National Competition Policy

Report for the 2003 Assessment on Victoria's Implementation of National Competition Policy

March 2003

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Part A: Overview

1. Introduction

This report sets out how the Victorian Government has met its National Competition Policy (NCP) commitments in the past year. It will allow assessment by the National Competition Council (NCC) of Victoria's progress and achievements. The report demonstrates that Victoria has fully complied with its commitments. As a consequence the NCC will be able to recommend payment of the full entitlement of the competition payments for 2003–04.

The first part of the report details the achievements of the Victorian Government in meeting its NCP commitments in the past year. It follows the format of the NCC's Framework for Assessment. It addresses issues raised by the NCC in that framework and provides updates of government actions taken during the past year.

Given that Victoria has already met and reported on the majority of its NCP commitments in previous years, this years report has omitted reporting on areas where all reforms have already been put in place and full reports have already been made to the NCC. In particular, this year's report does not include chapters on retail regulation, education and childcare. All chapters relating to transport regulation and reform (except taxis, hire cars and tow trucks) have also been amalgamated into a single chapter.

The second part of the report covers legislation reviews and the application of competitive neutrality to over 100 public trading enterprises and business units.

Major achievements

Although Victoria has already undertaken the vast majority of its NCP commitments there were a number of further significant gains achieved in the past year. These gains were concentrated in the areas of water reform, Full Retail Contestability (FRC) into the gas market, electricity, taxis and hire cars, and consolidation of the Essential Services Commission (ESC). There were also a number of 'mopping up' activities in other areas.

The continuing emphasis placed by the Victorian Government on water reform this year deserves particular comment. Victoria has maintained the momentum for water reform and even made some very noteworthy gains in the past year despite suffering the worst drought in many years in rural Victoria and the continuation of seven years of drought in metropolitan Melbourne. In some circumstances, the drought has constrained the speed with which reforms can be progressed in certain areas and this is noted in the report where appropriate.

The major reforms and activities are summarised below in the order they appear in the report.

ESC

The ESC oversaw the introduction of Full Retail Contestability (FRC) to Victoria's energy consumers:

- On 13 January 2002 FRC was extended to Victoria's two million residential and small business electricity customers.
- In October 2002, FRC was extended to domestic small business gas customers in Victoria.

The ESC has recently approved each of the distributors' revised Access Arrangements, which provides for the terms and conditions for third party users to gain access for the services offered by each of the three distributors for the five-year period commencing 1 January 2003.

In June 2002, the ESC approved port and channel charges for 200203, resulting in a reduction in real terms in the charges imposed on customers for regulated services provided by the Melbourne Port Corporation and the Victorian Channels Authority.

Competitive neutrality

The Competitive Neutrality Unit (CNU) completed eight complaint investigations in 2002 that included six in relation to services provided by Victorian Local Government and two against Victorian departments or public trading enterprises.

All Victorian Councils have been found to be compliant with Competitive Neutrality (CN) policy and under Victorian policy are eligible for a share of the Victorian Government's competition payments.

Water

The Victorian Government has made further major advances in water reform since last year's assessment.

Water for the Future

The Government's Water for the Future policy, which sets out a comprehensive ten-year plan to ensure the long-term sustainability and security of Victoria's water resources, was released in November 2002. In this policy, the Government committed to:

- the establishment of a $320 million Victorian Water Trust to provide a long-term, stable funding source for investment in water resource management (including an additional $16 million over four years in improving river health)

- clear targets for improving river health in line with the Victorian River Health Strategy, water efficiencies in irrigation, water conservation in Melbourne and increased water recycling

- initiating a number of significant infrastructure projects to achieve these targets.

The plan also sets the following clear targets for water management across the whole State:

- a 25 per cent increase in the efficiency of irrigation systems across the State by 2020 through piping open channel systems and other technology improvements

- a 15 per cent reduction in Melbourne's water use by 2010. This represents a cut of 29 000 mega litres per year against current projections

- delivery of significant improvements in the ecological health of Victoria's rivers by 2010 through increasing environmental flows and undertaking riverbank and other catchment management works

- a 20 per cent increase in water recycling in Melbourne by 2010.

Water trading

The high level of water trading activity in Victoria continues to play an important role in agricultural production. Water trading is seen as a crucial tool to facilitate better allocation of existing water resources.

There were two significant developments in relation to water trading in 2002. The *Value of Water: A Guide to Water Trading in Victoria* was released in July, and the new statewide water trading exchange, Watermove, began trading in August.

The Value of Water sets out, among other issues, the rules governing the movement of water entitlements to a new location, legal and regulatory requirements and mechanisms for avoiding adverse environmental impacts. It also considers the next stage in developing the market in Victoria, such as the possible introduction of leasing arrangements.

Watermove has been set up to facilitate water trading by establishing a fair, transparent process that will provide market information for people seeking to trade water. Its major objectives are to extend markets and to provide information and education.

Forestry

In February 2002 the Bracks Government released the *Our Forests Our Future* statement that incorporated the work of the Timber Pricing Review. The Statement included commitments to the ongoing implementation of the Licence Renewal Project and, with the planned establishment of VicForests, the further separation of commercial from regulatory functions.

Work is presently being undertaken to determine the most appropriate form and means for establishment of VicForests, including the incorporation of performance monitoring arrangements and community service obligations. The Government's commitment to implementing these reforms was reaffirmed in the recent Forests and National Parks policy statement.

Fisheries

The Government response to the review of the *Fisheries Act 1995* was released in December 2001. These recommendations continue to be implemented through the development of the Fisheries Management Plan, scheduled legislative amendments and the commencement of the Bay and Inlets Management Process.

Mining and petroleum

The *Mineral Resources Development Act 1990* has been reviewed. The Government accepted most recommendations of the review, which were implemented by amendments to the Act in Spring 2000. These amendments are expected to be completed by 2003. The amendments resulted in the development of Ministerial guidelines for the application of fit and proper person provisions.

The review of the *Extractive Industries Development Act 1995* was completed in 2002. The Government response will be completed in 2003.

A national review of the *Petroleum (Submerged Lands) Act 1982* was conducted and the review report and response were released in 2001. It is proposed that the Victorian Government will amend *the Petroleum (Submerged Lands) Act 1982 (Victoria)* to mirror Federal amendments made as a result, by 2004.

A review of the *Pipelines Act 1967* and the Government response was completed in 2002. No major restrictions on competition were identified. The Act is now under a complete review that will develop a regulatory framework contemporary with other forms of infrastructure. Recommendations from the NCP review of the *Pipelines Act* will be taken into account as the draft legislation develops. It is expected that the new Act will be in operation by 2005.

Electricity

Victoria participated in the Council of Australian Governments (COAG) Energy Market Review and the National Electricity Market (NEM) Ministers Forum in 2002. By June 2003, NEM Ministers intend to release a statement on the policy framework and future directions for the transmission network.

Victoria has met the structural reform objectives guiding the establishment of the NEM.

Victoria still has some (transitional) derogations from the National Electricity Code relating to FRC implementation which were granted in August 2001. Amendments to existing derogations relating to transmission regulation were granted interim approval by the ACCC in December 2002. One such derogation involves the *Electricity Industry Act 2000*, which is consistent with NCP principles. The derogation allows a safety net which ensures customers are protected during this transition period. Local retailers are required to publish their price and service offers to all domestic and small business customers. The published terms and conditions are subject to oversight by the ESC, and the Government may refer published tariffs to the Commission for investigation. The safety net provisions are transitional and will expire on 31 December 2003. On the advice of the ESC that competition is not yet fully effective, the Government has made a public commitment to extend the safety net to 31 December 2004. The legislative changes are expected during the Autumn Session of Parliament.

Victoria has led the reform process to implement FRC. All residential and small business customers in Victoria have been able to choose their electricity retailer since 13 January 2002. Around 6 per cent of the 2.2 million residential and small business electricity consumers changed retailers in the first year since the market opened. This is one of the highest first year take-ups compared with international experience in FRC.

Victoria has facilitated and overseen the 400 megawatt SNOVIC upgrade, and provided planning approvals for the Basslink interconnector. Basslink will be capable of supplying up to 600 megawatts to Victoria during peak conditions and enable Tasmania to become a member of the NEM.

Gas

The NCC indicated in its August 2002 assessment that the key outstanding gas reform for Victoria was the implementation of FRC. FRC was introduced for gas on 1 October 2002.

Other transport

The Government has appointed a receiver for V/Line Passenger, M>Tram and M>Train, after National Express withdrew from their Victorian operations. Investigation of the options for future management of these franchises has commenced.

The Review of Port Reform in Victoria has resulted in the Government adopting 22 key actions to improve the effectiveness and efficiency of the ports.

Agriculture

The *Wheat Marketing Act 1989* has been repealed.

The Victorian Government proposes to implement the joint response to the review of the *Murray Valley Citrus Marketing Act 1989* by reconstituting the Board under the *Agricultural Industry Development Act 1990* (AIDA) with extraterritorial operation in the New South Wales production area.

The National response to the review of Australia's agricultural and veterinary (AgVet) chemicals legislation, which Victoria has accepted, does not adopt two recommendations, concerning efficacy in labelling and the removal of the requirement for licensing of agricultural chemical manufacturers.

Taxis and hire cars

The taxi and hire car reforms, announced by the Victorian Government in May 2002, constitute the most substantial reforms of the Victorian taxi and hire car industry in 15 years. These reforms:

- will result in a 46 per cent cumulative increase (at a minimum) in the number of taxi licences over the next twelve years. This is significantly higher than the estimated increase in the population over this period
- remove the public interest test on market entry for the hire car industry, and broaden the nature of the vehicles that can qualify as hire cars
- empower the ESC to review the value of hire car licences after two years
- introduce performance monitoring of taxi services, with additional 24-hour licences to be issued if performance does not meet standards
- increase the transparency of taxi fare determination, with the ESC to provide an independent and public evaluation of proposals to change fares
- establish a securities exchange to manage the market for taxi licence assignments and licence transfers.

Implementation of the reform measures for the tow truck industry has commenced. Following announcement by the Government of the reforms, implementation has proceeded with legislation being enacted in the Autumn 2002 Session of Parliament. The Implementation Working Party is overseeing implementation of those reforms that do not require legislation.

Health and pharmaceutical services

The final report of the NCP review of the *Pharmacy Act* was released in February 2000. Victoria released a discussion paper in August 2002 addressing the implications of implementing the National review recommendations and submissions have been received.

The report considered legislative restrictions on the ownership and operation of community pharmacies as well as registration of pharmacists across all jurisdictions. A formal COAG Senior Officials Working Group response to the National review was released in August 2002. Reviews and reforms of the eight core health profession acts have been completed.

Other professional occupational and business licensing

Victoria has implemented recommendations from the Vocational Education, Employment and Training Committee (VEETAC) National Working Party, May 1993, in relation to deregulation of some partially registered occupations. Where recommendations had not been fully addressed, the relevant legislation was included in the National Competition Policy (NCP) legislation review timetable in 1996.

Fair trading and consumer legislation

Victoria has met its commitments in relation to fair trading.

The report on the national review of Consumer Credit Code legislation was released for comment, after which the Ministerial Council on Consumer Affairs accepted its recommendations.

A scoping study into the national scheme for uniform trade measurement legislation has been completed and the interstate review committee oversighting the review has prepared its response to the scoping paper. A draft Public Benefit Test (PBT) report on the restriction on the sale of non-prepacked meat has been completed. The scoping paper and the PBT report are currently being circulated for public comment. Victoria has been meeting its requirements for the review and is currently awaiting the completion of the national process before it can implement any reforms.

Workers' compensation, transport accident compensation and legal services

Reviews of workers' compensation arrangements and transport accident compensation arrangements were released in February 2001. The reviews found that the WorkCover and transport accident compensation schemes have features of a welfare scheme that are uncommon in insurance products, including the competitive products offered in other States. These features entail a significant public interest.

The Government's responses accepted the recommendations to retain the single manager for each scheme. In response to a recommendation for independent reviews of WorkCover and transport accident compensation schemes' proposed premiums, amendments to the *Essential Services Commission Act 2001* were made in 2002 so that the ESC could advise on proposed premiums.

Similarly, in a response released in November 2000, the Government accepted the recommendation of the 1998 Legal Practice Board report that the monopoly scheme be retained on the basis that existing arrangements yielded a net benefit to the community. Following public consultations, a Supplementary report on Professional Indemnity Insurance for Solicitors in Victoria was prepared and provided to the NCC in June 2001. This report confirmed the Government's decision to retain the monopoly arrangement.

Retail

Following completion of the March 2000 review of liquor licensing and extensive consultation with industry, in January 2001 the Government announced a phase-out of the 8 per cent cap on packaged liquor licences from the end of 2003. An earlier phase-out would be subject to agreement between the Government and the industry.

Following the announcement, discussions between the Government and the industry commenced on developing new arrangements for the packaged liquor industry. In May 2002, the Government announced that agreement on new arrangements had been reached.

A key element of the agreement was the introduction of legislation that led to the commencement of the phase out of the 8 per cent rule from June 2002.

Gaming

The Victorian Government has made considerable progress in reforming gambling legislation and regulations to ensure they are consistent with the public interest. Legislative reform of the *Public Lotteries Act 2000* has provided scope for competition following the expiry of the current sole licence arrangements in 2004. In accordance with the legislation, the Government entered into negotiations with Tattersall's regarding 2004–07 license arrangements in 2002. Implementation of reforms to other gaming legislation has continued, and has included further amendment of gaming legislation through the *Gaming Machine Control (Amendment) Act 2002*, which makes a series of regulatory changes that will streamline regulatory processes and introduce further responsible gaming measures, and the amendment of racing and betting legislation to support more competitive practices in that industry.

Planning, construction and development

The review of the *Planning and Environment Act 1987* found that the main restrictions in planning legislation were in the public interest.

The community derived a net benefit from restrictive provisions in the Architects Act.

The entry barrier to the profession identified in the review of the *Surveyors Act 1978* provided a net benefit to the community.

Machinery of government: changes to departments

In December 2002 the Victorian Government announced a restructure of Government departments designed to deliver further improvements in the key areas of health, education, community safety and the environment. The former Department of Natural Resources and Environment (DNRE) was divided to create the new Department of Primary Industries—providing support to agriculture and fisheries, petroleum, minerals, energy and forestry industries—and the new Department of Sustainability and Environment, which assumed the environmental functions of the former DNRE, the planning functions of the Department of Infrastructure. A third new body, the Department of Victorian Communities, was created and assumed a range of portfolios central to building and maintaining strong communities. These changes were published in the Victorian Government Gazette on 5 December 2002. Earlier in 2002 the Commonwealth Games portfolio was removed from the former Department of State and Regional Development, creating the new Department of Innovation, Industry and Regional Development.

2. Assessment issues from 2002

This chapter provides a listing of assessment issues that have been raised by the NCC since Victoria's last progress report. A summary of action taken to address each issue, as well as the chapter(s) in this report where the issue is addressed in more detail, are provided. The order of the issues raised in this discussion follows that used by the NCC in its assessment framework.

Electricity, gas and petroleum

Assessment issue	Action
Derogations from the national electricity code	In general, derogations are only used as a last resort. Victoria retains a very few derogations relating to transition to FRC and to reflect Victoria's unique separation of ownership and planning of the high voltage transmission network. See Chapter 8.
National transmission grid connection	As well as participating in the NEM Ministers' Forum Review of national transmission Grid Interconnection, Victoria oversaw the 400MW SNOVIC upgrade and approved the 600MW Basslink transmission interconnection project. See Chapter 8.
Institutional arrangements	Victoria has been active in working towards further reforms of institutional arrangements for the NEM, participating in the Parer Energy review and the COAG Ministerial Council on Energy.
Parer review and National Energy Market Minister's forum	There will not be a formal Victorian Government response to the review. Victoria will contribute to the development of a report to COAG in mid 2003 by the Ministerial Council on Energy on energy reform, which will incorporate a response to the Energy Market Review.
Gas FRC	Victoria introduced FRC for gas on 1 October 2002.
Quality standards for natural gas	Victoria has implemented the new AS4564/AG864 quality standard for general-purpose natural gas.
Pipelines Act 1967	The Government released its response to the review of the *Pipelines Act 19*67 in July 2002. The government accepted the vast majority of the review's recommendations with the exception of a few that had been superseded, were impractical or would have put it in conflict with the National Third Party Access Code. Details of the Government response are provided in Part F. The Government is progressing with implementation of the accepted recommendations.
Petroleum (Submerged Lands) Act 1982	The Government released its response to this review in March 2001. A number of the recommendations will require no legislative change. For those recommendations requiring legislative change the Commonwealth has enacted the *Petroleum (Submerged Lands) Act 2002 (Commonwealth)* and it is proposed that the Victorian Government will amend the *Petroleum (Submerged Lands) Act 1982 (Victoria)* to mirror the Commonwealth amendments by 2004. See Chapter 7.

Primary industries

Assessment issue	Action
Agriculture and Veterinary Chemicals (Victoria) Act 1994 and Agriculture and Veterinary Chemicals (Control of Use) Act 1992	Victoria has accepted the national response to the review of these Acts. Although Victoria has been consulted regarding changes to Commonwealth legislation, it is not directly involved in the implementation of the changes addressing licensing of agricultural chemical manufacturers, regulation of low risk chemicals, contestability of chemical assessment services, and compensation for third party access to chemical assessment data. Victoria believes there are strong public interest reasons for retaining the efficacy provisions. These reasons are set out in detail in Chapter 11. A nationally consistent aerial spraying licensing system is currently being progressed. The insurance policy issues raised by the NCC will be addressed as part of this process.
Fisheries Act 1995	The Bays and Inlet Management Planning process will begin in June 2003. See Chapter 6.
Food Act 1984, Meat Industry Act 1993	The Government accepted all of the recommendations of the review of the Food Act. The Government accepted all but one recommendation of the review of the *Meat Industry Act* (that exception related to provisions for Ministerial directions). The public interest reasons given in the review for retaining some restrictions are detailed in Part F.
Veterinary Practice Act 1997	The Government is satisfied that the veterinary registration board structure and membership is appropriate and serves the public interest. The Act, enacted in 1998, follows a legislative model upon which the regulation of the conduct of all health professionals including doctors, dentists and nurses is based in Victoria. A full discussion of this issue is presented in Chapter 11.
Extractive Industries Development Act 1995	The review of the Extractive Industries Act was completed in 2002. The Government is considering its response to the review.
Forest Act 1958	The Government is considering its response to the review of the Forests Act but note that many reforms have already been implemented in this area. Details are provided in Chapter 6.
Competitive neutrality implementation of VicForests	Work is currently being undertaken to determine the most appropriate form and means for establishment of VicForests.

Transport

Assessment issue	Action
Transport Act 1983 (Taxis)	Annual releases of new licences have begun in Victoria. These new licence issues will outpace population and demand growth and will ease supply constraints. The Government is committed to monitoring and reviewing the situation so that it may be continually improved. The Government has announced its commitment to continuing the reform package and has also implemented reforms to the hire car market. See Chapter 12.
Dangerous Goods Act 1985 (s.15)	The measures in the current legislation and regulations reflect the National Standard for the Storage and Handling of Workplace Dangerous Goods.
Transport (Tow truck) Act 1983 and Transport (Tow Truck) Regulations 1994	Implementation of the reform measures for the tow truck industry has commenced. Legislation was enacted in 2002 and the Implementation Working Party is overseeing implementation of non-legislative reforms. See Chapter 12.

Health and pharmaceuticals

Assessment issue	Action
Drugs, Poisons and Controlled Substances Act 1981	Victoria continues to await the report of the Australian Health Ministers' Advisory Council Working Party report on this Act. See Chapter 13.
Pharmacists Act 1974	The COAG Senior Officials Working Group's response to the review of this Act was released in 2002. Victoria has now prepared a discussion paper, met with key stakeholders, has analysed submissions to the discussion paper, and is now preparing policy advice as a basis for drafting new legislation. See Chapter 13.

Legal Services

Assessment issue	Action
Legal and Other Professions and Occupations	A detailed response to the questions posed by the NCC regarding the *Legal Practitioners Act 1996* is provided in Chapter 14.

Other professional: occupational and business licensing

Assessment issue	Action
Private Agents Act 1966	Departmental review and consultation on this review is ongoing.
Estate Agents Act 1980	Legislative amendments (Estate Agents and Sale of Lands Acts (Amendments) Bill) addressing the recommendations of the Review were introduced into Parliament in Spring 2002. The Bill lapsed with the calling of the Victorian election in November 2002. See Chapter 15.

