REPORT TO THE NATIONAL COMPETITION COUNCIL

IMPLEMENTATION OF NATIONAL COMPETITION POLICY AND RELATED REFORMS

IN

SOUTH AUSTRALIA

MARCH 1999

ABBREVIATIONS

ACCC	Australian Competition and Consumer Commission
ANZMEC	Australia and New Zealand Mines and Energy Council
ARMCANZ	Agriculture & Resource Management Council of Australia and New Zealand
ATC	Australian Transport Council
CCA	Conduct Code Agreement
COAG	Council of Australian Governments
CPA	Competition Principles Agreement
GBE	Government Business Enterprise
GBE Act	Government Business Enterprises (Competition) Act 1996
GRIG	Gas Reform Implementation Group
LGA	Local Government Association
NCC	National Competition Council
NCP	National Competition Policy
NECA	National Electricity Code Administrator
NEM	National Electricity Market
NEMMCO	National Electricity Market Management Company
NRTC	National Road Transport Commission
OLG	Office of Local Government
SAIPAR	South Australian Independent Pricing and Access Regulator
SANI	South Australian Network Interconnector
TPA	Trade Practices Act 1974

CONTENTS

1. INTRODUCTION

This report summarises progress during 1998 by the South Australian Government in implementing the obligations contained in the three Intergovernmental Agreements (National Competition Policy Agreements) endorsed by the Council of Australian Governments (CoAG) on 11 April 1995, viz:

- Conduct Code Agreement;
- Competition Principles Agreement;
- Agreement to Implement the National Competition Policy and Related Reforms.

It provides the National Competition Council (NCC) with the information that the NCC requires in order to conduct its assessment for the second tranche of competition payments in June 1999. The first tranche assessment was conducted by the NCC in June 1997, with a supplementary assessment in June 1998. South Australia was assessed as having fully met its obligations for the first tranche of competition payments.

The report also fulfils the formal requirements of the Competition Principles Agreement (CPA) to publish an annual report concerning implementation of competitive neutrality requirements (refer CPA, Clause 3 (10)) and legislation review requirements (refer CPA, Clause 5 (10)).

The report is structured under the broad headings of Conduct Code Agreement, Competition Principles Agreement, and Related Reforms. A small bibliography provides details of relevant publications.

The report has been prepared by the Department of the Premier and Cabinet, in consultation with other agencies of the SA Government, including particularly the Department of Treasury and Finance, and the Justice Department. Inquiries about the report may be directed to the Economic Reform Branch, Department of the Premier and Cabinet, telephone (08) 8226 0903.

2. CONDUCT CODE AGREEMENT

The Conduct Code Agreement (CCA) obliges the South Australian Government to enact Application of Laws legislation to apply the Competition Code, without modification, in South Australia. The Competition Code (effectively the restrictive business practice provisions of Part IV of the *Trade Practices Act, 1974 (C/wth)*) is applied to all persons in South Australia, including the Crown in so far as it carries on a business.

Clause 2.(1) of the CCA requires that written notice of all exemptions made by State law, in reliance on section 51.(1) of the *Trade Practices Act*, will be given to the Australian Competition and Consumer Commission (ACCC) within 30 days of enactment. Clause 2.(3) requires written notice to be given to the ACCC by 20 July 1998 of section 51.(1) exemptions in existence at the commencement of the CCA and which will continue to have effect after 20 July 1998.

The *Competition Policy Reform (South Australia) Act, 1996 (SA)* and the *Competition Policy Reform (South Australia) Savings and Transitional Regulations, 1996 (SA)* came into force on 21 July 1996, and have continued in operation unaltered since that date. This legislation satisfies the obligations contained in clause 5 of the CCA. It applies the Competition Code to all persons coming within South Australia's jurisdictional reach, including those unincorporated persons, not engaged in interstate or foreign trade or commerce, to whom Part IV of the *Trade Practices Act* does not apply for constitutional reasons.

Over the last two and a half years South Australian Government business agencies have become more familiar with the requirements of the competition laws and consequently there have been no allegations of contraventions by them during the reporting period. Nevertheless, the Government is aware of the requirement for its agencies to put compliance programs in place, and to maintain compliance awareness. Over the last two and a half years several agencies assessed as most at risk have been targeted with compliance seminars. The Crown Solicitor's Office maintains a Competition Law Unit that can assist agencies with Trade Practices compliance and risk management. The Competition Law Unit maintains contact with the ACCC Adelaide Regional Office on issues that concern both the Government and the ACCC, including substantive trade practices matters and matters of mutual policy interest.

Within the reporting period, South Australia has not enacted any new section 51.(1) exemptions required to be notified pursuant to clause 2.(1) CCA. On 9 July 1998, the Government wrote to the ACCC as required by clause 2.(3) CCA reporting all exemptions in existence at the commencement of the CCA and which will continue to have effect after 20 July 1998.

The NCC has sought confirmation that the section 51 exemption in the *Dairy Industry Act 1992* satisfies CPA clause 5(5). This matter is being addressed in the review of the *Dairy Industry Act*.

During the reporting period there was contact with the Office of the Federal Treasurer concerning the appointment of members to the ACCC pursuant to clause 4 CCA, and concerning modifications to the Competition Laws pursuant to clause 6 CCA.

On 26 October 1998, Ms Yasmin King of Adelaide was appointed as an Associate Member of the ACCC for a period of three years, with responsibilities in the area of small business.

3. COMPETITION PRINCIPLES AGREEMENT

The Competition Principles Agreement (CPA) puts in place policy elements additional to those contained in the Conduct Code which are considered essential for a comprehensive National Competition Policy. These additional policy elements are:

- independent oversight of prices charged by monopoly Government businesses;
- competitive neutrality, to ensure significant Government businesses do not enjoy any net competitive advantage simply as a result of public sector ownership;

- structural reform of public monopolies prior to privatisation or introducing competition to the market supplied by the monopoly;
- review of legislation which restricts competition;
- third party access to services provided by means of significant infrastructure facilities;
- application of these principles to Local Government.

3.1 PRICES OVERSIGHT

The *Government Business Enterprises (Competition) Act 1996* came into operation on 15 August 1996. The Act establishes an independent prices oversight mechanism for monopoly or near monopoly Government Business Enterprises (GBEs) and provides for public consultation as part of the mechanism. SA Water Corporation was declared for prices oversight under this Act in October 1996 and an independent investigation commenced into water and sewerage pricing. The final report of that investigation was delivered to the Government in April 1997 and gazetted, after tabling in Parliament, in June 1997. The declaration of SA Water remains in force until 21 November 1999. During 1998 no other GBEs were declared for prices oversight.

3.2 COMPETITIVE NEUTRALITY

This section provides the Government's annual report for the 12 months to December 1998 on the implementation of the competitive neutrality policy and principles, as required by Clause 3(10) of the CPA.

As outlined in the Government's competitive neutrality policy statement of June 1996, competitive neutrality principles will be progressively applied to the Government's significant business activities.

Principles of competitive neutrality under section 16 of the *Government Business Enterprises (Competition) Act 1996* were proclaimed on 12 June 1997. The basic competitive neutrality principles are corporatisation, tax equivalent payments, debt guarantee fees and private sector equivalent regulation. Where application of these four principles is inappropriate, the CPA specifies that prices charged by significant Government business activities should reflect full cost attribution. Competitive neutrality principles are to be applied to the extent that the benefits of so doing outweigh the costs. The proclamation also identified seven Category 1 government businesses (ie those with revenue greater than $2 million or assets valued at greater than $20 million).

A further proclamation under Section 16 of the *Government Business Enterprises (Competition) Act* was made on 7 May 1998, so that a total of 30 Category 1 government businesses are now gazetted.

A Guide to the Implementation of Competitive Neutrality Policy was prepared in March 1998 to assist agencies responsible for implementing competitive neutrality. Considerable progress has been made in implementing the principles of competitive neutrality for the majority of Category 1 government businesses.

To date, the following reforms have been implemented or are underway:

- Corporatisation of the water, electricity and ports utilities;
- Scoping reviews in respect of SAGRIC, TAB and Lotteries Commission are being undertaken as part of the Government's comprehensive asset sales program announced in February 1998;
- Corporatisation of the Adelaide Festival Centre Trust, TransAdelaide and Forestry Plantation Products (Forestry SA) have commenced;
- Commercialisation of West Beach Trust, Enfield General Cemetery Trust and the Police Security Services Division of the South Australian Police have commenced; and
- For the remaining Category 1 businesses, further work is being undertaken on reviews and reforms complying with competitive neutrality principles. It is expected that this work will be completed by June 1999.

Forestry SA

Corporatisation and the full range of private sector equivalence measures is the preferred model of competitive neutrality for Forestry SA. Forestry SA is a public trading enterprise that controls significant State-owned resources. While it undertakes a range of community service activities, these comprise only a minor proportion of overall activities and can be structurally and/or financially separated from commercial operations. Corporatisation will provide the business with clear commercial and non-commercial objectives, improved incentive arrangements and a commercial board that will improve the efficiency of operations. The cost benefit assessment concluded that the benefits of increased efficiency would outweigh the minimal transaction costs associated with corporatisation.

TransAdelaide

In July 1998, the government approved the development of a proposal to establish TransAdelaide as a public corporation with oversight by an interim board. The interim board confirmed that full corporatisation under the Public Corporations Act 1993 is the best option to provide a clear set of accountabilities and to establish appropriate governance arrangements to ensure that the business is an efficient and effective competitor in the market for public transport. Legislation establishing TransAdelaide under the Public Corporations Act 1993 was recently passed by Parliament.

Adelaide Festival Centre Trust

In June 1998, the government endorsed a strategy to protect the long term viability of the Adelaide Festival Centre Trust. A key component of this strategy is the application of significant provisions of the Public Corporations Act 1993 to the Trust which should provide the necessary focus and incentive for improved commercial performance through the implementation of a corporate governance model that has clear accountabilities and stakeholder roles. Work has commenced on the development of a charter and performance statement for the Trust.

Police Security Services Division (PSSD)

PSSD is a minor part of the overall South Australian Police operations in terms of resource utilisation and annual expenditure. Due to organisational context and size, commercialisation is considered the most appropriate competitive neutrality principle to apply.

West Beach Trust and Enfield General Cemetery Trust

For both the West Beach Trust and the Enfield General Cemetery Trust, commercialisation is the proposed competitive neutrality principle to apply as this will clarify the relationship between the government and the Trust, increasing transparency and accountability and thereby capturing the benefits of corporatisation but at a lower overall cost.

As from 1 July 2000, wholesale sales tax will be abolished. Given the administrative cost associated with establishing a sales tax equivalent rate, it is proposed not to extend the coverage of the wholesale sales tax equivalent regime. All State Governments will be liable for actual Goods and Services Tax from 1 July 2000.

The Government's guarantee fee policy is that guarantee fees charged to agencies will be set at a level commensurate with benefits obtained from funds raised utilising the Government guarantee. The benefit to agencies is based on the cost to an agency of obtaining funds without Government backing (ie on a "stand alone" basis), where applicable.

Category 2 other significant business activities

A list of Category 2 other significant business activities ie those significant business activities which have revenue of $2 million or less per annum and assets valued at $20 million or less, has been prepared. The list will be gazetted once approved.

A detailed implementation plan for Category 2 businesses is being developed and is expected to be completed during April 1999. The plan will include requirements to undertake reviews of the gazetted Category 2 activities, identifying which competitive neutrality principles are to be applied, in line with published guidelines. The principles identified, as well as plans and timetables for final implementation of competitive neutrality in Category 2 business activities, are to be published by 31 December 1999 (where they have not already been implemented). Implementation of decisions on application of competitive neutrality policies to Category 2 businesses is expected to be completed by 30 June 2000.

Review of the SA Government's Competitive Neutrality Policy Statement

In December 1998 Cabinet endorsed the establishment of a process to review the 1996 Competitive Neutrality Policy Statement (the Statement), and the relevant part of the *Government Business Enterprises (Competition) Act 1996* (GBE Act).

The 1996 Statement required that its effectiveness be reviewed and a new policy statement published by 30 June 2000. However this review was brought forward for a number of reasons, including:

- the timeframes set down in the statement had proven not to be achievable and there was a need for greater prioritisation in implementing reforms;
- the report of the Competition Commissioner into a competitive neutrality complaint highlighted the need for greater definition and clarity of terms such as “government” and “business”;
- the section referring to competitive neutrality complaints needed updating to reflect that the GBE Act had been enacted, a Competition Commissioner appointed and a complaints secretariat established.

The review was conducted by a key agency working group comprising representatives from the Departments of Premier and Cabinet; Justice; Treasury and Finance; Administrative and Information Services; Industry and Trade; Human Services; and Education, Training and Employment.

A review of the Clause 7 statement on the application of competition principles to Local Government is proceeding in parallel with the State review.

In March 1999, Cabinet is expected to consider the drafting of amendments to the GBE Act and adoption of a new SA Government Competitive Neutrality Policy Statement to replace the existing statement. The new Statement will be published following the successful passage through Parliament of the legislative amendments.

The new Statement will provide greater definition and guidance with respect to the meaning of “business” and “significant” for the purposes of competitive neutrality policy, update the complaints mechanism section and revise the implementation timetable to one which is considered to be both achievable and to reflect the need to prioritise implementation. The new Statement is expected to include a list of Government business activities that have been identified, and gazetted, as Category 2 (other significant) Government business activities.

Publication of the new Statement is to be coordinated with the provision of greater practical assistance to agencies by the Department of Treasury and Finance, together with an increased emphasis on the benefits of competitive neutrality as a business improvement mechanism.

Competitive Neutrality Complaints

The GBE Act came into operation in August 1996. The GBE Act provides for the appointment of Competition Commissioners who can be assigned to investigate complaints of infringement of competitive neutrality principles. In August 1997, a Commissioner was appointed by the Governor to investigate complaints referred to him by the Premier.

The Department of the Premier and Cabinet provides a secretariat for the complaints mechanism. It responds to enquiries from potential complainants. A package of information relevant to competitive neutrality complaints has been compiled and is available to persons seeking further information.

Upon receipt of a written complaint against a State Government business activity, and subject to being within the scope of the GBE Act, the complaint is referred to the State agency for initial response. Complaints against a local government business activity are initially referred to the local government(s) concerned for investigation, report and possible resolution. Following the initial response by the State agency, or where the complaint cannot be satisfactorily resolved in the case of a Local Government complaint, consideration is given to the assignment of the Competition Commissioner.

Three investigations were incomplete at the end of 1997. Of these, two had been assigned to the Commissioner, and the third was subsequently assigned to him during 1998. The Commissioner completed his first investigation during 1998, finding that the Cleland Wildlife Park was a significant government business activity and recommending an analysis by the agency to determine which, if any, competitive neutrality principles it would be appropriate to apply. The Government accepted the Commissioner's recommendation and the agency has undertaken to conduct the analysis within a 12 month timeframe.

Five written complaints were received during 1998. One complaint was determined to be *ultra vires* the GBE Act, and another related to a local government authority. The complaint relating to the local government authority was referred to the local governments involved for investigation and report. The Competition Commissioner has been assigned to investigate and report on the remaining three complaints, following receipt of initial information from the agencies involved.

A summary of complaint statistics for 1998 is given in Table 1. Table 2 provides information on formal complaints finalised in 1998.

TABLE 1

SUMMARY OF COMPLAINTS STATISTICS FOR 1998

	Complaints investigated	Completed Investigations				Incomplete investigations			
		Upheld		Dismissed		In progress	Terminated – trivial / vexatious / *mala fide*	Terminated – complaint withdrawn	Terminated - other
	Number	Number	Av. time to recommend	Number	Av. time to recommend	Number	Number	Number	Number
State	7	1	13 mths			5			1 *Ultra vires*
Local Government	1			1	3 mths				
Total	8	1		1		5			1

On hand 1/1/98		3
Add complaints received	5	
Less complaints finalised	3	2
On hand 31/12/98		5*

*Of these, one investigation has since been suspended pending sale of the government business activity, and two investigations have been dismissed by the Competition Commissioner (Jan and Feb 1999 respectively)

TABLE 2

FORMAL COMPLAINTS FINALISED IN 1998

Date of receipt of complaint	*Target of complaint*	*Nature of complaint* [1]	*Findings of investigation and recommendation*	*Date of formal advice to complainant*	*Date of formal advice to target of complainant*	*Action taken or proposed following recommendation* [2]	*Other relevant information*[3]
10/6/97	Department for Environment, Heritage and Aboriginal Affairs: Cleland Wildlife Park	Government business activity: competitive neutrality principles not being applied	Investigation completed – complaint upheld Competitive neutrality to be introduced to significant business activity previously not covered by policy	17/8/98	17/8/98	Recommendations accepted - DEHAA to undertake analysis of appropriate principles	Timeframe for review - 12 months
3/7/98	ETSA	Use by the Department of Human Services of ETSA Power to distribute an energy rebate to pensioners	Investigation terminated by complaints secretariat on advice of Crown Law that complaint is *ultra vires* the GBE (Competition) Act 1996 - policy matter - fulfilment of a community service obligation - competitive neutrality not applicable	15/9/98			
7/9/98	Local Government -Eastern Waste Management Authority (East Waste)	Local Government business activity: competitive neutrality principles not being applied	Investigation completed – complaint dismissed East Waste had not undertaken any significant business activities since the Cl.7 CN Statement. <u>Specific recommendations</u> In bidding for any new commercial business activities East Waste to fully account for all costs that are applicable to private industry operating in the same market	/12/98	17/11/98	Local Governments involved in East Waste have adopted the recommendations resulting from the investigation and report	Local Governments involved in East Waste engaged an independent consultant to investigate and report on complaint

(1) brief description including any issues peculiar to the complaint
(2) including action by : Minister, target of complaint and dissatisfied complainants
(3) including reason for delay in resolving complaint where applicable
(4) *a complaint may be terminated by the complaints office because it is trivial, vexatious or mala fide*

3.3 STRUCTURAL REFORM

No structural reform investigations, pursuant to Clause 4 of the CPA, were required to be undertaken in South Australia during 1997. The electricity sector was the subject of considerable structural reform in 1998.

National agreements on the structure of the electricity industry commit jurisdictions, prior to their participation in the national market, to have:

- Structurally separated generation from transmission; and
- Ring-fenced the retail and distribution businesses.

On 1 January 1997, the South Australian Generation Company ('Optima') was formally separated from ETSA Corporation (which included transmission).

On 12 October 1998, the South Australian Generation Company was restructured into three new generation companies - Optima Energy, Flinders Power and Synergen - and a separate Gas Trader Company was formed. ETSA Corporation was disaggregated to form ElectraNet SA as owner of the State's high voltage transmission assets, with the retail and distribution businesses maintained as stapled ringfenced subsidiaries ETSA Utilities Pty Ltd and ETSA Power Pty Ltd under a common holding company.

The stapled entities will be "ringfenced" to the following extent:

- The accounts for each entity will be separated.
- The distribution and retail assets will be allocated to separate legal entities, to facilitate transparency in dealings between distribution and retail.
- The Boards of the distribution and retail companies will be separate and not identical, although some members may be common to both Boards.
- There will be no cross-subsidisation of the retail business by the distribution business.
- Strict 'Chinese wall' arrangements will be implemented to ensure that confidential information is quarantined within the relevant operating entity.
- The distributor will provide services to retailers on a non-discriminatory basis, with no advantage accruing to the stapled retailer.

Clause 4 of the CPA provides that, before introducing competition into a market traditionally supplied by a public monopoly, governments:

- Remove from the public monopoly any responsibilities for industry regulation; and
- Conduct a review of structural and competitive arrangements in the industry.

