviews.

Queensland is taking its legislation review commitments very seriously as evidenced by:

- the development of comprehensive guidelines for PBTs;
- co-sponsoring the February 1998 Legislation Review Conference in Melbourne; and
- participation in various national review forums, for example, the Food Review.

Whilst some pieces of legislation scheduled for review within certain timeframes may not

have yet been reviewed, this is not indicative of general slippage and represents a re-ordering of priorities to effect the maximum gains from the legislation review process wherever possible.

Queensland's program for reviewing and, where necessary, reforming existing legislation that restricts competition is well underway. In excess of 170 pieces of primary and subordinate legislation have been set down for review between 1996/1997 and 1999/2000.

As can be seen from Attachment 7, the legislation review program to date is at a stage where: a number of reviews have been completed; certain other legislation has had all anti-competition provisions (i.e. those no longer required such as prescribing testing equipment) repealed without undergoing the PBT process; and numerous reviews are still in progress.

The timing of various reviews has been amended to account for changing circumstances. For example, Cabinet endorsed delaying commencement and completion of the review of the *Land Act* (scheduled for 1996/1997) until issues concerning Wik become clearer. However, the scope and terms of the review, and key data requirements have already been developed in readiness for undertaking the review in 1998.

A number of other reviews began later than scheduled owing to difficulties certain departments have experienced in securing appropriately skilled resources to manage/undertake the review process. For the most part, these same reviews were identified by Queensland as candidates for national review, but few national reviews have been endorsed by jurisdictions.

To compensate for delays in undertaking certain reviews set down to occur early in the review period, the Queensland Government is bringing forward or commencing the scoping and other preliminary work for numerous reviews which are listed on the Timetable to occur in 1998/1999. Of these, the reviews that are likely to formally begin in the first half of 1998 or have already begun, have been included in Attachment 7.

6.2 *Trade Practices Act* exemptions

A number of pieces of legislation currently under NCP review, or which will in the near future be subject to reform to address restrictions on competition, contain provisions which authorise conduct which may otherwise breach Part IV of the *Trade Practices Act* 1974.

The existing exemption from the *Trade Practices Act* provided by the provisions authorising such conduct will expire on 21 July 1998.

Where it is considered to be in the public interest to allow such conduct to continue until the relevant NCP review is completed or the proposed reforms introduced, authorisations will be sought by way of regulations made under the *Competition Policy Reform (Queensland) Act* 1996, in accordance with the requirements of section 51 of the *Trade Practices Act* 1974.

Several pieces of legislation administered by the Department of Primary Industries fall into this category including the *Dairy Industry Act* 1993, and the *Sugar Industry Act* 1991.

6.3 National reviews

Queensland continues to actively strive for a sizeable program of national reviews under the auspices of the CoAG Committee of Regulatory Reform. Few national reviews have been undertaken to date and the process for gaining inter-jurisdictional agreement to and mounting national reviews continues. However, the undertaking by necessity of State-based reviews in matters of national significance which are not aligned with other jurisdications poses difficulties, particularly in arriving at the most appropriate review outcomes, as well as being an inefficient use of review resources.

Queensland has identified a considerable number of reviews as candidates for national review, but will undertake these as State-based reviews in liaison with other jurisdictions to the extent possible, where a national review approach cannot be agreed.

6.4 Casino Agreement Acts

Refer to section 2.2 above.

6.4 Removal from timetable of *Liquid Fuels Supply Act* 1984, *Explosives Act* 1952 and *Explosives Regulation* 1955

The *Liquid Fuels Supply Act* 1984 was scheduled for review in 1997/1998. The legislation regulates the supply of liquid fuels in times of emergency and could therefore be considered to restrict competition. However, the regulation is for the purpose of ensuring that in times of shortage, liquid fuels are allocated in the public interest. It is worth noting that these legislative powers have never been used.

The purpose of the Explosives Act and Regulation is to regulate all stages in the life cycle of a potentially dangerous commodity (e.g. manufacture, transportation, storage, sale, usage) as opposed to restricting competition. These provisions apply uniformly to all market participants and are clearly in the public interest. The legislation is presently in the process of being updated to meet present-day requirements and jurisdictions moving towards national uniformity.

Other jurisdictions either have not listed these pieces of legislation for review or are not intending to undertake a substantive review.

In view of these factors, the NCC's concurrence was sought to removing these pieces of legislation from Queensland's legislation review timetable. The NCC indicated it had no objection to this course of action. However, the NCC sought disclosure of this matter in this annual report, so that anyone who objects may seek to have this legislation reinstated in the review program.

6.5 New legislation

All proposals for new or amending legislation are subjected to examination against the State's

'gatekeeping' arrangements to ensure compliance with subclause 5(5) of the CPA.
A public benefit assessment will accompany a proposal to Cabinet where there is an increase in, or new, legislative restrictions on competition. Where the restriction on competition in legislation is not greater as a result of the proposal, the restrictive parts of the proposed legislation will form part of the scheduled review of the legislation (e.g. administrative amendment of provisions that already restrict competition).

Attachment 8 lists legislation passed in the past 12 months that restricts competition, for which a public benefit assessment was required under the 'gatekeeping' arrangements.

7. ELECTRICITY

7.1 Overview

Queensland electricity reforms were discussed at length in the Queensland's First Annual Report to the NCC. As previously advised, on 10 December 1996 the Queensland Electricity Industry Structure Task Force (the Task Force) reported to the Queensland Government on structural, institutional and regulatory changes to the electricity supply industry. The Queensland Government announced its electricity reform strategy on 16 December 1996, based largely on the recommendations of the Task Force. The aim of the strategy is to position the Queensland electricity industry to be a strong competitor in the National Electricity Market (NEM) which Queensland plans to formally join at the time of the interconnection with New South Wales in 2001.

Key elements of the strategy included:

- splitting the State's major generator, AUSTA Electric, into three independent and competing government owned generation corporations and an engineering services corporation;
- retention of the State's seven existing distribution corporations; creation of three new trading corporations which will buy and sell electricity in the distribution board areas (the northern and central retailers have since merged to give them sufficient critical mass to compete in the competitive electricity market);
- establishment of an interim competitive market in Queensland during the last quarter of 1997, with a fully competitive market by 2001;
- reaffirmation of the Government's earlier decision to interconnect with New South Wales; and
- no government bidding for additional generation capacity requirements post 2003.

The Queensland Electricity Reform Unit (QERU) was established to implement the strategy in a timely and efficient manner. In the last 12 months, the key recommendations of the Task Force report have been implemented. Key outcomes include:

- the industry was restructured from 1 July 1997 in preparation for the introduction of a competitive electricity market. There are now 14 government-owned participants in the industry comprising three generation companies (CS Energy, Stanwell Corporation and Tarong Energy), an engineering services company (AUSTA Energy), a transmission company (the Queensland Electricity Transmission Corporation trading as Powerlink

Queensland, which includes the Queensland System Operator as a ring-fenced business unit), the existing seven regional distribution companies and two new retail supply companies (two of the three retail companies merged as of February 1998);

- three significant tranches of legislation were passed by the Queensland Parliament underpinning the electricity reforms. To this end, Queensland became the second State (behind South Australia, which was the lead legislator) to apply the *National Electricity Law*. Amendments to the *Electricity Act* 1994 resulted in Queensland becoming the first jurisdiction in Australia to recognise interstate retail licences. These arrangements have resulted in the early issue of several retail authorities to retailers licensed in New South Wales and Victoria in January 1998;
- Queensland became the first State to trial the NEM systems when these were used in a "paper trial" conducted in late 1997, in preparation for the commencement of an interim wholesale market in Queensland. An interim wholesale market commenced in Queensland on 18 January 1998 based on the NEM systems. Queensland intends to become a participant in the NEM ahead of the interconnection with New South Wales and will use the full NEM systems and apply the National Electricity Code as authorised by the Australian Competition and Consumer Commission (ACCC);
- the framework for a new regulatory regime for the Queensland electricity industry was introduced, including:
  - independent regulation of the transmission/distribution sectors by the Queensland Competition Authority and/or ACCC;
  - codes of conduct to control anti-competitive behaviour in the early stages of the new market;
  - standard customer contracts to establish "default" levels of service for franchise customers;
  - plans for a regulated price path for franchise customers through the transition to full contestability;
  - establishment of an industry Ombudsman to arbitrate on disputes between the industry and customers;
  - adoption of the principle of mutual recognition in issuing retail authorities in Queensland; and
  - establishment of vesting arrangements between generators and retailers for the period until interconnection with New South Wales; and
- plans are in train for the commencement of retail competition in the Queensland electricity industry whereby the first tranche of contestable customers (greater than 40GWh per annum) will be able to choose where and how to purchase their electricity from the end of March 1998.