Finance, insurance and superannuation services

Assessment issue	Action
Compulsory third party and workers compensation insurance legislation: monopoly provision of insurance	Chapter 17 contains detailed discussion of issues raised by the NCC.

Social regulation: education, child care and gambling

Assessment issue	Action
Club Keno Act 1993	The Club Keno legislation will be additionally reviewed as part of the review of the post-2012 electronic gaming machine industry structure, which is to commence in the current term of government. See chapter 19 for details.
Gambling and Betting Act 1994 as it relates to betting *Racing Act 1958* *Lotteries Gaming and Betting Act 1966* Casino Control Act, Part 5A *Gaming Machine Control Act 1991* *Gaming and Betting Act 1994* as it relates to a gaming operator's licence and relevant regulation	The Government has made further progress in this area: implementing a phased reduction of minimum telephone bet limits; passing legislation in 2002 to implement reform of legislation governing operating structures and trading hours. Details of recent progress are provided in Chapter 19. The Government has continued implementation of reforms arising from the Gaming Machine Control Act review. Details are provided in Chapter 19

Planning, construction and development services

Assessment issue	Action
Planning and Environment Act 1987	The Government is considering its response to this review.
Building Act 1993	The Government is considering its response to this review.
Architects Act 1991	The Government is considering its response to this review.
Surveyors Act 1978	The Government has released its response to this review. Details are provided in Part F.

Competitive neutrality

Assessment issue	Action
Competitive neutrality complaints	The CNU completed eight complaint investigations in 2002 that included six in relation to services provided by Victorian Local Government and two against Victorian departments or public trading enterprises. All Victorian Councils have been found to be compliant with CN Policy and under Victorian policy are eligible for a share of the Victorian Government's competition policy payments.
Implementation of competitive neutrality principles	A discussion of the rate of return on capital with regard to the Commonwealth Bond rate is provided in the section on the Melbourne Ports Corporation and Victorian Channels Authority in Chapter 10.

Water

The issues raised by the NCC regarding water reform are complex and important. The Victorian Government, its water authorities and Victorian communities have expended a great deal of time, effort and financial resources on water reform. A summary of the reforms and responses to the NCC's questions would be almost as long as the full description. The discussion is therefore left to its entire description in Chapter 5.

Part B:
Report on the elements of policy

3. ESC and infrastructure reform

- On 1 January 2002, the Essential Services Commission (ESC) became the economic regulator of Victoria's utility services.
- Establishment of the ESC is consistent with the National Competition Policy (NCP) commitment to independent economic regulation.
- This chapter provides a summary of key reviews / determinations over the past year and includes details on the ESC and related reforms and the challenges in the year ahead.

Establishment of the Essential Services Commission

The Essential Services Commission (ESC) was established on 1 January 2002 as Victoria's independent economic regulator of certain essential infrastructure services under the *Essential Services Commission Act 2001*. It subsumes the former Office of the Regulator-General (ORG) that had operated as the economic regulator of regulated utility industries in Victoria since 1994.

The ESC is responsible for economic regulation in relation to electricity and gas distribution, certain ports and grain handling services and rail access. It also has an enhanced role in relation to reliability of supply, including a capacity to conduct investigations into reliability of supply issues. Final arrangements to introduce independent economic regulation of the Victorian water industry by the ESC have been considered by Government. As the November 2002 State election precluded implementation of these arrangements on 1 January 2003 as originally proposed, the Government is giving consideration to a revised timeframe for implementation.

Over the past year, the transition to the ESC with its new functions and institutional arrangements has presented an important challenge, in addition to maintaining the delivery of regulatory outcomes in Victorian essential utility services.

The establishment of the ESC represents an important evolution in the regulatory framework for utility industries in Victoria. It builds on the strengths developed by the independent regulatory framework of the ORG and has provided substantive improvements, such as the establishment of a Chairperson and additional Commissioners. It also has a greater focus on achieving triple-bottom line outcomes through more effective integration of economic regulation with broader environmental and social objectives. The regulatory framework of the ESC now provides greater incentives for achieving optimal long-term investment in infrastructure. There is a requirement for Memoranda of Understanding to be developed and published between the ESC and other specialist regulators and for a charter of consultation and regulatory practice to be established. Enhanced accountability and transparency of regulatory decision-making are also key features of the ESC.

The primary objective of the ESC is to protect the long-term interests of Victorian consumers with regard to price, quality and reliability of essential services. In addition, it has a number of facilitating objectives, which include:

- to facilitate efficiency in regulated industries and the incentive for efficient long-term investment
- to facilitate the financial viability of regulated industries
- to ensure that the misuse of monopoly or non-transitory market power is prevented
- to facilitate effective competition and promote competitive market conduct
- to ensure that regulatory decision-making has regard to the relevant health, safety, environmental and social legislation applying to the regulated industry
- to ensure that users and consumers (including low-income or vulnerable customers) benefit from the gains from competition and efficiency
- to promote consistency in regulation between States and on a national basis.

The functions of the ESC include:

- performing such functions as are conferred on the Commission by the *Essential Services Commission Act 2001* and relevant industry specific legislation
- advising the Government on matters relating to economic regulation, including reliability issues and advise as to whether an industry which provides an essential service should become a regulated industry or whether a regulated industry should continue to be a regulated industry
- conducting public education programs to promote its objectives under the Act and other relevant legislation and in relation to significant changes in the regulation of a regulated industry.

The specific role of the Commission varies from industry to industry in accordance with the regulatory arrangements that apply to each of the regulated industries. The industry specific legislation includes the following:

- the *Electricity Industry Act 2000*
- the *Gas Industry Act 2001*
- the *Water Industry Act 1994*
- the *Rail Corporations Act 1996*
- the *Port Services Act 1995*
- the *Grain Handling and Storage Act 1995*.

For example, the most extensive role of consumer protection exists for the electricity and gas industries, while in the regulated rail industry the Commission's powers are limited to resolving disputes as to the terms of access to relevant infrastructure by third parties or prospective wholesale users.

New developments

Consumer advocacy

The Government has introduced new and improved arrangements for customer advocacy and participation in the decision-making process of the ESC, through the establishment of the Consumer Utilities Advocacy Centre (CUAC).

The CUAC was established in response to concerns that consumer groups did not have the resources to promote informed and effective representation, particularly in relation to regulatory issues affecting essential services such as gas, electricity and water. The Government believes that well informed and effective consumer advocates are important to ensure that consumers, especially those who are disadvantaged, get the best deal from their utilities, particularly in the newly competitive retail environment.

The CUAC provides an interface between consumers and the Commission and other regulators. In this way, the CUAC will ensure the voice and views of consumers are taken into account in regulatory decision-making.

The CUAC commenced operations in February 2002.

Water

Final arrangements to introduce independent economic regulation of the Victorian water industry by the ESC have been considered by the Government. As the November 2002 State election precluded implementation of these arrangements on 1 January 2003 as originally proposed, the Government is giving consideration to a revised timeframe for implementation.

Transport

Under recent amendments to the *Transport Act 1983*, the ESC has adopted the access regulatory functions to make recommendations on proposed taxi fares, tow truck charges and hire car licenses. Under these arrangements the Minister for Transport must refer fee proposals to the ESC before making a final decision.

Amendments were also made to the *Rail Corporations Act 1996* to improve the rail access regime in accordance with NCP. These amendments apply to all rail arbitrations that commenced after 21 May 2002.

Insurance

The Government has announced that the ESC will have a role in monitoring and providing advice to the Government on matters relating to the operations of certain statutory insurers in Victoria. In particular, the ESC would provide independent third party advice to the Minister for WorkCover on WorkCover and Transport Accident Commission premiums.

The ESC will also report on the observable trends and patterns in general insurance premiums to support government responses to the recent ‘hard’ insurance market. The powers of the ESC under these amendments are subject to relevant referrals from the responsible Minister and the Minister for WorkCover.

Funding of the ESC

A major thrust of the ESC arrangements is to promote greater emphasis on transparency and ensure that the costs of regulation do not exceed the benefits.

The Commission is co-funded by Government and industry on an equitable and transparent basis, with a significant portion of the costs recovered through the licensed regulated industries.

To meet these new arrangements, the *ESC Regulations 2001* requires that the Commission include in its annual report a statement that shows the total costs incurred in relation to each regulated industry.

Regulatory highlights in 2002

The following section summarises some highlights of the regulatory activities of the ESC over the past year.

Electricity

- Full Retail Contestability (FRC) was extended to Victoria's two million residential and small business electricity customers on 13 January 2002

- In September 2002, the ESC completed a review for the Minister of Energy and Resources on whether retail competition in the Victorian electricity market is, or is likely to be, effective for small customers. The review comprised the period October 2000-September 2002.

- The ESC established a Market Code Advisory Committee, comprising retailer and consumer representatives, to monitor licensees' compliance with the Marketing Code of Conduct, which is intended to protect consumers from undesirable market conduct under FRC.

- The ESC developed and introduced default Use of System Agreements to codify the obligations of distributors and retailers to each other in relation to matters such as payment of network tariffs, handling of customer queries and complaints, to ensure that distributors do not discriminate against retailers and therefore customers who have changed retailers.

- The ESC advised the Minister for Energy in relation to applications by five electricity retailers to increase retail electricity tariffs for domestic and small business customers from 1 January 2002.

- The ESC revised the Electricity Distribution System Code to require distributors to publish annual planning reports.

- The ESC published reports monitoring the service, price and financial performance of the electricity distribution businesses, and followed up with the businesses on matters of service reliability and hardship for customers with bill payment difficulties.

Gas

- In April 2002, each of the three gas distributors in Victoria submitted Access Arrangement Revisions to the ESC for approval, pursuant to the requirements of the National Gas Code. Throughout 2002, the ESC has consulted on the approach to the review, the key issues and information presented. This culminated in the release of a Draft Decision in July 2002 and a Final Decision in October 2002. The ESC has recently approved each of the distributors' revised Access Arrangements, which provides the terms and conditions for third party users to gain access for the services offered by each of the three distributors for the five-year period commencing 1 January 2003.

- In October 2002, FRC was extended to domestic and small business gas customers in Victoria. As with the electricity retail market, the ESC has engaged in an information campaign for the final tranche of 1.54 million gas customers to increase their awareness of competition and choice in the gas retail market.

- The ESC completed a number a projects to prepare for and facilitate the implementation of FRC for gas in Victoria, including revisions to licences, codes and guidelines and approval of the scheme and nature of Retail Gas Market Rules, including such things as collection, storage and use of metering and energy data, the provision of data from distributors to market participants regarding distribution supply points and registration of market participants.

- In September 2002, the ESC released its Final Decisions in relation to the recovery of costs incurred by VENCorp and gas distributors in relation to FRC.

- In June 2002, the ESC completed a special inquiry at the request of the Minister for Finance into the bottled LPG market in Victoria, examining the extent to which there is market power and options open to Government to reduce this power.

- The ESC has continued to publish its annual comparative performance reports on Victoria's three gas distribution businesses and three incumbent retail businesses.

- The ESC developed and implemented a gas audit framework to provide independent expert assurance that the gas distribution businesses are meeting key service obligations.

Water

- The ESC published the sixth annual comparative performance report on Melbourne's three retail water businesses, covering quality and reliability, affordability and customer service.

- The ESC oversaw the completion of operational audits of Melbourne water retailers, attesting that the performance data provided to the Commission is reliable for regulatory purposes and that key service obligations are being met.

- The ESC participated in a number of public workshops and meetings with water authorities in Victoria as part of the Government's consultation on the proposals paper to bring the water industry under independent economic regulation.

Export grain handling

- In November 2001, the ESC issued a set of revised Pricing Principles, and established an amended default schedule to apply for 2002 in the absence of compliant prices being submitted by GrainCorp.

- In November 2002, the ESC released a consultation paper in relation to the charges for regulated export grain handling services at Geelong and Portland for the 2002–03 season. The paper presented the main options available to the Commission with respect to these charges.

- In December 2002, the ESC published an open letter highlighting its decision not to change the default handling schedule for 2003.

- In October 2002, the ESC released the final report of the review of the regulation of the handling and storage of export grain. The report recommended that price regulation is no longer warranted in view of significant competitive developments in the export grain handling industry, but access regulation should continue pending a subsequent review of the continuing need for it.

Ports – port and channel charges

- In June 2002, the ESC approved port and channel charges for 2002–03, resulting in a reduction in real terms in the charges imposed on customers for regulated services provided by the Melbourne Port Corporation (MPC) and the Victorian Channels Authority (VCA).

- In October 2002, the Minister for Finance directed the ESC to undertake a review of the port channel access in Victoria taking into account the Government's intention to abolish the MPC and the VCA and establish a new, single integrated corporation. The ESC is required to examine implementation issues and access pricing in particular, and must also have regard to regional, economic, social and environmental issues; the wider regulatory environment in Victoria relating to ports, rail and export grain handling; and the practicality of implementation of any recommendations. It is required to provide a final report to the Minister in March 2003.

Rail access – guidelines

- In April 2002, the ESC resolved Victoria's first rail access dispute between GrainCorp and the rail operator Freight Australia by requiring Freight Australia to provide terms and conditions for access to GrainCorp.

Challenges ahead

In addition to the demands of the organisational changes required to establish the ESC, the on-going agendas of priority regulatory reviews and decisions before the ESC in 2002-03 include the following challenges:

- continuing to monitor the implementation of consumer protection and related safety net arrangements for the introduction of FRC for the smallest electricity and gas customers and the effectiveness of the competitive process during the transitional period

- continuing to implement the regulatory framework governing each of the industries regulated by the ESC. This includes comparative performance monitoring and reporting, monitoring and approval of compliance with price determinations and related regulatory arrangements, and decisions and arbitrations of proposals and disputes by parties seeking to exercise their statutory rights.

- assisting the Government in the development of the regulatory arrangements that will apply when the ESC assumes responsibility for monitoring and providing advice to the Government on matters relating to the insurance industry and the operations of certain statutory insurers in Victoria

- providing recommendations to Government on proposed taxi fares, tow truck charges and hire car licenses

- assisting the Government in the development of the regulatory arrangements that will apply when the ESC assumes responsibility for the regulation of the water industry from 2003

- concluding consultation with other regulators to enter into formal Memoranda of Understandings and to establish a Charter of Consultation and Regulatory Practice.

4. Competitive neutrality

- Competitive Neutrality (CN) policy has applied to all significant public sector business activities since 1996.
- The CN policy applies to local government and will assist local government in developing Best Value service standards for their significant business activities.
- The CN policy has also been promoted in the context of Best Value implementation for local government. A revised policy statement, in compliance with CPA clause 7(2) has been developed to reflect the Best Value framework within which local government now operates.

Background

CN policy has applied to all significant public sector business activities since 1996. Many of the commercial government business enterprises (GBEs) have been corporatised or commercialised and others have been sold. All significant GBEs are subject to income tax equivalents and goods and services tax. The introduction and implementation of CN has seen a levelling of the playing field between government organisations and private businesses.

Competitive Neutrality policy: Victoria 2002

Considerable effort is being devoted to refreshing public sector knowledge of CN through mail-outs, website information, seminars and small group discussions. Summary investigation reports are also being used as a means of educating agencies on what is required to satisfy the policy.

Local government and Best Value Victoria

Councils have been required to report on their implementation of NCP since it was first applied to local government in 1996–97. Councils are required to provide evidence of their compliance with NCP obligations in an annual statement to the Minister for Local Government, prepared in accordance with reporting guidelines issued by the Minister.

The annual NCP statement, certified by a council's Chief Executive Officer and submitted directly to the Minister, remains the mechanism for demonstrating NCP compliance under this revised policy statement. The Minister will continue to issue guidelines from time to time updating reporting requirements consistent with developments in councils' NCP obligations.

The Best Value Principles apply to all council services requiring councils to determine quality and cost standards in consultation with their communities. Best Value Victoria provides a framework for councils to develop and deliver improvements to services, ensuring that they are relevant and responsive to community needs.

Local Government: Improvement Incentive Principles Agreements

Since 1999 the Government has shared its NCP payments with local government in recognition of their efforts in implementing competition policy, under agreements between the State and each council. The local government pool was nine per cent of what the State received from the Commonwealth in any year. Competition payments are made only to NCP compliant councils, and a non-compliant council forfeits its share of the pool to the State. Payments have been made under Competition Principles Agreements that have been enacted with each council.

The Minister for Local Government issued a Bulletin in November 2002 to inform local government of a new funding package and agreement that the State and each Council will sign that will replace the expired agreements. A new 'Improvement Incentive Principles Agreement' is to be drafted and it is proposed the Minister and each council will sign the agreement in 2003. It is intended that the State will continue to share competition payments with local government and that the requirement for councils to receive payments be extended to include:

- compliance with competition principles relating to trade practices laws, local laws, and competitive neutrality
- demonstration of progress in the development and implementation of asset management plans
- compliance with the Best Value Victoria reporting guidelines and codes.

The overall aim of the program will be to ensure that councils continue to comply with the requirements of NCP and improve their level of efficiency in managing their assets and providing services to their communities.

Councils' NCP compliance will continue to be assessed from their annual statements, certified in each case, each year, by the council's Chief Executive Officer, and prepared in accordance with guidelines that will be prepared by the Local Government Division of the new Department for Victorian Communities (formerly Department of Infrastructure), in consultation with the Department of Treasury and Finance.

Local Government compliance 2001–02

In making recommendations to the Minister on councils' NCP compliance, the Local Government Division of the DOI was assisted by an advisory panel that comprised representatives from the Department of Treasury and Finance and the Municipal Association of Victoria. The panel assessed councils' NCP statements individually, and sought clarification from any council whose statement was not sufficiently self-explanatory or complete, before settling upon recommendations on eligibility for payments.

Assessments were carried out on the 78 Councils within Victoria and it was found that overall they are compliant with CN Policy. The Competitive Neutrality Unit (CNU) will include in its training programme, that continues in to 2003, workshops on specific issues identified that require ongoing training to accommodate staff movements within Councils.

Competitive Neutrality complaints

Table 1: Summary of CN complaints

Department	Business type	Complaints	Status
Local Government	Gym and fitness programs	7*	4 completed 2 follow-up investigations completed 1 follow-up investigation in progress
Local Government	Child care services	3#	2 completed 1 in progress
DE&T	Training services	1	1 terminated
DTF	Plumbing	1	Completed
DHS	Accommodation	1	Completed
DHS—cemetery trusts	Cemetery services	4**	4 in progress
Local Government	Livestock exchange	1	1 follow-up investigation in progress
Local Government	Community transport	2	2 in progress
DHS/Local Government	Waste Collection	4	2 in progress 1 in progress, withdrawal likely 1 withdrawn

Notes:

** One of these complaints related to two facilities of the one council.*

 # One investigation includes two complainants against various centres run by one council.

*** One complaint related to four trusts and is included as four.*

As at December 2002, nine new and two follow-up investigations were in progress. Eight complaint investigations were completed in 2002.

Investigations in progress at December 2001 and completed prior to December 2002

Department of Human Services (DHS)

Complaint registered 1 June 2001. Finalised May 2002

The complainant alleged that the DHS provision of accommodation services is not compliant with CN Policy and that DHS provides services within the same competitive market as supportive residential services, in contravention of Competitive Neutrality Policy.

The CNU found that DHS accommodation services for the Aged, and intellectually or physically disabled are not-for-profit services or programs. It concluded that DHS activities are not undertaken as business activities and are therefore outside the scope of CN Policy.

City of Whitehorse: child care centres (two complaints)

Complaints received March and October 2001. Finalised September 2002

The complainants alleged that the Council had not applied CN Policy to their childcare centres.

The conclusion of this investigation was that, through the City of Whitehorse's undertaking of an extensive public interest process, it complies with the Victorian Government's CN Policy.

Mildura Rural City Council: Mildura Waves

Complaint registered 15 May 2001. Initial investigation finalised February 2002

The Mildura Rural City Council was found to be in breach of the Victorian Government's CN Policy in relation to the aerobic facilities and consequently in relation to the overall 'dry area' health and fitness program provided by the Mildura Waves Centre after the investigation concluded that there was no justification of any subsidy for the Centre, which should have been carried out through a public interest test.

Moreland City Council: Coburg and Fawkner Leisure Centres

Complaint registered 21 June 2001. Finalised 17 April 2002

The complainant alleged that the Council has not applied CN Policy to the expansion and operation of its two leisure centres at Coburg and Fawkner.