As required by Clause 4, the South Australian Government undertook a detailed review of structural and competitive arrangements in the industry, submitting a report to the NCC outlining the proposed reform and sale of the South Australian electricity assets on 15 September 1998.

A range of new regulatory and associated arrangements have been developed in conjunction with the structural reforms. These arrangements feature:

- an Independent Industry Regulator, responsible for pricing, licensing and network access;

- an Electricity Ombudsman, to deal with customer complaints;
- an Electricity Supply Industry Planning Council;
- a Sustainable Energy Authority; and
- a Technical Regulator, with responsibility for safety and technical service requirements.

The sale of the business entities and establishment of these arrangements is dependent on the passage of a package of reform legislation comprising:

- Independent Industry Regulator Bill 1998;
- Electricity (Miscellaneous) Amendment Bill 1998;
- Sustainable Energy Bill 1998; and
- Electricity Corporations (Restructuring and Disposal) Bill 1998.

This legislative package is due to be considered by Parliament in early 1999. Should the sale legislation not pass through Parliament, the intention to proceed with some elements of the package may need to be re-evaluated by the Government.

Subject to ensuring the appointment of an independent regulator for network pricing and access, and establishment of the proposed Electricity Supply Industry Planning Council, it is considered that South Australia will have discharged its responsibilities under the Competition Principles Agreement in relation to electricity reform for the second tranche of competition payments.

3.4 LEGISLATION REVIEW

This section provides the Government's annual report for the 12 months to December 1998 on the review of legislation that restricts competition, as required by clause 5(10) of the CPA.

Reviews completed by December 1998

Resources devoted to competition policy review of legislation increased significantly in 1998 compared to earlier years. While there is still some slippage against the timetable, there are only 7 reviews scheduled to have been completed in 1998 for which terms of reference and review arrangements have not yet been approved.

Table 3 summarises the reviews that were (according to the May 1998 timetable) scheduled to be completed in 1996, 1997 and 1998, and indicates whether the review has been completed. The table also includes the reviews scheduled for 1999 and 2000, some of which have been completed ahead of schedule. The 5 reviews which have no year designated are, in most cases, possible joint or national reviews for which arrangements are still being negotiated.

Table 3 shows that, of the 178 Acts in the current (May 1998) timetable, 121 were scheduled to have been reviewed by December 1998, and 44 such reviews have been completed. However, including reviews completed ahead of schedule, 49 have been completed, and 90 are underway, leaving only 7 reviews scheduled to be completed in 1998 for which terms of reference and review arrangements have

not yet been approved. These 7 reviews will become the focus of monitoring attention, along with the 32 reviews which, while they have not yet started, are not at this stage behind schedule, being scheduled to be completed by December 2000.

The summary table is based on detailed information contained in Attachment 1. Within each year, Acts in Attachment 1 are listed by portfolio. Reviews shown as being 'well underway' are expected to be completed by mid-1999.

TABLE 3
SUMMARY OF LEGISLATION REVIEWS

Year	Scheduled	Not started	Started	Completed	Underway
1996	17	0	17	14	3
1997	26	0	26	19	7
1998	78	7	71	11	60
sub total	121	7	114	44	70
1999	46	28	18	4	14
2000	6	2	4	0	4
Not stated	5	2	3	1	2
Total	**178**	**39**	**139**	**49**	**90**

Updating of timetable

In May 1998 the Government published an updated version of the timetable that was first published in June 1996. The revised version took account of

- changes to the timing of reviews;
- redesignation of some potential national reviews as State reviews;
- restructuring of Ministerial portfolios in October 1997 which resulted in changes in the committal of certain Acts.

Following submission of this report, the timetable will again be updated to reflect further changes to the timing of reviews. No Acts were added to, or removed from, the timetable during 1998. Following an approach by the NCC, the Crown Solicitor's Office undertook a review of the *Southern State Superannuation Act 1994* for restrictions on competition. The Crown Solicitor's Office has advised the Department of Treasury and Finance (see Attachment 2) that the Act includes trivial restrictions on competition that are clearly in the public interest and the Act should therefore not be placed on the South Australian government's schedule for legislation review.

The Crown Solicitor's Office is currently examining all indentures for restrictions on competition, and will recommend whether any additional indentures should be included in the competition policy review program.

Several significant reviews were completed during 1998, some of which are described below.

Prices Act 1948

The Act was reviewed in 1998 by the Office of Consumer and Business Affairs.

Originally introduced to address the problem of providing for a just and equitable distribution of a limited supply of consumer goods (particularly necessities) in the immediate post-war period, the social and economic problems that the Act originally sought to address have largely been overcome over the years, and the Act has now evolved to address new problems.

The Act allows for goods to be declared by the Governor, and for the Minister to set maximum prices in relation to these declared goods.

This can prove a useful emergency power. The Act grants wider powers for the setting of prices than does comparable emergency powers legislation, and these powers may be beneficial in circumstances of natural disasters or crippling infrastructure problems.

The pricing mechanisms provided for in the Act promote administrative efficiency, as they can be incorporated by reference into other legislation which may otherwise require separate and detailed pricing mechanisms. A current example is the setting of towing charges (which form part of a comprehensive scheme of regulation of the towing industry established under the *Motor Vehicles Act 1959*.)

The Act currently provides for the setting of maximum prices in relation to infant and invalid foods, medical services, ferry services, and tow truck charges.

The legislation also prohibits the reselling of bread and bread rolls by retailers to suppliers. Regulations were introduced in 1985 to prohibit the practice of “sale and return”. This practice involved large retailers over-ordering stocks of bread and bread rolls so they could be sure of not running out, and then using their market power to force bakeries to re-purchase unsold stock.

The practice resulted in large-scale inefficiencies and significant wastage (as unsold product had to be dumped). The regulations appear to promote greater efficiency in the ordering processes adopted by the large retailers, as they must now bear the costs of their own practices (which they previously transferred back to the suppliers through the practice of “sale and return”.)

The review noted evidence that wastage rates in South Australia are significantly lower than the national average (6% as opposed to 11-20% in other jurisdictions). While it is not claimed that the regulations are the sole cause of this difference, it is highly probable that they are a significant factor in the reduced level of wastage.

An examination of bread prices throughout Australia over a four year period demonstrated that the average price of a loaf of bread in Adelaide is some $0.40 per loaf cheaper than the national average. Again, while there is no evidence that the regulations are causative of lower prices, it is a positive indicator that South

Australian consumers are not being required to pay higher prices as a result of the existence of the regulations.

While retailers have indicated that market conduct has improved over time, and they would be unlikely to return to the practice of "sale and return" on the same scale should the regulations be revoked, the review has determined that the practice is widespread in other States and Territories which do not have similar restrictions. Further, the practice continues in South Australia in relation to other baked products (eg cakes and biscuits) which do not fall within the current restriction.

Therefore, there are strong economic and social arguments in favour of the retention of the regulations, even though they are restricting conduct within the market for bread and bread rolls in South Australia.

The review report is currently with the Government.

Dentists Act 1984

The review was conducted during 1998 by the Department of Human Services. Several other health professions were reviewed in the same period.

The provisions relating to registration, reservation of practice and title, scope of practice, disciplinary actions and ownership restrictions in the *Dentists Act* establish and maintain the system of practice protection. This system contains significant restrictions on entry to the dental profession and conduct within the profession. The most significant are the specific provisions relating to the practice protection regime which restrict entry to the dental profession to appropriately qualified persons. This is a serious restriction. There are restrictions upon the conduct of registered persons in the practice of dentistry, such as the restrictions on clinical dental technicians. There are also restrictions on the conduct of dentistry as a business, such as the ownership and advertising restrictions.

The system of practice protection established by the *Dentists Act* achieves significant public benefit, protecting the public from potential harm by incompetent dental care providers. It provides the public with confidence that registered dental care providers have appropriate qualifications and with information about a particular dental care provider's qualifications, expertise, and the results of any Board or Tribunal actions against the provider.

Two categories of cost arise from the restrictions in the *Dentists Act*. Restricting the numbers of dental care providers does cause a shortage of appropriately trained dental care providers in some areas, such as rural areas. It also causes the cost of such services to be higher than in an unrestricted system.

Compliance costs under the *Dentists Act* are generally minimal, because they are such a small percentage of the total expenditure of a dental practice. However compliance costs of obtaining the necessary qualifications are more significant.

Subject to implementation of its recommendations, the Review Panel assessed the public benefit of the restrictions contained in the *Dentists Act* as outweighing the costs of the restrictions.

Legislative changes recommended affect:

- ownership restrictions, direct and indirect
- which professional groups are regulated under the Act
- competitive behaviour
- the functions of the Board
- definition and scope of unprofessional conduct and appeal mechanisms

The review panel considered whether any alternatives to the legislative restrictions on competition in the Act would achieve the objective of protecting the public. These alternatives included:

- Consumer protection legislation such as the *Trade Practices Act* and the *Fair Trading Act;*
- Protection under the common law, such as claims in negligence, breach of contract and misrepresentation;
- Public health legislation, such as the *Public and Environmental Health Act 1987* and the *Controlled Substances Act 1984;*
- Self-regulation;
- Corporations Law.

The Review Panel concluded that these alternatives do not provide sufficient protection. The review report is currently with the Government.

Shop Trading Hours Act 1977

In March 1998, the Minister for Government Enterprises referred the *Shop Trading Hours Act 1977* to the Workplace Relations Policy Division of the Department for Administrative and Information Services for evaluation and report.

The review was conducted in accordance with competition policy principles and in the context of the expiration of the moratorium on changes to trading hours in June 1998.

The Review received 644 submissions.

Findings of the Review

The Review found that the *Shop Trading Hours Act 1977* and its regulations provide for a very complicated web of principles, licences, exemptions and exceptions. There is no consistent, coherent theme to the Act.

The objectives of the Act are unclear. Its genesis was as a response to a need to protect employees in the retail industry from working long hours. However, the Act now only regulates the trading hours of a select minority of 'non-exempt' shops. Any residual necessity for the Act on industrial grounds is arguable given the existence of industrial tribunals and the award system.

Since the inception of the *Shop Trading Hours Act 1977*, trading hours restrictions have been successively lessened, on an ad-hoc basis, through various legislative amendments and the use of the discretion of the Minister and Governor.

The Act is competitively discriminatory in its application. It currently regulates the trading hours of only some shops and only in some areas of the State. In general terms, the effect of the Act is to force larger supermarkets and department stores in some areas to be closed at certain times, whilst allowing other stores, including their direct competitors, to trade without restriction. In other areas of the State, the 'big' retailers have been able to trade at the same time as small retailers for many years. Additionally, big retailers selling certain products are exempt from the Act and have been able to compete with small retailers for many years.

The Act is often portrayed as providing protection and advantages for small retailers against large retailers, but the Act also provides anomalous advantages for some large retailers over their competitors. Additionally, the 'big' retail chains can avoid the restrictions imposed by the Act, and trade whenever they like, simply by purpose-building their stores within the size restrictions specified by the Act.

If the Act were repealed, it would in all likelihood alter the dynamics of the retail industry to the detriment of some existing, mainly smaller, retailers. However, the Review considered that the extension of trading hours is just one of a number of factors influencing small business in the retail sector.

Deregulation of trading hours in the suburbs could also have a detrimental effect on the central city area, particularly in the event of suburban Sunday trading.

The Review also considered that the deregulation of trading hours in the city centre could have a potential benefit in the area of tourism.

The Review considered that there is some consumer demand for extended or different trading hours and strong support for traders to have the choice of opening their stores outside of standard hours.

The Review considered that technological changes, such as increased opportunities for television shopping and buying goods through the Internet, mean that the application of the Act is reducing to some degree, and that it is probable that these changes will have an increasing impact on the Act's effect in the future.

Interested parties have extremely diverse views on the costs or benefits which flow from the Act to the community as a whole. The Review found little conclusive evidence on many of the matters raised. In any event, the Review considers that many of the concerns related to the mode rather than the nature, of reform. For example, a phased-in approach to extending trading hours would minimise the detrimental impact and would give those parties who would be adversely affected by deregulation the time to adjust to the changes.

The Review considered that a long-term planned approach to the reform of trading hours would give desirable certainty to all within the industry.

Interstate trading restrictions vary from restrictions based on the size of the business, goods sold and tourist areas to total deregulation in some states and territories.

Other options to legislative regulation include setting up a shop trading hours tribunal or allowing local councils to determine the trading hours to apply within their districts.

If the *Shop Trading Hours Act 1977* were repealed, some protection for retail tenants and retail employees would be lost. The provisions which provide for these protections could logically be transferred to the *Retail and Commercial Leases Act 1995* and the industrial system respectively

Legislative Changes

On 21 October 1998, the South Australian Government announced its proposal for changes to shop trading hours for non-exempt stores.

The State Government introduced legislation to the Parliament on 18 November 1998 and that legislation was passed through both Houses on 10 December 1998. The changes to the legislation by the Parliament give effect to the following:

- trading in the city by non-exempt shops to be allowed until 9pm, Monday to Friday.
- trading by non-exempt shops in the suburbs to be allowed until 7pm on Monday, Tuesday, Wednesday and Friday, with no change to Thursday night 9pm closing time.
- no change to trading hours arrangements on public holidays except that trading by non-exempt shops will be allowed on Easter Saturday, in the city only, from the year 2000 and thereafter.
- Sunday trading in the city to remain unchanged but allowed in suburbs between 11-5pm on six Sundays per year - four before Christmas with two others prescribed following consultation.
- extended trading not to be made available to traders selling motor vehicles or boats (ie closing time remaining at up to 6pm Monday to Wednesday, up until 9pm Thursday and Friday, and 5pm Saturday.)
- the only change to existing list of exempt shops is to add shops which predominantly sell caravans and trailers.
- retaining the current provisions relating to the type of retail facility and the size of retail facility.

The Government considers these changes represent a workable solution to balancing the interests of large and small retailers, of city and suburban traders and employees, employers and consumers.

The Government has announced that the changes will come into effect on 8 June 1999.

3.5 THIRD PARTY ACCESS

National Electricity Market

South Australia has worked closely with other jurisdictions, the National Electricity Code Administrator (NECA), the National Electricity Market Management Company (NEMMCO) and electricity industry participants over many years to establish the National Electricity Market. This market is regulated in accordance with the *National Electricity Code*, which applies pursuant to an Application of Laws scheme with the *National Electricity (South Australia) Act, 1996 (SA)* as the Lead Legislation. Chapter 5 of the *National Electricity Code* concerns network connection. The provisions of chapter 5 of the Code were accepted by the ACCC on 9 October 1998 as an Access Code under Part IIIA of the *Trade Practices Act, 1974 (C/wth)*. An access undertaking must be provided to the ACCC by any person intending to register as a Network Service Provider (distribution or transmission). The National Electricity Market, and the National Electricity Code, commenced operation on 13 December 1998.

Gas Pipelines

South Australia worked over a number of years, as part of an intergovernmental body, to develop a national regulatory framework to govern third party access to natural gas pipelines (both transmission and distribution pipelines). This process culminated in the passing of the *Gas Pipelines Access (South Australia) Act, 1997* which came into effect upon the commencement of the complementary Commonwealth legislation on 30 July 1998.

The *Gas Pipelines Access (South Australia) Act* makes provision for the appointment of a South Australian Independent Pricing and Access Regulator (SAIPAR) with functions and powers conferred by the *Gas Pipelines Access (South Australia) Law* and the *National Gas Agreement.* The SAIPAR, Mr Graham Scott, was appointed by the Governor on 2 April 1998.

The Act also makes provision for the establishment of the South Australian Gas Review Board to hear appeals from decisions regulating third party access to distribution pipelines in this State. On 19 February 1998, the Governor appointed six persons to the panel of experts within the SA Gas Review Board and, on the same date, three senior legal practitioners to act as Presiding Member.

In addition, South Australia, as lead legislator in an “application of laws” scheme, was the first jurisdiction to make submission to the NCC for assessment of the third party access regime as an “effective” access regime pursuant to Part IIIA of the *Trade Practices Act..* On 8 December 1998, the access regime was duly certified by the Minister for Financial Services and Regulation for a period of fifteen years.

Rail Facilities

South Australia and the Northern Territory are working closely to develop a third party access scheme and appropriate pricing principles for access to the Tarcoola to Darwin Railway. However, both parties are only committed to introducing mirror legislation in each jurisdiction to effect such a scheme if a statutory third party access scheme is required by the successful consortia. It is the intention of the

two jurisdictions at this point to make application to the NCC to recommend to the Commonwealth Minister that the access regime be certified as effective pursuant to Part IIIA of the *Trade Practices Act.*

Gas Fields

South Australia has been an active participant in the Australia & New Zealand Mines & Energy Council (ANZMEC) / Gas Implementation Reform Group (GRIG) Upstream Issues Working Group looking into, *inter alia*, acreage management and access to gas field infrastructure. At an Upstream Gas Regulation and Industry Reform Conference in October 1998, the Deputy Premier, the Hon. Rob Kerin MP, announced that: the "Government has determined that we will establish a transparent process enabling the consideration of any third party access application to use Cooper Basin infrastructure. The infrastructure would encompass facilities from field satellite to the points of sale of the gas and liquids. The favoured minimum option is for an industry based self regulatory Code."

3.6 LOCAL GOVERNMENT

Significant progress was made during 1998 in application of competition principles to the Local Government sector in South Australia, consistent with the Statement on the Application of Competition Principles to Local Government (the so-called Clause 7 Statement) published in June 1996. The Clause 7 Statement anticipates that decisions on implementation of the CPA will be taken by individual councils. The most important areas for councils are the application of competitive neutrality principles to significant business activities, and the review and reform of by-laws that may restrict competition.

Despite the considerable workload being experienced by many recently amalgamated councils, implementation of reforms remains on schedule.

Significant Business Activities

In accordance with the timetable contained in the Clause 7 Statement, by 30 June 1998 all councils had determined which principles of competitive neutrality are to be applied to their Category 2 business activities.

As previously reported, councils in South Australia are not at the present time involved in large scale business activities. The only exception to this is the Adelaide City Council (the local governing body for the central business district in Adelaide), which conducts 5 of the 6 Category 1 businesses identified. The remaining Category 1 activity is a fully commercial cemetery operation run jointly by two councils via a separately incorporated controlling authority.

Further information about the Category 1 business activities, and progress in implementing principles of competitive neutrality, is at Attachment 3.

A total of 34 Category 2 business activities have been identified by councils. The activities are almost exclusively small scale, with caravan parks occurring most frequently.

A table summarising Category 2 activities and the principles to be applied to them is at Attachment 4. In the majority of cases, cost reflective pricing is the principle of competitive neutrality to be applied or already applying. For a number of the caravan park operations, however, the small scale of the activity means that the cost of implementing a cost reflective pricing regime would outweigh the benefits. In these instance the councils have taken steps to ensure that they are charging at least the market price for the activity.

By-laws

By 30 September 1997 each Council had identified by-laws that may restrict competition and informed the State of its timetable for the review and, where appropriate, reform of the by-laws so identified before the end of the year 2000. (Note that 5 of the 68 councils in South Australia do not have any by-laws.)

Council reports confirm that the majority are conforming to their stated timetable, with only three councils deferring their review of by-laws from 1998 to 1999. This is considered to be a low rate of deferral given the rapid progress during 1998 of the Local Government Act review and the councils' desire to ensure that any reviews they undertake are in accordance with the likely thrust of the new legislation expected to be put in place later in 1999.

All by-laws in South Australia are subject to a sunset clause after seven years. This triggers a review, during which process they are examined by the Legislative Review Committee of Parliament and the issue of complying with National Competition Policy must be addressed.