Queensland's performance against specific reform commitments is as follows.

7.2 Interconnection with NSW

Under the CoAG electricity agreements, Queensland is committed to establishing an interconnection with New South Wales, after which it is to become a participant in the national market. The interconnection of the Queensland and New South Wales electricity grids is a fundamental element of the Queensland Government's electricity strategy. During the year, the planned route for the interconnection was identified, the optimal capacity

determined (1 000 MW north and 500 MW south, being the maximum economic and technical configuration) and a benefit-cost analysis was completed which highlighted its net benefits. The interconnection, the planning and construction of which is being managed by Powerlink Queensland, is on track for completion in 2001.

Queensland intends to become a participant in the NEM ahead of the interconnection with New South Wales and will use the full NEM systems and apply the National Electricity Code as authorised by the ACCC.

7.2 Structural separation of generation and transmission

Part of the CoAG agreement on electricity was the structural separation of generation and transmission. In January 1995, the Queensland electricity supply industry was corporatised, which included the structural separation of generation (with the creation of AUSTA Electric) and transmission (with the creation of Powerlink Queensland).

On 1 July 1997, the industry was further restructured as part of the Queensland Government's electricity strategy, and included the disaggregation of AUSTA Electric into three generation companies and an engineering services company. This was aimed at creating competition in the wholesale electricity market and controlling market power ahead of the State's participation in the NEM.

7.3 Ringfencing retail and wires in the distribution sector

Under the CoAG processes, jurisdictions agreed to the ring-fencing of the 'retail' and 'wires' businesses within the distribution sector of the industry. From 1 July 1997, three separate incorporated retail companies were established in Queensland (two of these have since been merged, as indicated above). These companies have separate Boards and are wholly owned subsidiaries of the seven distribution companies.

The Southern Electricity Retail Corporation (trading as Energex) is wholly owned by the South East Queensland Electricity Corporation.

The merged Central Electricity Retail Corporation (trading as Ergon Energy) and the Northern Electricity Retail Corporation are jointly owned by the South West Queensland Electricity Corporation, the Wide Bay-Burnett Electricity Corporation, Central Queensland Electricity Corporation; the Mackay Electricity Corporation, Northern Queensland Electricity Corporation and the Far North Queensland Electricity Corporation.

This structure involves legal separation of retail and distribution functions, not just ring-fencing, and goes beyond reforms in other States. In addition, conduct rules are to be introduced in the Queensland electricity industry covering the relationship between distributors and retailers. This will assist in controlling the activities of any distributors which seek to provide market advantages to their incumbent retailers, withhold information, or provide cross subsidies, or which attempt to prevent customers from switching to other retailers.

8. GAS

8.1 Overview

The NCC expressed concern in its 1997 *Assessment of State and Territory Progress with Implementing National Competition Policy and Related Reforms*, that there had been considerable slippage from the original timetables in the 1994 and 1996 CoAG Communiques and from the timetable outlined in the Prime Minister's letter of 10 December 1996. At the same time, the NCC acknowledged that the action by the Prime Minister, in appointing the Gas Reform Implementation Group (GRIG) and setting a new timetable, now superseded the previous CoAG arrangements. (Queensland is a fully participating member of the GRIG.)

The NCC recommended that, for Queensland to be assessed as having satisfied its first tranche commitments in respect of the implementation of the National Gas Code, it will need to have implemented the Code in accordance with the timetable to be agreed in the Inter-governmental Agreement.

Queensland is currently working with the other States, through the GRIG, with the objective of establishing a competitive national gas market. As part of this process, the timelines for the establishment of a national gas market have been developed including the Inter-governmental Agreement and enacting legislation to underpin the National Third Party Access Code. Progress on specific code agreements is outlined below:

8.2 Removal of all remaining legislative and regulatory barriers to free trade across jurisdictions

Jurisdictions agreed to remove all remaining legislative and regulatory barriers to the free trade of gas both within and across their (State) boundaries by 1 July 1996.

S 43 of the *Gas Act* 1965 (Queensland) states that:

> *A fuel gas supplier shall not make a contract for the supply of the fuel gas being indigenous natural gas or liquefied petroleum gas derived from indigenous natural gas, where such contract provides for a rate of delivery in excess of 1 petajoule per year or delivery of a total quantity in excess of 5 petajoules, unless the Governor in Council has approved of making of the contract in question.*

The section was seen as a legislative barrier to free trade of gas and has been repealed . No other legislative or regulatory barriers were identified.

8.3 Uniform national framework for third-party access to all gas transmission pipelines

Under the CoAG processes, jurisdictions agreed to implement complementary legislation so

that a uniform national framework applies to third-party access to all gas transmission pipelines both between and within jurisdictions, by 1 July 1996.

This matter is ongoing, see 8.4 below.

8.4 Principles for free and fair trade in gas embodied in legislation

Jurisdictions under the CoAG processes noted that legislation to promote free and fair trade in gas, through third-party access to pipelines, should be developed co-operatively between jurisdictions and be based on the following principles:

- pipeline owners and/or operators provide access to spare pipeline capacity for all market participants on individually negotiated non-discriminatory terms and conditions;
- information on haulage charges, and underlying terms and conditions, to be available to all prospective market participants on demand;
- if negotiations for pipeline access fail, provision be made for the owner/operator to participate in compulsory arbitration with the arbitration based upon a clear and agreed set of principles;
- pipeline owners and/or operators maintain separate accounting and management control of transmission of gas;
- provision be made for access by a relevant authority to financial statements and other information necessary to monitor gas haulage charges; and
- access to pipelines would be provided by either Commonwealth or State/Territory legislation based on these principles by 1 July 1996.

On 7 November 1997, Queensland, along with other jurisdictions, signed the Natural Gas Pipelines Access Agreement which commits the State to enacting legislation by the end of June 1998 to apply the National Access Legislation. The legislation will make the obligations placed on pipeline operators and users of the Code, legally binding. It will also place obligations on producers. This is necessary to enable users to realise the benefits of third party access.

On 27 January 1998, Cabinet approved the preparation of the Gas Pipeline Access (Queensland) Bill. Consequently, the Department of Mines and Energy has commenced work with Parliamentary Counsel to draft the necessary legislation to apply the National Access Legislation within Queensland, and to establish appropriate regulatory and appeal bodies.

Once drafting has been complete, Queensland will seek other States and Territories endorsement of the proposed legislation in accordance with the Inter-governmental Agreement. In conjunction with this inter-jurisdictional consultation, discussions will occur with the NCC to seek their comments on the legislation prior to the formal certification process. It is anticipated that legislation will go before Parliament in mid 1998.

8.5 Adoption of AS2885

Jurisdictions agreed to adopt AS2885 to achieve uniform national pipeline construction standards by the end of 1994 or earlier.

AS 2885 is called up in the Queensland Petroleum Regulation 1966 (Regulation 237).

8.6 Open ended exclusive franchises

The CoAG noted that open-ended exclusive franchises are inconsistent with the principles of open access:

- agreed not to issue any further open-ended exclusive franchises; and
- agreed to develop plans by 1 July 1996 to implement more competitive franchise arrangements.

CoAG also agreed that approaches to price control and maintenance in the gas industry be considered in the context of agreed NCP.

No new open ended exclusive franchises have been approved in Queensland. Approvals to develop new distribution franchises have been granted on the understanding that they will be subject to full open access provisions upon the introduction of the national gas access regime. Approvals which have been given on this basis are Sunshine Coast, Bundaberg, Maryborough and Hervey Bay.