The investigation concluded that Council applies full cost reflective pricing to gym and aerobic facilities at the Coburg Leisure Centre and so is deemed to comply with the CN policy. The operation of the gym and aerobic facilities at the Fawkner Leisure Centre is subsidised by the Council, requiring consideration of public policy issues. Council has documented a public interest process to justify the subsidy on the grounds that increasing prices for the activities to meet full cost reflective pricing, would not only jeopardise, but defeat, the Council's social development objectives.

The conclusion of this investigation is that the Moreland City Council complies with the Victorian Government's CN Policy.

City of Casey: Casey Leisure Centre

Complaint registered 21 September 2001. Finalised 25 September 2002

The complainant alleged that the City of Casey had not applied CN Policy to the expansion and operation of the Casey Leisure Centre.

The conclusion of the investigation was that the Council would, in establishing commercial activities, apply appropriate CN costing and pricing to achieve CN compliance balanced against its public policy obligations to the community.

Complaints received since December 2001 and completed prior to December 2002

Yarra Valley Water Pty Ltd

Two complaints received and registered 10 January 2002 and 21 March 2002. Finalised 28 June 2002.

The complaints were based on the belief that Yarra Valley Water Plumbing, operated by Yarra Valley Water Pty Ltd, has unfair competitive advantages in relation to opportunities to access and use customer information that other plumbing operators do not have in order to promote Yarra Valley Water plumbing services.

The investigation found that, provided the costs of advertising are fully recovered by Yarra Valley Water Plumbing and the advertisements are distributed in a manner available to private operators (that is, not in a way which could be construed to involve public sector advantage), there is no contravention of CN Policy. Yarra Valley Water does not appear to have breached CN Policy.

City of Kingston

Complaint registered 6 February 2002. Finalised 19 August 2002

The complaint related to whether the cost to users of the provision of gym and fitness services and specifically the refurbishment of the Don Tatnell Leisure Centre (DTLC), reflected the costs of the refurbishment, and to public funding of competition to the detriment of existing private fitness providers.

The conclusion of the investigation was that the City of Kingston complies with the Victorian Government's CN Policy with respect to its involvement in gym and fitness at the DTLC.

Complaints received since December 2001: investigation in progress as at December 2002

City of Ballarat: Childcare Facilities

Complaint registered 15 May 2002.

The complaint relates to Council operating subsidised long day childcare facilities and paying childcare workers above the Federal Award that other childcare centres pay.

Draft investigation reports have been issued.

Cemetery Trusts

Complaint registered 22 May 2002.

Complaints have been lodged against four cemetery trusts: trusts responsible for Bunurong Memorial Park, the Necropolis Springvale, Fawkner Crematorium and Memorial Park and Altona Memorial Park.

The complainant expressed concern about the changing role of cemetery trusts, which they claim has evolved from being a provider of burial services and cemetery maintenance to an aggressive marketer of goods and services, including those traditionally provided by the private sector.

Draft investigation reports have been issued.

Latrobe City Council: Community Transport Service

Complaint registered 24 June 2002.

The complaint relates to Council providing community transport bus services that are impacting on the operation of private taxi services.

Melbourne City Council: Waste Collection Service

Complaint registered 30 August 2002.

The complaint relates to the Council providing commercial waste collection and disposal services in competition with private service providers.

South Gippsland Shire Council: Community Transport Service

Complaint registered 6 November 2002.

The complaint relates to Council providing community transport bus services that are impacting on the operation of private taxi services.

City of Greater Geelong: Waste Collection Service

Complaint registered 18 September 2002.

The complaint relates to the Council introducing a green waste collection and disposal services in competition with private service providers.

City of Greater Bendigo: Waste Collection Service

Complaint registered 5 October 2002.

The complaint relates to the Council providing commercial waste collection and disposal services in competition with private service providers.

Follow-up investigations commenced and completed prior to December 2002

City of Whittlesea: Thomastown and Mill Park Leisure Centres

Initial investigation finalised 5 June 2001. Follow-up finalised 9 July 2002.

The first report concluded that the City of Whittlesea Council was in breach of the Victorian Government's CN Policy in relation to both centres. It is noted however that both centres were subject to competitive tendering for management services with contracts extending to 1 July 2002. Council made efforts to determine CN adjustments in 2000–01 and to undertake a CN review, however it remained in breach in relation to inadequate public interest analysis, documentation and process to support the subsidy provided in that year.

Council has subsequently undertaken the required costing and public consultation in 2001–02 and has satisfied the public interest test requirements for compliance with the CN Policy.

Mildura Rural City Council: Mildura Waves Leisure Centre

Initial investigation finalised 21 February 2002. Follow-up finalised 4 September 2002.

The first report found that the Council had taken inadequate steps to clearly identify the extent of the CN subsidy particularly in relation to dry area health and fitness programs, which were the focus of the complaint.

The Council undertook a public consultation process and further review of the cost allocations and pricing structure within the Mildura Waves gym and aerobic areas and is now in a position to inform the community that the dry area of the Centre will not be subsidised by the Council and the gym and aerobic areas within the will apply full cost reflective pricing in compliance with the Government's CN policy.

The conclusion of this investigation is that the Mildura Rural City Council has satisfied the requirements of the CN Policy.

Follow-up investigations commenced and in progress as at December 2002

Bairnsdale Regional Livestock Exchange (BRLE)

Complaint registered 2 February 2001. Initial investigation finalised 31 August 2001. Follow-up in progress.

The first report concluded that the BRLE was in breach of the CN Policy, primarily due to necessary adjustments not being made to pricing for capital financing and the required rate of return on capital.

The Council has undertaken to explicitly classify costs in the determination of a competitively neutral price for the facility and to adjust future business plans accordingly, and has undertaken a public interest test to facilitate CN compliance. Council is collating information to convey to the CNU to prepare a follow-up report.

Warrnambool City Council: Warrnambool Aquatic and Leisure Centre

Complaint registered 2 February 2001. Investigation finalised 18 May 2001.

The first report concluded that the proposed Aquatic Centre had not reached a stage of development where an assessment in relation to CN compliance in pricing access to the facility could be determined. Any finding in relation to compliance (or otherwise) with CN Policy in pricing of the Centre's activities would have been premature at the time of the investigation.

The Council has submitted pricing information to the CNU relating to the Centre's activities following it becoming operational.

Complaints received and subsequently withdrawn or terminated prior to December 2002

Department of Education and Training

Complaint registered 19 October 2001. The complaint investigation was terminated.

The complainant alleged that the Department had not complied with the CPA in relation to its accreditation processes required under the *Tertiary Education Act 1993*. The issues raised were outside the scope of the CN Policy and resulted in the termination of the investigation.

Macedon Ranges Shire Council

Two complaints registered 20 March 2002 and 30 April 2002. Both complaints were withdrawn.

The Council met with both of the complainants and representatives from the CNU. Issues were discussed and agreement was reached that lead to a resolution of issues and withdrawal of both complaints.

Part C:
Natural resource management

5. Water

- Victoria is experiencing conditions that are currently more severe than a 1 in 100 year drought. These extreme conditions are showing that Victoria's approach to water allocation and long-term water resource management has worked well, with a high level of compliance and little conflict. However, dealing with the drought and the bushfires has become a major priority for natural resource managers and stakeholders and has diverted attention from other programs. This will inevitably affect some milestones.

- The Government's Water for the Future policy, which sets out a comprehensive ten-year plan to ensure the long term sustainability and security of Victoria's water resources, was released in November 2002. In this policy, the Government committed to:

  - the establishment of a $320 million Victorian Water Trust to provide a long term, stable funding source for investment in water resource management (including an additional $16 million over four years in improving river health)

  - clear targets for improving river health in line with the Victorian River Health Strategy, water efficiencies in irrigation, water conservation in Melbourne and increased water recycling

  - initiating a number of significant infrastructure projects to achieve these targets.

- This program provides an order-of-magnitude upgrade and acceleration to the Victorian water management program.

- The Government established its commitment to water recycling in *New Water for Victoria – Victoria's Water Recycling Action Plan*, which was released for public comment in October 2002.

- In October 2002, the Water Resources Strategy Committee released its final report *21st Century Melbourne: A WaterSmart City, Final Report*, which sets out a water resources blueprint for the next 50 years to ensure that a safe and reliable supply of water is delivered to Melbourne in an environmentally sustainable manner and at a cost acceptable to the community.

- The Government released the *Victorian River Health Strategy* in August 2002.

- Final arrangements to introduce independent economic regulation of the Victorian water industry by the Essential Services Commission have been considered by Government. As the November 2002 State election precluded implementation of these arrangements on 1 January 2003 as originally proposed, Government is giving consideration to a revised timeframe for implementation.

- The *Water (Irrigation Farm Dams) Act 2002* was passed by the Victorian Parliament to complete the State's water allocation framework and to better manage Victoria's water resources.

- Flow rehabilitation plans for priority stressed rivers are on track. Work continues on the development of Stream Flow Management Plans and Groundwater Management Plans across the State, and a specialist Technical Audit Panel, chaired by Professor

Barry Hart, has been established to review the technical basis of the plans.

- Work is progressing to establish a comprehensive state-wide regulatory framework for drinking water quality.

- The high level of water trading activity in Victoria continues to play an important role in agricultural production. Water trading is seen as a crucial tool to facilitate better allocation of existing water resources. Major developments with respect to water trading in 2002 were the release in July of *The Value of Water: A Guide to Water Trading in Victoria* and the commencement in August of the statewide water exchange Watermove.

Summary of progress

In 2002, the Government released its *Water for the Future* policy, which makes a commitment to increased investment in Victoria's water resources and infrastructure. The policy sets out a ten-year plan that recognises that long term investment in irrigation infrastructure and new water technologies is crucial and necessary to ensure the long-term sustainability and security of Victoria's water. Among other things, the plan establishes a $320 million Victorian Water Trust, which will provide a long term, stable source of funding for future investment. The plan also sets the following clear targets for water management across the whole State:

- a 25 per cent increase in the efficiency of irrigation systems across the State by 2020 through piping open channel systems and other technology improvements;

- a 15 per cent reduction in Melbourne's water use by 2010. This represents a cut of 29 000 megalitres per year against current projections;

- delivery of significant improvements in the ecological health of Victoria's rivers by 2010 through increasing environmental flows and undertaking riverbank and other catchment management works; and

- a 20 per cent increase in water recycling in Melbourne by 2010.

In October 2002 the Government released *New Water for Victoria – Victoria's Water Recycling Action Plan* for public comment. The Action Plan provides a framework for the adoption of water recycling across the State as part of sustainable water resources management. It establishes the Government's commitment to water recycling and sets out a suite of enabling strategies to address the current barriers to water trading.

In October 2000, the Minister for Environment and Conservation established a committee to overview the development of a Water Resources Strategy for the greater Melbourne area. The Committee released its final report *21st Century Melbourne: A WaterSmart City, Final Report* in October 2002. This report follows the Committee's *Discussion Starter* and *Strategy Directions Report*.

The Committee's report contains 23 recommendations designed to ensure the delivery of a safe and reliable supply of water to Melbourne in an environmentally sustainable manner. Given that Melbourne is entering its seventh year of drought, it is important to introduce measures that will help save water now. Consequently, the Government committed to ten water smart initiatives so that work can commence immediately, while recognising the need to implement longer-term strategies that support ongoing water conservation. The Government's full response to the Committee's recommendations will be finalised during 2003.

The major development with respect to river health has been the release of the *Victorian River Health Strategy – Healthy Rivers, Healthy Communities and Regional Development* in August 2002. The Strategy establishes the framework for the integrated management and restoration of Victoria's rivers and associated floodplains and wetlands. It also outlines Victoria's policy approach on a number of specific management activities affecting river health including over-allocated or flow stressed rivers, water quality and river frontages.

The Strategy will ensure that Victoria's environmental commitments to the Council of Australian Governments (COAG) are met within a framework that provides for sensible investment aimed at achieving maximum river health outcomes.

The major developments in the area of institutional reform are the development of final arrangements to establish the Essential Services Commission[1] (ESC) as the independent economic regulator of the water industry and the development of legislative proposals to establish a new state-wide framework for drinking water quality.

Victoria has previously indicated its intention to bring its water industry under independent regulation by the ESC to ensure institutional separation with respect to pricing. Consultation has been a key element of the process to develop new regulatory arrangements. A Proposals Paper setting out the Government's initial views on these arrangements was released in April 2002. Feedback received on the proposals has provided valuable input to the Government's consideration of final regulatory arrangements.

The introduction of a comprehensive state-wide regulatory framework for drinking water quality will facilitate the provision of safe and reliable drinking water supplies. Legislative proposals to establish regulatory and standards setting arrangements have been developed following an extensive consultation process.

The major development in respect of water allocation was the passage of the *Water (Irrigation Farm Dams) Act* in April 2002. The Act was developed following the Government's consideration of the recommendations of the Victorian Farm Dams (Irrigation) Review Committee regarding a better water management regime for Victoria. A key feature of the Act, which amends the *Water Act 1989*, is the extension of existing licensing requirements for dams on waterways to cover all new irrigation and commercial use in the catchment. This will enable all significant water use to be accounted for in whole-of-catchment management of the resource. Licensing guidelines have been developed to address environmental, siting, safety and construction matters.

There were two significant developments in relation to water trading in 2002. *The Value of Water: A Guide to Water Trading in Victoria* was released in July, and the new state-wide water trading exchange, Watermove, began trading in August.

The *Value of Water* sets out, among other issues, the rules governing the movement of water entitlements to a new location, legal and regulatory requirements and mechanisms for avoiding adverse environmental impacts. It also considers the next stage in developing the market in Victoria, such as the possible introduction of leasing arrangements.

Watermove has been set up to facilitate water trading by establishing a fair, transparent process that will provide market information for people seeking to trade water. Its major objectives are to extend markets and to provide information and education.

[1] Formerly the Office of the Regulator-General.

River health and allocations

Water allocations, property rights and provisions for the environment

> There must be comprehensive systems of water 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. Governments must have determined and specified property rights, including the review of dormant rights. (clause 4a)
>
> Jurisdictions must establish a sustainable balance between the environment and other uses, including formal provisions for the environment for surface water and groundwater consistent with the (ARMCANZ/ANZECC) [2] national principles.
>
> Best available scientific information should be used and regard should be had to the inter-temporal and inter-spatial water needs of river systems and groundwater systems.
>
> Jurisdictions are to consider environmental contingency allocations, with a review of allocations five years after they have been initially determined. (clauses 4b to 4f)
>
> The Tripartite meeting provided further clarifications of the commitment and timeframes:
>
> - *For the second tranche (1999), jurisdictions submitted individual implementation programs, outlining a priority list of river systems and/or groundwater resources, including all river systems which have been over-allocated, or are deemed to be stressed and detailed implementation actions and dates for allocations and trading to the NCC for agreement, and to Senior Officials for endorsement. This list is to be publicly available.*
> - *For the third tranche (2001), States and Territories will have to demonstrate substantial progress in implementing their agreed and endorsed implementation programs. Progress must include at least allocation to the environment in all rivers systems which have been over-allocated, or are deemed to be stressed.*
> - *By 2005, allocations and trading must be substantially completed for all river systems and groundwater resources identified in the agreed and endorsed individual implementation programs. (1999 Tripartite Meeting)*

Under the legislative framework of the *Water Act 1989*, Victoria has established a program to convert the existing rights of water authorities to clearly defined bulk entitlements that provide the basis for sharing resources between water authorities and the environment. In rural water systems that supply water for irrigation, the water rights of individuals are aggregated under bulk entitlements held by rural water authorities.

The Victorian water allocation arrangements provide a comprehensive system of property rights to enable the trading of surface water entitlements. Registry systems have been established to record and monitor changes to entitlements. At the bulk level the Department of Sustainability and Environment maintains a register of all bulk entitlements held by water authorities, power companies and the environment. This information is publicly available.

Rural water authorities are required to maintain registers of all holders of water right entitlements in irrigation districts and all individuals who are licensed to divert from rivers and streams. Rural water authorities are also now compiling registers of use from farm dams used for irrigation or commercial purposes. This latter requirement stems from

[2] Agriculture and Resource Management Council of Australia and New Zealand / Australian and New Zealand Environment and Conservation Council

reforms introduced with recent changes to the *Water Act 1989* to extend the water allocation framework into the catchment areas.

River Health Plans

The *Victorian River Health Strategy* provides the framework by which Government in partnership with the community can make decisions on the management and restoration of rivers. A key commitment is that CMAs will develop regional river health strategies.

Most of the Catchment Management Authorities (CMAs) are aiming to release draft river health strategies to their communities for comment by the middle of 2003. A status report is provided in Section A.1.3.1 of Appendix A. However, it should be noted that the CMAs are in the process of reviewing their Regional Catchment Strategies (RCSs), which will invariably dictate the process and timing of the development of the river health strategies.

Stressed Rivers Work Program

> As part of the 2001 assessment, Victoria and the NCC agreed to a three-year stressed rivers work program. The work program outlines actions to be under taken on the eight priority stressed rivers as well as the Macalister, Wimmera and Snowy rivers. By 2003 stressed river plans for the Thomson, Macalister, Maribyrnong and Lerderderg Rivers and Badgers Creek were to be completed.

The following progress has been achieved:

- The Maribyrnong flow rehabilitation plan is complete.

- The flow rehabilitation plans for the Lerderderg River will be complete in March 2003 and the Thomson and Macalister Rivers will be complete in June 2003. The delay in completing the Thomson, Macalister, and Lerderderg plans can be attributed in part to the intricacies involved in establishing the necessary consultation frameworks. In addition, the unanticipated effect of the drought and the timing of the State election impacted on the resources available to undertake the required system and security of supply modelling.

- In the case of Badger Creek, a detailed flow rehabilitation plan is not required. This is because the cause of, and solution to, the flow stress is clear. A short report that details the flow stresses, the expected solution and the interim works program has been completed.

Section A.1.3.1 of Appendix A provides the status of rehabilitation plans for all of the priority rivers as of January 2003.

Stressed Rivers Stage 2

As part of the River Health Strategy, Victoria is committed to improve the flow regimes in two rivers each year for three years. The expectation is that by June 2003 Victoria will have committed funds to improve environmental flows in two rivers. At this stage a number of rivers are still being assessed as potential candidates for funding.

Implementation of aspects of the Lerderderg and the Maribyrnong flow rehabilitation plans are being assessed. In addition, a number of rivers, which are the subject of Stream Flow Management Plans are also being considered. Studies investigating the most effective mechanisms by which to return water in some of these rivers have been commissioned.

Bulk entitlements

The bulk entitlement (BE) program has reached the stage where flow sharing arrangements for approximately 85 per cent of the total State's water resources have been negotiated and agreed with stakeholders.

While 17 bulk entitlements have been granted and a further seven finalised since the second tranche assessment, progress on the major systems still to be converted has been slower than expected. This is principally due to the time taken to review the approach to the conversion of the Melbourne and associated systems and the need to reach stakeholder consensus on the Ovens and Broken River systems. The Broken River system is now close to finalisation. Work is now progressing on the last two major systems, the Wimmera-Mallee and Loddon River systems.

With the exception of the Loddon system (and possibly Melbourne) all these major systems are expected to be completed by the end of 2003. All remaining bulk entitlements should be granted by the end of 2004.

Water for the environment

Victoria is committed to providing water for the environment through the water allocation framework. This is described in detail in Chapter 6 of the *Victorian River Health Strategy*.

Provision of water for the environment through the program continues to be successful because the negotiation between stakeholders, undertaken as part of the BE conversion process, ensures that environmental managers, irrigators, water businesses and other groups have been consulted and accept the outcomes before the entitlement is finalised. There is recognition by the irrigators of their dependence on healthy rivers to sustain their businesses and therefore, of the need to provide water for the environment. So far, improved environmental flow regimes have been negotiated in 82 per cent of BE conversions.

Streamflow management plans

On unregulated rivers, not covered under the bulk entitlement program, the management of diversions is being undertaken through the development and implementation of Streamflow Management Plans (SFMPs). SFMPs establish environmental objectives, immediate and, where necessary, long-term environmental flow provisions, mechanisms to achieve long-term environmental flow provisions, rostering rules, trading rules, and rules covering the granting of any new licences. In 2002, with the amendment of the *Water Act 1989*, SFMPs must be prepared as statutory management plans. This brings SFMPs under the same legislative arrangements as groundwater management plans (GMPs).

Thirty-three SFMPs are in progress, three of which are commercially endorsed and in operation. Plan preparation is either completed or well advanced for a further ten. Plan implementation is expected by late 2003, after completion of a number of compliance requirements, as now required by the amended Water Act.