Complaints mechanism

The State Government established a complaints mechanism in the Department of Premier and Cabinet to receive and consider complaints made about the implementation of national competition policy by both State and Local Governments.

The secretariat for the complaints mechanism provides information and advice about the implications of the policy. Formal complaints about competitive neutrality may be referred to an independent Commissioner, established under the *Government Business Enterprises (Competition) Act 1996*.

It was agreed between the State and Local Government that any complaints about the activities of a council in relation to competitive neutrality would be referred to that council in the first instance. The Clause 7 statement advises councils to establish their own formal mechanism to handle complaints, and a draft model was prepared to provide guidance. It is envisaged that the model complaints mechanism will be subject to continuous improvement over time. If, after investigation by Local Government, the complainant is dissatisfied with the response the matter can be referred to the State Government and investigated under that process.

The establishment of complaints mechanisms or grievance procedures is not new to Local Government in this State and there are good examples operating which will assist in the preparation of appropriate models and guidance for councils.

This practice is being given due recognition in the current review of the Local Government Act which seeks to mandate the establishment of formal grievance procedures including provision for the assessment of competition related complaints.

One complaint about a local authority was received by the State Government's competition complaints secretariat in 1998. This was referred to the councils concerned. Information on the outcome of the complaint is contained in section 3.2 of the State report on competitive neutrality complaints (see table 2).

Implementation assistance

A comprehensive set of guidelines was prepared in 1997 to assist councils to identify significant business activities and apply principles of competitive neutrality to them. These guidelines are now being reviewed and will be informed by the reviews of the State Government competitive neutrality policy and Clause 7 statement.

Guidelines were also produced in 1997 to assist councils with the identification of by-laws that may restrict competition and the process for the review, and, if necessary, reform of those by-laws. Additional advice is available to councils through the Local Government Association (LGA), including legal advice.

A particularly effective service to councils is being provided in the form of a consultant retained jointly by the State Office of Local Government (OLG) and LGA to provide telephone advice and undertake site visits as required. The majority of councils have sought assistance via this method and a number have retained the consultant in their own right to review and report on their business activities and related issues.

The consultant has assisted the OLG and LGA to review and revise the reporting formats through which councils provide information to the State, informed by the field experience gained through council visits.

The LGA conducted a survey of all councils in early 1998 to ascertain their training requirements in relation to competition policy. The OLG / LGA consultant was retained to design and conduct a series of city and country workshops for elected members and staff of councils, based on the training needs identified in the survey. The workshops included sessions by representatives of relevant State Government agencies, the LGA and the ACCC.

To help in circumstances where a review of a decision or investigation of a complaint within a council is impossible, due to its small size and consequent lack of distance of the reviewer from the original decision maker for example, the LGA has established a panel of independent experts to whom complaints can be referred with the consent of the complainant. Training was provided to panel members during 1998.

Review of the Local Government Act

The comprehensive review of the *Local Government Act 1934 (SA)* continued during 1998, and included a 3 month consultation period and the release in

December 1998 of revised drafts for negotiation with key stakeholders prior to the introduction of Bills to replace the existing Act early in 1999. Features of the proposed new legislation relating to competition policy implementation are as previously reported.

A consultation paper was issued with the draft Local Government Bills, identifying those aspects of the legislation which may have the potential to restrict competition, namely licensing the use of public land, requiring external auditors and valuers to be qualified, and the powers and processes for making by-laws. These issues did not attract any public comment.

A joint review of the effectiveness and implementation of the arrangements set out in the Clause 7 statement commenced in late 1998. This review is informed by the parallel review of the State Government competitive neutrality policy statement.

4. RELATED REFORMS

The Agreement to Implement National Competition Policy and Related Reforms makes provision of specified financial assistance by the Commonwealth conditional on the States making satisfactory progress with the implementation of the requirements of the Conduct Code Agreement and Competition Principles Agreement and also with implementation of related reforms which have been the subject of separate CoAG agreements. These related reforms include:

- establishment of competitive national electricity market;
- national framework for free and fair trade in gas;
- strategic framework for the efficient and sustainable reform of the Australian water industry;
- road transport reforms.

4.1 ELECTRICITY

The specific second tranche obligation in relation to electricity reform is for 'relevant jurisdictions' (South Australia, New South Wales, Victoria and the ACT) to complete the transition to a 'fully competitive national electricity market' by 1 July 1999, as modified by subsequent intergovernmental agreements.

The National Electricity Market (NEM) was initially due to commence on 29 March 1998. Due to a variety of factors including, but not limited to, the complexity of the Market design as per version 1.0 of the National Electricity Code, the late delivery of the NEM systems and the decision to create two National Dispatch Security Centres, the NEM did not commence on 29 March 1998.

During the period 1 April to 30 June 1998, the participating jurisdictions (SA, NSW, Vic, Qld and ACT), the National Electricity Market Management Company (NEMMCO) and the National Electricity Code Administrator (NECA) signed a Memorandum of Understanding for the implementation of the NEM. Included as part of the Memorandum was a list of preconditions to be met so as to ensure that sufficient preparation had occurred to both commence and operate the NEM. The 104 preconditions were satisfactorily completed prior to the start of the NEM. To provide confidence in the NEM systems a formal Market Trial process began on 1 September 1998. The objectives of the Market Trial were to verify that the NEM systems produced outcomes in accordance with the Code, and to build stakeholder confidence in the ability of NEMMCO to both administer and operate the NEM.

On 8 December 1998, the *National Electricity (South Australia) Act 1996* was proclaimed, providing for the commencement of the NEM across the five interconnected jurisdictions and South Australia's entry into the market on 13 December 1998.

The NCC has indicated that acceptance of the Code by the ACCC will signify that the market arrangements specified in the Code are appropriate.

Authorisation of the Code was granted by the ACCC in a determination dated 19 October 1998, with a number of market start amendments (including several SA Code derogations) granted interim authorisation on 9 October and 3 December

1998. A separate access decision was released by the ACCC on 9 October 1998 approving the Code as an access regime under the *Trade Practices Act*.

A further four outstanding SA Code derogations are the subject of ACCC consideration. These derogations are expected to receive approval following a public consultation process, due for completion in early 1999. From South Australia's perspective, this will complete formal acceptance of the initial Code.

The NCC has indicated that in the context of the jurisdictions' commitment to the effective operation of a competitive national electricity market, the action of South Australia in relation to the proposed SANI (previously known as Riverlink) interconnection with New South Wales will be considered. (SANI stands for South Australian Network Interconnector.)

It is important to recognise that regulatory decisions on inter-regional network connection and augmentation rest with the appropriate authorities under the Code and are not a matter for jurisdictions. Whilst the NCC proposes to take the State's actions in relation to the SANI proposal into consideration, the relevance of this issue to the assessment of compliance with NCP obligations is not clear to the South Australian Government.

In any event, it is considered that South Australia's position in relation to SANI will not impact on the State's assessment. South Australia's views on interconnector proposals have been driven by a desire to protect the interests of consumers and to ensure that the State's capacity needs are delivered in the most timely and cost-effective manner. Specifically, South Australia's position is that:

- Decisions on interconnectors are made independently by NEMMCO and are not a matter for jurisdictions;
- NEMMCO reached an independent decision on the basis of the Code assessment criteria that the SANI interconnector should not be regulated;
- Following NEMMCO's decision to deny SANI regulatory status, South Australia offered its full support for the construction of the SANI interconnector as an entrepreneurial project on an unregulated basis - whereby the proponents rather than the consumers of the importing jurisdiction bear the risk - including the creation of a working party to assist in the environmental approval process and assistance in refining the rules under the National Electricity Code for unregulated interconnects. While this offer remains, the parties involved have not demonstrated any willingness to build and operate the link at their own risk, despite the reputed benefits;
- The ACCC has recognised the need to ensure that the owners of regulated interconnectors are exposed to operational risks and are accountable to deliver benefits identified at the time of the decision to grant regulated status to the interconnector. Changes should be made to the assessment criteria accordingly.

In particular, SA has argued that new interconnects should ideally be unregulated, with the owners bearing the commercial risk associated with the investment rather than end customers. As an alternative, if regulation is considered justified based on the economic merits of an interconnector, the level of regulated return should be tied to the level of benefit consumers receive from the link, such that the risk of non-performance is borne by the proponent. A situation in which the consumer must

guarantee a regulated return to an interconnect owner over the lifetime of the asset (up to 50 years) regardless of whether consumer benefits are realised is not acceptable to SA.

4.2 GAS

CoAG endorsed the Natural Gas Pipelines Access Agreement (the Agreement) in November 1997. The Agreement establishes the basis for a National Third Party Access Code (the Code) for Natural Gas Pipeline systems, both transmission and distribution. The Agreement stipulated that the Code was to be given legal effect by a uniform Gas Pipelines Access Law, with South Australia as the lead legislator.

As outlined in section 3.5, the *Gas Pipelines Access (South Australia) Act 1997* was enacted by the South Australian Parliament and received the Governor's assent in December 1997. The Gas Pipelines Access Law and the Code are set out in schedules to that Act.

All jurisdictions with natural gas had enacted their application or equivalent legislation before the end of January 1999. This legislation will apply the Gas Pipelines Access Law (or in the case of Western Australia legislation with identical effect) as a law of that jurisdiction.

The *Gas Pipelines Access (South Australia) Act 1997* came into operation after the Commonwealth legislation received the Governor-General's assent on 30 July 1998. The Commonwealth legislation is integral to the operation of the National Access Regime. South Australia as the lead legislator had its gas pipelines access regime certified by the Commonwealth Minister as "effective" on 8 December 1998. This prohibits the use of *Trade Practices Act* provisions to obtain pipeline access. Other jurisdictions are following South Australia's lead.

In July 1997, the *Gas Act 1997* came into effect, establishing a new regulatory regime for the gas industry. The Act provides for separate licences to operate pipelines and to undertake gas retailing, thereby ensuring effective separation of these activities. The Office of Energy Policy supports the Technical Regulator in carrying out these functions. In July 1997, the pipeline networks previously owned by Boral in South Australia (eg Adelaide, Mt Gambier, and Berri) were sold to Envestra Limited, an energy infrastructure company. This sale meant that the former pipeline and retail parts of Boral within South Australia had been legally separated. Both legal entities which own/operate gas pipelines within South Australia, namely Epic Energy and Envestra, have not been issued with a licence to enable them to retail or sell natural gas. Boral Energy, the main natural gas retailer in South Australia, along with other entities including Optima Energy, have been issued with licences to retail natural gas, but not for the operation of gas pipelines. It is the South Australian Government's view that such structural separation, along with the provisions of the South Australian Gas Access Regime, ensures the continued separation of the natural monopoly element of the gas industry, namely the pipelines and the retailing part.

The above structural separation of the competitive retailing aspect of the gas industry from the natural monopoly pipeline element is seen as consistent with National Competition Policy. The 1997 CoAG Natural Gas Pipelines Access Agreement says that the access regime applies to both transmission and

distribution pipelines, rather than just transmission pipelines as noted in the February 1994 CoAG communique. This change is to facilitate a seamless approach to third party access to natural gas pipelines. In doing so, it is clear that the terminology "distribution activities" used in clause 10 of the February 1994 agreement, pertains to retailing gas. Annexe F (Licensing Principles) of the 1997 agreement confirms this view by its requirement to unbundle pipeline operating licences from other licence types (eg retailing). It seems inconsistent with the seamless approach to pipeline access that ownership of transmission pipelines should preclude ownership of distribution pipelines. From this it is concluded that clause 10 is satisfied as long as the above structural separation is maintained.

A contestability timetable has been established for the gas sector, similar to that for electricity, as follows:

Date	April 1998	1/7/99	1/7/2000	1/7/2001
Annual TJ	>100	10 –100	<10 (non domestic)	All customers

The *Gas Pipelines Access (South Australia) Act 1997* establishes the South Australian Independent Access and Pricing Regulator (SAIPAR) for gas distribution pipelines in South Australia. The distribution pipeline operator Envestra Limited submitted its Access Arrangement submission to SAIPAR on 22 February 1999. The Australian Competition and Consumer Commission will provide for national regulation of transmission pipelines. Once the Commission has made its Access Arrangement decision regarding the South Australian transmission pipeline, then the provisions of the State-based *Natural Gas Pipelines Access Act 1995* are revoked.

4.3 WATER

South Australia continued the implementation of COAG water industry reform commitments in 1998. Reporting against the 1994 Strategic Water Reform Framework as part of the second tranche assessment process, South Australia has provided detailed evidence of reform progress to the NCC. A detailed summary of South Australia's achievements to date in water reform can be found in Attachment 5. For the purposes of this annual report, key reform initiatives in South Australia during 1998 have included:

- South Australia's *Water Resources Act 1997* was enacted on 2 July 1997. Based on the principles of ecologically sustainable development, the implementation of the Act is now well advanced. Six catchment water management boards have been established. In addition, 15 water allocation plans and six catchment water management plans are currently in preparation. These plans include provisions for water for the environment. The focus of the legislation is to provide for increasing devolution of responsibility for management of water systems to the community and, accordingly, extensive community consultation and involvement is a feature of the development of these plans. In addition, a comprehensive system of property rights has been established under the Act, which includes the separation of water property rights from land title and the removal of any legislative and institutional impediments to trade.

- Work is continuing on an Environment Protection (Water Quality) Policy under the *Environment Protection Act 1993.* The policy will apply to South Australia's inland, estuarine and marine waters. Drafting is nearing completion and it is currently anticipated that the policy will undergo public consultation at the end of June 1999.

- The State Government has embarked on a review of the State Water Plan, as required under the *Water Resources Act 1997*.

  The purpose of the State Water Plan is to set out policies for the use and management of South Australia's water resources. It is a statement of high level water policy, that sets the framework for regional catchment water management plans and local water allocation plans. The Plan and the policy framework which it establishes must ensure that the use and management of the State's water resources sustain the physical, economic and social well being of the people of the State and facilitate economic development of the State, whilst protecting the ecosystems that depend on those resources and the reasonably foreseeable needs of future generations.

  The current State Water Plan, entitled South Australia - Our Water Our Future was published in September 1995. It was adopted as the State Water Plan for the purposes of the *Water Resources Act 1997* when the Act was proclaimed on 2 July 1997. However, the Act also recognised that this Plan may need to be reviewed to ensure that it remains contemporary and fully meets the requirements of the State Water Plan as specified in the Act.

  It is expected that the review will culminate in a revised State Water Plan being adopted during National Water Week in October 1999 to replace the current Plan.

- The Government announced significant reform of water prices in 1995-96 which:
  - provided for a user-pays pricing structure for non-commercial customers, including the elimination of free water allowances;
  - reduced commercial water charges by an average of 2.5% as a first step towards removing the cross subsidy paid by commercial customers.

- Subsequent pricing decisions in 1996-97, 1997-98 and 1998-99:

  - increased the low, first-step water price and lowered the high, top-step price in real terms consistent with converging to a single water price in the medium term approximating estimated long run marginal cost of supply; and
  - provided for further real reductions in the cross-subsidy paid by commercial customers.

- In December 1998, South Australia endorsed the Agriculture & Resource Management Council of Australia & New Zealand (ARMCANZ) pricing guidelines for use in the application of the full cost recovery elements of the COAG water reform framework.

- The SA Water Corporation's community service obligations are currently being reviewed against the South Australian Community Service Obligation Policy, endorsed by the Government on 16 December 1996, and agreed community service obligations are now being funded through explicit purchase agreements between purchasing Ministers and the Corporation.

- The South Australian Government is working with communities and research bodies to investigate environmental water requirements in several catchments outside those that fall within formal controls under the *Water Resources Act 1997*.

4.4 ROAD TRANSPORT

The national road transport reforms are developed under a process which has its genesis in the Heavy Vehicles Agreement signed by Heads of Government in 1991 and the Light Vehicles Agreement signed in 1992. Those Agreements have recently been revised, but their main features are unchanged.

The Agreements provide for the establishment under Commonwealth law of the National Road Transport Commission (NRTC) to propose national legislation and road transport reforms, and consider other questions referred to it by Ministers. The process now adopted by the NRTC in progressing reforms developed under these Agreements has four basic stages:

- Through an extensive consultative program with jurisdictions, the road transport industry, environmental agencies and other interest groups, the NRTC develops a three year Strategic Plan for approval of the Australian Transport Council (ATC). Before projects are incorporated into the plan, each is considered within a detailed scoping paper, which sets out issues such as the objectives, resources, performance measures and method of delivery (eg legislation, policy or other).
- Each project then goes through a preliminary design phase where the basic principles of the reform are clarified and policy determined, at least in broad detail. In cases where uniform or consistent legislation is not part of the reform, this may be all that is required and ATC endorsement can be sought at that stage with no further development work required.
- If required, a project can then be developed in detail with delivery via a more complex mode. At the conclusion of this phase, ATC approval would be sought. Where the reform is to be delivered through consistent or uniform legislation, ATC approval is required for the legislation that the NRTC develops.
- The final stage involves the Commission in monitoring and assisting implementation of each reform.

While this process may be seen as strictly sequential, in fact it is dynamic and interactive. The plan and forward program are subject to amendment if matters of sufficient import are raised. Such additions can be seen as part of a continuum of reform options where attention is directed to issues of major community benefit.

The NRTC has strong linkages with governments, their agencies, the industry bodies and other interest groups. These are maintained through regular meetings,

workshops and conferences, distribution of formal reports in a transparent policy development process and frequent informal contact. In addition, the Commission has formal consultative processes involving its peak groups (Industry Advisory Group, Bus Industry Advisory Group, Transport Agency Chief Executives and Remote Areas Advisory Group).

The Commission often runs workshops and meetings to consider policy proposals on a national basis and its processes in developing reforms contain up to four separate consultation periods as reforms are developed and refined. At the same time jurisdictions are also involved in extensive consultation with industry as reforms are developed.

Early in the process, the reforms to be developed and implemented under national legislation were divided into six modules, some of which had sub-modules. These were:

- Road Transport Charges
- Dangerous Goods
- Vehicle Operations:
    - Vehicles and Standards, including Roadworthiness Standard
    - Fatigue Management
    - Access and Loading:
        - Restricted Access Vehicles
        - Oversize and Overmass Vehicles
        - Mass and Loading
    - Road Rules
- Heavy Vehicle Registration
- Driver Licensing
- Compliance and Enforcement

Given the delays in developing and agreeing these reforms in full, the Ministerial Council on Road Transport agreed in 1994 to a First Heavy Vehicle Reform Package. This was a list of key reforms which it was agreed to implement early on a "best endeavours" basis, during the period 1993-94. The intention was that those jurisdictions which had sufficient flexibility under their existing legislation to introduce measures similar to the intended reforms, prior to their full development and specification in draft legislation for Ministers to consider them in detail, should do so. Jurisdictions which were not able to undertake such reforms without significant change to their existing legislation would await the development of that legislation and its approval by Ministers, under the normal process. Subsequently a Second Heavy Vehicles Reform Package was established in February 1997.

Assessability

ATC has categorised road transport reforms from the initial reform modules and the First and Second Heavy Vehicles Reform Packages as falling into two categories:

- under development
- available for implementation and assessable

The transition between the two is achieved by an affirmative vote by Ministers on a detailed proposal of action. This transition is clear when a formal vote by Ministers has occurred and the proposal by the NRTC has been approved.

Attachment 6 provides details of the reforms which are available for implementation, and their current status in South Australia. Items from the First and Second Heavy Vehicle Packages are shown in the context of the initial modules to which they belong.

5. BIBLIOGRAPHY

The following three Intergovernmental Agreements were endorsed by Heads of Government on 11 April 1995:

Conduct Code Agreement
Competition Principles Agreement
Agreement to Implement the National Competition Policy and Related Reforms.