The Queensland Government has adopted a threshold reduction strategy (TRS) whereby those large customers which consume greater than 100 Tera Joules per annum will gain access to competitive supply in January 2000 with all remaining customers gaining access to competitive supply in September 2001. The TRS is generally consistent with those adopted by other participating jurisdictions. It should be noted that 75% of tradeable gas volume in Queensland is already contestable.

The Queensland Department of Mines and Energy is currently reviewing the need for gas price control for domestic customers. If it is determined that gas price regulation is necessary, then it will be undertaken in accordance with the Inter-governmental Agreement.

8.7 Gas utilities to placed on a commercial footing

Under the CoAG processes, jurisdictions agreed to place their gas utilities on a commercial footing, through corporatisation, by 1 July 1996.

There are two Government owned gas utilities operating within the Queensland gas industry. These gas utilities are owned by the Dalby Town Council and Roma Town Council. Under the CoAG agreements, local councils are required to place their utilities on a commercial footing with the private sector for those businesses above a certain value. The gas utilities owned by the Dalby Town Council and the Roma Town Council are not of sufficient size to fall under this category. Therefore, these businesses are not required to be placed on a commercial footing through the corporatisation process.

8.8 Ringfencing distribution and transmission

Jurisdictions agreed that where publicly-owned transmission and distribution activities are at present vertically integrated, they be separated, and legislation introduced to "ring-fence" transmission and distribution activities in the private sector by 1 July 1996. Heads of Government noted that Victoria's ability to commit to this timetable is contingent upon satisfactory and timely resolution of the PRRT issue.

There are no publicly-owned transmission and distribution services in Queensland that are vertically integrated. Currently, in Queensland there are three main transmission pipelines and two main natural gas distributors which are privately owned. Major gas industry participants are aware that transmission and distribution assets will need to conform with the ring-fencing provisions of the national access code.

9. ROAD TRANSPORT

9.1 National Road Transport Reforms

The national road transport law, as established in the Heads of Government agreement comprises six modules of legislation and accompanying regulations. Due to its size, the Vehicle Operations module has been subdivided into several regulations. The date of Queensland's implementation of these modules, and the current national target dates for implementation of the outstanding modules, is summarised below.

Module/Regulation	Intended Implementation
· Heavy Vehicle Charges	Implemented 1 July 1995
· Vehicle operations	
-Restricted access vehicles	To be implemented by October 1998
-Mass and loading	Implemented December 1995
-Oversize and overmass	To be implemented by October 1998
-Vehicle standards	To be implemented by October 1998
-Australian road rules	Yet to be determined
-Truck driving hours	To be implemented by August 1998
-Bus driving hours	To be implemented by August 1998
· Dangerous goods	To be implemented by July 1998
· Heavy vehicle registration	To be implemented by July 1998
· Driver licensing	To be implemented by February 1999
· Compliance and enforcement	Yet to be determined

The national target dates are established at the direction of the Ministerial Council for Road Transport. As noted above, Council has not presently established target dates for two components of the national road transport law.

Queensland is committed to meeting all target dates established by Ministerial Council. Queensland Transport's annnual report for 1996-97 particularly highlights the Department's desire to complete adoption of the national road transport law into State legislation. Similarly, the Department's Strategic Plan 1997-2001 identifies implementation of a number of modules as key priorities.

9.2 Queensland legislative reform underpinning transport reform

In order to implement national road transport legislation, the *Transport Operations (Road Use Management) Act* (*TO(RUM) Act*) was established in 1995. The primary purpose of the TO(RUM) Act is to establish the framework and administrative structures to implement national road transport legislation as it is developed and approved.

The *TO(RUM) Act* 1995 also provides the opportunity to consolidate and reform existing Queensland road use legislation.

Queensland is the only state to have engaged in such a comprehensive law reform approach as part of the national road transport reform process.

9.3 Heavy vehicles charges

The Commonwealth's *Road Transport Charges (Australian Capital Territory) Act* and Regulations were adopted in Queensland on 1 July 1995 via the *TO(RUM) Act* 1995.

Queensland was the only jurisdiction to adopt Heavy Vehicle Charges in accordance with the agreed national implementation date of 1 July 1995.

9.4 Mass and loading regulations

In December 1995, Queensland introduced mass and loading regulations under the *TO(RUM) Act* 1995. The Mass and Loading Regulations contain the standards applying to vehicle mass and the loading of vehicles.

9.5 National truck driving hours

Queensland has made a firm commitment to adopt the national log book, the national driving hours limits and the national administrative guidelines aspects of this module. Queensland is committed to implement these by the national target date.

Due to differences in jurisdictions' regulatory framework, Queensland will not be directly adopting the national driving hours regulation. Some adjustment will be required to those elements of the national regulation which are inconsistent with Queensland's legislative approach. However, Queensland will achieve the consistent interstate operating environment which is being sought from this module.

9.6 First heavy vehicle reform package (first ten point plan)

The first ten point plan identifies a number of components from the national road transport law modules which were agreed to be priorities for accelerated implementation. Eight of these priorities have been fully implemented in Queensland. Queensland expects to deliver the remaining priority items in advance of the module from which they derive.

9.7 Second heavy vehicle reform package (second ten point plan)

The second ten point plan was endorsed by the Ministerial Council for Road Transport in February 1997. Queensland has already delivered two elements of this plan ahead of schedule and expects to meet all future target dates for delivery of elements of the plan.

10. PRICES OVERSIGHT

The Queensland Competition Authority (QCA) was established on 1 July 1997 under the *QCA Act* 1997. One of its roles will be the prices oversight of Queensland Government monopoly businesses. Other functions of the QCA include:

- investigating competitive neutrality complaints against government SBAs;
- arbitrating disputes under a State based third party access regime;
- regulating certain aspects of the electricity and gas markets, including prices oversight and access arrangements; and
- (from mid 1998) recommending to the Queensland Government the level of NCP payments to be made to Queensland local governments under Queensland's financial incentive package.

The QCA has developed a paper and explanatory notes on the *Criteria for the Identification of Government Monopoly Business Activities* for the purposes of prices oversight. A copy of the paper is enclosed.

ATTACHMENT 1

Local Government Legislation Enacted to Give Effect to NCP

The *Local Government Legislation Amendment Act* 1996 provides for:

- the definition of those activities of the 17 largest councils which operate SBAs (referred to as Type 1[11] and Type 2[12] business activities); and
- these councils to undertake assessments to ascertain the benefit to the community of corporatising, commercialising or applying full cost pricing to these activities.

The *Local Government Legislation Amendment Act* 1997 provided for the following:

- decision-making by councils on public benefit assessments of Type 1 and 2 business activities;
- identification by councils of new Type 1 and 2 business activities and the action required in respect of these activities;
- framework for the application of corporatisation, commercialisation or full cost pricing to SBAs;
- identification by councils of other business activities in competition with the private sector (referred to as Type 3 business activities) and decision to be made by councils about whether the Code of Competitive Conduct should be applied to these activities;
- application of the Code of Competitive Conduct to roads business activities of local governments;
- identification and review by councils of anti-competitive provisions in local laws and local law policies; and
- the application of the Council of Australian Governments (CoAG) water resource policy to councils with water and sewerage services that are SBAs under the Act.