Progress in the development of SFMPs has been slowed due to the complexities arising from the negotiations to reach a consensus outcome. This is because the outcome of negotiation of SFMPs impacts on the security of supply of existing licences.

Victoria has developed a standard procedure for undertaking SFMPs to improve the rate of progress. This procedure provides clear guidelines to assist Consultative Committees in more efficient delivery of SFMPs. Agreement to initial flow and target periods to reach the full environmental flows are key required outcomes.

Groundwater Management Plans

Victoria has continued to implement GMPs. To date, 22 Water Supply Protection Areas have been established and GMPs for these areas are currently being developed and implemented. Six GMPs are approved. Three plans have been completed and have been submitted for approval. Eight plans are under preparation and five consultative committees have yet to be established.

Over the next three years, two Water Supply Protection Areas will be established and the development of management plans for these areas will commence.

Progress against the agreed second tranche implementation program for BEs, SFMPs and GMPs is set out in Appendix A.

Technical Audit Panel

In October 2002, the Minister for Environment and Conservation established a Technical Audit Panel (TAP) to review the GMPs and SFMPs that have been prepared or are being prepared across Victoria. The main purpose of the reviews is to answer two fundamental questions:

- Was the information and methodology used the best available at the time?
- Has the assessment of risks (to the environment and to security of supply) been properly done?

The panel consists of seven academic experts in the fields of hydrology, ecology, fluvial geomorphology and hydrogeology. The panel has met twice and has commenced a program of reviewing the GMPs and SFMPs.

Farm Dams Review

In April 2000, the Victorian Minister for Environment and Conservation released a discussion paper, *Sustainable Water Resources and Farm Dams*. The aims of the discussion paper were to encourage community debate on sustainable water resource management and in particular, the management of farm dams outside waterways.

Following the release of the discussion paper, the Minister appointed the Victorian Farm Dams (Irrigation) Review Committee chaired by Mr Don Blackmore, Chief Executive of the Murray Darling Basin Commission, to propose a better water management regime for Victoria.

An extensive community participation process was then undertaken, with over 40 public meetings, five public hearings, 370 written submissions, a draft report released via the Sofnet interactive satellite television network to over 45 locations around the State, a further 475 written submissions then release of the final report. The Government accepted all of the Committee's recommendations, with some refinements.

The Water (Irrigation Farm Dams) Bill was introduced into the Victorian Parliament in September 2001, and passed in April 2002. The key feature of the Act is the extension of existing licensing requirements for dams on waterways to cover all new irrigation and commercial use in the catchment. All existing unlicensed irrigation or commercial dams are to be licensed or registered by 30 June 2003. This will enable all significant water use to be accounted for in whole-of-catchment management of the resource. Guidelines to support the new Act have been prepared, covering licensing of new dams, registering of existing dams, support measures to facilitate the transition to the new licensing regime, a new Stream Flow Management Plan framework, revised waterway determination guidelines (for

construction purposes), and trading. Guidelines are also being prepared to cover statutory planning, and 'sustainable diversion limits'.

Integrated catchment management

Jurisdictions must have in place integrated resource management practices, including:

- demonstrated administrative arrangements and decision-making processes to ensure an integrated approach to natural resource management and integrated catchment management

- an integrated catchment management approach to water resource management including consultation with local government and the wider community in individual catchments

- consideration of land care practices to protect rivers with high environmental values (clauses 6a and b, and 8b and c).

Integrated natural resource management is undertaken in Victoria through the Victorian catchment management framework. This is based on the development of integrated RCSs and the establishment of 10 regional CMAs. The CMAs are responsible for strategic planning for land and water resources management in their region and the provision of integrated waterway and floodplain management. In addition, they provide advice to Government on priorities for action and investment.

In Victoria, the integrated framework for the management of land and water resources at the regional level is provided by the RCS. The RCSs are developed in consultation with regional communities and government agencies working in natural resource management within the region. In developing the RCSs, communities and regional management agencies work together to develop an integrated vision for their catchments. They agree on objectives for land and water management in their regions and determine priorities for action and investment. The RCSs are the over-arching strategy for the development, management and conservation of land and water resources in each region. Under the broad policy umbrella provided by the RCSs, detailed sub-strategies and investment plans for priority land and water resource management issues are then developed.

The first RCSs were completed in 1997. They are currently being reviewed under the auspices of the CMAs and the renewed RCSs will be completed by June 2004. (refer to Attachment 1: *Guidelines for the Review and Renewal of Regional Catchment Strategies*).

Once the RCSs were in place, the institutional arrangements for catchment management were then revised to ensure effective and efficient coordination of the implementation of the RCSs. On 1 July 1997, Victoria established CMAs in the nine non-metropolitan Catchment and Land Protection (CALP) regions. A tenth CMA was created in late 2002 to cover the Port Phillip and Westernport region. The CMAs are governed by boards that report to the Minister.

CMAs are responsible for:

- the ongoing review and coordination of implementation of the RCSs

- the provision of advice on both Commonwealth and State resourcing priorities at a regional level

- the provision of integrated river health and floodplain-related service delivery

- the development of the regional investment case for the implementation of the RCS

- consulting and working with local government to ensure that planning schemes and the RCSs are consistent and mutually supportive

- monitoring and reporting on the condition and management of land and water resources.

CMAs work closely with rural water authorities, landowners, local government, landcare groups, environmental groups and the community to ensure effective implementation of their RCSs. Each CMA develops detailed sub-strategies and action plans and work programs for the priority issues or areas within their region in consultation with stakeholders and the general community. These action plans include regional river health strategies, floodplain strategies, biodiversity strategies, vegetation management strategies, communication strategies, nutrient management strategies and land and water salinity management plans. CMAs and rural water authorities are also responsible for the coordination of Landcare groups within the regions. CMAs provide support to Landcare and ensure that activities undertaken by these groups are coordinated to achieve regional natural resource management objectives in high priority areas.

A description of the CMAs, their role, and statutory basis is provided in Attachment 2, *Catchment Management in Victoria: Explaining Victoria's Catchment Management Authorities*.

It should be noted that Victoria's approach to integrated catchment management has been recognised both nationally and internationally. Recent World Bank Reports stated that water and catchment management in Victoria is world's best practice[3]. In addition, the OECD in its Environment Performance Review of Australia viewed Victoria's institutional arrangements for catchment management as encouraging, and suggested these institutional arrangements be a model for other States[4]. In addition, the recent House of Representatives Report on Coordinating Catchment Management[5] recognised the operation of the Goulburn-Broken CMA as a model for CMAs in general.

The Victorian catchment management framework is continually being improved. Recent initiatives, which Act to strengthen the framework, include:

- the current renewal of the RCSs which are based on an extremely broad consultation program

- the process for accreditation of RCSs under the National Action Plan (NAP) and the National Heritage Trust (NHT)

- the current review of the State Environment Protection Policy (SEPP) – *Waters of Victoria* – which establishes the catchment management framework as its primary delivery vehicle

- the adoption of an assets approach to integrated catchment planning governing all aspects of land and water management

- the development of a common framework for all investors in regional catchment management programs

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[3] World Bank Technical Paper No. 413 January 1999, Toward a Financially Sustainable Irrigation System: Lessons from the State of Victoria, Australia, 1984-1994, Langford, J K Forster, C L, Malcolm, D M Duncan.

[4] Organisation for Economic Co-operation and Development (1998) Environmental Performance Reviews, Australia, Paris

[5] Commonwealth of Australia (2000), Co-Ordinating Catchment Management, Report of the Inquiry into Catchment Management, House of Representatives Standing Committee on Environment and Heritage, Canberra

- improved governance arrangements for CMAs.

The effectiveness of the catchment management processes is assessed at a variety of scales. There are mechanisms for assessment and review at the program, sub-strategy and RCS scales. In addition, resource condition monitoring is undertaken at both the regional and state scales. CMAs report on this and their achievements in their annual reports while the Victorian Catchment Management Council reports on catchment condition at the state scale. Attachment 3 is a copy of its most recent report, *The Health of our Catchments: a Victorian Report Card 2002*. Victoria is further developing its monitoring and evaluation practices to ensure compliance with the National Standards and Targets Framework and the National Monitoring and Evaluation Framework recently adopted by the National Resource Management Council (NRMC).

The Victorian catchment management framework recognises the importance of volunteer groups (for example, Landcare) in the implementation of the RCSs and their sub-strategies. These groups are coordinated by the CMAs and encouraged to work in areas of high priority identified in the RCSs and their sub-strategies. Attachment 4 is a copy of the *Victorian Action Plan for Second Generation Landcare: Healthy Landscapes, Sustainable Communities*, which sets the direction for Landcare in Victoria for the next 15 years.

National Water Quality Management Strategy (NWQMS)

> Jurisdictions agreed to support ANZECC and ARMCANZ in developing the National Water Quality Management Strategy (NWQMS), through the adoption of market-based and regulatory measures, water quality monitoring, catchment management policies, town wastewater and sewerage disposal, and community consultation and awareness.
>
> Jurisdictions are to demonstrate a high level of political commitment and a jurisdictional response to ongoing implementation of the principles contained in the NWQMS guidelines, including on-the-ground action to achieving the policy objectives. (clause 8b and d)

The NWQMS is implemented in Victoria through a range of mechanisms. The strategic directions of the NWQMS are implemented through the catchment management arrangements in the development of RCSs, their component sub-strategies and in the regional schedules of SEPPs. Guidelines produced as part of the Strategy are being considered for use as the basis for revising related state guidelines and where relevant, point source licence conditions.

The strategic directions of the NWQMS as outlined in the *Policies and Principles* document are implemented through the institutional framework for catchment management described above. The process of identifying environmental assets/values and setting water quality and river health targets at the regional scale is undertaken by regional communities under the auspices of a CMA through the development of its RCS and through the development of regional river health strategies and water quality and nutrient management action plans. In some areas where it is considered to be a priority, regional schedules to the SEPP-*Waters of Victoria*, may also be developed. All of these regional processes use the *ANZECC Australian Water Quality Guidelines for Fresh and Marine Waters* as input to the development of water quality targets in line with the National Standards and Targets Framework.

However, it should be noted that Victoria has taken an approach where water quality is regarded as one of the key aspects of river health which needs to be managed in an integrated way with other aspects of river health (for example, flow, riparian and floodplain condition and instream habitat) to achieve optimal river health outcomes. This is outlined in detail in the recent *Victorian River Health Strategy* (VRHS) (refer to Attachment 5, Chapters 5 and 7) and is viewed as the next step in the evolution of river health planning and management. It should also be noted that the approach outlined in the VRHS has

been developed in parallel with the review of the SEPP-W*aters of Victoria*, which is currently being undertaken, and the two are entirely compatible.

Attachment 6 provides a description (prepared jointly by DSE and EPA) of how Victoria's new approach to water quality and river health management is in line with the strategic directions of the NWQMS.

In relation to the NWQMS technical guidelines for specific activities and industries, those which are regarded as nonpoint source activities, are adopted in implementation of the regional river health strategies, nutrient and water quality action plans and SEPP schedules. Work programs are developed which utilise the information available in these documents.

The technical guidelines for specific industries, which are managed as point source discharges, are used in the development of environmental performance benchmarks for use in the development of licence conditions.

Intrastate trading

> Governments have agreed that water trading arrangements should be in place to maximise the contribution made by water resources to national income and welfare, within the social, physical and ecological constraints of catchments. (clause 5)

Victoria has been a leader in the development of water markets. Water trading in Victoria continues to play an increasingly important role in agricultural production. It is the gateway to significant new investment in high value-added agriculture and is a crucial tool in the facilitation of better allocation of water resources.

Permanent trades are running at just under 25 000 ML annually with temporary trades of up to 200 000 ML over recent dry years. The net present value of each year's permanent trade is over $100 million. The one-off increase in return to irrigators trading temporarily has been over $25 million in each year of the drought.

The high levels of both temporary and permanent trading since 1994–95 are related to the following broad factors:

- the significant widening of trading rules in 1994, including to allow trade for the first time out of irrigation districts and between supply systems
- relatively dry conditions limiting the availability of water and making the need for it more pressing
- the 1995 decision to cap diversions in the Murray Darling Basin, and Victoria's interim steps to implement this, combined with the dry seasons to convince many farmers that their existing water rights were insufficient
- farmers have gradually understood the opportunities provided by the market and become more knowledgeable about how it works.

Broadly speaking, permanent trading has been moving water away from low-return sheep and cattle grazing to higher-value dairying and to high value horticulture. While permanent transfers remain the keys to new development, temporary (one-year) transfers have had a crucial role in allowing individual farmers in drought years to adjust their water use and take responsibility for managing through the dry conditions in their own way.

Water trading activity in Victoria occurs within the framework outlined in *The Value of Water: A Guide to Water Trading in Victoria* (refer to Attachment 7). It sets out, among other issues, the rules governing the movement of water entitlements to a new location,

legal and regulatory arrangements and mechanisms for avoiding adverse environmental impacts. It also considers the next stage in developing the market in Victoria, such as the possible introduction of leasing.

The specific elements of the 2003 assessment framework on intrastate trading are now considered.

Current trading rules and zones

The trading rules and zones in Victoria are set out in *The Value of Water*. Refer to Attachment 7, Chapter 7, 'Rules on rights going to new locations' which discusses the rules governing the movement of water to a new location, source or supply issues, delivery issues and site issues. In broad terms the rules are designed to minimise adverse effects of trade on other water users and the environment. For a discussion of trading zones, refer to Attachment 7, table 6 (pages 48–50), and map 5 (inside the back cover).

Legislative and institutional arrangements

Legislative provisions are described in Attachment 7, 'Key legal and regulatory provisions' (pages 102–106) of *The Value of Water*. The main institutional arrangements are described in Chapter 6, particularly the sections on 'Approval processes' and 'Preventing fraud'.

Effective trade in areas of demand and measures in place to increase the depth of water trading markets

The extent of trade is covered in Attachment 7, Chapter 2, 'Trading activity and trends'. Evidence of trading practice in Victoria suggests that most of the trade occurs between farmers. A discussion of the areas where water is moving and a profile of the buyers and sellers in the water market is provided in Chapter 5, 'Communities and individuals in the market'. The table and map on pages 32–33 show the areas gaining and losing water through trading.

Measures in place to increase the depth of markets include the publication of *The Value of Water*, which makes transparent and gives explanation for the trading rules, and establishment of the water trading exchange Watermove.

The net public benefit, where restrictions remain

Controls on trading that take into account physical links, and related matters like water quality, losses and differential reliabilities, are an essential part of the market. As noted above, in Victoria these controls are well set out and explained in *The Value of Water*, particularly in Chapter 7.

The mechanisms in place for water trading to avoid adverse environmental impacts on river and groundwater health

The controls on trading that take into account physical links and related matters, are designed to safeguard both river health and water users.

In the unregulated systems, adverse effects can be amplified. Pending the development of SFMPs for each valley, it is judged that summer flows are exploited to capacity, or even over-exploited, so general rules are in place to allow trade while protecting the remaining summer flows. Thus, summer-pumping licences can only move downstream, and are reduced by 20 per cent, unless they are trading to become winter-fill licences. General,

basis rules for transfers from one location to another along an unregulated stream, are explained in Chapter 8 of *The Value of Water*.

Because groundwater resources are harder to assess and may have been built up over decades rather than being annually renewed, considerable caution is being exercised before widespread trading is being introduced. Some trade has taken place south of the Divide, but generally groundwater supply protection plans are having to be developed before trade is allowed.

The availability of market information

Watermove has been set up to facilitate water trading by establishing a fair, transparent process that will provide market information for people seeking to trade water.

Watermove's operation and the extremely valuable information it generates can be appreciated by inspecting the website (www.watermove.com.au). In general, Watermove has been accounting for about a third of all temporary transfers in northern Victoria. Murray Irrigation Ltd has shown a keen interest, and so it now caters for trade to and from southern NSW above Barmah Choke. South Australia is also interested in trading on Watermove, and the Murray Darling Basin Commission has provided a small grant to assist in spreading its operation further in the Basin.

Information on permanent transfer prices is still patchy, but Watermove is due to begin catering for permanent transfers from April 2003, which should be a useful step in redressing this problem.

Particular constraints in Victoria

The requirement to own land as a condition of owning a licence

The requirement to own land is under consideration at present. The pros and cons of this requirement are discussed in Chapter 11 of *The Value of Water*, 'Refining the products in the market'. In the longer term there would appear to be net benefit in having water entitlements able to be held without any land to use them on. However, in the short term, there is a strong argument not to take this step while there is a significant debate about whether up to 40 per cent of water taken out of rivers in the Murray-Darling Basin should be returned.

Trade in unregulated streams being limited to downstream trade only

As explained in the previous section, this rule is designed to protect summer flows. This rule reflects the fact that these flows are quite heavily utilised, and trade could potentially exacerbate this problem. For water to trade upstream, it must convert to a winter-fill licence.

Reduction in volumes traded on unregulated streams by 20 per cent– unless to a winter-fill licence

This decision is designed to address the preceding issue; namely, protection of summer flows. Unregulated licences are often 'sleepers' or 'dozers', where the water is not currently being used. This rule allows some trade to take place, pending detailed assessments of each valley.

The use of the 2 per cent rule

As previously explained to the Council, this rule represents a very loose rein on the pace of change. It allows three times the extent of permanent trade in the Goulburn-Murray districts than takes place across the border. It has only ever been invoked on two occasions, and the effect was only to delay trade for several weeks. The rule has not been invoked in 2001–02 or to date in 2002–03.

Urban pricing reforms

Full cost recovery

> Governments agreed to set prices so water and wastewater businesses earn sufficient revenue to ensure their ongoing commercial viability but to avoid monopoly returns. To this end, governments agreed that prices should be set by a jurisdictional regulator (or its equivalent) to recover:
>
> - at most the operational, maintenance and administrative costs, externalities, taxes or tax equivalent regimes, provision for the cost of asset consumption and cost of capital, the latter being calculated using a weighted average cost of capital
>
> - at least, the operational, maintenance and administrative costs, externalities, taxes or tax equivalents (not including income tax), the interest cost on debt, dividends (if any) and provision for future asset refurbishment/replacement. Dividends should be set at a level that reflects commercial realities and stimulates a competitive market outcome.
>
> Asset values should be based on deprival methodology unless an alternative approach can be justified, and an annuity approach should be used to determine medium to long-term cash requirements for asset replacement/refurbishment. Governments can still provide assistance to special needs groups through community service obligations (CSOs) but this should be done in a transparent way. (clauses 3a, 3 b and 3c)

Application of appropriate asset valuation methods to price water and wastewater services at full cost

Victoria's metropolitan water businesses and regional-urban water authorities[6] set prices for water and wastewater services in accordance with the three-year pricing framework that commenced on 1 July 2001. Regulatory asset values were developed and considered during the process of developing the framework. The regulatory asset values involved estimating expected future cash flows required by each business to operate and renew existing supply systems and discounting these by the cost of capital.

The resulting regulatory asset values were intended for price setting purposes only. The asset values used by the water businesses for reporting or taxation purposes, which are based on relevant accounting and taxation requirements, do not necessarily correlate with these regulatory asset values.

Dividend arrangements

The process to determine the dividends payable by the regional-water authorities in respect of the results for the 2001–02 financial year is underway. Details of dividend payments by these authorities will be provided to the Council when they are available.

[6] Previously referred to as non-metropolitan water authorities.

The basis of dividend payments by the regional-urban water authorities requires further review for the purpose of future years' dividend determinations. Details and timing of such a review have not been finalised.

Environmental obligations of urban water businesses

The major environmental issue facing Victoria's metropolitan and regional-urban water businesses is wastewater management. Specifically, this relates to the requirement for these businesses to comply with licences for the discharge of treated effluents issued by the Environment Protection Authority (EPA).

In addition there is a broader community expectation that these businesses undertake the sewering of unsewered properties to reduce environmental and public health concerns. This includes the metropolitan backlog program. There are also various Government initiatives – the Country Town Sewerage Initiative and the New Town Sewerage Initiative– that require regional-urban water authorities to sewer small rural communities to address health and/or environmental problems identified by municipal councils or the EPA.

Application of tax equivalent regimes

Victoria's metropolitan water businesses have been subject to a State based tax equivalent regime since 1993. This State based income tax equivalent regime was extended to all regional-urban and rural water authorities for 2001–02. These authorities, together with the metropolitan water businesses, were brought under the national tax equivalent regime on 1 July 2002. This ensures consistency in the coverage of tax discipline within and between Australian jurisdictions.