The following documents summarise the NCC's 1st Tranche Assessment for all jurisdictions:

Assessment of State and Territory Progress with Implementing National Competition Policy and Related Reforms - June 1997
National Competition Policy and Related Reforms: Supplementary Assessment of First Tranche Progress - June 1998

Copies of these and other documents on aspects of NCP are available from the National Competition Council in Melbourne, telephone (03) 9285 7474.

Relevant documents concerning NCP implementation in SA include:

Competitive Neutrality Policy Statement, June 1996
Structure of Government Business Activities, March 1995
Review of Legislation which Restricts Competition - timetable, June 1996 (updated May 1997, May 1998)
Community Service Obligations - Policy Framework, December 1996
Clause 7 Statement on the Application of Competition Principles to Local Government under the Competition Principles Intergovernmental Agreement, June 1996
Water and Sewerage Pricing for SA Water Corporation, December 1996.
Report to the National Competition Council - Implementation of National Competition Policy and Related Reforms in SA - March 1997
Report to the National Competition Council - Implementation of National Competition Policy and Related Reforms in SA - April 1998
Water and Sewerage Pricing for SA Water Corporation - Final Report of investigation under the Government Business Enterprises (Competition) Act 1996 - June 1997
Government Business Enterprises (Competition) Act 1996, Section 16: Principles of Competitive Neutrality Proclamations by the Governor - 12 June 1997, 7 May 1998
A Guide to the Implementation of Competitive Neutrality Policy - February 1998.
Guidelines Paper for Agencies conducting a Legislation Review under the CoAG Competition Principles Agreement - February 1998

Copies of each of these publications are available from the Economic Reform Branch, Department of the Premier and Cabinet, telephone (08) 8226 0903. Some can be downloaded from the Department's website at -
http://www.premcab.sa.gov.au/html/nationalcompcont.html

Attachment 1

1996

Portfolio	Acts	Nature of Restriction	Comment
Consumer Affairs	Liquor Licensing Act 1985	Barrier to market entry and restricts market conduct.	Partial deregulation. This Act repealed by Liquor Licensing Act 1997.
Environment and Heritage	Catchment Water Management Act 1995	Restrict market conduct.	This Act repealed by Water Resources Act 1997.
Environment and Heritage	Water Resources Act 1990	Restrict market conduct.	This Act repealed by Water Resources Act 1997.
Government Enterprises	State Clothing Corporation Act 1977	Protects sheltered workshops.	Corporation sold in 1995-96. Amendment Act to allow 'winding up' has been assented to. Amendment Act repeals most of original Act including all reference to sheltered workshops.
Health	Tobacco Products Control Act 1986	Restricts market conduct.	Repealed by Tobacco Products Regulation Act 1997.
Industry and Trade	Industries Development Act 1941	Section 24 may be in conflict with Trade Practices Act.	Review underway.
Premier	Australian Formula One Grand Prix Act 1984	The Board is not subject to the same laws as private sector competitors.	Authority dormant. The Act should not be repealed until last money paid by Victoria in July 2000.
Primary Industries, Natural Resources & Regional Development	Apiaries Act 1931	Barrier to market entry and restricts market conduct.	This Act will be repealed by Schedule 2 Livestock Act 1997 when it is proclaimed.
Primary Industries, Natural Resources & Regional Development	Branding of Pigs Act 1964	Barrier to market entry and restricts market conduct.	This Act will be repealed by Schedule 2 Livestock Act 1997 when it is proclaimed.
Primary Industries, Natural Resources & Regional Development	Brands Act 1933	Barrier to market entry and restricts market conduct.	This Act will be repealed by Schedule 2 Livestock Act 1997 when it is proclaimed.
Primary Industries, Natural Resources & Regional Development	Cattle Compensation Act 1939	Barrier to market entry and restricts market conduct.	This Act will be repealed by Schedule 2 Livestock Act 1997 when it is proclaimed.
Primary Industries, Natural Resources & Regional Development	Deer Keepers Act 1987	Barrier to market entry and restricts market conduct.	This Act will be repealed by Schedule 2 Livestock Act 1997 when it is proclaimed.
Primary Industries, Natural Resources & Regional Development	Electrical Products Act 1988	Identified at a national level.	Regulations consistent with model Regulations developed by national body proclaimed and operating.
Primary Industries, Natural Resources & Regional Development	Foot and Mouth Disease Eradication Fund Act 1958	Barrier to market entry and restricts market conduct.	This Act was repealed by Livestock Act 1997.
Primary Industries, Natural Resources & Regional Development	Poultry Meat Industry Act 1969	In conflict with Trade Practices Act.	ACCC authorised collective negotiation of fees and conditions between growers and Inghams for 5 years from April 1997.
Primary Industries, Natural Resources & Regional Development	Stock Act 1990	Barrier to market entry and restricts market conduct.	This Act was repealed by Livestock Act 1997.
Primary Industries, Natural Resources & Regional Development	Swine Compensation Act 1936	Barrier to market entry and restricts market conduct.	This Act will be repealed by Schedule 2 Livestock Act 1997 when it is proclaimed. Compensation Fund can run for 2 years after assent.

1997

Portfolio	Acts	Nature of Restriction	Comment
Arts	South Australian Museum Act 1976	Restricts market conduct in relation to meteorites.	Review complete.
Attorney-General	Friendly Societies Act 1919	Restricts market conduct.	Repealed and replaced by Friendly Societies (SA) Act 1997.
Attorney-General	Starr-Bowkett Societies Act 1975	Identified at national level.	Payments through these societies almost complete. It is expected the Act will be repealed upon dissolution of 2 remaining societies.
Education, Children's Services and Training	Construction Industry Training Fund Act 1993	Restricts market conduct.	Report of Review of Act tabled in Parliament 26/2/98. Some outstanding issues under consideration.
Education, Children's Services and Training	Vocational Education, Employment and Training Act 1994	Identified at national level.	Review underway.
Environment and Heritage	Heritage Act 1993	Restricts market conduct.	Review underway.
Government Enterprises	Employment Agents Registration Act 1993	Barrier to market entry.	Review underway.
Government Enterprises	Manufacturing Industries Protection Act 1937	Exempts some industries from legal requirements applying to competitors.	Overtaken by Environment Protection Act 1993. Act repealed.
Government Enterprises	Shearers Accommodation Act 1975	Restricts market conduct.	Act repealed.
Industry and Trade	Local Government Act 1934	Restricts market conduct and product and service standards.	Review completed. New legislation to replace existing Act. Elements remaining to be considered with other legislation reviews.
Industry and Trade	Outback Areas Community Development Trust Act 1978	Restricts market conduct.	Crown Solicitor's Office found **no** restrictions to competition.
Primary Industries, Natural Resources & Regional Development	Agricultural and Veterinary Chemicals (South Australia) Act 1994	Identified at national level.	A national review for national registration issues and a state review for issues related to use. State review includes Stock Foods Act 1941 and Stock Medicines Act 1939. National and state reviews underway
Primary Industries, Natural Resources & Regional Development	Agricultural Chemicals Act 1955	Barrier to market entry and restricts market conduct.	Review report complete.
Primary Industries, Natural Resources & Regional Development	Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986	Barrier to market entry and restricts market conduct.	Review completed and combined with Soil Conservation and Land Care Act 1989. Report to Cabinet September 1996. Amendments made under the Soil Conservation and Land Care Act (Amendment) Act.
Primary Industries, Natural Resources & Regional Development	Barley Marketing Act 1993	Monopoly powers to the Australian Barley Board.	Review complete.

Portfolio	Acts	Nature of Restriction	Comment
Primary Industries, Natural Resources & Regional Development	Cooper Basin (Ratification) Act 1975	Authorises behaviour contrary to Trade Practices Act.	Review complete.
Primary Industries, Natural Resources & Regional Development	Natural Gas (Interim Supply) Act 1985	Restricts market conduct	To be repealed.
Primary Industries, Natural Resources & Regional Development	Natural Gas Pipelines Access Act 1995	Does not apply equally to all pipelines.	The National Gas Access legislation partly renders this Act redundant.
Primary Industries, Natural Resources & Regional Development	Soil Conservation and Land Care Act 1989	Restricts market conduct.	Review combined with Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986. Report to Cabinet September 1996. Amendments made under the Soil Conservation and Land Care Act (Amendment) Act.
Primary Industries, Natural Resources & Regional Development	Stock Medicines Act 1939	Barrier to market entry and restricts market conduct.	Review report complete.
Transport and Urban Planning	Architects Act 1939	Identified at national level.	Review well underway. National review being considered
Transport and Urban Planning	Commercial Motor Vehicles (Hours of Driving) Act 1973	Identified at national level.	Review complete. South Australia will implement national legislation.
Treasurer	Advances to Settlers Act 1930	Restricts market conduct.	No new business. Act for repeal when last repayment made. This is expected later than 2000.
Treasurer	Benefit Associations Act 1958	Restricts market conduct.	Review well underway.
Treasurer	Loans for Fencing and Water Piping Act 1938	Restricts market conduct.	No new business. Act for repeal when last repayment made. This is expected in 2000.
Treasurer	Loans to Producers Act 1927	Restricts market conduct.	No new business. Act for repeal when last repayment made. This is expected in 2000.

1998

Portfolio	Acts	Nature of Restriction	Comment
Arts	South Australian Film Corporation Act 1972	Restricts market conduct in granting of sole and exclusive right to produce Government films	Review well underway.
Attorney-General	Business Names Act 1996	Financial legislation (companies, securities, futures, consumer credit).	Review complete.
Attorney-General	Cremation Act 1891	Barrier to market entry and restricts market conduct, (in conjunction with review of Local Government Act in Local Government portfolio)	Review underway.

Portfolio	Acts	Nature of Restriction	Comment
Attorney-General	Legal Practitioners Act 1981	Barrier to market entry and restricts market conduct.	Review underway.
Attorney-General	Trustee Companies Act 1988	Barrier to market entry and restricts market conduct.	Review underway. National review.
Consumer Affairs	Carriers Act 1891 (The)	Restricts market conduct	Review completed. Act to be repealed
Consumer Affairs	Prices Act 1948	Restricts market conduct	Review well underway
Environment and Heritage	Coast Protection Act 1972	Restricts market conduct	Review well underway
Environment and Heritage	Crown Lands Act 1929	Restricts market conduct	Review well underway
Environment and Heritage	Discharged Soldiers Settlement Act 1934	Restricts market conduct	Review well underway
Environment and Heritage	Groundwater (Border Agreement) Act 1985	Restricts market conduct	Review underway.
Environment and Heritage	Irrigation (Land Tenure) Act 1930	Restricts market conduct	Review well underway
Environment and Heritage	Native Vegetation Act 1991	Restricts market conduct	Review well underway
Environment and Heritage	Pastoral Land Management and Conservation Act 1989	Restricts market conduct	Review well underway
Environment and Heritage	Prevention of Cruelty to Animals Act 1985	Regs 5, 6 - Restricts market conduct	Review well underway
Environment and Heritage	River Murray Waters Agreement Supplemental Agreement Act 1963	Regs 5, 6 - Restricts market conduct	Review complete.
Environment and Heritage	Sandalwood Act 1930	Restricts market conduct	Review well underway.
Environment and Heritage	War Service Land Settlement Agreement Act 1945	Restricts market conduct	Review well underway
Government Enterprises	Dangerous Substances Act 1979	Barrier to market entry and restricts market conduct	Review underway.
Government Enterprises	Explosives Act 1936	Barrier to market entry and restricts market conduct	Review underway.
Government Enterprises	Occupational Health, Safety and Welfare Act 1986	Restricts market conduct	To be reviewed jointly with Workers Rehabilitation & Compensation Act.
Government Enterprises	Renmark Irrigation Trust Act 1936	Restricts market conduct	Review underway.
Government Enterprises	Sewerage Act 1929	Barrier to market entry & restricts market conduct; product/service Standards	Review underway.

Portfolio	Acts	Nature of Restriction	Comment
Government Enterprises	Shop Trading Hours Act 1977	Restricts market conduct	Review complete.
Government Enterprises	South Australian Water Corporation Act 1994	Barrier to market entry & restricts market conduct; product/service standards	Review underway..
Government Enterprises	State Lotteries Act 1966	Barrier to entry & restricts market conduct	Review underway. Joint review with Lottery & Gaming Act and Racing Act.
Government Enterprises	Water Conservation Act 1936	Barrier to market entry & restricts market conduct; product/service standards	Review underway.
Government Enterprises	Waterworks Act 1932	Barrier to market entry & restricts market conduct; product/service standards	Review underway.
Government Enterprises	White Phosphorus Matches Prohibition Act 1915	Barrier to market entry and restricts market conduct	Review well underway.
Human Services	Chiropodists Act 1950	Barrier to entry & restricts market conduct	Review well underway.
Human Services	Chiropractors Act 1991	Barrier to entry & restricts market conduct	Review well underway.
Human Services	Controlled Substances Act 1984	(Poisons) Regs 8, 11, 14 - Barrier to entry & restricts market conduct	National review to be conducted.
Human Services	Dentists Act 1984	Barrier to entry & restricts market conduct	Review complete.
Human Services	Food Act 1985	Restricts market conduct	National review well underway.
Human Services	Medical Practitioners Act 1983	Barriers to entry & restricts market conduct	Review underway.
Human Services	Nurses Act 1984	Barrier to entry & restricts market conduct	Review complete. New legislation passed.
Human Services	Occupational Therapists Act 1974	Restricts market conduct	Review well underway
Human Services	Optometrists Act 1920	Barriers to entry. & restricts market conduct.	Review well underway
Human Services	Physiotherapists Act 1991	Restricts market conduct	Review well underway
Human Services	Psychological Practices Act 1973	Reg 10 Barrier to entry & restricts market conduct	Review well underway
Human Services	Public and Environmental Health Act 1987	Div 2, Regs 12, 17, 22. 22/5/89 Restricts market conduct	Review underway.
Human Services	Radiation Protection and Control Act 1982	Barrier to entry & restricts market conduct	National review to be conducted.

Portfolio	Acts	Nature of Restriction	Comment
Human Services	South Australian Health Commission Act 1976	Barrier to market entry and restricts market conduct of private hospitals.	
Human Services	South Australian Housing Trust Act 1995	Restricts market conduct	Review underway.
Human Services	Supported Residential Facilities Act 1992	Barrier to market entry and restricts market conduct.	Review complete..
Industry and Trade	Racing Act 1976	s 4 - Barrier to entry & restricts market conduct	Review underway. Joint review with Lottery & Gaming Act and State Lotteries Act.
Justice	Second-hand Dealers and Pawnbrokers Act 1996	s 6 - 9 - Barrier to entry & restricts market conduct	Review complete.
Primary Industries, Natural Resources & Regional Development	Bulk Handling of Grain Act 1955	Barrier to market entry and restricts market conduct	Review complete. Act to be repealed.
Primary Industries, Natural Resources & Regional Development	Citrus Industry Act 1991	Restricts market conduct	Review underway.
Primary Industries, Natural Resources & Regional Development	Dried Fruits Act 1993	Restricts market conduct	Review underway.
Primary Industries, Natural Resources & Regional Development	Fisheries Act 1982	Barrier to market entry and restricts market conduct	Review underway.
Primary Industries, Natural Resources & Regional Development	Fruit and Vegetables (Grading) Act 1934	Product standard - Restricts market conduct	Review underway.
Primary Industries, Natural Resources & Regional Development	Garden Produce (Regulation of Delivery) Act 1967	Restricts market conduct	Review underway.
Primary Industries, Natural Resources & Regional Development	Margarine Act 1939	Restricts market conduct	Review underway.
Primary Industries, Natural Resources & Regional Development	Mines and Works Inspection Act 1920	Remainder of Act committed to Minister for Mines. Barrier to market entry and restricts market conduct	Review underway.
Primary Industries, Natural Resources & Regional Development	Mining Act 1971	Entire regulation - Restricts market conduct	Review underway.
Primary Industries, Natural Resources & Regional Development	Noxious Insects Act 1934	Restricts market conduct	
Primary Industries, Natural Resources & Regional Development	Opal Mining Act 1995	Barrier to market entry and restricts market conduct	Review underway.
Primary Industries, Natural Resources & Regional Development	Petroleum Act 1940	Barrier to market entry and restricts market conduct	Review well underway.
Primary Industries, Natural Resources & Regional Development	Phylloxera and Grape Industry Act 1995	Restricts market conduct	
Primary Industries, Natural Resources & Regional Development	Roxby Downs (Indenture Ratification) Act 1982	Authorises behaviour contrary to TPA.	Review underway.

Portfolio	Acts	Nature of Restriction	Comment
Primary Industries, Natural Resources & Regional Development	Seeds Act 1979	Restricts market conduct	
Primary Industries, Natural Resources & Regional Development	Stony Point (Liquids Project) Ratification Act 1981	Authorises behaviour contrary to TPA	Review underway.
Primary Industries, Natural Resources & Regional Development	Veterinary Surgeons Act 1985	Barrier to market entry and restricts market conduct	Review underway.
Primary Industries, Natural Resources & Regional Development	Wine Grapes Industry Act 1991	Restricts market conduct	Review underway.
Transport and Urban Planning	Development Act 1993	S 6, Regs 3, 4, 8, 10 - Restricts market conduct	Review well underway.
Transport and Urban Planning	Enfield General Cemetery Act 1944	Restricts market conduct	Review well underway
Transport and Urban Planning	Harbors and Navigation Act 1993	Barrier to entry & restricts market conduct	Review underway. Intergovernment Agreement for national moves to develop consistent legislation.
Transport and Urban Planning	Highways Act 1926	Restricts market entry.	Review complete.
Transport and Urban Planning	Motor Vehicles Act 1959	s 3 - Restricts market conduct	Review underway. Uniform legislation to be implemented.
Transport and Urban Planning	Passenger Transport Act 1994	Regs 4, 5 Barrier to entry & restricts market conduct	Review underway.
Transport and Urban Planning	Road Traffic Act 1961	Barrier to market entry and restricts market conduct	Review underway. National legislation to be implemented.
Treasurer	Collections for Charitable Purposes Act 1939	Reg 4 Restricts market conduct	Review underway.
Treasurer	Government Financing Authority Act 1982	may restrict market conduct of GBEs.	Review well underway
Treasurer	Lottery and Gaming Act 1936	Regs 5, 7, 10	Review underway. Joint review with Racing Act and State Lotteries Act.
Treasurer	Motor Accident Commission Act 1992	Need to revise section 24 for consistency with the Competition Code.	Review underway.
Treasurer	Petroleum Products Regulation Act 1995	Part 2 Div 1, 2; Part 5 Div 4; Part 7	Review underway.
Treasurer	Public Corporations Act 1993	Restricts market conduct	Review well underway

Attachment 2

MINUTES forming ENCLOSURE to **AGD 2621 / 97**

Mr Greg Cox
☎ (08) 8207 2541

TO: **MS LINDA HART,**
A/ASSISTANT UNDER TREASURER (ECONOMICS)
DEPARTMENT OF TREASURY AND FINANCE

CC: **Ms Rosemary Ince**
Department of Premier and Cabinet, and

Mr Deane Prior,
Director, Superannuation Policy, DTF.

Re: **Legislation Review: Southern State Superannuation Act, 1994 (SA).**

1. As discussed with Mr Vince Duffy of your Branch, I have undertaken an examination of the *Southern State Superannuation Act, 1994 (SA)*, ("**the SSS Act**"), for the purpose of determining whether the SSS Act should have been put on the schedule of South Australian acts to be reviewed in accordance with the CoAG National Competition Policy ("**NCP**") legislation review obligation (see: clause 5 of the Competition Principles Agreement - "**the CPA**").