The *Local Government Legislation Amendment Act (No 3)* 1997 provides for:

- local governments to establish a process to investigate and report on complaints about failures of local government business activities to comply with competitive neutrality

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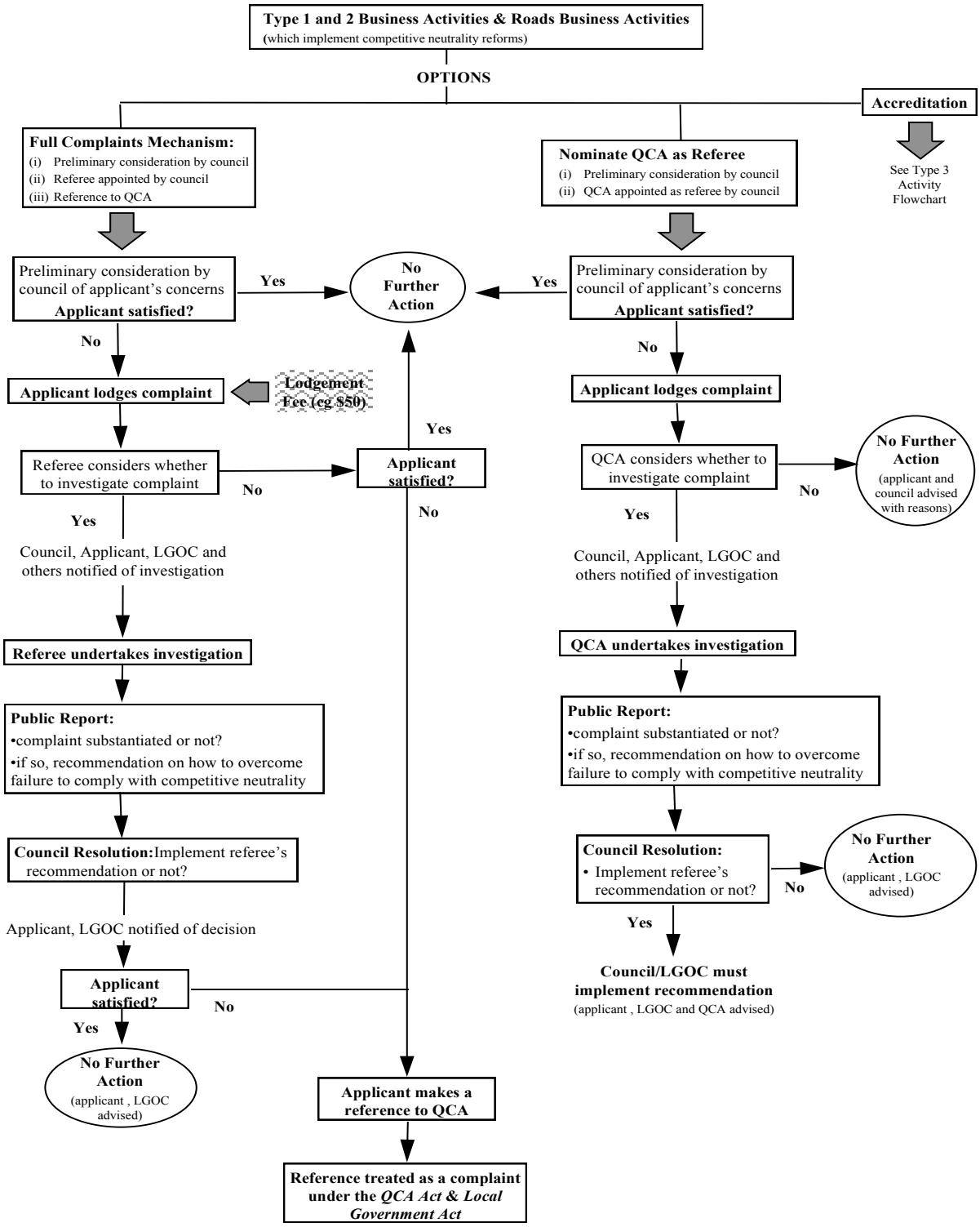
[11] ***Type 1 business activities*** have a current expenditure, in the case of water and sewerage business activities combined, greater than $25 million per annum or in the case of other business activities, greater than $15 million per annum in 1993/93 terms. Based on this criterion, the following activities were classified as Type 1: Brisbane public transport; Brisbane and Gold Coast garbage; and Townsville, Logan, Ipswich, Gold Coast and Brisbane water and sewerage.

[12] ***Type 2 business activities*** have a current expenditure, in the case of water and sewerage business activities combined, greater than $7.5 million per annum or in the case of other business activities, greater than $5 million per annum in 1993/93 terms. Based on this criterion, the following activities were classified as Type 2: Cairns, Ipswich, Logan, Maroochy and Townsville garbage; Caboolture,Cairns, Hervey Bay, Caloundra, Mackay, Maroochy, Noosa, Pine Rivers, Redland, Rockhampton, Thuringowa and Toowoomba water and sewerage.

principles that apply to the activities.

ATTACHMENT 2

Local government competitive neutrality complaints process



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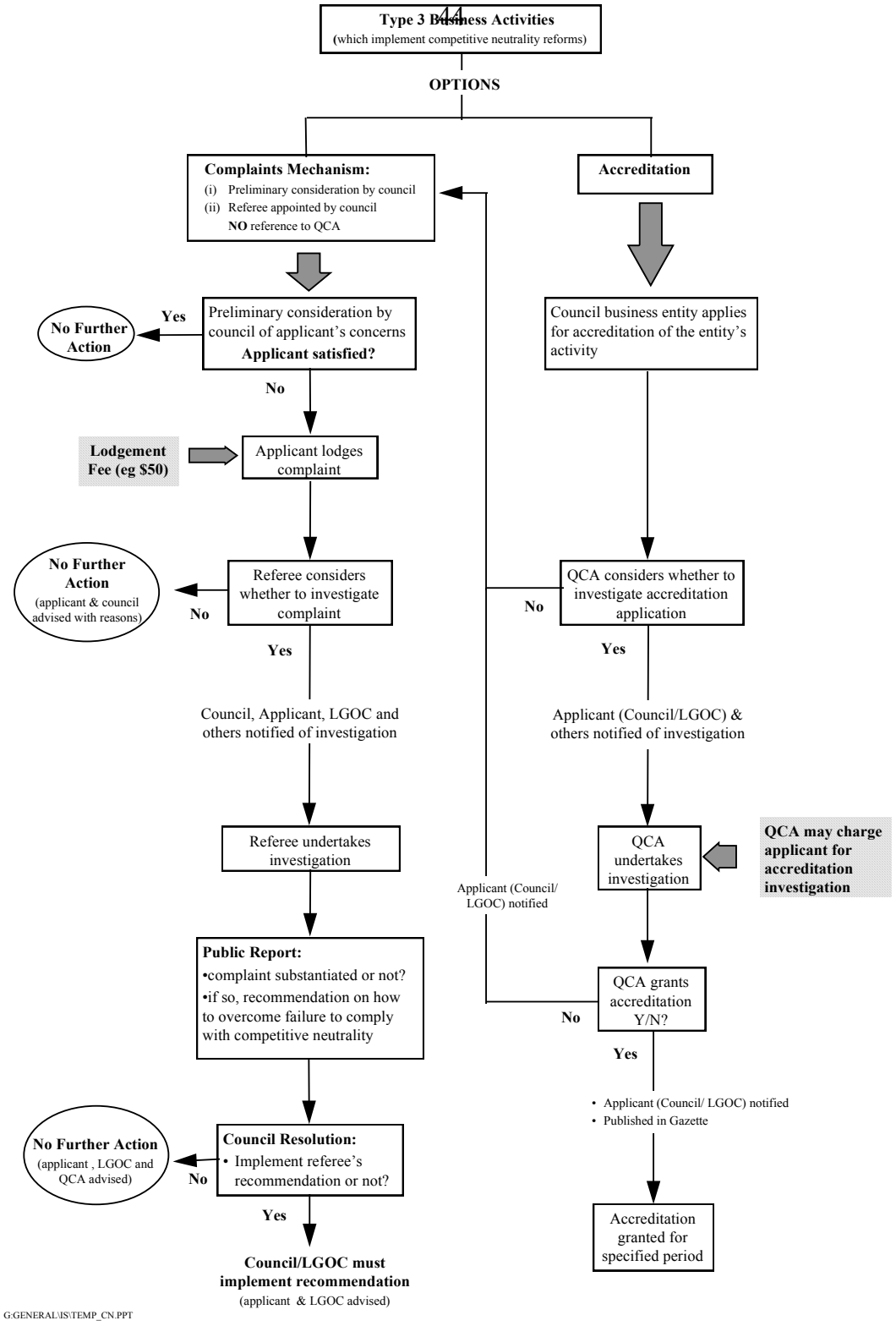

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ATTACHMENT 3

Competitive Neutrality Public Benefit Assessment (PBA) Report Recommendations and Council Resolutions