Level of cost recovery in regional-urban water businesses

As discussed above, regional-urban water authorities set their water and wastewater prices in accordance with the pricing framework established in 2001. The pricing framework was determined with regard to the need to balance the economic objective of responsible financial management with the social objective of protecting customer interests by minimising price shocks.

These authorities, as part of the annual corporate planning requirements set out in the *Water Act 1989*, will develop financial forecasts for 2003. Under this process, regional-urban water authorities submit a corporate plan to the Minister for Water in April of each year. A corporate plan comprises a statement of corporate intent, business plan and financial statements, and a pricing proposal. The process of reviewing and accepting the plans generally concludes in June. Consequently, Victoria will provide the 2003 cost recovery forecasts of the regional-urban water authorities to the Council at the conclusion of the corporate planning process.

Asset valuation

In May 2002, the public sector accounting policy *Valuation of Non-current Physical Assets* (the Policy) was released. The Policy prescribes and provides guidance on the measurement and recognition of non-current physical assets. Water businesses have been temporarily excluded from complying with the Policy primarily because of concerns and considerable uncertainty about how the fair value basis of measurement should be applied to the types of infrastructure assets held by regional-urban and rural water authorities.

Consultation with representatives of these water authorities to resolve these issues is continuing.

The Policy embodies many of the asset measurement and recognition principles contained in the *Asset Valuation and Reporting Statement* developed to apply to Victoria's water businesses. Victoria wishes to avoid unnecessary duplication of asset valuation and reporting policies applying to its water businesses. Pending the outcome of the current consultation process, Victoria will review the need for a water industry specific statement on asset valuation and reporting.

As noted above, asset values developed under the Policy for reporting purposes may not necessarily correlate with those determined for price setting purposes.

Asset management audit arrangements

Asset management arrangements were discussed in the Government's Proposals Paper on establishing the ESC as the economic regulator of the Victorian water industry. These arrangements reflect the importance of asset management in ensuring that water businesses are able to meet their service obligations to customers.

As noted in the Proposals Paper, the Government proposes to be responsible for setting and amending businesses' asset management obligations and the ESC will be responsible for monitoring and reporting on businesses' compliance with these obligations. The Proposals Paper provides for the ESC to determine appropriate monitoring arrangements, including the scope and frequency of asset management audits, in consultation with the relevant Minister.

As the November 2002 State election precluded implementation of ESC regulation on 1 January 2003 as originally proposed, the Government is giving consideration to a revised timetable for implementation.

Community service obligations (CSOs)

> Where service deliverers are required to provide water services to classes of customers at less than full cost this cost be fully disclosed and ideally be paid to the service deliverer as a community service obligation (CSO). Governments have agreed that the Council would not make its own assessment of the appropriateness of any individual CSO, but would review information provided by governments in totality to ensure these CSOs do not undermine the objectives of the agreed water reform framework. (clause 3a)

In Victoria's water industry, CSOs are limited to the provision of concessions to pensioners, rebates to certain not-for-profit organisations and payments under the rates and charges relief grant scheme. These CSOs are provided for urban water and wastewater services, and are funded by Government in a transparent manner.

Information on the value of CSOs delivered by individual water businesses is readily available from both the Department of Human Services and each business. The Department prepares annual summary reports on the value of pensioner concessions delivered by each business.

In June 2002, the Minister for Environment and Conservation issued a direction under the *Financial Management Act 1994* requiring the regional-urban water businesses and the rural water businesses to report the CSOs identified above, as applicable, in their annual reports, commencing with the 2001–02 report. The businesses complied with this direction.

Options have been identified and discussions are underway to determine the most appropriate means of specifying a similar requirement for the 2002–03 annual reports of the Melbourne metropolitan water businesses. The annual reports of the metropolitan urban retail water businesses are prepared in accordance with the *Corporations Act 2001* while the annual report of Melbourne Water Corporation, the metropolitan urban wholesaler, is prepared in accordance with the *Financial Management Act 1994*.

Rural pricing and full cost recovery

Full cost recovery

Victoria has continued to implement full cost-recovery for the rural sector. Most of the State's rural water services recover operational, maintenance and administration costs, finance charges and a renewals annuity. Where externalities are directly attributable to water users, and rural water authorities have incurred costs to undertake remedial works to address them, these costs are also fully recovered from rural water customers[7]. As noted above, rural water authorities have been operating under the national tax equivalent regime since 1 July 2002.

Victoria's rural water businesses use normalised revenues based on ten-year rolling averages of sales to ensure financial self-sufficiency. While there will always be minor fluctuations between under-recovery and over-recovery from year to year due to unforeseen and seasonal variations in expenses and/or revenues, this approach ensures full cost recovery over time.

The rural water authorities will develop cost recovery forecasts for 2003 as part of their annual corporate planning obligations. As discussed above, the review and acceptance aspects of the corporate planning process generally conclude in June. Consequently, Victoria will provide the Council with the 2003 cost recovery forecasts for the irrigation schemes supplied by Goulburn-Murray at that time.

Arrangements for renewals annuities

The Proposals Paper on establishing the ESC as the economic regulator of the Victorian water industry noted that a number of documents will need to be prepared and issued by the Government and/or the ESC in order to put in place the regulatory arrangements described in the Paper. These documents include pricing principles for irrigation and stock and domestic services and a Code to define negotiation and pricing principles for bulk water services. The process to establish these principles will further consider the principles for the renewals annuity.

As the November 2002 State election precluded implementation of ESC regulation on 1 January 2003 as originally proposed, the Government is giving consideration to a revised timetable for implementation and the development of Pricing Principles.

Asset valuation arrangements

As discussed above, Victoria will review the need for the water industry specific *Asset Valuation Practice Statement* pending the outcome of consultations with water industry representatives on the application of the recoverable amounts test under the public sector accounting policy *Valuation of Non-current Physical Assets*.

Dividend arrangements

Victoria recognises the need for a dividend framework that is based on commercial principles and ensures the retention of sufficient funds within the rural water authorities to enable them to conduct their businesses. Nevertheless, Victoria appreciates that the

[7] For example, the operating expenses component of rural water prices includes a charge for the operation of salinity mitigation schemes in northern Victoria.

issues associated with establishing an appropriate dividend framework for the rural sector are complex. Details and timing of a review of rural dividend arrangements have not been finalised.

Cross subsidies

As previously advised, Victoria considers that cross-subsidies in the rural sector have been removed. This has occurred, with rural water services now charging on a full cost recovery basis and prices established in consultation with water services committees. This limits any potential for cross subsidies between services to occur. In addition, the Proposals Paper for the establishment of the ESC as the economic regulator of the Victorian water industry envisages the development of pricing principles for irrigation, stock and domestic, and bulk water services that may include such matters as:

- a requirement that tariffs be fair and reasonable
- a requirement that they be developed with regard to COAG principles, where relevant
- a requirement that they lie between an upper bound of 'stand-alone' cost, and a lower bound of 'incremental cost'
- a requirement that services and prices be unbundled to the maximum extent possible
- a requirement that tariffs reflect efficient, forward-looking costs
- the methodology by which tariffs should be determined.

It is expected that the pricing principles will ensure that any cross-subsidies in the rural sector are identified and transparent.

Policy approach to passing on River Murray Water costs

Victoria's approach on this matter, in line with its long standing policies in relation to recouping the full costs of rural water service provision from end users, is that wherever appropriate, River Murray Water's (RMW) costs are to be fully borne by end users.

In view of uncertainties regarding future commercial reforms to RMW, interim arrangements have evolved that build upon full cost recovery principles. Under these arrangements, Goulburn-Murray Water apportions bulk water costs to end users using interim principles developed for the purpose of apportioning Victoria's share of RMW costs.

Institutional reform

Structural separation

Economic regulation of the water industry

The Government has previously indicated its intention to bring the Victorian water industry under the independent economic regulation of the ESC. Consistent with this proposal, in November 2001 the former Department of Natural Resources and Environment released an Issues Paper which formed the basis for preliminary input from key stakeholders, and which assisted development of the Government's proposals for ESC regulation. A Proposals Paper (refer to Attachment 8) was released in April 2002 setting out the Government's initial views on these regulatory arrangements.

Following release of the Proposals Paper, a number of information sessions and workshops were held to explain and seek feedback on the proposals. Direct meetings were also held with water authorities, rural water Customer Committees and other stakeholders. In addition, 38 written submissions on the Proposals Paper were received.

The consultative process has provided valuable input to Government's consideration of final arrangements for ESC regulation of the water industry. As the November 2002 State Election precluded implementation of these arrangements on 1 January 2003 as originally proposed, Government is also giving consideration to a revised timeframe for implementation.

Drinking water quality

Development of a new regulatory framework for drinking water quality has been undertaken following an extensive community and water industry consultation process. The consultation process commenced in August 2000. The various stages of the process were outlined in Victoria's 2002 third tranche assessment report.

Following the consultation process, legislative proposals have been developed with a view to introducing legislation, subject to the necessary approval process, in the Autumn Sitting of Parliament 2003.

Following the passage of legislation, an Office of the Drinking Water Quality Regulator will be established within the Department of Human Services. This will oversee commencement of the proposed risk management process for ensuring safe drinking water.

The legislation will also provide for the setting of drinking water quality standards by regulation. The Government will set drinking water quality standards, and requirements for monitoring and reporting against the standards, after a satisfactory public regulatory impact assessment process. Standards will be based on the 1996 Australian Drinking Water Guidelines. The new regulatory framework will be designed to allow the gradual improvement of State drinking water supplies in a manner that recognises the specific requirements and resource capabilities of local communities.

Water Services Agreements

Victoria introduced water services agreements to ensure that the obligations of regional-urban water authorities are clearly and formally articulated. The agreements provide accountability to Government as owner of these businesses by clarifying the key obligations Government expects each authority to meet during the period of the agreement. The agreements also establish key performance indicators and targets against which the performance of each authority can be measured. The agreements contain obligations associated with each authority's role as the provider of water and sewerage services to its customers. The obligations relate to:

- service provision, including drought response, emergency response and incident management; environmental management and water conservation
- accountability, including corporate governance arrangements that recognise and reflect the authority's relationship with the Government as owner
- reporting requirements, setting out the content and frequency of reporting to the Minister for Water.

As outlined in the Proposals Paper on the establishment of the ESC as the economic regulator of the water industry, it is proposed to formalise these arrangements and provide

for the Minister to issue formal Statements of Obligations to the regional-urban and rural water authorities. A review of the existing agreements with the regional-urban water authorities took place in the second half of 2002. Work has also commenced on clarifying the obligations of the rural water authorities.

As noted above, the November 2002 State election precluded implementation of arrangements for ESC regulation of the water industry on 1 January 2003 as originally proposed. Government is giving consideration to a revised timeframe for implementation.

Performance monitoring and best practice

Victoria continues to participate in a number of national and State based performance monitoring and benchmarking programs. These include programs conducted by:

- the Water Services Association of Australia, which covers the major urban service providers throughout Australia
- the Australian National Committee on Irrigation and Drainage, which covers rural service providers Australia wide
- the Australian Wastewater Association, covering all regional-urban service providers
- the Victorian Water Industry Association, with coverage of Victoria's urban service providers.

Commercial focus of metropolitan service providers

Victoria's metropolitan service providers are Corporations Law companies and State-owned companies under the *State Owned Enterprises Act 1992* (*SOE Act*), which continue to operate with a commercial focus. They have skills-based boards, pay dividends and tax equivalents, compete by comparison with each other on customer service and performance standards and are required by the *SOE Act* to operate their businesses and pursue their undertakings 'as efficiently as possible consistent with prudent commercial practice'.

Irrigation scheme management

All of Victoria's rural water authorities have water service committees (WSCs) in place. Establishing the WSCs has ensured that rural water authorities receive local input into the management of irrigation areas. Also, in terms of asset management, the WSCs provide business management and a community framework for infrastructure renewals and upgrading. This process also relies on a strong partnership with CMAs and their regional land and water management action plans. That is, salinity plans, surface water management plans and drainage strategies.

Under the Water for Growth initiative the Government, in partnership with the First Mildura Irrigation Trust and Sunraysia Rural Water Authority, completed a business case review on the options to improve service delivery and upgrading of four pumped irrigation districts in the Mallee. This involved a comprehensive consultation process with the WSCs in the district to determine the threats and opportunities in terms of future water service delivery requirements.

Water legislation review

Victoria is committed to reviewing, and as appropriate reforming, all legislation that contains restrictions on competition. In 1999 the Government commissioned an

independent review of Victoria's water legislation and associated regulations. The review was undertaken by Marsden Jacob Associates and was completed in June 2001. The review identified, and made recommendations in relation to the following restrictions identified in the legislation:

- structural restrictions, in particular the creation of single service providers within specified geographical areas through the provision of exclusive licences and appointments
- barriers to entry in the form of restrictions of water entitlements and trading
- unique regulatory powers held by licensees and authorities, in particular the power to require connection to sewerage infrastructure
- barriers in the form of licences for drilling of groundwater bores
- regulatory barriers, in the form of the interface between different and potentially conflicting legislative and regulatory regimes which apply to the different players in the industry.

The Review process and findings, including the effects and the costs and benefits of restrictions inherent in the legislation and of alternative arrangements, are described in the Report of the NCP Review of Water Legislation. A copy of the report is provided in Attachment 9.

In summary, the review examined the *Water Act 1989*, *Water Industry Act 1994*, the *Melbourne and Metropolitan Board of Works Act 1958* and the *Melbourne Water Corporation Act 1992* and associated subordinate legislation to identify all the key competitive restrictions in the provision of water and sewerage services.

Consultation was a key element of the review process. An issues paper, canvassing the major restrictions and options and seeking submissions from interested parties, was released in June 2000. The review was advertised widely through the State's press and through direct contact with key stakeholders. The issues paper was made available electronically or directly from the former Department of Natural Resources and Environment. Stakeholders and other interested parties were invited to make submissions by 31 July 2000.

The release of the issues paper was followed by an extensive consultation program aimed at briefing key stakeholders to promote understanding and appreciation of the issues and encourage comprehensive submissions. Submissions were received from 22 parties.

The Report of the NCP Review of Water Legislation was released for comment on 26 November 2001 and was circulated directly to a wide range of interested stakeholders. Submissions were sought by 18 January 2002. The Review Report was available electronically or directly from the former Department of Natural Resources and Environment and drew 20 submissions from interested parties.

The Government's response to the Review Report was released on 27 June 2002.

Review recommendations and Government response

The review identified and made nine recommendations in relation to the following areas:

- restrictions on the ability of the licensees[8] and authorities to perform functions and/or to act outside defined areas
- provisions relating to the allocations and trading of water entitlements
- the allocation of powers to authorities and licensees
- arrangements and criteria for issuing licences and permits
- consistency in legislation and regulation.

The Government's response accepted the majority of the recommendations made by the review and work is progressing to implement the actions necessary to give effect to the Government's response. Some of these actions require legislative reform, while others involve non-legislative measures such as the development of financial and policy frameworks. The key actions are:

- the introduction of legislation to give effect to the economic regulation of the water industry by the ESC
- the development of proposals for introducing vetted competition in the first half of 2003. These proposals will be developed in consultation with key stakeholders
- the development by December 2003 of a formal protocol to guide vetted competition for new developments on the border of existing businesses
- a review of the role of a formal state-wide access regime for third party access rights to essential water infrastructure in Victoria. The review will begin within twelve months of the introduction of the ESC as the economic regulator of the water industry
- the release for public comment of legislative proposals to allow leasing arrangements of water entitlements between farmers
- the release of *A Guide to Water Trading* canvassing other options for managing structural change in relation to the 2 per cent trading rule. Public comment will be sought with a view to developing any legislative proposals for change in 2003
- a review of the differential rate of return on bulk water supplies before the ESC sets prices for bulk water
- the development of legislative proposals to separate the initial decision to proceed with a reticulated sewerage scheme from the responsibility for enforcing connection to that scheme
- the development of legislative proposals to current by-law making powers to minimise the risk of water businesses being seen to set and enforce regulatory requirements by introducing public scrutiny to the by-law making process
- the commencement in 2003 of work to develop a comprehensive state-wide legislative framework for Victoria's water businesses.

Progress on the key actions is as follows:

[8] That is, the three metropolitan urban retail water and sewerage service providers

ESC

As previously noted, the November 2002 State election precluded implementation of arrangements for ESC regulation of the water industry on 1 January 2003 as originally proposed. Government is giving consideration to a revised timeframe for implementation.

Vetted competition

Consultation to develop a scoping paper for introducing vetted competition will commence in March 2003. The scoping paper will be the basis for developing proposals during the first half of 2003 for formally introducing vetted competition for new development sites. These proposals will inform the development of a formal protocol to guide vetted competition during the second half of 2003.

Access review

Work to develop a scoping paper to develop terms of reference for a review of the role of a formal state-wide access regime is subject to Government's consideration of a revised timeframe for implementation of arrangements for ESC regulation. Sufficient time is required to identify and resolve any implementation issues arising from new regulatory arrangements under the ESC.

Leasing arrangements

Proposals for leasing arrangements are included in *The Value of Water: A Guide to Water Trading in Victoria*, which was released in July 2002. Consultation is expected to conclude in April 2003.

Structural change

Options for managing structural change are also included in *The Value of Water*. Public consultation is continuing with a view developing any legislative proposals for change in 2003.

Rate of return

The differential rates of return on bulk supplies for regional-urban and rural users were discussed in the Government's Proposals Paper on establishing the ESC as the economic regulator of the Victorian water industry. The Government acknowledged that this arrangement has the potential to distort pricing signals and as noted will address this issue prior to the ESC determining prices for bulk water supplies. As the November State election precluded implementation ESC regulation on 1 January 2003 as originally proposed, the Government is giving consideration to a revised timeframe for implementation and to addressing the differential rates of return on bulk supplies for regional-urban and rural users.

Compulsory sewerage connection

Consultation on proposals for compulsory connections, which incorporate connection issues considered in the EPA review of the regulatory arrangements for septic tanks, is expected to be complete in March 2003. Legislative proposals will be developed with a view to introducing legislation in the Spring Sitting of Parliament 2003. In the meantime, protocols are in place to ensure services are only provided where a municipal council and the EPA have established the need.

By-laws

Consultation on proposals to introduce public scrutiny to the by-law making process is continuing and is expected to conclude in March 2003. Legislative proposals will be developed with a view to introducing legislation in the Spring Sitting of Parliament 2003.

Legislative framework

Work to develop a scoping paper for establishing a legislative framework for Victoria's water businesses is expected to commence during the second half of 2003.

Restrictions retained

Victoria did not accept the Review recommendations relating to additional regulation of larger scale supply arrangements and those in respect of the progressive removal of links between the ownership of land and water, the lack of clarity in the relationship between bulk entitlements and individual entitlements, and the removal of the 2 per cent cap on water trades. The reasons for not proceeding with these recommendations are clearly set out in the Government's response to the review.

Education and consultation

The Victorian Government is committed to transparent and open processes involving community consultation and education. There have been significant consultative programs and communication strategies accompanying each of its major reform initiatives. These programs ensure that stakeholders are engaged in the development and implementation of reform initiatives and that public debate and understanding of issues is achieved.

Public consultation

Victoria has, and continues, to address its commitments to public consultation through:

- the extensive consultative programs put in place for major reform issues such as the review of farm dams, proposals for establishing the ESC as the economic regulator of the water industry, proposals for the new drinking water quality regulatory arrangements, proposals in relation to allowing more flexibility and sophistication in the Victorian water market and proposals to establish a framework to drive beneficial water recycling in Victoria

- the community and stakeholder consultation that continues to be a feature of the development and implementation of bulk entitlements, SFMPs, GMPs and river health plans and other natural resource management programs

- the public consultation that was a feature of the process for the NCP review of Victoria's water legislation

- customer consultation obligations placed on urban water businesses through operating licences and water services agreements, which ensure that these businesses engage with the customers and communities they impact upon regarding services to be provided

- water services committees established by rural water authorities, which ensure that these authorities engage with their customers in relation to the management and provision of rural services.

As noted in the River health and allocations section above, the farm dams review involved extensive community consultation. The Victorian Farm Dams (Irrigation) Review Committee held a series of public meetings and public hearings across the State. A Discussion Paper was released for comment and the submissions received were considered by the Committee prior to the release of the final report.

Legislative proposals to establish the arrangements for a state-wide drinking water quality framework have been established following an extensive consultation process. This consultation process included the release of a Proposals Paper and a Discussion Paper and consideration of submissions received from interested parties.