   The SSS Act was referred to at page 9 of the National Competition Council's Second Tranche Assessment Framework document of 16 November 1998.

   I note that this Office made an interim assessment of the South Australian superannuation legislation in late 1997 / early 1998, and a preliminary conclusion was reached that the superannuation legislation did not contain restrictions on competition of any significance such as to justify a legislation review. For that reason they were not included on the schedule for review. Since that date there have been amendments to the legislative scheme, including the repeal of the *Superannuation (Benefit Scheme) Act, 1992 (SA)*.

2. The purpose of this present examination of the SSS Act is not to conduct a full legislation review in accordance with clause 5 of the CPA, rather it is a preliminary examination of the Act to identify if it contains any restrictions on competition, and if it does, to situate those restrictions in a market context to determine if they have any impact in relevant markets or if they are restrictions in an analytical sense only. While this is not a full legislative review, nevertheless, the same methodology is employed as in clause 5 of the CPA and the South Australian Guidelines for Conducting a Legislation

Review. I do not consider that a detailed legislation review would come to a different conclusion from the one reached by this examination.

Summary of the State's Superannuation schemes:

3. Apart from the specialised schemes, which are provided for in legislation such as the *Governor's Pensions Act 1976*, the *Judges Pension Act 1971*, the *Parliamentary Superannuation Act 1974*, the *Police Superannuation Act 1990*, and the *Superannuation (Visiting Medical Officers) Act 1993*, there are three main schemes under which the SA Government provides superannuation benefits to its employees:

   3.1 The pension scheme (now closed to new members);
   3.2 The 15% benefit (lump sum) scheme (now closed to new members); and
   3.3 The SSS (Triple S) scheme.

4. Employees are not obligated to make contributions to the SSS scheme, but they are made a member of that scheme pursuant to section 14 of the SSS Act if they are a person in relation to whom the Government is liable to pay a superannuation guarantee charge under the *Superannuation Guarantee (Administration) Act, 1992 (C/wth)*, ("**the Commonwealth Act**").

5. State Government employees are at liberty to make their own contributions to any superannuation scheme they choose. By way of corollary, the State Government may make superannuation benefits that are part of its employee remunerative packages available to its employees in any way that it chooses - that is simply its own commercial decision as to how it wishes to manage its internal affairs [1]. Thus, the provision of certain SA Government benefits to its employees through nominated superannuation schemes is not a restriction upon competition.

6. However, a different analysis applies where the provision of a benefit is not an internal matter of employee remuneration, but an obligation under the Commonwealth Act. Under that Act, the SA Government is obligated to make a contribution to a complying superannuation fund in favour of its employees in accordance with the charge percentages set out in the Commonwealth Act, and to evidence that with a "benefit certificate", or be liable to the Commonwealth for a superannuation guarantee charge on its superannuation guarantee shortfall (see: ss. 16 - 23 of the Commonwealth Act).

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1. [1] It is part of the internal operations of the SA Government which the Government is entitled to "tie", and therefore should not subject to an NCP competition review. It has been often stated by the NCC itself, as well as in the Second Reading Speech to the Commonwealth's *Competition Policy Reform Act, 1995*, that the NCP does not require outsourcing or privatisation of government operations. See also clause 1.(5) CPA.

Identification of restrictions on competition:

7. Therefore, section 14 of the SSS Act has the effect of "tying" SA Government employees to receiving a benefit ensured to them by way of Commonwealth legislation through a nominated fund (the SSS Fund) that is managed and controlled by a nominated Funds Manager, namely, the Superannuation Funds Management Corporation of South Australia [2], ("**Funds SA**"), pursuant to section 4.(3) of the SSS Act. An employee may not nominate another fund into which the contribution should be paid, or another funds manager [3].

8. This restriction on competition should only be maintained if the requirements of clause 5.(1) CPA are satisfied, that is, the benefits to the community as a whole outweigh the costs, and the objectives of the legislation can only be achieved by restricting competition.

9. **Objectives of sections 14 & 4.(3):**

Clearly, the SA Government intends to manage its obligation under the Commonwealth Act through a single fund and a single funds manager. The SA Government would argue that this is the most efficient and cost-effective method of discharging its obligations under the Commonwealth Act, and because of the economies of scale and scope across its entire employee superannuation arrangements, minimises costs for scheme members.

10. **Nature of the restriction on competition:**

SA Government employees are "tied" to having a benefit, ensured to them by way of Commonwealth legislation, managed and invested through a nominated fund (the SSS Fund). This precludes other funds from competing for the right to administer and manage the moneys paid (pursuant to the Commonwealth Act) into the SSS Fund.

11. **Effect on competition and on the economy generally:**

The relevant markets are:

11.1 the market for superannuation scheme administration; and,
11.2 the market for funds management.

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[2] Established under the *Superannuation Funds Management Corporation of South Australia Act, 1995 (SA)*.

2. [3] I note the fact that superannuation benefits that are provided by the SA Government as part of its own employee remuneration scheme (thus, under the pension scheme and the 15% scheme) are also managed by Funds SA. That is not a restriction on competition, as the same analysis as to the management of those funds applies as to the provision of the superannuation benefit in the first place.

Both markets, and particularly funds management, are well developed and dynamic markets. Both have significant Australian and international participants, with the market for funds management being very large in size (on the supply side, it includes all investment services).

The funds from the SA Government's obligations under the Commonwealth Act is a very small percentage of that whole market (particularly funds management). Therefore, its capacity to cause distortions in that market is small.

12. The fact that the employee has no choice in fund selection is only relevant in the context of market analysis. If there is no, or negligible, effect on competition (or on the economy) the lack of consumer choice may be a matter of loss of individual rights, but it carries no anticompetitive weighting, and is therefore not relevant to the NCP.

13. I understand from discussions with Department of Treasury and Finance that Funds SA outsources all of its funds management function.

Thus, while there may be a loss of choice for individual members, **there is no anticompetitive impact at all in the market for funds management**. The management of the proportion of the SSS Fund attributable to the Commonwealth Act (in fact, all of the SSS Fund) is subject to the disciplines of the market.

14. That leaves only the area of economic activity associated with the market for superannuation scheme administration as "tied".

I understand from Department of Treasury and Finance that there are approximately five (5) full time staff positions committed to work associated with the Commonwealth Act, and associated computer assets, software, and office space, etc. This represents the volume of economic activity that is "tied".

15. If there is an anticompetitive effect in tying that area of economic activity, it will be reflected in the level of administration fees payable by SSS fund members to the Fund.

In fact, I understand from Department of Treasury and Finance that the fees charged by the SSS Fund to members are very low in comparison with others in the market. The maximum fee charged by the SSS Fund to contributing members is $40 *pa*, with the rider that the maximum fee must not exceed the amount of interest paid (thus, for small accounts, earning less than $40, the annual fee is less). A very low-end industry charge is just above $1.00 *per* week (over $60 *pa*). For non-contributing members, the maximum charged is $26-50 *per annum*.

While comparisons are dependent upon the product and service mix, a broad indication of an industry average was reported in the November 1998 edition of ASFA (Australian

Superannuation Funds Administration), which concluded that the average administration cost for corporate, public sector and industry funds was just less than $140 *per annum*.

The SA government always has the option of outsourcing the scheme administration function, and continually reviews the performance of the SSS Fund to that end. So far, because costs are constrained because of the economies of scale and administrative convenience provided by the SSS Act arrangements, there has not been an imperative to outsource this function.

From this analysis I conclude that **there is negligible, if any, anticompetitive effect from the tying of the superannuation scheme administration function**.

The volume of economic activity that is associated with superannuation scheme administration of the Government's obligations under the Commonwealth Act is irrelevant in terms of the whole SA economy and, *a fortiori*, the Australian economy.

16. **Assess Costs and Benefits of the restriction:**

16.1 **Costs:** The cost of the tying of the superannuation scheme administration function to the SSS Fund and to Funds SA would be reflected in the fees charged to fund members. Given that these fees are at the low end of the market, the cost should be assessed as **negligible**.

16.2 **Benefits:** There are three benefit arguments applicable to the tying arrangements with the SSS Fund:

16.2.1 The SSS Scheme is a lump sum scheme providing no SA Government contribution except as required by the Commonwealth Act. However, the SA Government has determined that the benefits paid to SSS Fund members who themselves contribute at a rate of at least 4.5 % of salary will be greater than those required under the Commonwealth Act (see: Schedule 2 of the SSS Act and section 3.(1) definition of "charge percentage" - where the percentage rises to 10, not 9 %).

The Government would incur additional transaction costs to provide this additional benefit on top of the Commonwealth benefit if it could not take advantage of the economies of scale and simplified administrative arrangements provided by the tying arrangement.

16.2.2 Through the SSS Act and the SSS Fund, the SA Government has provided a basic unit of death and disability insurance cover at a very low charge to SSS Fund members. Cost of this cover is an average of $2 *per* week for cover of up to $70,000.

For those members who become incapacitated for work as a result of an accident, or whose employment is terminated on account of invalidity before the age of 55, an insurance benefit is payable even if the member is non-contributing (although that affects the amount of benefit), pursuant to section 33A and 34 of the SSS Act.

Accidental death cover is provided to all members, regardless of whether they were contributors or not (although that affects the amount of benefit), pursuant to section 35 of the SSS Act.

The Government would incur additional transaction costs to provide these benefits to non-contributing members if it could not take advantage of the economies of scale and simplified administrative arrangements provided by the tying arrangement.

16.2.3 Significant administrative costs are saved by the tying arrangement. If employees were allowed to chose their own complying scheme, and change that scheme if market conditions so determined, the SA Government would have to:

- ensure that it was informed of the employee's scheme and the scheme address;
- arrange EFT and make payments to a myriad of different schemes;
- maintain records of such payments;
- satisfy SA Government audit requirements with respect to payments to the myriad of schemes;
- provide a report to employees;
- provide the Commonwealth with a benefit certificate in respect of each of the myriad of schemes.

As can be seen, this would impose significant compliance costs on the SA Government in satisfying the obligations under the Commonwealth Act. As a component of the cost of public sector employment, these compliance costs would be borne by the citizens of SA.

16.3 I have no doubt that the benefits of the tying arrangement outweigh its anticompetitive costs. This will be maintained if the SA Government continues to review the performance of the SSS Fund with the option of outsourcing its superannuation scheme administration function if it finds that economically sound.

16.4 There are reporting requirements (section 13: Board reports to the Minister) and auditing requirements (section 10: Treasurer to keep proper accounts, and annual audit by the Auditor-General) in the SSS Act that reinforce the Government's scrutiny over the operations of the Fund.

17. **Alternatives to legislative restrictions:**

The benefits of the tying arrangements are conditional upon the existence of the tying arrangement itself. Apart from using contractual methods (*viz*, making employment in the SA public sector dependent on the employee's contractual agreement to membership of the SSS Fund for the purposes of the employer's obligation under the Commonwealth Act) **the tying arrangement can only sensibly be achieved by legislative means**. Such a contractual tying would be administratively very costly and, in any event, would itself advisably require a statutory authority under the *Public Sector Management Act (SA)*.

With respect to business agencies & units of the SA Government, such a tying would technically breach the third-line forcing prohibition in the *Trade Practices Act, 1974 (C/wth)*, and so require use of the Notification procedure under that Act - although there would be no anticompetitive effect, it is a *per se* prohibition - at a cost of $ 700 per notification (ACCC's application fee) as well as application preparation costs !

Other restrictions:

18. There are a small number of what, at first glance, may appear to be restrictions on competition, but are either not restrictions or are readily justifiable.

19. **Auditor-General:** As referred to above, section 10.(2) requires annual audit of the SSS Fund and its financial statements by the Auditor-General. This could be seen as a "tying arrangement" itself, but the comments at paragraph 5 and footnote 1 above apply. The NCP does not require the SA Government to outsource its government audit function (whether or not, and for whatever reason, Victoria has taken that decision).

20. **Role of Funds SA:** As referred to at paragraph 7 and footnote 3 above, Funds SA is the "tied" funds management service provider (although Funds SA in fact outsources its funds management function and only provides outsource contract administration and high-level oversight). Again, the comments at paragraph 5 and footnote 1 above apply.

21. **Board approval of roll-over fund:** Section 32 of the SSS Act enables a person upon resignation from employment to which the SSS Act relates to elect to transfer the funds held in the SSS scheme to "some other superannuation fund or scheme approved by the Board".

The purpose of this fetter on the employee's election is to ensure that the scheme is a "complying scheme" within the meaning of the *Superannuation Industry (Supervision) Act, 1993 (C/wth)*, ("**the SIS Act**"). It would avoid the use of "personal schemes" that would be non-complying under the SIS Act.

22. I have not detected any other provisions in the SSS Act that could be seen as "restrictions on competition".

"Trivial" restrictions upon competition:

23. South Australia has adopted the legislation review methodology of giving restrictions on competition an initial analysis and then categorising them as either: trivial, intermediate or serious. This assists in prioritisation, and determines the level of resources that should be applied to the legislation review. Unless legislation also contains higher level restrictions, an Act containing only a trivial restriction need not be reviewed, particularly if the Act contains no administrative, reporting, etc, burdens that should be removed.

24. A "trivial" restriction upon competition has, at most, only a minimal or insignificant effect on competition within a market. It may be a restriction on competition simply because it fits the analytical pattern, but in fact have no practical adverse impact in relevant markets. Given that there is a market analysis and a consideration of the purpose of the restriction, categorisation as "trivial" carries with it an intuitive cost-benefit analysis of net public benefit.

Recommendation:

25. For the reasons set out above, I consider that the tying arrangement in section 14 of the SSS Act with respect to the SA Government's obligation under the Commonwealth Act should be categorised as "trivial".

    Therefore, I recommend that the SSS Act not be placed on the SA Government's Schedule for legislation review.

26. If required, I have no objection to this examination being provided to the National Competition Council.

27. Please contact me on telephone: 8 207 2541 if you have any questions about this matter or require any further information.

CROWN SOLICITOR

per:

Greg Cox
12 February 1999

Attachment 3

Local Government Category 1 business activities

Adelaide City Council

In 1997 a Competition Policy Task Force was established by the Adelaide City Council with the objective of analysing and applying national competition policy requirements to the Council's business activities. Council advised the State Government in 1997 that its significant business activities had been identified and the application of competitive neutrality principles determined for Category 1 activities.

The table illustrates all business activities (including two identified as 'potential' but which are not significant), their likely categorisation, and the competitive neutrality principles to be applied to them where appropriate.

Description of business activity	Category	Neutrality Principles recommended to apply				
		N1	N2	N3	N4	N5
Aquatic Centre	CS	r	r	r	r	r
Central Market Authority	1	✓	✓	r	r	✓
North Adelaide Golf Links	1	✓	✓	r	r	✓
Off-street Car Parking	1	✓	✓	r	r	✓
On-street Car Parking	RF	r	r	r	r	r
Property Management	1	✓	✓	r	r	✓
Town Hall Function Centre	2	✓	✓	r	r	✓
Wingfield Waste Mgt Ctr	1	✓	✓	r	r	✓
Road/footpath reinstatemts.	P2+	r	✓	r	r	✓
Building/Environmental	RF	r	r	r	r	r
Nursery operations	P2+	r	✓	r	r	✓

Category and neutrality principle definitions
1 - Category 1 business activity
2 - Category 2 business activity
P2+ - Potential only business activity (further examination only)
RF = Regulatory function
CS = community service - requires further assessment to justify CSO conclusion

N1 Corporatisation or business structure
N2 Tax equivalent regime
N3 Debt guarantees
N4 Private sector equivalent regime
N5 Cost reflective pricing

Work on implementing competitive neutrality principles to the Council's business activities is also largely complete. The full cost of each business activity has now been undertaken, including the allocation of all direct and indirect costs, using an activity based costing methodology. A 'tax equivalent regime' has been implemented, including analysis of all taxes for which the businesses are exempt; ie income tax, sales tax, payroll tax (where business over threshold), land tax, water rates etc.

An organisation structure has been implemented that separates Council's business activities from its other activities.

A difficulty encountered by the Council in applying competitive neutrality is that immediate costs are incurred as part of the evaluation before (any) benefits are

identified. It is generally expected that, because prices for all the businesses are predominantly market driven due to the nature of the activities, the costs to the Council and the community of national competition policy implementation will exceed the benefits. However, this was not known in advance of the exercise being undertaken.

City of Mitcham and City of Unley

The sixth Category 1 activity is a cemetery operation run jointly by the Cities of Mitcham and Unley via a separately incorporated controlling authority.

The controlling authority has obtained independent advice as to its national competition policy obligations and undertaken an analysis of its full costs including tax equivalents and debt guarantee fees. It is anticipated that cost reflective pricing will be fully implemented in the activity from 1 July 1999.

Attachment 4

Local Government Category 2 business activities

A total of 34 Category 2 business activities were identified by councils as set out below.

Nature of activity	Number	CRP*	COR*	TER*	DG*	Other*
Caravan Parks	18	5	4			9*
Works/development	5		4	1		
Recreation centres**	3	2				
Waste management	2				2	
Function centres	1		1			
Cemeteries	1	1				
Water supply(remote areas)**	1					
Electricity supply (remote areas)**	1					
Quarry	1		1			
Saleyards	1	1				

CRP* cost reflective pricing
COR* corporatisation
TER* tax equivalent regime
DG* debt guarantee
Other* activities are small scale and costs of implementation reform would outweigh the benefits. At least market prices are charged.

** The table includes 3 business activities for which further consideration is being given to the costs and benefits of applying principles of competitive neutrality to them. All 3 are business activities of the Municipality of Roxby Downs, a mining town in the unincorporated area of the State. The activities under consideration are the town's water and electricity supplies and its recreation centre.

GROUP 1: COST RECOVERY AND PRICING ELEMENTS

1.1 Adoption of General Principles

COAG Strategic Water Framework 1994, Section 3(a) - (i) and (ii)

3. In relation to pricing:

(a) in general

(i) to 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.

(ii) that where service deliverers are required to provide water services to classes of customer at less than full cost, the cost of this be fully disclosed and ideally be paid to the service deliverer as a community service obligation.

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

Implementation of the Water Reforms in South Australia

Achievements to Date in South Australia:

1. The Government announced significant reform of water prices in 1995-96 which:
   - provided for a user-pays pricing structure for non-commercial customers, including the elimination of free water allowances; and
   - reduced commercial water charges by an average of 2.5%, as a first step towards removing the cross-subsidy paid by commercial customers.
2. Subsequent pricing decisions in 1996-97, 1997-98 and 1998-99:
   - increased the low, first-step water price and lowered the high, top-step price in real terms consistent with converging to a single water price in the medium term approximating estimated long run marginal cost of supply; and
   - provided for further real reductions in the cross-subsidy paid by commercial customers.
3. The South Australian Government issued a *Competitive Neutrality Policy Statement* in June 1996, and on 16 August 1996 the *Government Business Enterprises (Competition) Act 1996 (South Australia)* came into operation. This Act provides for the establishment of mechanisms:
   - for pricing oversight of Government Business Enterprises having monopoly or near monopoly market power, following appropriate declaration by the Governor; and
   - to enable a complaint to be made concerning an alleged infringement of the principles of competitive neutrality by a state or local government agency, following establishment of such principles by proclamation.

   To carry out both pricing reviews and investigations of competitive neutrality complaints, the Act provides for the appointment by the Governor of Competition

Commissioners who are not subject to Ministerial direction with respect to their recommendations, findings or reports.