Council	PBA Recommendations	Council Resolution
Type 1 Water and Sewerage Business Activities		
Brisbane City Council	• Commercialisation by July 1998 • Corporatisation should be reconsidered within 12 months, particularly if uncertainty regarding the taxation of LGOCs is resolved	• As per PBA recommendations
Gold Coast City Council	• Full Cost Pricing - with additional work to identify vulnerable consumers and required safety nets • Commercialisation by 30 June 1998 - as a transition step to corporatisation • Corporatisation by 31 December 1998 - subject to the resolution of the tax status of the new corporation and establishment of necessary powers for the new corporation	• Adopt Full Cost Pricing immediately • Commercialisation implemented from 1 July 1998 • Corporatisation not to proceed without a further PBA
Townsville City Council	• Commercialisation from July 1998	• As per PBA recommendation
Logan City Council	• Commercialisation from July 1998 • Corporatisation by 2001 - subject to resolution of taxation of LGOCs	• As per PBA recommendation
Ipswich City Council	• Commercialisation from July 1998 • Review in June 2000 to determine if the activity should be corporatised	• As per PBA recommendation
Type 1 Garbage Services		
Brisbane City Council	• Full Cost Pricing from July 1998	• As per PBA Recommendation
Gold Coast City Council	• Commercialisation from July 1998	• As per PBA Recommendation
Type 1 Transport Services		
Brisbane City Council	• Continue implementing commercialisation reforms until June 1998 • July 98- Review progress and if necessary establish as a corporation if reform progress is not meeting agreed milestones	• As per PBA recommendation
Type 2 Water and Sewerage Services		
Caboolture Shire Council	• Full Cost Pricing by July 1998	• Commercialisation by July 1998
Cairns City Council	• Full Cost Pricing - Inadequate information to assess further reform until full cost pricing implemented	• Full Cost Pricing by July 1998 • Review at end of 1998/99 to assess commercialisation
Caloundra City Council	• Commercialisation by July 1998	• As per PBA Recommendation
Hervey Bay City Council	• Commercialisation by July 1998	• As per PBA Recommendation
Type 2 Water and Sewerage Services (continued)		
Mackay City Council	• Commercialisation by July 1998	• As per PBA Recommendation
Maroochy Shire	• Commercialisation by July 1998	• Full Cost Pricing by July

Council	PBA Recommendations	Council Resolution
Council		1998 • Commercialisation by July 1999
Noosa Shire Council	• Full Cost Pricing by July 1998	• Full Cost Pricing by July 1998 • Benchmark over next 2 years and reconsider commercialisation
Pine Rivers Shire Council	• Full Cost Pricing by July 1998	• As per PBA Recommendation
Redland Shire Council	• Commercialisation by July 1998	• As per PBA Recommendation
Rockhampton City Council	• Commercialisation by July 1998	• Full Cost Pricing by March 1998 • Commercialisation by July 1998
Thuringowa City Council	• Commercialisation by July 1998	• As per PBA Recommendation
Toowoomba City Council	• Commercialisation • Corporatisation to be considered later if TER established	• Full Cost Pricing by July 1998 • Further investigation of commercialisation by December 1998
Type 2 Garbage Services		
Cairns City Council	• Full Cost Pricing by July 1998 - Services under contract until 2003 • Reconsider commercialisation/corporatisation if operating environment changes	• Full Cost Pricing by July 1998 • Review at end of 1998-99 and consider commercialisation
Ipswich City Council	• Commercialisation by July 1998 • Review in June 2000 to consider corporatisation	• As per PBA Recommendation
Logan City Council	• Commercialisation by July 1998	• As per PBA Recommendation
Maroochy Shire Council	• Full Cost Pricing by July 1998 • Consider commercialisation at the end of current contract in 2002	• As per PBA recommendation
Redland Shire Council**	• Commercialisation by July 1998	• As per PBA Recommendation
Townsville City Council	• Commercialisation by July 1998	• As per PBA Recommendation

** Redland Shire Council has also elected to reform its garbage services - it is not one of the business activities for which consideration of reform is mandatory.

ATTACHMENT 4

Local Government Water Charges for Type 1 and Type 2 Water and Sewerage Business Activities

Local Government	Type	Details
Brisbane	Two-part tariff	Category: Domestic Access charge: $100 Usage charge: 60c per kL
Caboolture	Two-part tariff	Category: Domestic Access charge: $145 Usage charges: 0-350kL 30c per kL 350kL ➔ 80c per kL
Cairns	Unit / excess	Category: Domestic Base charge: $140 for 200kL Usage charge: Use in excess of 200kL 65c per kL
Caloundra	Two-part tariff	Category: Domestic Access charge: $80 Usage charge: 75c per kL
Gold Coast	Fixed charge / excess	Category: Domestic Fixed charge: $274 Usage charge: Use in excess of 340kL 99c per kL
Hervey Bay	Two-part tariff	Category: Domestic Access charge: $140 Usage charge: 70c per kL
Ipswich	Two-part (79% metered)	Category: Domestic Unmetered: $540 fixed charge Metered- Access charge: $135 Usage charges: 0-450kL 35c per kL 450-600kL 60c per kL 600kL ➔ $1.04 per kL
Logan	Fixed charge / excess	Category: Domestic Fixed charge: $270 Usage charge: Use in excess of 340kL 80c per kL
Mackay	Fixed charge / excess	Category: Domestic Fixed charge: $223 Usage charge: 300-1500kL 42c per kL 1500kL ➔ 58c per kL
Maroochy	Two-part tariff	Access charge: $138 Usage charge: 83c per kL
Noosa	Two-part tariff	Access charge: $125 Usage charge: 64c per kL
Pine Rivers	Fixed charge	15mm offtake: $253 20/25mm offtake: $329
Redland	Two-part tariff	Access charge: $175 Usage charge: 0-360kL 17c per kL 360kL ➔ 70c per kL
Rockhampton	Fixed charge	Fixed charge: $399.78
Thuringowa	Unit / excess	Base charge: $375.60 Usage charge Use in excess of 768kL 95c per kL
Toowoomba	Two-part tariff	Access charge: $235 Usage charge: 0-324kL 35c per kL 324kL ➔ $1 per kL
Townsville	Fixed charge / excess	Fixed charge: $339.40 Usage charge: Use in excess of 776Kl 95c perkL

Attachment 5

Individual complaint summary

Target of Complaint	Complainant	Date of receipt of complaint	Nature of complaint	Findings of investigation and recommendation	Date of advice of recommendation to complainant	Date of advice of recommendation to target complaint	Action taken or proposed following recommendation of complaints mechanism	other relevant information
Wide Bay-Burnett Electricity Corporation	Robin Rusell and Associates	29 July 1997	Robin Russell claimed that the Corporation's estimates for the design and construction of electricity reticulation and street lighting were too low and that this prevented the private sector from "gaining professional engagement in their area of electricity supply".	**Findings;** · The WBBEC has breached the principle of competitive neutrality in the area of design and construction of electricity retiulation and street lighting as the estimate given to developers does not include profit, sales tax, debt guarantee fees or a share of corporate overheads. · The estimating approach adopted by the Corporation does not produce reliable estimates of cost of an individual project basis, thereby reducing the ability of land developers to make effective decisions relating to the use of the services of the WBBEC or private contractors. **Recommendations** To ensure that the principle of competitive neutrality is satisfied in the future, WBBEC should: (i) include provisions for profit, sales tax, debt guarantee fees and a share of corporate overheads in any future estimates of the cost of design and construction provided to private sector developers; and (ii) refine its estimating process so that more reliable estimates are produced in respect of individual projects. In addition, (a) a PBT should be implemented before any consideration is given to revising	17 February 1998	17 February 1998	Ministers have accepted the findings and recommendations. WBBEC is being directed to comply. Other electricity distributors have been asked for a report on the implications of the findings and recommendations.	

				the current policy of allowing private sector developers to undertake the design and construction of electricity reticulation and street lighting; (b) the Corporation should clearly distinguish the general approach to the developer security arrangements from the approach to costing infrastructure and present the details in a simple form available to developers.				
Queensland Rail (QR)	Coachtrans Australia	2 July 1997	Coachtrans has claimed that: · QR's prices for the Brisbane to Gold Coast rail service have not been set to recover costs or in a manner designed to achieve specific environmental or social goals. Rather the prices have been set with specificintent of attracting passengers from buses (and motor vehicles) in reliance on continued Queensland Government funding which would not be available if it were not a government agency; · QR enjoys procedural and regulatory advantages as a	Investigation yet to be completed	Not relevant	Not relevant	Not relevant	Not relevant

			result of its government ownership. That advantage is claimed to manifest itself in consistent priority being accorded by Queensland Government agencies to QR, including the exclusion of Coachtrans from involvement in key transport planning initiatives.					