The consultation process to develop arrangements in relation to establishing the ESC as the economic regulatory of the Victorian water industry included the release of an Issues Paper and a Proposals Paper for comment.

In summary, the following consultation documents were released during 2001 and 2002:

- *Establishing the Essential Services Commission as the Economic Regulator of the Victorian Water Industry*, Issues Paper, November 2001.
- *Establishing the Essential Services Commission as the Economic Regulator of the Victorian Water Industry*, Proposals Paper, April 2002.
- *The Value of Water: A Guide to Water Trading in Victoria*, July 2002.
- *New Water for Victoria: Victoria's Water Recycling Action Plan*, October 2002.
- *Planning for the Future of our Water Resources: Discussion Starter*, June 2001.
- *21st Century Melbourne: A WaterSmart City, Strategy Directions Report*, May 2002.
- *21st Century Melbourne: A WaterSmart City, Final Report*, October 2002.

Extensive stakeholder and community engagement is required to ensure the successful development of BEs, SFMPs, GMPs, river health plans and other integrated natural resource management programs. Victoria is committed to ongoing consultation on these initiatives to improve public awareness and ensure that the full benefits of the reforms are understood and achieved by facilitating stakeholder input into the programs.

Education

Victoria has met its commitments to public education though the Melbourne Water Resources Strategy initiative. A key feature of the initiative is the need to raise the general awareness and understanding within the Melbourne area community of the need to change prevailing attitudes to water. This change is necessary in the context of:

- climate variability (exemplified by Melbourne entering its seventh year of drought)
- an expanding city with a population projected to grow by 32 per cent over the next 50 years
- the realisation that securing new supplies has an unacceptable environmental and social cost.

The Strategy sets out a blueprint for the sustainable management of greater Melbourne's water resources over the next 50 years, and sets out 23 recommendations aimed at

ensuring that a safe and reliable supply of water is delivered to Melbourne in an environmentally sustainable manner.

In view of the need to introduce measures that will help to save water now and raise community awareness of the need to conserve water supplies, the Government has committed to ten water smart initiatives to be implemented immediately. These initiatives include:

- leading the development of national standards for efficiency labelling of water appliances
- developing incentive packages for Victorians to use AAA rated shower roses and AAAA rated washing machines
- determining an appropriate way to enforce minimum national standards
- ensuring that Melbourne's retail water businesses and the Sustainable Energy Authority of Victoria work closely to ensure consumers know the cost savings from energy and water efficient appliances
- requiring Melbourne's retail water businesses to conduct community education campaigns providing information on water conservation and smart gardening practices
- requiring Melbourne's retail water businesses to develop water management plans for the 200 biggest industrial water users in Melbourne
- conducting targeted research into how to change water consumption behaviour in the community
- implementing appropriate incentives to drive water efficient practices from the research results
- banning the watering of gardens, except for that using hand held hoses, on days of total fire ban. The use of sprinklers as part of a bushfire management strategy is exempt
- taking appropriate measures to prevent excessive wastage of water (i.e. to prevent hosing of paths).

A full Government response to the recommendations will be finalised and publicly released in 2003.

Improved understanding of water conservation and broader resource issues also continues to be addressed through a variety of public education programs, including National Water Week and Waterwatch.

In addition, the Victorian Water Industry Association is assisting in making educational material regarding water available to Victorian schools by cataloguing information developed and held by Victorian water businesses.

6. Forestry and fisheries

- Forestry Victoria was established in August 2000 as a departmental business unit with a clear commercial focus and separate and transparent financial and reporting arrangements. A further separation will occur with the establishment of VicForests as a separate entity responsible for commercial performance.
- The Government policy announcement, *Our Forests Our Future,* made commitments to a broad suite of reforms in the forest management and forest industries, particularly in relation to establishing a more market-based pricing and allocation system. The recent *Forests and National Parks* policy statement reaffirmed the Government's commitment to implementing these reforms.
- The Government response to the review of the *Forests Act 1958* will be completed in 2003.
- The Government response to the review of the *Fisheries Act 1995* was released in December 2001. The Government considers that, through its acceptance of the main recommendations of the review and through their continued implementation through regulation and legislation, it has met its commitments in this area.

Overview of progress

The review of the *Forests Act 1958* found that the Act and its regulations contain few restrictions, but that the administration of the Act and the regulations could give rise to restrictions. A revised response to the review reflecting the Government's policy directions will be completed in 2003.

Some of the recommendations of the review have already been implemented. Forestry Victoria was established in 2000 as a departmental business unit with a clear commercial focus and separate and transparent financial and reporting arrangements. A further separation of commercial and regulatory functions will occur with the establishment of VicForests as a separate entity to manage the commercial interface with industry.

Conduct of the Licence Renewal Project and the Timber Pricing Review have addressed additional review recommendations. This work was incorporated in the *Our Forests Our Future* (OFOF) policy statement released in February 2002 and currently being implemented.

The Government's recent *Forests and National Parks* policy statement reaffirmed its commitment to implementing the OFOF package of reforms, including the restructuring of commercial forest operations to ensure that they are open and accountable and timber harvesting is managed efficiently, competitively and in a sustainable manner.

The Government response to the review of the *Fisheries Act 1995* was released in December 2001. The Government has accepted all of the recommendations of the review report, with the exception of the recommendation that annual Access Licences should be granted for longer periods. These recommendations continue to be implemented through the development of the Fisheries Management Plan, scheduled legislative amendments and the commencement of the Bay and Inlets Management Process.

The Government considers that, through its acceptance of the main recommendations contained in the review report, and through ongoing implementation through regulation and legislation, it has met its commitments in this area.

Forestry

A review of the *Forests Act 1958* was completed in April 1998 and concluded that while the Act and its regulations contain few restrictions, the administration of the Act and regulations could give rise to restrictions. A revised response to the review is currently being developed to reflect the Government's policy directions and will be completed in 2003.

Some of the recommendations of the review have already been acted on, with the establishment of Forestry Victoria in August 2000 as a departmental business unit with a clear commercial focus, and separate and transparent financial and reporting arrangements. In February 2002, the OFOF policy statement included a commitment to the further separation of commercial activities from policy, monitoring and regulatory functions, with the establishment in 2003 of VicForests—a separate and fully commercial entity to manage the commercial interface with industry. Work is presently being undertaken to determine the most appropriate form and means for establishment of VicForests. This includes the incorporation of performance monitoring arrangements and community service obligations. Other activity has addressed other selected recommendations and conclusions of the review. The Licence Renewal Project included the development of a strategy for the reissue of licences as well as the identification of appropriate sawlog volumes to ensure resource sustainability.

The Timber Pricing Review addressed further recommendations, though these reports were undertaken in the context of the current administered system—prior to the outcomes of the Licence Renewal project and the announcement of the OFOF policy statement—and examined price only. Based on the recommendations of these reports the Government has subsequently made a commitment in OFOF to create a new licensing and pricing system, with particular reference to market-based pricing. A new body of work on market-based pricing of timber produce and allocation arrangements is giving effect to this commitment.

The Government's recent *Forests and National Parks* policy statement reaffirmed its commitment to implementing the OFOF package of reforms, including the restructuring of commercial forest operations to ensure that they are open and accountable and timber harvesting is managed efficiently and competitively.

Fisheries

A review of the *Fisheries Act 1995* was completed in July 1999, and the Government's response released in December 2001. This response accepted all but one of the review recommendations regarding fisheries in general, which recommended that annual Access Licences be granted for longer periods (for example, up to five years). The Government considers that the current issuance of annual licences is an automatic renewal subject to conditions and that the fee and levy structures are more efficiently managed under an annual issuance regime. The implementation of Fisheries Management Plans underpin the *Fisheries Act 1995* and typically run for 4 to 5 years, ensuring a stable environment for licence holders. Industry has also supported the notion of annual licence renewal and the associated annual levy collection.

Further detail regarding accepted recommendations is provided in the March 2002 *Report for the Third Tranche Assessment of Victoria's Implementation of the National Competition Policy*.

For those reforms that require changes to the legislation, the Government plans to continue to review and amend legislation as required following consultation and negotiation with stakeholder groups.

The Government also supported the following review recommendations pertaining to specific fisheries. The implementation of these recommendations is proceeding through the management planning process.

Rock lobster and abalone fisheries

The Government accepted that moving from a system of input controls (pots) to output controls (quota) was appropriate for these high value fisheries. An Individual Transferable Quota system for rock lobster was introduced in November 2001. The removal of pot numbers and the issue of minimum pot holdings in the rock lobster fishery is currently being considered as part of the development of the Fishery Management Plan, due for public release in mid 2003. The recommendation concerning the refinement of the definition of a 'fit and proper person' in relation to licence ownership is due to be dealt with in the legislative framework in 2003.

For abalone, the Government accepted that the Individual Transferable Quota system should be retained, as no less restrictive alternative existed. The minimum quota holding is to be reduced (to one unit of quota) and the maximum limit of a quota holding is to be abolished, enabling licence holders to grow and to obtain scale and other economies. The method for allocating new licences and quota in the abalone fishery is scheduled for legislative amendments in mid 2003. The mechanisms associated with cost recovery and royalties are currently being reviewed and will be implemented in 2004. Minimum and maximum quota holding for the abalone fishery is scheduled for legislative amendments in 2003.

Scallop fishery

The Government supports the recommendation that current management arrangements should be retained, as there is no feasible alternative that is less restrictive.

Bays and Inlets and Other fisheries

The Government accepted the recommendation that current control mechanisms should be retained while foreshadowing evaluation of alternative output control mechanisms for some species. The Bays and Inlet Management Planning process, to begin in June 2003, will include fisheries management processes for investigating the efficacy of output control mechanisms for some species such as black bream.

7. Mining and petroleum

- The review of the *Extractive Industries Development Act 1995* was completed in 2002 and the Government response will be completed in 2003.
- A national response to the review of the *Petroleum (Submerged Lands) Act 1982* has been made.

Overview of progress

The three key pieces of legislation in the Victorian minerals and petroleum sector are:

- the *Mineral Resources Development Act 1990*
- the *Extractive Industries Development Act 1995*
- the *Petroleum (Submerged Lands) Act 1982*.

The *Mineral Resources Development Act* has been reviewed and the Government has responded to the review's recommendations. The Government has developed Ministerial guidelines for the application of fit and proper person provisions.

The review of the *Extractive Industries Development Act 1995* was completed in 2002. The Government response will be completed in 2003.

Mining Licences

The Mineral Resources Development Act 1990

The *Mineral Resources Development Act* vests ownership of minerals in the Crown. This allows the State to establish a uniform system for access to land for mineral search and development, management of the environmental consequences of these operations and compensation to owners and occupiers of land on which mining industry activities are conducted. The major restrictions on competition identified by the review relate to exclusive rights to explore and mine, the granting of licences and permits to facilitate exploration of minerals and the establishment and continuation of mining operations.

The review concluded that the majority of restrictions on competition contained in the legislation were necessary to achieve the objectives of the legislation and are justified in the public interest. The Government has accepted most recommendations of the review, which have been implemented by amendments to the Act in Spring 2000 and through progressive amendments to the policy and procedures that support the administration of the Act. These amendments are expected to be completed during 2003. The amendments to the policy and procedures have resulted in the development of Ministerial guidelines for the application of fit and proper person provisions.

Petroleum

The Petroleum (Submerged Lands) Act 1982

A national review of the *Petroleum (Submerged Lands) Acts* operating in Australia has been conducted. A Ministerial Council comprising relevant State and Territory Ministers considered the report of this review on 25 August 2000. The Ministerial Council concluded that the mirror Commonwealth, State and Northern Territory legislation that governs exploration and development of the nation's offshore petroleum resources is essentially pro-competitive. Where there are restrictions on competition these are necessary to protect the interests of the community as a whole, and the benefits of the restrictions outweigh the costs (for example, to reduce negative externalities).

The review report and response were released in 2001. A number of the recommendations that are accepted by the Government will not require legislative change. For those recommendations requiring legislative change, the Commonwealth has enacted the *Petroleum (Submerged Lands) Act 2002* (*Commonwealth*) and it is proposed that the Victorian Government will amend the *Petroleum (Submerged Lands) Act 1982* (*Victoria*) to mirror the Federal amendments by 2004.

Pipelines Act 1967

The review of the *Pipelines Act 1967* and the Government response was completed in 2002. The review did not identify any major restrictions on competition. The *Pipelines Act* is currently the subject of a complete review that will develop a regulatory framework contemporary with other forms of infrastructure. Recommendations from the National Competition Policy review of the *Pipelines Act* will be taken into account as the draft legislation is developed. It is expected that the new Act will be in operation by 2005.

Part D:
Network infrastructure industries

8. Electricity

- Victoria has met the objectives guiding the establishment of the National Electricity Market (NEM). Through the NEM Ministers Forum, Victoria and other NEM jurisdictions have continued to work to resolve matters of policy affecting the NEM.
- Victoria fully and actively participated in the COAG Energy Market Review and NEM Ministers Forum.
- Around 5.6 per cent of customers have elected to change retailers over the twelve months since retail contestability was introduced on 13 January 2002.
- Victoria has facilitated and overseen the 400 megawatt SNOVIC upgrade, and provided planning approvals for the Basslink interconnector.

Overview of progress

The National Competition Council (NCC) identified the following key areas against which to review Victoria's performance in electricity reform:

- participation in the National Energy Market Review and the NEM Ministers Forum to progress:
  - refining the National Electricity Market (NEM) institutional framework so NEM policy can be developed and implemented
  - the development of transmission interconnection toward a national grid rather than a series of regional networks
- development of the retail market
- removal of derogations from the National Electricity Code (NEC) and transitional arrangements.

Victoria has met the structural reform objectives guiding the establishment of the NEM.

The NEM jurisdictions established the NEM Ministers Forum in June 2001 to settle a framework for resolving issues affecting the NEM, which is now working to refine the institutional framework.

Victoria has led the reform process for the introduction of contestability for electricity consumers.

Along with many other transitional derogations, Victoria's vesting contracts expired on 31 December 2000. Victoria still has some derogations from the NEC. Transitional derogations were granted in August 2001 to enable FRC to be implemented in a timely and effective manner. In addition, amendments to existing derogations that recognise the unique split between transmission planning and asset ownership in Victoria were granted interim approval by the Australian Competition and Consumer Commission (ACCC) in December 2002. In general, Victoria has only used derogations as a last resort where other mechanisms to deliver efficient regulatory arrangements have failed. The following

sections discuss in more detail the progress and outcomes of jurisdictional legislative reviews and reforms.

Participation in the National Electricity Market Review and NEM Ministers Forum

Victoria has met the structural reform objectives guiding the establishment of the NEM.

Victoria supports further review of the NEM. However, it is important to recognise that NEM jurisdictions are ultimately responsible for the National Electricity Code Administrator (NECA) and National Electricity Market Management Company (NEMMCO) and that the policy framework for further development of the NEM also lies with those jurisdictions. For that reason, Victoria was instrumental in establishing the NEM Ministers Forum (the Forum) in June 2001 to settle a framework for resolving issues affecting the NEM.

The role of the Forum is to provide a basis for efficiently resolving matters of policy affecting the NEM and not to become involved in the day-to-day operation of the market. The Forum has developed a work program to address a range of priority issues in the NEM. The issues include the framework for connecting transmission networks between regions in the NEM and the delineation of policy and operational functions in the NEM.

In July 2002, the Forum agreed to investigate the costs and benefits of establishing a single NEM regulator. A consultation paper was distributed to major generator, retailer and user groups, and NEM institutions in September 2002. The Forum is currently undertaking further analysis of regulatory options including consideration of costs and benefits of identified alternatives.

The Forum held its sixth meeting in November 2002. The main outcomes of the meeting included:

- NEM Ministers resolved to examine whether any policy responses are required to add to the depth and liquidity of contract market products

- NEM Ministers agreed to a Memorandum of Understanding between participating NEM jurisdictions to set out the proposed powers to give effect to the NEM Ministers' policy role. Proposed legislation will formalise the current role of the Forum to issue policy statements as well as create a new power for the Forum to issue binding directions on NECA.

By June 2003, NEM Ministers intend to release a statement on the policy framework and future directions for the transmission network. To this end, a workshop involving market participants was held in November 2002 to identify key policy issues to guide the development of a transmission policy framework.

In addition, Victoria has fully participated in the Council of Australian Government's (COAG) Energy Market Review (the Review). Following their meeting in July 2002, NEM Ministers referred two market development issues to the Review panel for consideration, including:

- the role and structure of financial markets in supporting the development of an effective demand side response

- the roles of locational pricing and integration of non-network options into network planning in facilitating more effective demand side response.

The draft report of the Review was publicly released on 15 November 2002, with the final report delivered on 20 December 2002. The Review has identified strategic issues for

Australian energy markets and Government policies to generate the most significant benefits, including the wider penetration and uptake of natural gas. The Victorian Department of Infrastructure (which has responsibility for energy policy) responded to the draft report of the Review in early December 2002. The Department concluded that the draft report makes an important contribution to the debate on energy market reform. Many of its recommendations are broadly consistent with the views publicly expressed by the Victorian Government. However, the Department sought further clarification in the final report on some recommendations such as the Panel's conclusion that substantial barriers exist to competition in the NEM. The Department argued that this may be overstated in some cases, but that greater national cohesion in policy development and regulation is nevertheless essential to provide a stable but adaptive framework for the market.

There will not be a formal Victorian Government response to the Review. Victoria will contribute to the development of a report to COAG in mid 2003 by the Ministerial Council on Energy on energy reform, which will incorporate a response to the Energy Market review.

Review of electricity related legislation to ensure consistency with National Competition Policy objectives

Victoria has continued its review of legislative and regulatory barriers to free and fair trade in electricity. The provisions of the *Electricity Industry Act 2000* are consistent with NCP principles. That is, they do not restrict competition, but rather underpin existing competition and facilitate its introduction for domestic and small business customers.

A key provision of the Act is a safety net for domestic and small business customers to ensure that no customer is disadvantaged during the transition to effective full retail competition. Customers are protected during this transition period, as local retailers are required to publish their price and service offers to all domestic and small business customers. The published terms and conditions are subject to oversight by the Essential Services Commission (ESC), and the Government may refer published tariffs to the Commission for investigation. The safety net provisions are transitional and will expire on 31 December 2003. However, following an investigation by the ESC that found competition is not yet fully effective, the Government has announced that it will legislate to extend the safety net until at least December 2004.

National Transmission Grid Interconnection

In addition to its participation in the review of transmission development by the NEM Ministers Forum, Victoria has actively contributed to inter-jurisdictional transmission network interconnection.

In March 2002, the Victorian Energy Networks Corporation (VENCorp) released its report analysing the costs and benefits of augmenting the SNOVIC interconnector between Victoria and New South Wales. Victoria has subsequently overseen the 400 megawatt SNOVIC upgrade, with VENCorp responsible for managing the project, including planning and obtaining NEMMCO’s approval. The line works for the SNOVIC project were completed in September 2002, and SNOVIC was commissioned in December 2002.

On 13 September 2002, the Victorian Government announced that it had approved the Basslink transmission interconnection project between Victoria and Tasmania. Basslink will be capable of supplying up to 600 megawatts to Victoria during peak conditions and will enable Tasmania to become a member of the NEM.

Development of the retail market

Around 112 000 or 5.6 per cent of small (<160 MW/annum) electricity consumers have elected to change retailer in the 12 months since the final tranche of the contestable electricity market opened on 13 January 2002. Interim business to business (B2B) processes have been sufficient to manage the number of transfers in the market to date. However, with the acceleration in transfer numbers, the Victorian and NSW Governments are concerned that during 2003 the current B2B processes will become increasingly inefficient for electricity businesses, imposing costs on businesses and ultimately customers. Victoria and NSW are therefore keen to see the development of longer-term alternatives with the prospect of greater efficiency. To this end, the Victorian and NSW Governments are facilitating the development of national standards and the assessment of a pilot proposal for a B2B service that could be quickly implemented using existing infrastructure.

During 2002, the Victorian Government asked the ESC to investigate whether competition in the electricity market had been effective for domestic and small business consumers since market opening. The ESC concluded that competition is not yet fully effective, but the building blocks are in place for the benefits of competition to flow to consumers over the next few years. Also, further improvements are expected following the introduction of competition in gas in October 2002-allowing consumers to consider 'dual fuel' offers to purchase both gas and electricity from the one retailer. In addition, the ESC noted that the market could work more effectively if customers had better access to clear and comparable information on competing offers and packages. Based on the ESC's advice that competition is not yet effective, Victoria intends to extend its reserve power of price regulation from August 2004 to the end of 2004, and review the need for its continuation in that year.