3. Pursuant to section 8 of the *Government Business Enterprises (Competition) Act 1996*, the South Australian Water Corporation was declared on 21 November 1996 for pricing oversight in relation to prices charged for water supply and the provision of sewerage services for the three year period 21 November 1996 to 21 November 1999 (inclusive). The Governor appointed Mr John Carey as the Competition Commissioner to conduct an investigation into the water and sewerage prices charged by the South Australian Water Corporation. The Competition Commissioner's final report to the Premier was completed in April 1997 and subsequently tabled in the South Australian Parliament on 5 June 1997. A Ministerial Statement responding to the report's recommendations was also delivered to Parliament on 5 June 1997 by the Deputy Premier and Minister for Infrastructure.

4. Pursuant to section 16 of the *Government Business Enterprises (Competition) Act 1996*, the Governor declared a set of principles of competitive neutrality on 12 June 1997. The South Australian Water Corporation was identified in this proclamation as one of several government agencies engaged in significant business activities and to which the principles apply.

5. A Community Service Obligation (CSO) Policy was endorsed by the Government on 16 December 1996. The policy provides for the following objectives:

   - to ensure that the Government's public policy and welfare programs are not put at risk by the Corporatisation process;
   - to enable rigorous performance monitoring of the commercial performance of government businesses;
   - to ensure that decisions on the appropriate level and quality of CSO services are made by Government rather than public enterprises;
   - to enable enterprises to be competitive; and
   - to ensure that the undertaking of CSO activities does not conflict with Competitive Neutrality Principles and that such activities can be recognised by the Competition Commissioner in recommending prices.

6. The South Australian Water Corporation's CSOs are currently being reviewed against this framework and agreed CSOs are now being funded through explicit purchase agreements between purchasing Ministers and the Corporation.

7. The *Water Resources Act 1990* was amended in December 1995 to include provision for a charge on water use and/or allocation. Pursuant to this legislation, a water resources charge was introduced in December 1995 for SA Water customers and River Murray users. The provision for a charge on water use and/allocation was incorporated into the new *Water Resources Act 1997* which came into operation on 2 July 1997 and repealed the 1990 Act.

8. A medium term target of a 6% rate of return on assets has been set for metropolitan water services.

9. South Australia endorsed the ARMCANZ pricing guidelines for use in applying the requirements of the full cost recovery elements of the framework in December 1998.

1.2 Water Pricing and Cost Recovery - Urban Services

COAG Strategic Water Framework 1994, Section 3(b) - (i), (ii) and (iii)

3(b) Urban water services

(i) to 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 where this is cost-effective.

(ii) in order to assist jurisdictions to adopt the aforementioned pricing arrangements, an expert group, on which all jurisdictions are to be represented, report to COAG at its first meeting in 1995 on asset valuation methods and cost-recovery definitions, and

(iii) 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.

Implementation of the Water Reforms in South Australia

Achievements to Date in South Australia:

1. The South Australian Government has adopted a two-part water pricing structure, comprising access and usage components, for the vast majority of customers. Commercial customers still pay water rates based on property values; however, it is intended to phase these out. Pricing reforms are reflecting a gradual shift to cost-reflective pricing for the delivery of water services.
2. As a commercially focussed entity, the South Australian Water Corporation's objective is to achieve commercial rates of return on assets after allowing for community service obligations.
3. With regard to depreciation, SA Water is expected to operate in accordance with private sector practices, and its performance targets are determined accordingly. In normal business practice, the depreciation charge represents a return of capital capacity to the owners rather than a dedicated funding source for asset replacement.
4. SA Water currently uses straight line depreciation. This has become the almost universal approach by businesses in the private sector to depreciation expenses in order to match to income streams rather than to year by year replacement/ rehabilitation requirements. Further, it is noted that the use of an annuity expense as a substitute for depreciation for financial reporting purposes is not in accordance with commercial accounting practices. Section 7.4 of the Ernst & Young *SCARM Water Industry Asset Valuation Study - Draft Guidelines on Determining Full Cost Recovery* (August 1997) states: 'The financial accounting records of each authority should follow conventional depreciation methods.'
5. It is also considered important to note that in section 4b of *The Report of the Expert Group on Asset Valuation Methods and Cost-Recovery Definitions for the Australian Water Industry* (February 1995), the emphasis on the use of an annuity approach was to ensure that there was a <u>minimum</u> level of cost recovery to ensure the maintenance of service capacity. It recognised that water businesses may adopt other approaches where

that minimum has already been achieved. Further, the Expert Group reported that:

> 'This work (research into the process that can cause water infrastructure to lose service potential) should not delay building into charging arrangements, at an early time, provision for maintaining service delivery capacity, where this does not occur either through depreciation of assets which are valued on the deprival value methodology or through, say, the infrastructure annuity approach.' *(emphasis added)*

6. It should be recognised that the research has not yet taken place, and consequently, no preferred replacement for the common straight-line assumption has yet been identified.
7. The *Guidelines for the Application of Sections 3(a)(i), (ii), (d)(i), (ii), (iii), (iv), (v), (vi) of the Strategic Framework and Related Recommendations 12.1, 12.2 (i), (ii), (iii) and 12.3 of the Expert Group* recognise that water business cost recovery should legitimately range between a minimum viable level of maintaining operating capacity (Principle 5) and achieving such a commercial return that can be achieved short of monopoly rent (Principle 4).
8. Whereas Principle 3 of the Guidelines explicitly identifies the annuity approach as the appropriate approach for asset consumption in Principle 5 (minimum viability), its use is not mandated under Principle 4 (commercial).
9. SA Water pricing is considered within the context of achieving, over time, a rate of return on assets of 6%, as set down in the Corporation's performance agreement with the Government as owner. It is important to note that the achievement of the target rate of return is expected to be achieved through a combination of competitive pricing (either in terms of comparative prices with peer water business or direct competition, as it develops under the National Competition Policy), productivity improvement and product diversification.
10. The best figures currently available suggest that the annuity cost for SA Water would be in the order of $30 million less than the current depreciation expense of around $95 million. However, Principle 4 of the Guidelines 'allows' pricing to recover a return on capital equivalent to the Weighted Average Cost of Capital (WACC). In the case of SA Water, WACC is estimated to be around 8% real.
11. Against the 8% WACC target, the real rate of return is calculated against a written down asset value of just under $6 billion, the budgeted outcome for 1998-99 is around 4.7%, and as identified above, the medium term target agreed with the Government through the Corporation's performance agreement is 6%. Consequently, the effective dollar difference between the current SA Water target of 6% and the 8% WACC is in the order of $100 million.
12. The cost recovery target sought by SA Water sits above the minimum requirements of the Guidelines (Principle 5) and below the maximum (Principle 4) and consequently, is acceptable practice.
13. As long as any difference between the annuity cost and the depreciation cost remains less than the difference (expressed in dollars) between the return target sought by the Government and WACC for SA Water, the current text of the Guidelines will not impact on the Corporation's goals and strategies. This would appear to be the case for the foreseeable future.

14. The Competition Commissioner has investigated and commented on the structure of the South Australian Water Corporation's prices for water and sewerage tariffs in his report to Government in April 1997.

Further Actions Being Implemented or Proposed:

1. The use of property values for commercial water supply customers is to be phased out.

1.3 Water Pricing and Cost Recovery - Metropolitan Bulk Supplies

COAG Strategic Water Framework 1994, Section 3(c) - (i)

3(c) Metropolitan bulk-water suppliers

(i) to charging on a volumetric basis to recover all costs and earn a positive real rate of return on the written-down replacement cost of their assets,

Implementation of the Water Reforms in South Australia

Achievements to Date in South Australia:

1. SA Water has divided its water operation business along the lines of wholesale (bulk water division), distribution, (Adelaide, Country Divisions) and retail (Customer Services Division). This is commensurate with the restructuring of other utility businesses worldwide.
2. Pricing for bulk water has yet to be determined. This is likely to lead to a two part tariff with an emphasis on consumption based pricing, which it is understood the National Competition Council views as akin to volumetric charging.
3. SA Water is providing transport for water purchased in one location by a user and used in a separate location by the same user. SA Water's pricing reflects the costs it incurs in usage of its pipelines and ancillary equipment for this purpose.
4. The framework established for pricing bulk water and the water transportation arrangements would have relevance for third party access applications.

1.4 Water Pricing and Cost Recovery - Rural Supplies

COAG Strategic Water Framework 1994, Section 3(d) - (i), (ii), (iii), (iv), (v) & (vi)

3(d) Rural water supply

(i) that where charges do not currently fully cover the costs of supplying water to users, agree that charges and costs be progressively reviewed so that no later than 2001 they comply with the principle of full-cost recovery with any subsidies made transparent consistent with 3(a) (ii) above

(ii) to achieve positive real rates of return on the written-down replacement costs of assets in rural water supply by 2001, wherever practicable

(iii) that future investment in new schemes or extensions to existing schemes be undertaken only after appraisal indicates it is economically viable and ecologically sustainable

(iv) where trading in water could occur across State borders, that pricing and asset valuation arrangements be consistent

(v) where it is not currently the case, to the setting aside of funds for future asset refurbishment and/or upgrading of government-supplied water infrastructure, and

(vi) in the case of the Murray-Darling Basin Commission to the Murray-Darling Basin Ministerial Council putting in place arrangements so that out of charges for water funds for the future maintenance, refurbishment and/or upgrading of the headworks and other structures under the Commission's control be provided.

Implementation of the Water Reforms in South Australia

Achievements to Date in South Australia:

1. A Community Service Obligation Policy has been endorsed by the Government. CSOs currently provided by the South Australian Water Corporation have been reviewed. The provision of country water services at a common state-wide price is a major CSO.
2. The Competition Commissioner has reviewed and reported on prices for reticulated supplies in rural areas.
3. As a party to the Murray-Darling Basin Agreement, the South Australian Government is committed to the establishment of a commercially focussed bulk water supply business within the Murray-Darling Basin Commission. Through the Murray-Darling Basin Ministerial Council, South Australia has addressed the long-standing inequity in funding of the MDBC operations. A revised funding formula based on 'user pays' now sees South Australian users of River Murray water paying a share of the costs of water storage and river management, commensurate with the level of service provided.
4. The South Australian Water Corporation is subject to commercial investment criteria for its capital expenditure program.
5. Where applicable, new irrigation schemes and dam developments are subject to the relevant provisions of the *Development Act 1993*, *Environment Protection Act 1993* and the *Water Resources Act 1997*. State Government involvement in these initiatives is assessed from a whole-of-government perspective prior to approval.

Further Actions Being Implemented or Proposed:

1. The South Australian Government is reviewing its criteria for investment in new irrigation or rural water supply schemes, or extension of existing schemes, with the aim of achieving the objective that investments be undertaken only after thorough economic and environmental assessment indicates that they are sustainable.
2. The Murray-Darling Basin Commission is undertaking a trial for interstate trade in the Mallee area (Sunraysia and the Riverland) of the Murray-Darling Basin. The pilot project commenced on 1 January 1998 for a period of 2 years or until a net volume of 10 gigalitres has been traded from any jurisdiction. The trial will identify impediments to interstate trade of water entitlements.

GROUP 2: INSTITUTIONAL REFORM ELEMENTS

2.1 Institutional Role Separation

COAG Strategic Water Framework 1994, Sections 6(c) and (d)

6. In relation to institutional reform:

(c) to the principle that, as far as possible, the roles of water resource management, standard setting and regulatory enforcement and service provision be separated institutionally,

(d) that this occur, where appropriate, as soon as practicable, but certainly no later than 1998,

Competition Principles Agreement 1995

1. Prices Oversight of Government Business Enterprises
2. Competitive Neutrality Policy and Principles
3. Structural Reform of Public Monopolies
4. Legislation Review
5. Access to Services Provided by Means of Significant Infrastructure Facilities

Implementation of the Water Reforms in South Australia

Achievements to Date in South Australia:

1. Water resources management functions (including the regulation of water allocations) were separated from water service provision with the transfer of these functions from the Engineering and Water Supply Department (now the South Australian Water Corporation) to the then Department of Environment and Natural Resources (now the Department for Environment, Heritage and Aboriginal Affairs) in January 1994. The Environment Protection Authority (which regulates the water quality aspects of water resources management) was established in 1994. Guided by the Australian Drinking Water Guidelines established nationally, the South Australian Health Commission may issue water quality alerts if acute problems are detected and urgent public notification is deemed necessary. In addition, the *Public And Environmental Health Act 1987* establishes the Public and Environmental Health Council responsible for waste and sanitation issues. Required to produce an annual report, the Council has the power to prosecute individuals found polluting the water supply under Section 21 of the Act.
2. Responsibility for coordinating South Australia's input into the Murray-Darling Basin Initiative was transferred from the Engineering and Water Supply Department to the Department of Environment and Natural Resources in December 1994. Responsibility for managing South Australia's financial contribution to the Murray-Darling Basin Initiative was effectively transferred to the Department of Environment and Natural Resources in 1996-97.
3. The South Australian Water Corporation was corporatised on 1 July 1995. It is subject to the *Public Corporations Act 1993* which provides a framework for the South Australian Water Corporation's commercial focus. The major accountabilities of the *Public Corporations Act 1993* include:

- provision of a Charter and Performance Statement;
- separation of the commercial and non-commercial operations (including procedures for directions from the Minister);
- implementation of competitive neutrality provisions (through tax and rate equivalents, debt guarantee fees);
- duties and liabilities of Board and Directors;
- establishment of subsidiaries; and
- miscellaneous provisions including dividends, internal audit, accounts and annual reports.

4. As indicated previously, the South Australian Government issued a *Competitive Neutrality Policy Statement* in June 1996, and on 16 August 1996, the *Government Business Enterprises (Competition) Act 1996 (South Australia)* came into operation. Competition Commissioners provide independent advice to the Government on the prices charged by declared Government Business Enterprises, and investigate and recommend solutions to competitive neutrality complaints.

Further Actions Being Implemented or Proposed:

1. The South Australian Government is reviewing all existing legislation which restricts competition in line with the Competition Principles Agreement. The *Waterworks Act 1932*, *Sewerage Act 1929*, *SA Water Corporations Act 1994*, *Water Conservation Act 1936, Irrigation Act 1994 and the Renmark Irrigation Act 1936* are being reviewed, and this review is expected to be completed in 1999.

2. Proposals for new legislation which restrict competition are required to be assessed by criteria applying competition principles to ensure that there is a net public benefit, and that the objectives of the legislation can only be achieved by restricting competition. The *Water Resources Act 1997* was the first piece of new legislation to be so assessed.

2.2 Performance Monitoring and Best Practice - Water Services

COAG Strategic Water Framework 1994, Section 6(e)

(e) the need for water services to be delivered as efficiently as possible and that ARMCANZ, in conjunction with the Steering Committee on National Performance Monitoring of Government Trading Enterprises further develop its comparisons of inter-agency performance, with service providers seeking to achieve international best practice,

Implementation of the Water Reforms in South Australia

Achievements to Date in South Australia:

1. The Department of Treasury and Finance and the Office for Government Enterprises provide quarterly performance monitoring reports on the South Australian Water Corporation to the Portfolio Minister and the Treasurer.
2. The South Australian Water Corporation performance, in terms of water services supplied to metropolitan Adelaide, is reported annually in "WSAA*facts*".
3. Three major South Australian irrigation authorities, Renmark Irrigation Trust, Central Irrigation Trust and Sunlands/Golden Heights Irrigation Trust have participated in the first National Irrigation Authority Benchmarking Study. Their performance is reported in *The 1997/98 Australian Irrigation Water Provider Benchmarking Report.*

Further Actions Being Implemented or Proposed:

1. The Steering Committee on National Performance Monitoring of Government Trading Enterprises was established by the Special Premiers Conference in July 1991. Representatives of the South Australian Water Corporation participate in performance monitoring managed by the Water Services Association of Australia.
2. Extension of performance monitoring to the non-major urban and rural water sectors (utilities with between 50 000 and 20 000 assessments) is proceeding under the direction of the national working group. Only two South Australian water supply areas fall into this category (Mt Gambier and Whyalla) but for comparison, it is proposed to also report on "Outer Metropolitan" and "Total Country".

2.3 Commercial Focus for Water Services

COAG Strategic Water Framework 1994, Section 6(f)

(f) that the arrangements in respect of service delivery organisations in metropolitan areas in particular should have a commercial focus, and whether achieved by contracting-out, corporatised entities or privatised bodies this be a matter for each jurisdiction to determine in the light of its own circumstances,

Implementation of the Water Reforms in South Australia

Achievements to Date in South Australia:

1. The South Australian Water Corporation, the major water utility in South Australia, was corporatised in 1995 and it has outsourced all water supply and sewerage services in the Adelaide metropolitan area to a private contractor, United Water.
2. The South Australian Water Corporation is a commercial entity subject to the *Public Corporations Act 1993*.
3. The South Australian Government is reviewing of all existing and proposed legislation which may restrict competition.

2.4 Devolve Irrigation Management

COAG Strategic Water Framework 1994, Section 6(g)

(g) to the principle that constituents be given a greater degree of responsibility in the management of irrigation areas, for example, through operational responsibility being devolved to local bodies subject to appropriate regulatory frameworks being established;

Implementation of the Water Reforms in South Australia

Achievements to Date in South Australia:

1. The South Australian Government transferred all of the Government Highland Irrigation Districts to 8 self-managing irrigation trusts on 1 July 1997. These bodies in turn created the Central Irrigation Trust to employ staff and provide day-to-day management and operational services for all of the individual irrigation trusts. The legislative basis for the transfer to self-management is the *Irrigation Act 1994*. The headworks of all 8 irrigation districts have been progressively rehabilitated, with rehabilitation of the last of these districts to be completed in 1999.

Further Actions Being Implemented or Proposed:

1. The only other State Government irrigation areas remaining are those located along the lower reaches of the River Murray. The transfer of these areas to self management is currently being considered but this is unlikely to occur before rehabilitation has occurred.
2. Discussions have been initiated with the Commonwealth Government on the future of the Loxton Irrigation District. This is currently being managed under contract by the Central Irrigation Trust on behalf of the South Australian Water Corporation which in turn is managing this on behalf of the Commonwealth Government. A proposal for rehabilitating the headworks of the Loxton Irrigation District has been prepared by the Loxton Irrigation Advisory Board, and is currently being negotiated between the State and Commonwealth Governments. It is expected that the irrigation district would be transferred to self-management as a condition of funding for rehabilitation.

GROUP 3: ALLOCATION AND TRADING ELEMENTS

3.1 Allocation and Entitlements

COAG Strategic Water Framework 1994, Sections 4(a), (b), (c), (d), (e) and (f)

4. In relation to water allocations or entitlements:

(a) the State Government members of the Council would implement comprehensive systems of water allocations or entitlements backed by separation of water property rights from land title and clear specification of entitlements in terms of ownership, volume, reliability, transferability and, if appropriate, quality,

(b) where they have not already done so, States would give priority to formally determining allocations or entitlements to water, including allocations for the environment as a legitimate user of water,

(c) in allocating water to the environment, member governments would have regard to the work undertaken by ARMCANZ and Australian and New Zealand Environment and Conservation Council (ANZECC) in this area,

(d) that the environmental requirements, wherever possible, will be determined on the best scientific information available and have regard to the inter-temporal and inter-spatial water needs, required to maintain health and viability of river systems and groundwater basins. In cases where river systems have been over-allocated, or are deemed to be stressed, arrangements will be instituted and substantial progress made by 1998 to provide a better balance in water resource use including appropriate allocations to the environment in order to enhance/restore the health of river systems,

(e) in undertaking this work, jurisdictions would consider establishing environmental contingency allocations which provide for a review of the allocations five years after they have been determined, and

(f) where significant future activity or dam construction is contemplated, appropriate assessments would be undertaken to, inter alia, allow natural resource managers to satisfy themselves that the environmental requirements of the river systems would be adequately met before any harvesting of the water resource occurs;

Implementation of the Water Reforms in South Australia

Achievements to Date in South Australia:

1. After a comprehensive review involving extensive community consultation, the *Water Resources Act 1997* was passed by the South Australian Parliament in 18 March 1997 and came into operation on 2 July 1997. The new Act, which repealed both the *Water Resources Act 1990* and the *Catchment Water Management Act 1995*, provides for a comprehensive system of transferable property rights for water allocations in accordance with the COAG requirements. Other important features of the *Water Resources Act 1997* include:

    - incorporation of the principles of ecologically sustainable development;
    - provision of holistic water resources management within the context of integrated natural resources management;

- provision for water for the environment;
- provision for devolving greater responsibility for water resources management to local communities through the establishment of catchment water management boards and water resources planning committees; and
- provision for the management of all water resources through a hierarchy of water management plans.