PLEASE REGARD THIS INFORMATION AS <u>CONFIDENTIAL</u> UNTIL THE QCA REPORT AND DECISION ARE PUBLISHED

Attachment 6

Application for accreditation

Applicant	Activities for which accreditation is sought	Nature of date at which accreditation was sought	Date at which accreditation granted	Other relevant information
Department of Main Roads	Plant Hire Service and Road Transport Construction Service	24 December 1997	Investigations underway	Not relevant

Attachment 7

Progress in implementation of legislation review

Agency	Legislation to be Reviewed	Proposed Review Timing	Status/ Comment
Consumer Affairs	*Auctioneers and Agents Act* 1971 & *Auctioneers and Agents Regulation* 1986	1996/97	NCP review has been completed and new legislation introduced into Parliament (i.e. Agents and Motor Dealers Bill). Bill contains some pro-competitive reforms and justification has been provided for the restrictions on competition in the Bill.
	Co-operative and Other Societies Act 1967, *Co-operative and Other Societies Regulation* 1968,	1996/97	*New Co-operatives Act* was enacted in September 1997 and replaces the two Acts listed for review. This national scheme of regulation was developed, and NCP justification provided, by Victoria as lead State. *(Discussions are continuing on the suggestion by another State that there be a national review.)*
	Primary Producers' Co-operative Associations Act 1923 and *Primary Producers Co-operative Association Regulation*	1996/97	
	Land Sale Act 1984 & *Land Sale Regulation* 1989	1996/97	Amendments were passed in August 1997 removing restriction on sale of unregistered land prior to sealing by Local Authority. NCP review has yet to begin.
	Retirement Villages Act 1988 & *Retirement Villages Regulation* 1989	1996/97	A draft Bill was released for public consultation, the results of which are being considered. PBT will be conducted prior to seeking Cabinet approval for introduction. It is anticipated that this will occur in 1998/99.
	Fair Trading Act 1989 and *Fair Trading Regulation* 1989	1997/98	NCP review has yet to begin.
	Funeral Benefit Business Act 1982 & *Funeral Benefit Business Regulation* 1989	1997/98	NCP review has yet to begin.
	Hawkers Act 1984 & *Hawkers Regulation* 1994	1997/98	NCP review has yet to begin.
Consumer Affairs (continued)	*Credit Act* 1987 & *Credit Regulations* 1988	1997/98	National review of the Uniform Consumer Credit Code will be undertaken after post implementation review of the legislation is complete. NCP Review will occur in 1999/2000.

Agency	Legislation to be Reviewed	Proposed Review Timing	Status/ Comment
			Review of Credit Act 1987 and Regulations will occur at that time.
	Travel Agents Act 1988 & *Travel Agents Regulations* 1988	1997/98	National review to be undertaken. Terms of Reference have been developed and will be submitted to Cabinet for approval by April 1998.
	Mobile Homes Act 1989 & *Mobile Homes Regulation* 1994	1997/98	NCP review has yet to begin.
	Pawnbrokers Act 1984 & *Pawnbrokers Regulation* 1984	1997/98	A working group has been formed following requests from the Queensland Police Service to increase the reporting requirements. It is preferable to incorporate the NCP review as part of this process. Draft PBT Plan under review.
	Second-hand Dealers and Collectors Act 1984 & *Second-hand Dealers and Collectors Regulation* 1994	1997/98	A working group has been formed following requests from the Queensland Police Service to increase the reporting requirements. It is preferable to incorporate the NCP review as part of this process. Draft PBT Plan under review.
	Security Providers Act 1992 & *Security Providers Regulation* 1995	1997/98	NCP review has yet to begin
Corrective Services	*Corrective Services Act* 1988 and *Corrective Services (Administration) Act* 1988	1996/97	This review is linked with corporatisation of QCORR which occurred in September 1997. Some minor legislative amendments were necessary to achieve this outcome. Department has established a policy position which is pro-competitive with some transitional arrangements leading to full contestability of service delivery in the Corrections Industry in Queensland. The legislation will be reviewed with a view to introducing new legislation by December 1998.
Local Government and Planning	*Local Government (Planning and Environment) Act* 1990	1996/97 (Was listed as "To be determined")	The new Integrated Planning Act has replaced the Act listed for review. The new Act removes the highly prescriptive provisions contained in the Act it replaces and has been shown not to restrict competition.
	Local Government Local Laws (formerly By-laws) made under the *Local*	1997/99	Local Government Amendment Act 1997 received assent on 22 May 1997. Applies legislation

Agency	Legislation to be Reviewed	Proposed Review Timing	Status/ Comment
	Government Act 1993		review requirements to local government.
	Sewerage and Water Supply Act 1949, *Sewerage and Water Supply Regulation* 1987 & *Standard Water and Sewerage Laws* (See also Natural Resources)	1997/98	The limited provisions administered by the Department relate to health and safety issues of which no anti-competitive provisions have been identified. It is understood that the Department of Natural Resources will be reviewing other provisions of the legislation.
	Local Government Act 1993, *City of Brisbane Act* 1924 & *Local Government Finance Standard* 1994	1997/99	A process and program for review of local government legislation is in place. Local Government Amendment Act 1997 received assent on 22 May 1997. This applies legislation review requirements to local government. For more detail, refer to the section of the annual report on local government.
Education	*Grammar Schools Act* 1975	1997/98	NCP review has been completed. Further consultation with Grammar Schools began in the first half 1998 (on non-NCP issues and the matter of whether the Act should be retained) prior to Cabinet consideration.
	Education (General Provisions) Act 1989	1997/98 (scheduled for 1998/99)	This review has been brought forward to coincide with a general policy review of the legislation. Terms and parameters for the review have been developed. (Review of proposed new legislation pertaining to the establishment, registration and accountability of non-State schools will be completed in conjunction with the review of *Education (General Provisions Act)* 1989).
Education (continued)	*Higher Education (General Provisions) Act* 1993	1997/98 (scheduled for 1998/99)	This review has been brought forward to coincide with a general policy review of the legislation. Expected timing of the review is March 1998 - June 1998.
Emergency Services	NONE FOR 1996/97 OR 1997/98		
Environment	*Contaminated Land Act* 1991 & *Contaminated Land Regulation* 1991	1996/97	Act was subsumed within the *Environmental Protection Act* 1994 in October 1997 without any increase in restrictions on competition. The *Environmental*

Agency	Legislation to be Reviewed	Proposed Review Timing	Status/ Comment
			Protection Act 1994 is scheduled for review in 1998/99.
	Legislation set down for review in 1998/99	scheduled for 1998/99	Preliminary work is underway to scope and resource these reviews.
Family, Youth & Community Care	*Child Care Act* 1991, *Child Care (Child Care Centres) Regulation* 1991 & *Child Care (Family Day Care) Regulation* 1991	1997/98	The review is underway and is expected to be completed by mid 1998.
Health	*Cremation Act* 1913 and *Cremation Regulation* 1978	1996/97	The anti-competitive provisions have been repealed.
	Fluoridation of Public Water Supplies Act 1963 & *Fluoridation of Public Water Supplies Regulation* 1964	1996/97	The anti-competitive provisions have been repealed.
	Health (Nursing Homes) Regulation 1982 under the *Health Act* 1937	1996/97	The Department has examined the *Commonwealth's Aged Care Act* 1997 to determine its impact on this Regulation. A proposal that addresses all NCP issues in the existing Regulation is presently under consideration. Current legislation will lapse on 1 July 1998 and new legislation which addresses NCP issues will be considered by Cabinet later in 1998.
	Health (Private Hospitals) Regulation 1978 under the *Health Act* 1937	1996/97	The NCP review is well advanced. Draft report has been prepared and is currently under consideration. New legislative proposals will be considered by Cabinet in first half of 1998.
	Health Services (Public Hospitals Fees and Charges) Regulation 1992 under the *Health Services Act* 1991	1996/97	The anti-competitive provisions have been repealed.
Health (continued)	Health Practitioner Legislation	"Review being finalised"	A draft policy paper was released for consultation late in 1996. Responses and policy direction have been considered and draft policy is being refined after which any residual NCP issues will be addressed. Cabinet will consider new legislative proposals in first half of 1998.
	Health (Poisons - Fumigation) Regulation 1973 and Div 7 of Part 4 of the *Health Act 1937* (Now Parts 10&12 of *Health Regulation* 1996)	1997/98	To be reviewed in conjunction with development of new *Drugs and Poison Act*. Terms and parameters for the review are being drafted.
	Skin Penetration Regulations 1987 under the *Health Act*	1997/98	To be reviewed in conjunction with development of new *Public*