Victoria's goal is to have energy prices set by the market rather than regulation. However, Victoria believes that it is premature to leave consumers, particularly low-income consumers, with no price protection. Retail market power is a major issue at the outset of full retail competition, when consumers are not confident to switch and alternative retail offerings are not well developed.

The continuation of this reserve power does not mean, however, that it will automatically be exercised to contain retailers' standard prices. The Victorian Government has only intervened where it has concluded that market power is being exercised. It is anticipated that the need for price caps will diminish or end in the future once full retail competition is fully effective.

The Victorian Government recently used its reserve pricing power to protect electricity consumers by constraining price rises in standard contracts for 2003. These price constraints explicitly took into account the market energy costs faced by retailers. The acceleration of customer transfers in Victoria's energy markets does not support the view that price caps have materially impeded competition. However, active marketing by retailers is limited to high-income, high usage market segments so an appropriate safety net is required to protect those users to whom the benefits of competition are yet to flow.

The Victorian Government exercised its reserve powers of price regulation to achieve a balance between the objectives of protecting consumers in the transition to fully effective competition while ensuring that competition becomes effective, price volatility is minimised, the need for ongoing regulation is reduced, and the financial viability of retailing is not compromised.

The Victorian Government will investigate the implementation of an independent consumer information regime to compare offers from all retailers, developed in consultation with the industry, consumer representatives and the ESC.

Derogations from the National Electricity Code and transitional arrangements

Along with many other transitional derogations, Victoria's vesting contracts expired on 31 December 2000. Victoria still has some derogations from the National Electricity Code. In general, derogations will only be used as a last resort.

The current regulatory framework provided by the Code, which has applied to transfers by large customers, allows the flexibility for either the retailer or the distributor (as default provider) to provide metering and data services to such customers. However, this flexibility could create significant complexities in the mass market in terms of establishing systems and processes to enable the transfer of small customers. Accordingly, derogations were approved by the Australian Competition and Consumer Commission (ACCC) to enable a simplified regime to apply in respect of the mass market for a transitional period to facilitate the orderly introduction of full retail contestability (FRC).

Transitional derogations were granted in August 2001 to enable the implementation of FRC in Victoria in a timely and effective manner. The derogations provide that distribution businesses are exclusively responsible for the provision, maintenance and installation of all manually read interval meters, basic meters and unmetered supply points until 1 July 2004. During the transitional period, jurisdictional regulators are required by the Code to review and make recommendations on issues including meter ownership.

Victoria has led the reform process to implement FRC in electricity in an effective and timely manner. The take up rate in Victoria during the first year is one of the highest compared with international experience in FRC. Retailers are also making market offers to their high value customers, a further sign that competition in Victoria is taking effect.

In December 2002, the ACCC provided interim approval for amendments to existing Victorian derogations for the regulation of transmission network services, as well as the deletion of spent provisions and updating of definitional provisions in the derogations. These derogations are necessary to reflect Victoria's unique separation of ownership and planning of the high voltage transmission system. VENCorp is responsible for planning and directing the augmentation of the electricity transmission system. The amendments to the derogations ensure that an efficient and appropriate transmission regulatory framework is put in place in Victoria for the long term. They ensure that appropriate recognition is given to Victoria's separation of transmission planning functions from asset ownership, and that appropriate recognition is also given to VENCorp's not-for-profit status.

The Government has also acted to reduce the transitional assistance provided to small consumers following the introduction of full retail competition in the electricity industry. In April 2002 the Government introduced a 12-month Special Power Payment (SPP) scheme to facilitate in the transition to a fully effective FRC electricity market. The Government has recently announced the replacement of the $118 million SPP scheme with a $57 million Network Tariff Rebate (NTR) for 12 months from 1 April 2003 to provide assistance to householders, small businesses, and farmers in outer suburban and regional and rural areas.

9. Gas

- Victoria introduced Full Retail Contestability on 1 October 2002.
- Around 43 000 (2.9 per cent) consumers elected to change their gas retailer over the period October 2002 to January 2003.

Overview of progress

The National Competition Council (NCC) has indicated in its August 2002 assessment that the key outstanding gas reform for Victoria is the implementation of Full Retail Contestability (FRC).

Victoria introduced FRC for gas on 1 October 2002. This introduction of FRC was facilitated through an industry-based project involving representatives of industry, customers, VENCorp, Government and the Essential Services Commission (ESC).

Competition is not yet fully effective. Based on evidence that market power was being exercised, the Victorian Government acted to protect gas consumers by using its reserve pricing power to constrain price rises in standard contracts for 2003.

Introduction of Full Retail Contestability

The *Gas Industry Act 2001* provided for the staged introduction of retail contestability in the Victorian gas industry. The final stage of contestability, which involves some 1.5 million domestic and small business customers, was scheduled to occur on 1 September 2001. However, participant systems and processes necessary to manage customer transfers and metering data were not adequately developed at that time. A further transitional period was therefore enabled to allow for the orderly introduction of FRC on 1 October 2002.

Two key consultation forums oversaw the industry-wide activities and issues associated with implementing FRC, including:

- the Victorian Gas Retail Rules Committee (VGRRC), established under the auspices of VENCorp to develop and maintain the 'retail gas market rules' for the Principal Transmission System, and to facilitate the development and implementation of the common industry FRC tasks, such as market readiness and the development and management of a business to business (B2B) system solution
- the Victorian Gas Contestability Forum (VGCF), established by Government to provide a broad and direct consultation forum for stakeholder consultation in respect of system wide Gas FRC project activities, such as Gas FRC structures and processes and the overall project timeline.

A number of key outstanding tasks were successfully completed during 2002 including the development and implementation of:

- customer transfer and metering systems to support FRC
- business to business communication system

- industry tests and market readiness strategy
- ESC approval of retail market rules
- ESC decisions relating to cost recovery of FRC related expenditure for distributors and VENCorp
- the ESC regulatory instruments, including the gas retail code, confidentiality and explicit informed consent and marketing code of conduct
- customer information and education campaign.

The gas market opened to competition on 1 October 2002. Over the period October 2002 to January 2003, around 43 000, or 2.9 per cent of domestic and small business customers, elected to change retailers.

Victoria's goal is to have energy prices set by the market rather than regulation. However, the Government believes that it is premature to leave consumers, particularly low-income consumers, with no price protection. Retail market power is a major issue at the outset of full retail competition, when consumers are not confident to switch and alternative retail offerings are not well developed.

Based on evidence that market power was being exercised, Victoria acted to protect consumers by using its reserve pricing power to constrain price rises sought by retailers in standard gas contracts in 2003. Similar to electricity, the Victorian gas price constraints explicitly take into account the market energy costs faced by retailers.

The Victorian Government exercised its reserve powers of price regulation to achieve a balance between the objectives of protecting consumers in the transition to fully effective competition while ensuring that competition becomes effective, price volatility is minimised, the need for ongoing regulation is reduced, and the financial viability of retailing is not compromised.

Similar to electricity, Victoria intends to extend its reserve power of gas price regulation from August 2004 to the end of 2004, and review the need for its continuation in that year. The continuation of this reserve power does not mean, however, that it will automatically be exercised to constrain retailers' standard prices. The Victorian Government has only intervened where it has been concluded that market power is being exercised. It is anticipated that the need for price caps will diminish or end in the future once full retail competition is fully effective.

Gas quality regulations

Victoria's Gas Quality Regulations are substantially consistent with the final draft version of AS 4564/AG864. It is anticipated that Standards Australia will publish AS 4564/AG864 early in 2003. Once this occurs, Victoria, in consultation with industry, will amend its regulations to ensure consistency with national quality standards.

10. Other transport

- The Government has appointed a receiver for V/Line Passenger, M>Tram and M>Train, after National Express withdrew from their Victorian operations. Investigation of the options for future management of these franchises has commenced.
- The Review of Port Reform in Victoria has resulted in the Government adopting 22 key actions to improve the effectiveness and efficiency of the ports.

Overview of progress

Victoria has been successful in the implementation of reforms in the road and rail transport sector. With the implementation all of the reforms in the first and second heavy vehicle reform packages and the declaration of the access regime applying to all the intrastate tracks in Victoria used for the carriage of freight, Victoria has met in full its NCP commitments for rail and road transport.

In its June 2001 assessment on the *Marine Act 1988* and the *Transport Act 1983* (Passenger Ferry Services), the NCC concluded that Victoria had met its NCP commitments.

In 1998, Victoria completed a review of the *Marine Act 1988*. The review, which included clarification of the responsibilities of harbour masters, recommended:

- licensing standards for harbour masters in commercial ports be reviewed
- proceeding with increased competition for ship pilotage services
- establishing performance based standards for ship crewing
- no change to the provisions for recreational vessels.

The NCC had requested that Victoria provide a progress report on the review of the Marine Act. Specifically, information was to be provided on the review, completed reforms, and the timetable for implementing any outstanding reforms. These matters were discussed in last year's report. Structural changes, which effectively clarify responsibility for the safe management of local ports for local authorities, have been implemented through the *Marine (Further Amendment) Act 2001*.

Train and tram services

As a result of the decision by National Express to cease providing financial support to its three Victorian franchises (V/Line Passenger, M>Tram and M>Train) beyond 23 December 2002, the Government has appointed a receiver to manage the businesses under the terms of the Franchise Agreement. The Government will meet the cost of operating the three National Express franchises, intends to access performance bonds secured as part of the franchise process and put public transport on a financially sustainable footing with a view to the system remaining in private operation. Action has commenced to investigate options for future management of these franchises.

Freight network certification

In May 2001 Freight Australia applied to the NCC to have the main lines in the Freight Network declared under Part IIIA of the Trade Practices Act.

In July 2001 Victoria applied to the NCC to have its access regime certified as effective under that Part of the Act. In February 2002 the Commonwealth Minister accepted the NCC's recommendation and decided not to declare the Freight Network. Freight Australia sought a review of this decision in the Australian Competition Tribunal and a hearing date of 11 September 2002 was set.

However, in August 2002 (prior to the hearing), Freight Australia and Victoria entered into an agreement under which Freight Australia withdrew its application for a review of the declaration decision and Victoria withdrew its application for certification.

The parties agreed to consider whether agreement could be reached on access arrangements that better met the parties' objectives. Other stakeholders are being consulted in this process. In the meantime, the Victorian rail access regime remains in effect.

Port reform review

In early 2001 the Minister for Ports commissioned an independent inquiry into the port reforms initiated in the mid 1990s. This review, aimed at improving the effectiveness and efficiency of ports, featured very extensive public consultation, and was completed and presented to the Minister for Ports in December 2001. The Minister publicly released the report with a detailed Government response in July 2002. An implementation program addressing 22 key actions has commenced, with major legislative amendments scheduled for the Autumn and Spring 2003 Sessions of Parliament.

A key finding of the Russell Report, supported by the Government's response, was that the splitting of the land and water side management of the commercial trading ports had reduced their ability to manage their businesses strategically and efficiently across the scope of port and port interface related activities. In particular, Russell argued that the lack of a single, integrated strategic manager for the Port of Melbourne had detracted from its ability to compete effectively with the other capital city ports which were working actively to gain market share from Melbourne. He also argued that split responsibility for port management had created gaps and lack of clarity in terms of responsibility for safety and environmental management activities.

The Government response accepted Professor Russell's recommendation that a new, single corporation with a broader charter, including the ability to manage both the land and water assets of the port, should be established. It is proposed that legislation targeted for Autumn 2003 will implement this initiative.

The proposed new structural arrangements have been assessed in terms of Competition Policy objectives, and been found to be acceptable and, in some respects, more pro-competitive than the current arrangements. The Victorian Essential Services Commission (ESC) is currently conducting an 'Inquiry into Port Channel Access in Victoria' which, inter alia, will address the need for a new access regime, and its form if required, in light of the new channel management arrangements. A draft of the report was released on the 8 February 2002 for public comment.

Rate of return for MPC and VCA

The rates of return on capital in 2000–01 for Melbourne Port Corporation (MPC) and the Victorian Channels Authority (VCA) were below the 10-year Commonwealth bond rate of 5.8 per cent identified by the Productivity Commission for a number of reasons, including:

- the regulation of prices of prescribed services is under a Price Determination by the Essential Services Commission, as noted in the Productivity Commission report. Prescribed revenue represents 85–90 per cent of MPC's and 90 per cent of VCA's total operating revenue

- the MPC had higher operating costs than were provided for in the revenue benchmark model on which the Price Determination was based. This encompasses asset maintenance and infrastructure management expenses at levels that the MPC Board considers to be more sustainable than those assumed in the model. It also encompasses higher levels of land tax incurred by MPC, and expenses associated with MPC's evolving strategic port management role.

- the MPC has significant holdings of land, held for future port development and as a buffer in relation to adjoining non-port land uses (e.g. residential), that are not currently earning revenue

- the Price Determination was based on revenue benchmarks that assume the channel assets to have an economic value of zero. At 30 June 2001, the channels were valued in the VCA's accounts at $120.6 million, including the value of channels transferred to the VCA from predecessor bodies ($78.1 million).

Part E: Agriculture, manufacturing and services

11. Agriculture and related industries

- The *Wheat Marketing Act 1989* has been repealed.
- The Victorian Government proposes to implement the joint response to the review of the *Murray Valley Citrus Marketing Act 1989* by reconstituting the Board under the *Agricultural Industry Development Act 1990* (AIDA) with extraterritorial operation in the New South Wales production area.
- The National response to the review of Australia's agricultural and veterinary (AgVet) chemicals legislation, which Victoria has accepted, does not adopt two recommendations, concerning efficacy in labelling and the removal of the requirement for licensing of agricultural chemical manufacturers.

Overview of progress

Australian agriculture has traditionally been characterised by a regulatory environment, which restricts price and supply of products, marketing and purchasing arrangements to varying degrees. These restrictions can inhibit efficiencies in production processes, restrict product and market development and impose costs on consumers and other users of produce. Through implementation of reform across the agricultural industries, Victoria has met its commitments in this area. Details of completed reforms can be found in previous years reports.

Wheat

The *Wheat Marketing Act 1989* was redundant and was inconsistent with the Commonwealth legislation, which was reviewed in 2000. The *Wheat Marketing Act 1989* was repealed under the *Agriculture Legislation (Amendments and Repeals) Act 2002*.

Poultry meat

Victoria has completed its review of the *Broiler Chicken Industry Act 1978* and released its response in 2002.

The independent review found that the legislated price determining arrangements imposed a net cost on the community as a whole. The Act imposes restrictions on competition through two mechanisms, the use of a prescribed contract, and the determination of a standard growing fee. It also found that there is a strong argument to suggest that the provisions of the Act are administrated in a way that exposes industry participants to penalties for breaches of the *Trade Practices Act 1974*. It recommended that an authorisation from the ACCC be sought to allow growers to collectively negotiate with processors without the risk of prosecution.

Subsequently, the Victorian processors have obtained an Authorisation from the ACCC to allow collective negotiation between grower groups and their individual processor in

relation to chicken growing contracts and an associated Code of Conduct from 24 July 2001.

The Government notes the review's findings and that the Authorisation signals a move towards flexible contractual arrangements for broiler production.

The continuation of the Act is necessary to support the transition to negotiation of both prices and contract terms and conditions through processor negotiation groups as authorised by the ACCC. The transition involves the setting of a price by the Victorian Broiler Chicken Negotiation Committee (VBINC) for the life of existing regulated contracts. The final price setting was supported by the ACCC in its authorisation, which is subject to a public benefit assessment, and therefore is consistent with the public interest test.

Beyond June 2002, the Minister has sought to retain the VBINC as a body that can advise on developments within the industry. The Government has decided not to grant a Section 51 exemption under the TPA and as a consequence the activities of participants in the VBINC are subject to Part IV of the TPA.

Accordingly, at this stage, the Government has not moved to repeal the *Broiler Chicken Industry Act.*

Although some standard contracts have rolled over for another three years, it appears that the industry is now moving towards the ACCC authorised process for collective negotiation. All processors are now negotiating with their processor negotiating groups and in some cases new prices have been agreed. Some processors are also discussing new contracts with their growers. Given the current demand for good broiler chicken growers, the shift to new contract terms and conditions can be expected to accelerate and the VBINC terms and conditions will become less relevant.

Citrus

The Victorian Government proposes to implement the joint response to the review of the *Murray Valley Citrus Marketing Act 1989* by reconstituting the Board under the *Agricultural Industry Development Act 1990* with extraterritorial operation in the New South Wales production area, subject to the final approval of the Government of New South Wales.

The provisions for the extraterritorial arrangement and eventual repeal of the legislation were introduced in the Autumn 2002 parliamentary sittings by amending the *Agricultural Industry Development Act 1990* of Victoria (AIDA). This Bill was passed through both Houses in the Spring 2002 sittings. The *Agricultural Industry Services Act 1998* of New South Wales also achieved introduction and passage in the spring 2002 sittings of the NSW Parliament. Subject to a poll of Victorian and NSW citrus producers in the Murray Valley, the Board will be reconstituted, under the AIDA. Regardless of the outcome of this poll, the Act provides for the repeal of the *Murray Valley Citrus Marketing Act 1989* by 1 July 2004 (or earlier if the industry votes for reconstitution under the AIDA).

Agricultural and veterinary chemicals

The review of Australia's agricultural and veterinary (AgVet) chemicals legislation adopted a nationally coordinated review process. Victoria played a key role in facilitating, co-ordinating and responding to the national review. Governments have responded to the report and are examining implementation options.

The Standing Committee on Agriculture and Resource Management/Agriculture (SCARM) and the Agriculture and Resource Management Council of Australia and New Zealand (ARMCANZ) Signatories Working Group developed an intergovernmental response to

most of the review's recommendations that was supported by the COAG Committee for Regulation Reform. An inter-jurisdictional Low Regulatory Activity Task Force has been established by SCARM to examine how best to regulate low risk chemicals. The Low Regulatory Activity Task Force has prepared a draft Bill to amend the AgVet Code. All States and Territories are now awaiting national parliamentary approval processes to be undertaken before the amendments become law.

The recommendation of the Signatories Working Group (established under the auspices of SCARM/ARMCANZ) has agreed to the retention of the veterinary surgeon exemption in the AgVet Code. No legislative amendments are necessary to implement this recommendation.

The National response, which Victoria has accepted, does not adopt two recommendations, which require further analysis of the cost and benefits of the regulation. The first of these recommendations that is not supported is the recommendation that the AgVet Code be amended to remove the present requirement for licensing of agricultural chemical manufacturers until the case for such a provision is made. It is intended that the provision should be retained in its 'exempted state' until the Commonwealth completes a review of the need for the provision. Any activation would be conditional on satisfaction of requirements of a thorough Regulatory Impact Assessment.

The second recommendation that is not accepted relates to efficacy in labelling. The Government believes that there are strong public interest reasons for the decision not to limit the efficacy review to whether labelling is true. Limiting the National Registration Authority's (NRA's) consideration to 'truth' would mean that there was no direct assessment by the NRA of any flow-on or induced effects resulting from the use of a chemical with an efficacy level as determined only by the registrant. For this reason, the current wider efficacy standard of truth and appropriateness is needed.

Limiting efficacy to truthfulness would negate the wider community considerations regarding a product's efficacy through induced risks to public health, risks to occupational health and safety, and the adverse impact on the environment as explained below. In assessing these risks, the NRA does so against standards it has established, many of which are recognised internationally and practiced by several other nations, including member countries of the Organisation for Economic Cooperation and Development.

Contributions to the public interest are made in the existing approach through:

- minimising the chemical residue risk to public health through providing scientific data as the basis for establishing Australian maximum residue limits

- one objective of the AgVet scheme is to protect occupational health and safety. A chemical with adequate efficacy (i.e. as determined by the NRA) has the effect of minimising the quantity of chemical required to be used in a particular situation, thus minimising worker exposure to that chemical

- the assessment of a chemical for its risks to human health and the environment is necessarily incomplete. The use of chemicals with inadequate efficacy implies higher application rates, or the unnecessary use of chemicals (because of the chemical's failure to control the pest or disease). Hence, there could be greater impacts on non-target organisms and ecosystems, and unnecessary contamination of the environment. This is a strong argument in favour of assessing efficacy in terms of appropriateness

- the registration of non-efficacious agricultural and veterinary chemical products is inconsistent with Australia's commitment to international pesticide risk reduction

- truth in labelling of a chemical product, under the Commonwealth *Trade Practice Act,* is intended to provide an assurance to the community that a chemical will be effective (i.e. efficacious) in its intended use.