2. As specified in Part 5 of the *Water Resources Act 1997*, water licences are:

   - the holder's personal property
   - not linked to land title, and
   - fully tradeable, both on a temporary and permanent basis.

3. Licences must specify the volume of water that can be taken and the conditions of use. Licences remain in force until they are terminated by or under the Act. Reliability and quality are not specified on a water licence but can be dealt with through the development of water allocation plans. In fact, the context for the granting, review and transfer of licences is provided by the relevant water allocation plan developed through an extensive community consultation process. Catchment water management plans, water allocation plans and local water management plans must be consistent with the state-wide policy directions contained in the State Water Plan.

4. Part 5 (Divisions 2 and 3) of the *Water Resources Act 1997* also provides for interstate trade of water entitlements to occur. As indicated previously, the trial of permanent trading arrangements in the Riverland-Sunraysia region of the Murray-Darling Basin commenced in January 1998.

5. The State Water Plan is the key statutory document for water resources management in South Australia. The purpose of the State Water Plan is to set out policies for the use and management of South Australia's water resources. It is a statement of high level water policy, that sets the framework for regional catchment water management plans and local water allocation plans. The Plan and the policy framework it establishes, must ensure that the use and management of the State's water resources sustains the physical, economic and social well being of the people of the State and facilitates economic development of the State, whilst protecting the ecosystems that depend on those resources and the reasonably foreseeable needs of future generations. All other plans produced under the *Water Resources Act 1997* must be consistent with this Plan.

   The current State Water Plan, entitled **South Australia - Our Water Our Future** was published in September 1995. It was adopted as the State Water Plan for the purposes of the *Water Resources Act 1997* when the Act was proclaimed on 2 July 1997. However, the Act also recognised that this Plan may need to be reviewed to ensure that it remains contemporary and fully meets the requirements of the State Water Plan as specified in the Act.

   The State Government has embarked on a review of the State Water Plan, as required under the *Water Resources Act 1997*. It is expected that the review will culminate in a revised State Water Plan being adopted during National Water Week in October 1999 to replace the current Plan.

6. Formal recognition and protection of environmental water provisions for prescribed resources are provided under the *Water Resources Act 1997*. The main vehicle for

achieving this is the relevant water allocation plan that must be prepared for all prescribed resources by either a catchment water management board as a part of its catchment water management plan, or where a board does not exist, by the relevant water resources planning committee. The relevant board or committee is required to identify both environmental water requirements and environmental water provisions, and provide for regular monitoring. Therefore, instead of issuing a water licence for environmental requirements (as in the case for consumptive uses), environmental water provisions will be formally recognised and protected through the legally binding provisions of water allocation plans. An adaptive management approach is built into the regular, community-based review of these plans. If the results of monitoring indicate that the resource is over-allocated to consumptive use, then this can be addressed through making appropriate adjustments to the water allocation plan via the review process.

7. Both the draft policies and the *Water Resources Act 1997* are consistent with the policy directions of ARMCANZ and ANZECC with respect to water allocations and water for the environment.

8. Any monitoring and investigations undertaken by agencies, catchment water management boards and water resources planning committees will be scientifically rigorous and underpin subsequent planning, including the determination of environmental water requirements and provisions.

9. Most of the river systems that are either over-allocated or stressed are already prescribed resources under the *Water Resources Act* 1997, for which water allocation plans are required to be prepared. As indicated previously, these plans must identify and make provision for environmental water needs.

10. There are several stressed river systems that are not prescribed but which are located in catchment water management board areas. Although water allocation plans are not required in these cases, these resources will be addressed in the relevant board's catchment water management plan. Among other things, catchment water management plans are required to assess environmental water needs, set out programs for monitoring river health, and set out methods for improving the health of water dependant ecosystems. In addition to setting out what management actions the board intends to implement, the plan may also provide for the control of a number of prescribed water affecting activities such as the construction of dams through a requirement for, and conditions on, permits. If the results of monitoring undertaken by the board indicate that closer management controls are deemed necessary, prescription of these and other resources is provided for under the *Water Resources Act 1997*. If a prescribed resource is located within a catchment water management board's area, it is subject to both the provisions of the required water allocation plan and also those of the wider catchment water management plan of which the water allocation plan becomes a part.

11. For water resources located outside of prescribed areas and catchment water management board areas, the *Water Resources Act 1997* allows the Minister and local councils to take action to protect these water resources through the preparation of local water management plans. While this is not a mandatory requirement on local councils, councils will be encouraged to prepare these plans. One council will be shortly commencing this process. Several other councils that cover adjacent catchments, are currently investigating how best to use this management option to deal with local water management issues.

12. The *Water Resources Act 1997* provides a number of mechanisms for protecting water resources irrespective of whether or not they are prescribed or located in a catchment water management board's area. For example, the Act provides the Minister with a number of powers to respond to emergency situations when the water resource is under threat from overuse. Under section 16 of the Act, the Minister may, in the case of inadequate supply or overuse of the resource, publish a notice in the Government Gazette to (a) prohibit (or restrict) the taking of water from a resource (whether prescribed or not), or (b) direct that dams, embankments or other structures be modified to allow water to pass over, under or through them, for a period of up to two years. Furthermore, under section 37 of the Act, the Minister may reduce water allocations stipulated on water licences:

    - to prevent a reduction, or further reduction, in water quality,
    - to prevent damage, or further damage, to dependent ecosystems,
    - because there is insufficient water to meet existing or expected future water demands, or
    - because there has been, or is to be, a reduction in the quantity of water available pursuant to the *Murray-Darling Basin Act 1993* or the *Groundwater (Border Agreement) Act 1985*.

    In these circumstances, and in the absence of an alternative scheme set out in the regulations, water allocations on licences must be reduced proportionately.

13. With respect to section 4(f) of the COAG strategic framework, the granting of any new water licences (including the component allocation) or the transfer of existing licences must be consistent with the provisions of the relevant water allocation plan, which as indicated previously must reflect the ESD requirements of the object of the Act and provide for environmental water needs. In addition to providing controls over consumptive water use, the *Water Resources Act 1997* makes provision for the control of a number of other water affecting activities such as the construction of dams and other structures that will collect or divert water. For water affecting activities prescribed in the Act, authorisation in the form of either a permit or a water licence is required. As indicated above, the relevant water plan (ie catchment water management plan or local water management plan prepared by the local council) may also identify water affecting activities and the circumstances under which they may or may not be undertaken. In either case, the granting of permits and water licences must be consistent with the provisions of the relevant water plan.

14. All diversions from the River Murray are fully licensed. Diversions from the River Murray for irrigation purposes have been licensed for some time. More recently, licences have been issued to the South Australian Water Corporation for the water diverted for urban water supply purposes in metropolitan Adelaide and country towns. These licences comply with the cap on diversions in the Murray-Darling Basin.

15. In the interests of integration and streamlining, permits are not required for a water affecting activity when that activity is authorised in certain circumstances under a number of other statutes including:

    - *Development Act 1993*

- *Environment Protection Act 1993*
- *Pastoral Land Management and Conservation Act 1989*
- *Soil Conservation and Land Care Act 1989*
- *Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986*
- *Native Vegetation Act 1991*, and
- *South Eastern Water Conservation and Drainage Act 1992*.

16. This streamlining of approvals, however, has been accompanied by consequential amendments to first four of these statutes, stipulating that applications required by these statutes must be referred to the relevant authority under the *Water Resources Act 1997* for direction or advice. This one-stop-shop approach will not apply to water licences which will continue be required under the *Water Resources Act 1997* irrespective of what authorisation has been granted under other legislation.

Further Actions Being Implemented or Proposed:

1. The water allocation plans for the State's prescribed resources must be prepared in accordance with an extensive community consultation process prescribed in the Act. The first round of water allocation plans under the *Water Resources Act 1997* are in different stages of preparation, but all are required by regulation to be completed by 1 July 2000. While these water allocation plans are being prepared, the water resources of all these regions are still subject to policy provisions of the management plans prepared under the previous *Water Resources Act 1990*. Under transitional arrangements, these management plans are deemed to be water allocation plans until replaced by the new plans under the 1997 Act. Although they are not as sophisticated as the plans being developed under the *Water Resources Act 1997*, particularly with respect to water for the environment, the existing management plans are still designed to protect the sustainability of the resource.
2. In addition to the introduction of new water resources legislation, several key policies are being developed, in particular:
   - an Environment Protection (Water Quality) Policy under the *Environment Protection Act 1993*, and
   - a state-wide water allocation policy for unregulated streams, a key component of which is the development of state-wide environmental flow principles.
3. The latter policy initiative, which is still in preparation, is being overseen by the South Australian Water Policy Committee, which is a high level, inter-agency committee established by Cabinet in 1996. It is proposed that these state-wide policy directions, once endorsed by the Government, would be included in the revised State Water Plan to provide a clear framework for community-based water resources plans required to be prepared under the *Water Resources Act 1997*.
4. In addition to the monitoring and investigations that catchment water management boards and water resources planning committees undertake, a number of other investigations are under way including:
   - investigations by the Lower Murray Flow Management Working Group and the Barrages Environmental Flows Scientific Panel;
   - monitoring and modelling work being undertaken as a part of AUSRIVAS (Australian Rivers Assessment Scheme) under the National River Health Program. At present

about 200 sites throughout the State are being monitored and this will increase to about 300 in 1999; and

- investigations on environmental flows and watercourse management requirements in a number of catchments under the Natural Heritage Trust program. Two of these investigations are nearing completion. These have been in seasonally flowing river systems that have had very little research to date within Australia. These investigations have identified quantitative environmental flows requirements for a number of ecosystem components. This information will be used in water allocation and catchment water management plans that are currently being developed.

5. These investigations complement a range of previous investigations and on-ground works. For example, trials to rehabilitate wetlands in the South East and along the River Murray, predominantly by manipulating the hydrologic regime, have been conducted by a range of organisations including the universities, government departments, non-government agencies and local government, either by themselves or in partnership with others.

6. A compendium of hydrological-ecological relationships for South Australian aquatic biota will be developed during this year. This information will be used to support the development of water allocation and catchment water management plans.

3.2 Trading in Water Entitlements

COAG Strategic Water Framework 1994, Sections 5(a), (b), (c) and (d)

5. In relation to trading in water allocations or entitlements:

(a) that water be used to maximise its contribution to national income and welfare, within the social, physical and ecological constraints of catchments,

(b) where it is not already the case, that trading arrangements in water allocations or entitlements be instituted once the entitlement arrangements have been settled. This should occur no later than 1998,

(c) where cross-border trading is possible, that the trading arrangements be consistent and facilitate cross-border sales where this is socially, physically and ecologically sustainable, and

(d) that individual jurisdictions would develop, where they do not already exist, the necessary institutional arrangements, from a natural resource management perspective, to facilitate trade in water, with the provision that in the Murray-Darling Basin, the Murray-Darling Basin Commission be satisfied as to the sustainability of proposed trading transactions;

Implementation of the Water Reforms in South Australia

Achievements to Date in South Australia:

1. South Australia has had arrangements in place for trade in water allocations since the early 1980s. The Water Resources Acts of 1976 and 1990 did not preclude intrastate and interstate trade, and in the absence of an explicit legal framework, policies facilitated trade more specifically during these early years. More recently, however, the current *Water Resources Act 1997* has clarified and made transparent the legal basis for water allocations and trading arrangements for both interstate and intrastate trade. This clarification and refinement will be extended to the policy framework for certain prescribed resources through the preparation of community-based water allocation plans.
2. Transferable water entitlements (both permanent and temporary) were formally introduced in 1983 for private diverters from the River Murray in South Australia and in 1984 for groundwater allocations in the Northern Adelaide Plains. Since then, trade has taken place in 7 other prescribed water resources (mainly groundwater resources) in the State. Although there are no legal or institutional impediments to trade in the remaining prescribed resources, trading will only commence in these areas when conditions in those areas are conducive to trade (eg the resource available for consumptive use is fully allocated).
3. As indicated previously, the context for the granting, review and transfer of licences is provided by the relevant water allocation plan which must be developed through an extensive community consultation process for each prescribed resource in the State.
4. The *Irrigation Act 1994* has been amended to facilitate trade by irrigation trusts on behalf of trust members. These amendments have removed significant barriers to trade and ensured that the water market works more effectively.

5. In June 1995, the Murray-Darling Basin Ministerial Council agreed to establish a cap on diversions from river systems in the Murray-Darling Basin. Arrangements for implementing the cap were finalised by the Murray-Darling Basin Ministerial Council in December 1996, taking into account the advice of the Independent Audit Group (IAG). The IAG has since reviewed the implementation of the cap for 1996-97 and 1997-98 in all basin states. In reporting its findings, the IAG indicated that South Australia is the best placed of all the states to quantify the cap and reliably report against the cap. The IAG also reported that both urban and irrigation consumption of Murray water in South Australia were within the cap. As a member of the Murray-Darling Basin Ministerial Council, the South Australian Government strongly supports the capping initiative.

Further Actions Being Implemented or Proposed:

1. South Australia is participating with other jurisdictions in a pilot program for interstate trade along the River Murray (the Mallee Project) with the aim of identifying the key constraints and opportunities. As indicated previously, the Mallee Project, which is being coordinated by the Murray-Darling Basin Commission, commenced on 1 January 1998. Agreement has recently been reached to expand the trial to include all pumped irrigation areas within the pilot trading zone in the trading regime.

3.3 Groundwater Pricing and Management

COAG Strategic Water Framework 1994, Section 3(e) - (i)

(e) groundwater

(i) that management arrangements relating to groundwater be considered by Agriculture and Resource Management Council of Australia and New Zealand (ARMCANZ) by early 1995 and advice from such considerations be provided to individual jurisdictions and the report be provided to COAG;

It is noted that Governments agreed that the 1994 Framework document would be revised to incorporate the ARMCANZ papers on Groundwater and on Stormwater/Wastewater and that this extended water reform framework would be known as the '1996 Framework for the Strategic Reform of Australia's Water Industry'. This outcome was recorded in the documents attached to the Prime Minister's letter to the Commonwealth Minister for Primary Industries and Energy dated 10 February 1997.

Implementation of the Water Reforms in South Australia

Achievements to Date in South Australia:

1. In December 1996, ARMCANZ released a policy position paper entitled, *Groundwater Allocation And Use - A National Framework For Improved Groundwater Management In Australia,* which took into account the report *Towards a National Groundwater Management Policy and Practice, October 1995*. The 1996 position paper identifies a number of key issues including consistency of pricing policies, consistency in defining sustainable yield especially in a climate of water trading, organisational arrangements which eliminate conflicts of interest, extension of the National Drilling Licensing System, education/research/investigation requirements, and assessment.
2. In 1997 in response to a proposal from the Task Force on COAG Water Reform, SCARM requested the National Groundwater Committee to provide advice and put a proposal to SCARM concerning monitoring and reporting on progress by States/Territories in implementing the recommendations of the 1996 policy position paper. The National Groundwater Committee has since prepared a draft paper on possible actions and a timetable to implement the recommendations of the 1996 policy position paper. Once endorsed by the Committee, the draft paper will be forwarded to SCARM for its consideration.

GROUP 4: ENVIRONMENT AND WATER QUALITY

4.1 Integrated Resource Management

COAG Strategic Water Framework 1994, Sections 6(a), (b) and 8(c):

6. In relation to institutional reform:

(a) that where they have not already done so, governments would develop administrative arrangements and decision-making processes to ensure an integrated approach to natural resource management,

(b) to the adoption, where this is not already practised, of an integrated catchment management approach to water resource management and set in place arrangements to consult with the representatives of local government and the wider community in individual catchments

8. In relation to the environment:

(c) to support consideration being given to establishment of landcare practices that protect areas of river which have a high environmental value or are sensitive for other reasons,

Implementation of the Water Reforms in South Australia

Achievements to Date in South Australia:

1. The South Australian Government is reviewing current institutional arrangements facilitating integrated natural resources management. The review is involving a comprehensive process of community participation.
2. South Australia will be developing integrated regional strategies across the State in partnership with the Commonwealth Government under the Natural Heritage Trust. Preparation of these strategies commenced in 1998 and have involved relevant stakeholders from the community, local government and state government. The process is being overseen by community-based regional organisations.
3. The Department for Environment, Heritage and Aboriginal Affairs has developed and implemented action plans for improved riparian zone management in four Mount Lofty Ranges catchments during 1994-97 using National Landcare Program funds. These projects are part of the Mount Lofty Ranges Catchment Program and have been conducted in partnership with rural community groups and the Torrens Catchment Water Management Board. The projects have used an innovative combination of survey work and community consultation. This has lead to a successful program of staged implementation of the on-ground actions that will improve water quality, control erosion, and provide improved riparian and aquatic ecosystem health. Three of the four catchments are critical for public water supply, namely the Torrens, Onkaparinga and the South Para catchments.
4. The Department conducted similar projects in two additional catchments, North Para and the Marne, during 1997-98 using funds from a local government-based Catchment Management Subsidy Scheme.
6. During 1998-2000 riparian zone management and environmental flows plans will be developed for a further four catchments, Wakefield, Broughton, Light and Gawler, using

Natural Heritage Trust funds.

6. In addition, officers from the Department for Environment, Heritage and Aboriginal Affairs and the Department of Primary Industries and Resources provide technical support to landcare groups and local government on riparian zone management issues.

7. In accordance with the requirements of the *Water Resources Act 1997* the Department for Environment, Heritage and Aboriginal Affairs is reviewing the State Water Plan.

4.2 National Water Quality Management Strategy

COAG Strategic Water Framework 1994, Section 8(b)

8. In relation to the environment:

(b) to support ARMCANZ and ANZECC in their development of the National Water Quality Management Strategy, through the adoption of a package of market-based and regulatory measures including the establishment of appropriate water quality monitoring and catchment management policies and community consultation and awareness

Implementation of the Water Reforms in South Australia

Achievements to Date in South Australia:

1. The SA Environment Protection Authority is currently preparing an Environment Protection (Water Quality) Policy under the *Environment Protection Act 1993 (South Australia)* and consistent with the national framework provided by the National Water Quality Management Strategy. This policy will apply to South Australia's inland (surface and ground), estuarine and marine waters.
2. The policy is needed to provide a consistent state-wide regulatory framework for protecting the water quality of all water bodies, and to ensure that all industries, irrespective of their scale of operation, operate under uniform conditions regarding water quality. The policy will seek not only to protect and improve the quality of the State's water bodies, but also to encourage better use of wastewater by waste avoidance or elimination, minimisation, reuse and recycling, waste treatment to reduce potential degrading impacts, and finally disposal.
3. Extensive community consultation on the policy's development is required under the *Environment Protection Act 1993*. Work is continuing on an Environment Protection (Water Quality) Policy under the *Environment Protection Act 1993*. The policy will apply to South Australia's inland, estuarine and marine waters. Drafting is nearing completion and it is currently anticipated that the policy will undergo public consultation at the end of June 1999.
4. Following water quality incidents in 1998, a meeting of high-level stakeholders was conducted on 17 September 1998 to discuss water catchment management strategies in South Australia. To facilitate the development of objectives and requirements for state-wide water monitoring, the State Water Monitoring Coordinating Sub-Committee was established. The State Water Monitoring Coordinating Sub-Committee has progressed water monitoring issues across the entire State with an initial focus on the Adelaide Hills, in particular the Onkaparinga catchment for trialing various methodologies.
5. The Sub-Committee has effectively established a methodology for developing state-wide monitoring programs by achieving significant progress in the following five areas:
    - establishing objectives for a State Water Monitoring Program;
    - clarifying roles and responsibilities of agencies involved in monitoring;
    - developing a Memorandum of Understanding between agencies, to be signed off at Chief Executive level;
    - establishing a data base and recording monitoring that is already occurring in the

catchment areas of the Onkaparinga Catchment Water Management Board; and

- developing a monitoring program for the Onkaparinga Catchment Water Management Board catchment area.