Agency	Legislation to be Reviewed	Proposed Review Timing	Status/ Comment
	1937 (Now Part 15 of *Health Regulation* 1996)		*Health Act*. Terms and parameters for the review are being drafted.
	Hyperbaric Chamber Therapy Regulations 1989 under the *Health Act* 1937. (Now Part 6 of the *Health Regulation* 1996).	1997/98	Terms and parameters for the review are being drafted.
	Therapeutic Goods & Other Drugs Regulations 1982 under the *Health Act* 1937. (Now Part 16 of the *Health Regulation* 1996).	1997/98	Currently sunsetted to expire July 1998. Queensland (and all other States) are considering adopting the Commonwealth *Therapeutic Goods Act* by reference. This would mean that Part 16 of the *Health Regulation* could be repealed. Any review should be on a national basis.
	Poisons Regulations 1973 under the *Health Act* 1937 Replaced by *Health (Drugs and Poisons) Regulation* 1996	"Not for review"	Being considered as a possible candidate for national review. Any review should be on a national basis that first identifies competitive restrictions.
	Mental Health Act 1974	1997/98 (was listed as "To be determined")	New Bill has been drafted. The only anti-competitive provision is that for statutory monopoly allowing the Public Trust Office sole responsibility for managing the estates of specified persons. This issue was investigated by the Department of Justice which proposes that the anti-competitive provision be repealed as a consequential amendment under the *Guardianship and Administration Bill*.
Training and Industrial Relations	*Workplace Health and Safety Regulation* 1995	1996/97	Circumstances have required a new Regulation (1997) to be developed. Department has developed a framework and timetable for reviewing the 1997 Regulation, examining provisions remaining in the 1995 Regulation which are yet to be transferred to the 1997 Regulation and reviewing the Act which is listed for review in 1998/99. NCP review process for the 1997 Regulation is underway. Provisions in the 1995 Regulation will be examined in relation to NCP at the time of transfer to the 1997 Regulation.
	Workplace Health and Safety Act 1995	1998/99	NCP review is yet to begin.

Agency	Legislation to be Reviewed	Proposed Review Timing	Status/ Comment
Justice	*Trustee Companies Act* 1968	1997/98	A draft uniform trustee companies Bill has been developed by the Standing Committee of Attorneys-General. Any anti-competitive provisions will be examined prior to seeking introduction of the Bill. Review is expected to be completed during 1998/99.
Mines and Energy	*Electricity Act* 1994 & *Electricity Regulation* 1994	1996/97	Anti-competitive elements remaining in legislation following amendments to give effect to the CoAG reforms were examined as part of the third tranche of legislative amendments in October 1997. Certain provisions in the Act and the Regulation identified as restricting competition were either repealed or amended to remove any anti-competitive effect. The remaining provisions identified as potentially restricting competition are the subject of an ongoing review which will be finalised during the first half of 1998. A progress report on this matter to complete the NCP exercise will be provided to Queensland Treasury in March 1998.
	Gas Act 1965 & *Gas Regulations* 1989	1996/97	The review of the gas legislation is subsumed within the broader CoAG gas reform process. The legislation review component has commenced and is expected to be completed by June 1998.
	Coal Industry (Control) Act 1948 & Orders made under that Act	1996/97	The Act has been repealed.
Mines and Energy (continued)	*Gas Suppliers (Shareholdings) Act* 1972	1997/98	Department is examining the necessity to retain this type of legislation.
	Liquid Fuel Supply Act 1984	1997/98	On confirmation from the National Competition Council, this Act has been removed from the Timetable. Refer to body of Annual Report for details.
Natural Resources	*Land Act* 1994	1996/97	Cabinet agreed to defer the start and completion of the review until December 1997 and 1998 respectively, due to uncertainty regarding the impact of Wik. Terms and parameters for the review have been drafted.
	Surveyors Act 1977 & *Surveyors Regulation* 1992	1996/97	The PBT that commenced in June 1997 was completed in

Agency	Legislation to be Reviewed	Proposed Review Timing	Status/ Comment
			November 1997. In the absence of a demonstrable net public benefit, and in light of the surveying industry's desire to move to self-regulation, the Government is considering options that may see the removal of three of the anti-competitive provisions followed by deregulation by 31 December 2000. Proposal to be submitted to Cabinet in the first half of 1998.
	Valuers Registration Act 1992 & *Valuers Registration Regulation* 1992	1996/97	The NCP review is underway and is expected to be completed by 30 April 1998.
	Metropolitan Water Supply and Sewerage Act 1909, *Sewerage and Water Supply Act* 1949 & the *Standard Sewerage and Water Supply Laws*	1997/99	Current proposal is to repeal the *MWS&S Act* with any essential provisions to be adopted as Brisbane City Council Ordinances. Standard laws under *S&WS Act* are being revised as subordinate legislation which would allow for adoption of national code and would be reviewed in conjunction with main Act. The NCP review has yet to begin.
	Water Resources Act 1989, *Water Resources (Watercourse Protection) Regulation* 1993, *Water Resources (Rates and Charges) Regulation* 1992 , *South East Queensland Water Board Act* 1979, *Gladstone Area Water Board Act* 1984 and *Townsville/Thuringowa Water Supply Board Act* 1987	1997/99	Current proposal is that the urban water boards' legislation will have major restrictions reviewed. Draft terms and review parameters have been developed for review of the urban water boards' legislation. *Water Resources Act* and associated Regulations will be reviewed during 1998/99.
Premier and Cabinet	NONE FOR 1996/97 OR 1997/98		
Primary Industries	Chicken Meat Industry Committee 1976	1996/97	The NCP review has been completed, with the report to be considered by Cabinet in 1998. Interstate developments will be relevant.
	Forestry Act 1959 & *Forestry Regulation* 1987	1996/97	The NCP review is underway and expected to be completed by May 1998.
	Grain Industry (Restructuring) Act 1993	1996/97	The NCP review has been completed and the report recommendations endorsed by Cabinet. Statutory marketing arrangements (SMA) have been retained following a PBT. These srrangements are subject to review should circumstances

Agency	Legislation to be Reviewed	Proposed Review Timing	Status/ Comment
			change in other States, including removal of SMAs.
	Primary Producers' Organisation and Marketing Act 1926 and Orders in Council pertaining to the commodity tobacco leaf	1996/97	General review of legislation is underway. No marketing boards are currently in existence. Only issue to be addressed is the need for NCP requirements to be considered prior to any new marketing boards being established. It is likely legislation will be amended to require that any new board could only be established by regulation following the undertaking of a PBT. Tobacco marketing Orders in Council are to be repealed.
	Sawmills Licensing Act 1936 & *Sawmills Licensing Regulation* 1965	1996/97	The NCP review is underway and expected to be completed by May 1998.
	Sugar Industry Act 1991, *Sugar Industry Regulation* 1991, *Sugar Industry (Assignment Grant) Guideline* 1995	1996/97	NCP review has been completed. Both the Queensland and Commonwealth governments have endorsed the recommendations of the review. Implementation of review recommendations is progressing with new Act expected to be in place by January 1999. PBT may be required on any parts of new Act that deviate from review committee recommendations.
	Sugar Milling Rationalisation Act 1991	1996/97	
Primary Industries (continued)	*Agricultural Chemicals Distribution Control Act* 1966 & *Agricultural Chemicals Distribution Control Regulations* 1970	1997/98 (scheduled for 1998/99)	NCP review to be undertaken as a national review by Commonwealth Department of Primary Industries and Energy. A paper defining the scope and type of review will be considered by SCARM in February 1998. Review to be completed by June 1999.
	Chemical Usage (Agricultural and Veterinary) Control Act 1988 & *Chemical Usage (Agricultural and Veterinary) Control Regulation* 1989	1997/98 (scheduled for 1998/99)	Comments as immediately above.
	City of Brisbane Market Act 1960 & *City of Brisbane Market Regulation (formerly By-law*) 1982	1997/98	NCP review is underway and will consider anti-competitive aspects of the legislation, competitive neutrality and possible privatisation. Review due to be completed by 30 June 1998.
	Dairy Industry Act 1993, *Dairy Industry (Market Milk*	1997/98	NCP review is underway and is expected to be completed by 30