6. In addition, three key initiatives have resulted from water quality incidents in South Australia. These initiatives are:

   - better coordination across Government in relation to water quality incidents, with the development of a water quality incident coordinator and protocol involving three Ministers to be considered by Cabinet in the near future;
   - the re-establishment of the Water Policy Committee; and
   - the commissioning, and subsequent preparation, of a report by the Minister for Environment and Heritage entitled the State of the Health of the Mount Lofty Ranges Catchment.

4.3 Wastewater/Stormwater Management

COAG Strategic Water Framework 1994, Sections 8(a) and (d)

8. In relation to the environment:

(a) that ARMCANZ, ANZECC and the Ministerial Council for Planning, Housing and Local Government examine the management and ramifications of making greater use of wastewater in urban areas and strategies for handling stormwater, including its use, and report to the first Council of Australian Governments meeting in 1995 on progress,

(d) to request ARMCANZ and ANZECC, in their development of the National Water Quality Management Strategy, to undertake an early review of current approaches to town wastewater and sewage disposal to sensitive environments, noting that action is under way to reduce accessions to water courses from key centres on the Darling River system (it was noted that the National Water Quality Management Strategy is yet to be finalised and endorsed by governments).

Implementation of the Water Reforms in South Australia

Achievements to Date in South Australia:

1. The *Catchment Water Management Act 1995 (South Australia)* established catchment water management boards for the Torrens and Patawalonga catchments. Both boards are addressing major stormwater pollution problems through community-based management plans. The works and measures contained in the plans are funded through a catchment environment levy. This model has been incorporated into, and expanded upon, in the *Water Resources Act 1997* which repealed the *Catchment Water Management Act 1995*. Four additional catchment water management boards have since been established under the *Water Resources Act 1997* in the River Murray; South East; Northern Adelaide and Barossa; and Onkaparinga River catchments. Two additional boards for the Arid Areas and Eyre Region are currently being investigated.

2. A number of key initiatives are addressing the sustainable use of urban water, including stormwater. The *Spencer Region Strategic Water Management Plan* aims to optimise the contribution of local and imported water to the regional economy of the Spencer Region and has developed software to enhance planning of integrated water resource management. The *Water Sustainability in Urban Areas Project* investigated new technologies in urban planning and water infrastructure leading to an integrated supply of water from stormwater, groundwater, sewage effluent and conventional reticulation systems. This project focussed in the developing areas south of Adelaide.

4. In March 1999, the Department for Environment, Heritage and Aboriginal Affairs a report entitled *Use of Effluent and Urban Stormwater in South Australia 1998 – Total Water Cycle Management.* The report identifies trends in effluent (including urban run-off and roof run-off) *re*-use and scope to reduce or substitute second class water for potable water use. A report on *Integrated Water Management for Selected Rural Towns and Communities of South Australia* identifies, by example in specific towns, how a suite of water resources can be harnessed for appropriate uses, to provide a sustainable local water supply

Further Actions Being Implemented or Proposed:

1. The Bolivar-Virginia pipeline project, in the first instance, will result in the reuse by irrigation of up to 30 000 megalitres of sewage effluent (or approximately 35% of Adelaide's total effluent) from the Bolivar Wastewater Treatment Plant. With surface storage and/or aquifer storage and recovery, the amount reused would increase to 48 000 megalitres (or approximately 45% of Adelaide's total effluent).
2. The feasibility of using effluent from the Christies Beach Wastewater Treatment Plant for irrigation in the Willunga Basin was investigated, and in December 1997, the South Australian Government approved the terms and conditions of an agreement with a private consortium to take treated effluent from the treatment plant for irrigation purposes in the Willunga area. The scheme is being privately funded and constructed, operated and maintained at no cost to the Government. Implementation of the scheme was subject to it satisfying relevant planning and environmental requirements under a number of statutes including the *Development Act 1993*, *Environment Protection Act 1993* and the *Water Resources Act 1997*. Construction of the pipeline commenced in September 1998 and the planned date for the commissioning of Stage 1 of the scheme is 8 April 1999.

GROUP 5: PUBLIC CONSULTATION AND EDUCATION

5.1 Public Consultation

COAG Strategic Water Framework 1994, Sections 7(a) and (b):

7. In relation to consultation and public education:

(a) to the principle of public consultation by government agencies and service deliverers where change and/or new initiatives are contemplated involving water resources,

(b) that where public consultation processes are not already in train in relation to recommendations (3)(b), (3)(d), (4) and (5) in particular, such processes will be embarked upon,

Implementation of the Water Reforms in South Australia

Achievements to Date in South Australia:

1. Extensive community consultation and education program was undertaken as a part of the development of the *Water Resources Act 1997* which provides:
   - for the devolution of water resources management planning and implementation to catchment water management boards, water resources planning committees and local councils
   - for extensive community participation in the preparation of water plans under the Act - the State Water Plan, catchment water management plans, water allocation plans and local water management plans prepared by local councils, and
   - civil remedies and appeal rights in certain circumstances.
2. The *Water Resources Act 1997* also requires the Minister to:
   - compile, maintain and update information on the water resources of the State; and
   - keep a publicly available register of all water licences and permits granted under the Act.
3. The community participated in the preparation of catchment water management plans for the Torrens and Patawalonga catchments under the *Catchment Water Management Act 1995*.

Further Actions Being Implemented or Proposed:

1. As required under the *Water Resources Act 1997*, the preparation of water allocation plans for prescribed resources has commenced, and as a result of the extensive community participation requirements of the Act, these plans will take approximately 18 months to two years to complete. These participation programs by necessity include appropriate community awareness and education initiatives (eg newsletters, public meetings, displays) to ensure adequate community knowledge and understanding of key issues and how to get involved. Preparation of comprehensive catchment water management plans under the *Water Resources Act 1997* for the Torrens and Patawalonga catchments, River Murray, Onkaparinga River, South East, and Northern Adelaide and Barossa catchments is under way or planned.

2. In 1996-97, the Department for Environment, Heritage and Aboriginal Affairs commenced the development a new *State Water Archive* which will bring together information on the location, quantity, quality, use, allocation and management of the water resources of South Australia and the associated infrastructure. The purpose of the archive is to make water information more readily available and targeted to the information needs of the Government, its agencies, the private sector, community groups and members of the public. The information will add value to decision making processes in policy development, water and other planning, economic development, water resources management and performance monitoring. It will also assist with education initiatives and, with increased community awareness, and add to public commitment to and participation in water management initiatives.
3. The State Water Archive project involves the development of:
   - *water licence and permits register*, which will make information on these available to the public;
   - *water information directory*, which provides references to information held on water resources quantity, quality, use and management;
   - *water web-site* which provides the public with ready access on the internet to a broad range of information on water and it's management, including the State Water Plan; and
   - *water resources information database*, which will enable integration of water information from its various sources across the Department and other agencies.
4. The concept of the State Water Archive is being pursued in the context of the reorganised structure of the Department. This has brought about a consolidation of water environmental information systems under the Environment Protection Agency, which is leading to their rationalisation and enhancement.
5. Supplementary funding is being negotiated from the National Land and Water Resources Audit under the Natural Heritage Trust to upgrade information to be presented on the Audit's water availability and catchment health themes. This will enhance the capacity of the State Water Archive to make information available to the public on the state, condition, use and management of South Australia's water resources.
6. Appropriate community consultation programs are being implemented for a number of key water resources initiatives including the development of the state-wide Water Allocation Policy for Unregulated Streams, the development of the Environment Protection (Water Quality) Policy, and the review of the State Water Plan.

5.2 Public Education

COAG Strategic Water Framework 1994, Sections 7(c), (d) and (e)

7. In relation to consultation and public education:

(c) that jurisdictions individually and jointly develop public education programs in relation to water use and the need for, and benefits from, reform,

(d) that responsible water agencies work with education authorities to develop a more extensive range of resource materials on water resources for use in schools, and

(e) that water agencies should develop, individually and jointly, public education programs illustrating the cause and effect relationship between infrastructure performance, standards of service and related costs, with a view to promoting levels of service that represent the best value for money to the community.

Implementation of the Water Reforms in South Australia

Achievements to Date in South Australia:

1. There is a range of important initiatives undertaken by State Government agencies and community-based bodies, including catchment water management boards, to raise community awareness on sustainable water resources management and use. A good example of collaborative effort is National Water Week which is held in October each year. National Water Week involves State Government, Local Government, water industry bodies, catchment water management boards, small businesses, organisations, associations, schools, community groups and individuals hosting or participating in a range of activities which promote the wise use and management of this State's precious water resources.

   The 1998 National Water Week was launched in South Australia with a seminar entitled *'The Value of Water to South Australia'*. The value of national reforms was one of the key themes of the seminar.

2. The devolution of a range of water management responsibilities to catchment water management boards, as established under the *Water Resources Act 1997,* has significantly enhanced the level of community awareness and education in relation to the water and waste water as a valuable resource.

3. Another exciting initiative is *Watercare - A Curriculum Resource for Schools*. This is a three stage project being undertaken by the Department for Environment, Heritage and Aboriginal Affairs and the Department of Education, Training and Employment to develop curriculum material for Reception through to Year 12. Stages 1 and 2, which produced curriculum material for Reception to Year 5 and Years 6-10 respectively, have been completed.

   Stage 3 of *Watercare*, an educational Internet site, has been designed as an information resource for secondary school students to encourage research on the principles of the hydrogeologic cycle, and on innovative and sustainable water resources management practices. Watercare III provides South Australian case studies of best practice management of water resources in this State. It includes information on wetlands,

groundwater resources, aquifer storage and recovery, stormwater, wastewater and sewage effluent, irrigation, water supply infrastructure, and water quality and quantity.

Watercare III was developed to meet curriculum requirements of selected South Australian Certificate of Education (SACE) subjects with water related components. It is

intended that Watercare III will not only be used as a curriculum resource but will also become a community resource with broader scope to address other water related issues.

3. Waterwatch is a national community water quality monitoring network, which provides opportunities for everyone in the community to learn about water quality, the sustainable use of water and catchment health. In March 1997, there were more than 50 000 people participating in Waterwatch programs in over 100 catchments throughout Australia.

   Waterwatch South Australia, which commenced in 1994, is funded through the Commonwealth Government's Natural Heritage Trust in partnership with State Government funding, and community funding and in-kind support. For 1997-98, Waterwatch South Australia had an annual budget of some $1.2 million.

   This funding has allowed the Waterwatch Regional Programs to increase in number (currently 13 regional programs) and to reach more community groups and students in South Australia's key catchments. Through increased resources and the formation of strong partnerships between regional programs and catchment water management boards, participation in the water quality monitoring program and educational activities has doubled to more than 300 community and school groups, or 6 000 individuals across the State.

   Key achievements of the Waterwatch program from 1994 to 1998 include, participation in the annual national SNAPSHOT event; involvement in Create-a-Creek, Create-a-Critter and Create-a-Critter II; the production of the Waterwatch South Australia Manual, Strategic Plan 1998-2000 and Management Plan; participation in Environment Protection Agency's Frog Census and National Murder Under the Microscope Internet Activity; the production of Waterwatch newsletters and the Waterwatch Year Book 1997; involvement in the National Kids' Congress for Catchment Care; and South East Waterwatch representing Australia at the Children's International Groundwater Summit, held in Grand Island, Nebraska, United States of America.

4. SA Water's Environmental Improvement Program is an example of the Government's commitment to public education programs on the trade-off between levels of service and cost.

Reform	REGISTRATION CHARGES REFORM MODULE
Status	Implemented in South Australia prior to first tranche assessment.
Reform	DANGEROUS GOODS MODULE (as agreed by Ministers 4 November 1996 and 20 June 1997)
Status	Implemented in SA in 1998 by amendment to the Dangerous Substances Act and Regulations.
Reform	VEHICLE OPERATIONS MODULE - VEHICLE OPERATIONS - MASS AND LOADING REGULATIONS (as agreed by Ministers 12 September 1996)
Status	Implemented in SA for oversize/overmass vehicles by means of permit and gazette conditions in 1996. Most other vehicles voluntarily complied with the Restraint of Loads Guidelines. Compliance by all vehicles will become mandatory on the commencement of legislation passed by Parliament in March 1999, following promulgation of necessary regulations.
Reform	VEHICLE OPERATIONS MODULE - VEHICLE OPERATIONS - OVERSIZE/OVERMASS (as agreed by Ministers 16 April 1995)
Status	Reflected pre-existing South Australian law and practice. No changes required to adopt the reform. On 1 January 1999 South Australia became the first jurisdiction to make available higher mass limits on the terms being considered for introduction on 1 July 1999.
Reform	VEHICLE OPERATIONS MODULE - VEHICLE OPERATIONS - RESTRICTED ACCESS VEHICLES (as agreed by Ministers 29 September 1995)
Status	Largely reflects pre-existing South Australian law and practice. There is an upper limit on the permits which can be granted under this reform. South Australia has not implemented this measure, and is asking the NRTC to review the limit for consistency with Council of Australian Governments Principles and Guidelines on National Standard Setting, and the requirements of clause 5 of the Competition Principles Agreement.
Reform	VEHICLE OPERATIONS MODULE - HEAVY VEHICLE STANDARDS (as agreed by Ministers 10 May 1993 and amended 26 May 1997 - superseded by vote on Combined Vehicle Standards)
Status	1993 and 1997 standards partially implemented. In March 1999 Parliament passed amendments to the Road Traffic Act which will permit the making of regulations for the adoption of the full Combined Standards (replacing the earlier Heavy Vehicle Standards) as approved by Ministers in December 1998. It is anticipated that these will be in operation in mid-1999.

Reform	VEHICLE OPERATIONS MODULE - TRUCK DRIVING HOURS (as agreed by Ministers 8 December 1995 and 9 January 1998 - superseded by Combined Bus and Truck Driving Hours vote 15 January 1999)
Status	Legislation was introduced into the Parliament in March 1999 to repeal the Commercial Vehicles (Hours of Driving) Act and permit the making of regulations under the Road Traffic Act which will mirror the Combined Bus and Truck Driving Hours package approved by Ministers in January 1999, superseding this earlier reform. Some elements of the reform, including use of the national log book and Transitional Fatigue Management, were not inconsistent with pre-existing South Australian legislation and were implemented on 4 January 1999.
Reform	VEHICLE OPERATIONS MODULE - BUS DRIVING HOURS (as agreed by Ministers 11 November 1994 and 4 July 1995 - superseded by Combined Bus and Truck Driving Hours vote 15 January 1999)
Status	As for Truck Driving Hours

RELATED MEASURES FROM THE FIRST AND SECOND HEAVY VEHICLES PACKAGES:

Reform	COMMON MASS AND LOADING RULES (as agreed by Ministers 12 September 1996)
Status	Significant implementation in advance of changes to legislation - see Mass and Loading, above.
Reform	IMPROVED NETWORK ACCESS (part of Oversize/Overmass and Restricted Access Vehicle Regulations)
Status	Implemented when first agreed, since no change to legislation was required.
Reform	COMMON ROADWORTHINESS STANDARDS (as agreed by Ministers 26 October 1994)
Status	Implemented for oversize and overmass vehicles, but could not be implemented more broadly prior to changes to the Road Traffic Act. This was delayed until Ministers approved the Combined Standards in December 1998.
Reform	ENHANCED SAFE CARRIAGE AND RESTRAINT OF LOADS (as agreed by Ministers 7 October 1994)
Status	Implemented by exception and custom. Full legislative implementation will occur upon the promulgation of regulations to be made under amendments to the Road Traffic Act passed by Parliament in March 1999.
Reform	ADOPTION OF NATIONAL BUS DRIVING HOURS (as agreed by Ministers 11 November 1994 - superseded by Combined Bus and Truck Driving Hours agreed by Ministers 15 January 1999)
Status	As for Truck Driving Hours above.

Reform	HEAVY VEHICLE REGISTRATION MODULE - NATIONAL HEAVY VEHICLE REGISTRATION SCHEME (as agreed by Ministers 9 October 1996)
Status	Substantially implemented by amendments to the Motor Vehicles Act and Regulations during 1997 and 1998. Necessary amendments for final elements of the reform, including changes to definitions of key terms, are contained in a Bill introduced to the Parliament in March 1999.

RELATED MEASURES FROM THE FIRST AND SECOND HEAVY VEHICLES PACKAGES:

Reform	COMMON PRE-REGISTRATION STANDARDS FOR HEAVY VEHICLES (as agreed by Ministers 14 October 1994)
Status	Implemented
Reform	SHORT TERM REGISTRATION (as agreed by Ministers 14 February 1997)
Status	Implemented
Reform	DRIVER LICENSING MODULE - NATIONAL DRIVER LICENSING SCHEME (as agreed by Ministers in the form of drafting instructions on 15 December 1997)
Status	Some elements introduced by amendments to the Motor Vehicles Act and Regulations during 1998. Most parts of the reform are contained in a Bill introduced into Parliament in March 1999.

RELATED MEASURES FROM THE FIRST AND SECOND HEAVY VEHICLES PACKAGES:

Reform	ONE DRIVER/ONE LICENCE (as agreed by Ministers 14 October 1994)
Status	Implemented
Reform	INTERSTATE CONVERSIONS OF DRIVER LICENCES (as agreed by Ministers 14 October 1994)
Status	Implemented
Reform	DRIVER OFFENCES/LICENCE STATUS (as agreed by Ministers 14 February 1997)
Status	Implemented
Reform	NEVDIS (NATIONAL EXCHANGE OF VEHICLE AND DRIVER INFORMATION SYSTEM) - STAGE 1 (as agreed by Ministers 7 June 1996)
Status	This computer system is related to both the Registration and the Licensing modules. South Australia has agreed to implement the NEVDIS package, as required for the first stage of the reform. At this stage it is anticipated that licensing matters will be fully incorporated into NEVDIS by January 2000 and registration matters by June 2000. It has become clear that a major upgrade to the South Australian DRIVERS system (the basis of the registration and licensing function) will be required to support the adoption of many future reforms. Budget provision has been made for this upgrade.

Reform	COMPLIANCE AND ENFORCEMENT MODULE
Status	This module is yet to be developed and approved by Ministers.

RELATED MEASURES FROM THE FIRST AND SECOND HEAVY VEHICLES PACKAGES:

Reform	ALTERNATIVE COMPLIANCE (as approved in principle by Ministers on 25 November 1994)
Status	South Australia endorsed this reform in principle, as required under the package. Some alternative compliance and accreditation schemes, consistent with nationally developed and trialed schemes, have been adopted in South Australia in the areas of mass, maintenance and fatigue management.