Agency	Legislation to be Reviewed	Proposed Review Timing	Status/ Comment
	Prices) Order 1995, *Dairy Industry Regulation* 1993 & *Dairy Industry Standard* 1993		June 1998. Interstate developments are relevant.
	Egg Industry (Restructuring) Act 1993	1997/98	It is proposed to allow the Act to sunset on 31 December 1998 thereby removing the anti-competitive legislative provisions.
	Farm Produce Marketing Act 1964 & *Farm Produce Marketing Regulation* 1984	1997/98	The start of the NCP review will be influenced by progress on the review of the Brisbane Market Authority/City of Brisbane Market Act and on certain anticipated industry reforms. Review is expected to be completed by end 1998.
	Fruit Marketing Organisation Act 1923	1997/98	A general review will occur. Only NCP issue to be addressed is future status of currently dormant market intervention mechanisms (directions and vesting). These will most likely be repealed.
	Fisheries Act 1994 & *Fisheries Regulation* 1995	1997/98 (scheduled for 1998/99)	Queensland partly funded a consultancy commissioned by WA Dept of Agriculture. Consultant has been appointed to develop a common approach to reviewing State Fisheries Legislation and is due to report to steering committee in the first half of 1998.
Primary Industries (continued)	*Veterinary Surgeons Act* 1936, *Veterinary Surgeons Regulation* 1991 & Order in Council (various) under the *Veterinary Surgeons Act*	1997/98 (scheduled for 1998/99)	It is proposed to bring this NCP review forwarded to commence in the first half of 1998.
Tourism, Small Business and Industry	*Indy Car Grand Prix Act* 1990 & *Indy Car Grand Prix Regulations* 1990	1996/97	Department has undertaken preliminary work on nature and scope of review, and on conditions imposed on those staging race by international race organisers. Review will be completed in 1998
	Industrial Development Act 1963	1996/97	The Act will be amended in 1998 to remove the anti-competitive restrictions.
Office of Racing	*Racing and Betting Act* 1980, *Racing and Betting Regulation* 1981, *Racing and Betting Act Notifications & Rules of Greyhound Racing, Racing and Betting Act* & subordinate legislation	1997/98	The NCP review of the proposed Wagering Bill, including Totalisator Administration Board of Queensland (TAB), is underway following a racing industry task force review during 1997. *The Racing and Betting Act* is currently being amended as part of the reform of the TAB.

Agency	Legislation to be Reviewed	Proposed Review Timing	Status/ Comment
			The NCP review of this Act is yet to begin.
Transport	*Transport Operations (Marine Safety) Act* 1994 & *Transport Operations (Marine Pollution) Regulation* 1995	1996/97	The NCP review is underway in conjunction with other related policy issues and reforms. The requisite PBT is expected to be completed by April 1998 and presented to Cabinet by June 1998. Any consequent legislative amendments are not likely to be completed until late 1998.
	State Transport Act 1960 & *State Transport Regulation* 1987	1996/97	Examination of remaining anti-competitive provisions concerning restricted goods and regulations relating to National Road Transport is well advanced. A policy position on the matter has been developed which addresses the NCP issues. Consultation is presently occurring with the Department of Main Roads and final Ministerial approval will be sought prior to finalising the policy, and completing the NCP requirements. The Act is to be repealed by proclamation of certain provisions of the *Transport Operations (Road Use Management) Act*.
Transport (continued)	*State Transport (People-movers) Act* 1989	1996/97	Act is to be included in other Transport legislation without increasing restrictions on competition. These other Acts - *Transport Infrastructure Act* and *Transport Operations (Passenger Transport) Act* - will be reviewed in 1998/99.
	Tow-truck Act 1973 & *Tow-truck Regulation* 1988	1997/98	An options paper has been developed, distributed to stakeholders and feedback received. A policy position is currently being developed within Transport for presentation to the Minister. NCP issues are being considered as part of the overall review process.
Treasury	*Superannuation (State Public Sector) Act* 1990 and *Parliamentary Contributory Superannuation Act* 1970	1996/97	A review which commenced in February 1997 is currently being conducted on superannuation arrangements in the State public sector. The review includes assessment of the sole NCP issue, i.e. the statutory monopoly position of the Queensland Investment Corporation as fund manager. In December 1997,

Agency	Legislation to be Reviewed	Proposed Review Timing	Status/ Comment
			Cabinet gave some consideration to the review recommendations. Further discussions are being held with industrial unions and employers and it is expected that the matter will be submitted to Cabinet in 1998.
	Keno Bill 1996 (now *Keno Act* 1996)	1996/97	NCP issues were to be fully examined prior to introduction of the Bill. Certain outstanding NCP matters are presently being examined and public benefit justification provided. This matter is expected to be finalised in the first half of 1998.
	Gaming Machine Act 1991 & *Gaming Machine Regulation* 1991	1997/98	The NCP review process has begun. The scope of the review is being finalised.
	Lotteries Act 1994 ..... (Replaced by *Lotteries Act* 1997)	1997/98 (scheduled for 1998/99)	The 1994 Act was scheduled for NCP review in 1998/99. While the 1997 Act amounts to a loosening up of anti-competitive provisions, certain outstanding NCP matters are presently being examined and public benefit justification provided. Review is expected to be finalised in the first half of 1998.
Treasury (continued)	*Jupiters Casino Agreement Act* 1983, *Breakwater Island Casino Agreement Act* 1984, *Brisbane Casino Agreement Act* 1992 & *Cairns Casino Agreement Act* 1993	1997/98 (previously not scheduled for review)	The NCP review is well advanced and public benefit justification is expected to be completed in the first half of 1998.
Public Works and Housing	*State Housing Act* 1945, *State Housing (Freeholding of Land) Act* 1957, *State Housing Regulation* 1986 & Interest Rate Orders under these Acts	1996/97	Examination of the Act has occurred to determine whether it contravenes NCP. While there are generally public interest reasons underlying the provisions in question, an NCP review will take place, but it has yet to begin. The review is expected to be completed by 30 June 1998.
	Residential Tenancies Act 1994 and *Residential Tenancies Regulation* 1995	1996/97	The NCP review is in progress. A PBT is expected to be completed in February 1998 and the review completed by March 1998.
	Queensland Building Services Authority Act 1991, *Queensland Building Services Authority Regulation* 1992 & *Queensland Building Services Authority Policy* 1995	1997/98	Consultation with Builders Licensing Australia indicates that a national review of builder and trade contractor licensing provisions is not feasible. Accordingly, the Queensland Building Services Authority and

Agency	Legislation to be Reviewed	Proposed Review Timing	Status/ Comment
			the Department have consulted with the Treasury NCP Unit in relation to options available for the conduct of the legislative review in light of the reforms proposed by the Implementation Steering Committee. It is currently expected that drafting instructions for the proposed reforms will be completed by April 1998. It is proposed that a combined legislative review of existing provisions and proposed reforms be conducted at that time.
	Professional Engineers Act 1988 and *Professional Engineers Regulation* 1992	1997/98 (scheduled for 1998/99)	It is possible that the NCP review will occur in 1997/98.

Attachment 8

New Legislation Restricting Competition
(Enacted since 1 April 1997)

Agency	Legislation to be reviewed	Proposed Review Timing	Status/Comment
Transport	*Transport Operations (Passenger Transport) Act* 1994 & *Transport Operations (Passenger Transport) Amendment Regulation*		A PBT was completed and justification supports the restriction. The amending regulation will be assessed as part of a full review of the *Transport Operations (Passenger Transport) Act* which will be undertaken in 1998/99.