- To help reduce the potential costs of the 'appropriateness' requirement, the Signatories Working Group considers that the NRA should make as much information available up front to chemical manufacturers regarding the levels of efficacy likely to be required for a particular product or product type. This would allow chemical manufacturers to establish in advance the level of efficacy they will need to demonstrate.

The recommendations of the NCP review that impact on the national registration system (NRS) are being addressed by the NRA and AFFA. Although Victoria has been consulted regarding changes to Commonwealth legislation as required by the Ministerial agreement which underpins the NRS, Victoria is not directly involved in the implementation of the changes addressing.

- licensing of agricultural chemical manufacturers

- regulation of low risk chemicals

- contestability of chemical assessment services

- compensation for third party access to chemical assessment data.

The review recommendations which relate to aerial spraying are being addressed by the AVCPC Aerial Spraying Licensing working group. This group has not yet finalised the draft national requirements for licensing or aerial spraying pilots and businesses.

Veterinary services

The Government is satisfied that the veterinary registration board structure and membership is appropriate and serves the public interest. The *Veterinary Practices Act 1997*, enacted in 1998, follows a legislative model upon which the regulation of the conduct of all health professionals including doctors, dentists and nurses is based in Victoria.

The VPA introduced for the first time in Victoria significant non-veterinary membership of the registration board. The nine-member board has three members who are not veterinary practitioners. Of the veterinary members, one must be employed by the University of Melbourne (in recognition of the important role of the board in approving pre-requisite qualifications and accrediting courses of training for registration), and one must be employed by the Crown (in recognition of the important role of State veterinarians in the protection of animal health and welfare, public health, food safety and trade.) Only four of the nine members are registered veterinary practitioners engaged in clinical practice. This is necessary to ensure the board has expertise across the now numerous fields of veterinary practice (companion animals, food producing animals, competition/racing animals, veterinary specialists etc), required to fulfil its prescribed functions, including setting appropriate standards of veterinary practice and veterinary facilities.

The Act further requires that any panel appointed by the Board for a hearing into the professional conduct of a veterinary practitioner must include at least one person who is not a veterinary practitioner.

12. Taxis and tow trucks

- The taxi and hire car reforms, announced by the Victorian Government in May 2002, constitute the most substantial reforms of the Victorian taxi and hire car industry in 15 years.
- These reforms:
  - will result in a 46 per cent cumulative increase (at a minimum) in the number of taxi licences over the next twelve years. This is significantly higher than the estimated increase in the population over this period.
  - remove the public interest test on market entry for the hire car industry, and broaden the nature of the vehicles that can qualify as hire cars
  - empower the Essential Services Commission (ESC) to review the value of hire car licences after two years
  - introduce performance monitoring of taxi services, with additional 24-hour licences to be issued if performance does not meet standards
  - increase the transparency of taxi fare determination, with the ESC to provide an independent and public evaluation of proposals to change fares
  - establish a securities exchange to manage the market for taxi licence assignments and licence transfers.
- Implementation of the reform measures for the tow truck industry has commenced. Following announcement by the Government of the reforms, implementation has proceeded with legislation being enacted in the Autumn 2002 Session of Parliament. The Implementation Working Party is overseeing implementation of those reforms that do not require legislation.

Overview of progress

In May 2002, the Victorian Government announced a package of reforms for the taxi and hire car industries. The key elements of the reform package are:

- relaxation of entry into the taxi and hire car industries through a phased program of additional taxi licence releases and removal of the public interest test for entry into the hire car industry
- greater transparency and input of economic expertise in taxi fare determination
- improved quality of services
- open and transparent mechanisms to signal Government policy information to market participants
- flexibility is built in to allow for further reforms.

The expected outcomes of these reforms include:

- lower industry cost structures
- improved service quality for consumers
- increased demand for taxi and hire car services, through lower real prices over time
- fairer prices to consumers of taxi services
- setting of taxi fares to be more transparent, with greater input of economic expertise
- greater competition within, and between, the taxi and hire car industries
- reforms that are fiscally responsible.

For those reforms requiring legislative change, legislation was passed in 2002. For other reforms, implementation is underway. The first peak service taxis were on the road in January 2003. Applications for the first 100 peak service taxi licences have been assessed and licences are to be released at the rate of 25 per quarter over the first year of implementation. In addition, nine taxi licences in non-metropolitan Victoria have been issued.

Reforms in the tow truck industry centre on:

- *clear objectives*. The legislation has been amended to clearly specify the objectives.
- *open and transparent fee establishment process*. The Minister for Transport is to establish fees, following an independent assessment by the ESC. The ESC assessment is to be made public.
- *towing area boundaries*. The towing boundaries have been extended from 1 December 2002.
- *increased transparency of the allocation system*. The zonal structure has been reviewed with the aim of making it operate more efficiently. Following extensive modelling of accident data, it was established by the Implementation Working Party that a radial method of allocation would be less efficient and not distribute allocations to towing depots as equitably as the existing system. To increase transparency of the existing system, all allocation data will be published monthly on a website accessible to towing companies.
- *consumer choice*. The cooling off period for repairs is to be extended to allow accident victims additional time to make an informed choice about whether crash repairs should be undertaken by the repairer to which their vehicle has been towed. An Accreditation and Code of Practice package has been developed, with legislation to allow the accreditation to be introduced in the Autumn 2003 Session of Parliament.

Taxis

Taxis are regulated by the Department of Infrastructure under the *Transport Act 1983*.

In May 2002, the Government announced a blueprint of reforms for the regulation of taxicabs and other small passenger vehicles in Victoria.

The reform package produced a range of initiatives to deliver a better quality of services for passengers, create a more sustainable and competitive industry, and improve industry opportunities for drivers and operators. For taxi operations these include:

- release of 600 peak taxi licences over six years (100 per year) to increase the number of taxis on the road. Industry performance monitoring will determine whether there is a need to increase the number of licences.

- at least half of these peak service licences will convert to 24-hour licences. Conversion will occur on the sixth anniversary of the licence issue date. Those licences that convert will be replaced by an equivalent number of peak service licences.

- the release of 11 new licences in regional Victoria to better service those areas currently under-serviced by taxis

- establishment of performance standards and reporting and publication of performance. Additional 24-hour taxi licences are to be issued if performance does not meet standards.

- a 20 per cent tariff to apply to taxi fares between 1am to 6am, payable entirely to drivers to encourage more taxis onto the roads during this difficult and demanding shift

- annual reporting to Parliament of the number of taxi and hire car licences issued

- determination of taxi fares by the Minister for Transport, following evaluation by the Director of Public Transport and an independent assessment by the ESC. The assessment by the ESC is to be made public.

- introduction of a new customer service charter for taxis and hire cars, to explain what passengers can expect from drivers and booking depots

- introduction of accreditation for all areas of the industry, to improve and ensure consistency in service levels and quality

- independently managed trading of taxi licences for assignment or transfer, ensuring a more transparent exchange mechanism

- improved driver training to improve driver knowledge of locations, map reading and driving skills.

In addition, the Government also announced:

- the relaxation of hire car vehicle standards to allow for a wider range of vehicles to operate in the industry, while maintaining a distinction between taxi and hire car standards

- changes to the entry process for the hire car industry, with the introduction of a fixed price licence fee

- the immediate removal of the public interest test for entry into the hire car industry, to facilitate greater competition and new opportunities

- removal of the restriction on taxis operating regular route services

- retention of the existing taxi zones, with two reviews (one of the country zone structure to ensure that it meets current and future customer needs, and another of the outer-metropolitan taxi zones).

Since the May 2002 announcement:

- implementation Working Parties with industry representation have been established to guide implementation of the reforms

- where necessary, legislation has been amended

- applications for the issue of the first 100 Peak Service Taxi-cab licences have been invited and assessed. The first Peak Service taxis commenced operation in January 2003. The selection process for the first 100 licences is continuing with the second group of 25 Peak Service Taxis to be on the road by 31 March, the third group by 30 June and the last 25 by 30 September 2003. A similar licence issue program will apply for each 100 Peak Service Taxi licences in subsequent years.

- taxi operator accreditation standards are being developed and a taxi operator training program (for new industry entrants) has been approved and implemented

- taxi driver training has been reviewed and a re-accredited training program which emphasises driver knowledge and customer service is being implemented. The new program extends training from the current 40 hours to 90 hours and will commence before June 2003.

- the Bendigo Stock Exchange (BSE) has been appointed to accredit brokers who trade in taxi licences and to manage a public register of prices paid for licence transfer and assignment transactions. The BSE arrangements will be introduced in June 2003, shortly after implementation of taxi operator accreditation.

The approach that is being taken to reform incorporates four key elements:

- *a phased transition to reform.* The reforms allow the transition along the continuum from a highly regulated industry to a more lightly regulated one. There has been a lack of action from previous governments in opening up entry into the taxi and hire car industries. The phased approach that is being adopted is fiscally responsible, as well as lessening adjustment costs with the pre-announcement of policy measures.

- *an equitable approach*. The reforms do not allow for further windfall gains by those in the industry. Rather, there should be a gradual reduction in licence values. The annual fee payable on each additional taxi licence is set at a level that makes these licences an attractive substitute to existing perpetual licences, as well as to return revenue to taxpayers, thus contributing to government costs of overseeing and monitoring the industry.

- *a realistic approach*. The package encapsulates substantial reform, with an approach that can be feasibly implemented over the next twelve years. The package is viewed as an effective one to meet the government's objectives for the industry and the community.

- *these reforms do not represent the end point of reform*. It is expected that further reforms may be required over time. The package builds in flexibility to allow for further reform where, over time, the reforms do not sufficiently address existing problems. For example, the collection and publication of performance of the industry against standards will allow on-going assessment of whether further measures are needed to improve the attainment of objectives. Additional 24-hour taxi licences are to be issued

if performance does not meet standards. In addition, there is the assessment of the level of the market-based hire car licence fee by the ESC by May 2004.

In Victoria's view, the reform measures meet the following NCC assessment criteria:

Improvement in relative supply balance

In the metropolitan area, there will be a 46 per cent cumulative increase in the number of taxi licences from June 2002 to June 2014, the twelve-year period of the licence program[9]. This increase is clearly sufficient to bring about an improvement in the supply-demand balance, when compared with estimates of the increase in the population. Over the same twelve-year period, relative to the 46 per cent increase in taxi licences, the ABS estimates that there will be an 8 per cent cumulative increase in the population in Victoria[10].

Therefore, the planned release of additional taxi licences is substantially greater than the projected increase in population[11] and is expected to bring about a gradual reduction in licence values. Coupled with policies to relax entry into the hire car industry, which are also based on a gradual approach to allow for the transitional impacts, there is expected to be a substantial improvement in the supply-demand balance over this period.

There are many factors that affect taxi licence values however we note that, following the announcement of the reforms and commencement of implementation, the value of taxi licences in Melbourne has fallen from an average of $330 000 in May 2002 (just prior to the announcement of the reform measures) to an average of $301 000 in January 2003, with individual licence plates as low as $280 000 in the intervening period.

The selection process for the first 100 peak licences is ongoing. The first of the peak taxis commenced service in January 2003, and all 100 are due to be on the road by the end of September 2003. The late release of the new model Ford Falcon 'taxi-pack' has caused some initial delay in the take up of approved licences.

Commitment to independent monitoring and review

The reforms provide for monitoring of industry performance standards, and will form the basis for the release of taxi licences in numbers greater than currently programmed should performance standards not be met. The results of performance monitoring and any variation above or below the programmed annual licence release, together with reasons for such variation, will be reported annually to the Victorian Parliament. There is to be a review by the ESC of the market-based hire car licence fee to ensure that it is not a significant

[9] The increase is 3 per cent per year (from the base number of 3273 in June 2002) for the first six years; this rises in the ensuing six years as at least 50 per cent of peak service licences that reach the end of their six-year term convert to 24-hour licences. Those licences that convert are to be replaced with additional peak service licences.

[10] ABS, Series 2 estimates, Catalogue No. 3222.0. The ABS also provides estimates based on lower and higher assumptions for population growth. The cumulative population increase in Victoria over the same twelve-year period for the lower growth series was 8 per cent, and 9 per cent for the higher growth series.

[11] Growth in population is considered to be a reliable indicator of the growth in demand for taxi services. Some could argue that this measure could understate demand, by not capturing some demand components (for example, growth in tourism demand and growth in income). Even if allowance were made for such factors, the growth in licence numbers is still considered to be substantially greater than the expected growth in future demand. In addition, this approach assumes that there is no increase in productivity of the taxi fleet. To the extent that there are productivity improvements over the period (for example, through improvements in communications systems) this would assist in using the fleet more effectively to meet increased demand for taxi services.

barrier to entry. There are to be reviews of outer metropolitan taxi zones, and of country taxi zones to ensure service levels are appropriate to demand. These reviews will be supported by the results of industry performance monitoring and will form the basis for the release of additional licences where service shortfalls are identified in local areas.

The independent assessment role of the ESC will improve the transparency of taxi fare determination.

Reform in the hire car industry

The public interest test for entry to the hire car industry has been removed and the vehicle standards have been relaxed. The ESC is to review the hire car licence fee within two years of the announcement of the reforms. This will include consideration of whether the licence fee constitutes a significant barrier to entry.

Strong commitment to delivery of phased licence releases

There is a strong commitment to implement the announced program of licence releases over the next twelve years. The expectations of the community and the industry of this announced program will ensure that the phased licence releases are delivered.

Tow truck services

The following reforms were passed through the Autumn Session of Parliament 2002:

- regulation of accident towing fees in the allocated control area in consultation with the ESC. The ESC assessment is to be made public
- extension of the cooling off period for repairs from 48 to 72 hours to allow accident victims to consult with others and possibly change their mind about having crash repairs undertaken by the repairer to which they have had their vehicle towed from an accident site
- that the objectives be clearly specified in the legislation
- the de-regulation of trade (non-accident) towing of motorcycles
- increased police power to remove people from accident scenes.

The Implementation Working Party reviewed other reforms not requiring legislative changes. Resolutions are:

- extension of the existing allocation boundary to include Mornington Peninsula, Cranbourne, Pakenham, Whittlesea and Melton. Following extensive consultation with the towing and insurance industries, police and other authorities, the extended boundary was introduced on 1 December 2002.
- boundaries of individual towing depots were reviewed with the intention of introducing a revised zonal structure and to increase the transparency of the allocation system. Following extensive modelling and testing, the Working Party agreed that a zonal allocation system was less efficient and created a greater disparity of the towing work available to the industry. As an alternative, measures are in place to make the existing system more transparent by publishing all individual allocation boundaries and monthly allocation results on a website which is accessible to the towing industry and others.

- an Accreditation and Code of Practice package has been developed by the Working Party in consultation with the towing and insurance industries, police and others. The draft package was ratified by the Working Party in January 2003 and implementation is now proceeding. Legislation allowing accreditation will be introduced in the Autumn 2003 Session of Parliament.

13. Health and pharmaceutical services

- The Final Report of the National Competition Policy Review of the Pharmacy Act was released in February 2000. Victoria released a discussion paper in August 2002 addressing the implications of implementing the National review recommendations and submissions have been received.
- The Report considered legislative restrictions on the ownership and operation of community pharmacies as well as registration of pharmacists across all jurisdictions.
- A formal Council of Australian Governments (COAG) Senior Officials Working Group response to the National review was released in August 2002.
- Reviews and reforms of the eight core health profession acts have been completed.

Overview of progress

Progress with implementation of NCP reforms to the *Pharmacists Act 1974* in Victoria has been slowed by delays arising from the National Review process.

The Pharmacists Act is the only Victorian health practitioner registration Act for which NCP reforms have not been implemented. A Victorian NCP review commenced in 1997 but was put on hold in 1998, when all jurisdictions agreed to a National Review of pharmacy legislation.

The National Review considered legislative restrictions on the ownership and operation of community pharmacies as well as registration of pharmacists across all jurisdictions and the final Report was tabled in February 2000.

COAG established a Senior Officials' Working Group to advise on the Report's recommendations. The Working Group's Report was released in August 2002.

Victoria has prepared a discussion paper following the National Review and COAG Senior Officials response. The paper has focused upon implementation of recommendations arising from the National Review process, rather than re-examination of those issues considered at a national level. This review also examined any restrictions on competition within the Victorian Act that were not considered by the National Review, along with any new proposals for regulation that might restrict competition if implemented.

In making its recommendations at a national level, the COAG Senior Officials' Working Group noted that while jurisdictions may agree in principle on proposed NCP reforms to pharmacy legislation arising from the National Review, a State's desire to have a consistent approach to the regulation of all registered health professions may influence how such reforms are implemented (Commonwealth of Australia 2002A, pp 24-25). This is particularly relevant in Victoria, where implementation of the recommendations of the National Review is part of a review process that will also update pharmacy legislation to make it consistent with the Victorian model for health practitioner regulation applied to other registered health professions.

While it is anticipated that the review will form the basis for updating Victorian pharmacy legislation to reflect the Victorian model of health practitioner regulation, it is recognised that aspects of the pharmacy profession differ from other health professions and unique regulatory solutions may be required.

In addition to meeting Victoria's NCP obligations and updating pharmacy legislation to achieve consistency with the Victorian model for health practitioner registration, the review has provided an opportunity for interested parties to make comment on evolving issues directly related to the pharmacy profession, such as:

- regulation of dispensary assistants
- proposals for a national registration scheme
- access to rural and remote pharmacy services.

Submissions to the Discussion Paper have now been received and are subject to consideration in the making of recommendations to the Minister for Health for preparation of a new Pharmacists Registration Bill.

The Victorian Legislation Review Timetable (1996) listed eight core health profession acts for which reviews and reforms have been completed. Amendments passed during the Autumn 2002 sittings include amendments to the advertising guideline provision in a number of Acts.

Pharmaceutical services

National review of pharmacy

The key recommendations of the National Review include:

- Legislative restrictions on who may own and operate community pharmacies should be retained with existing exceptions, the ownership and control of community pharmacies continue to be confined to registered pharmacists.
- Friendly societies should continue to be able to operate pharmacies (subject to certain conditions).
- Pharmacy ownership structures permitted by various State and Territory pharmacy acts should be retained as being consistent with the defined principle of pharmacist ownership and effective control of pharmacy businesses. However pharmacy acts should, in addition to sole trading pharmacists and pharmacist partnerships, recognise corporations with shareholders who are all registered pharmacists and registered pharmacists and prescribed relatives of those pharmacists.
- State and Territory restrictions on the number of pharmacies that a person may own, or in which they may have an interest, should be lifted.
- Any statutory prohibition on natural persons or bodies corporate, not being a registered pharmacist, or other permitted entity, having a direct proprietary interest in community pharmacies should be retained, but in certain instances non-pharmacists may be permitted to hold a pecuniary interest in the operation of pharmacies
- Requirements for the registration/approval of pharmacy premises should be removed, subject to certain conditions, on the basis that pharmacists are already registered in each State and Territory, and that business registration is not connected to the safe and competent practice of pharmacy.

At this time, it is Victoria's intention to implement the recommendations that are endorsed by COAG.

August 2001 review

In anticipation of the COAG response to the National Review, a Victorian review of the Act commenced in August 2001 for the purposes of:

- implementing those recommendations of the National review endorsed by COAG
- assessing outstanding restrictions on competition not considered by the National review
- updating the Act to establish consistency with other Victorian health practitioner registration acts
- examining additional issues raised by key stakeholders.

Whilst the National Review recommendations provide a broad framework, there are a range of options available for their implementation. Given these complexities a discussion paper for public consultation was released as part of the Victorian review. This provided an opportunity for:

- review of the few outstanding restrictions on competition contained within the Act. For example, Victoria is the only jurisdiction in which there are statutory provisions around ownership of pharmacy departments in private and privately owned hospital dispensaries.
- updating the Act's structure to bring it into line with other Victorian health practitioner legislation
- consideration of any emerging issues impacting the practice of pharmacy.

In Victoria, meetings are being held with key stakeholders, an internal reference group has been established and a public discussion paper has been developed.

National Review response

The COAG Senior Officials Working Group's response has been released. Victoria has now prepared a discussion paper, met with key stakeholders, has analysed submissions to the discussion paper, and is now preparing policy advice as a basis for drafting new legislation.

Pathology

A review of the *Pathology Services Accreditation Act 1984* has been completed and the Government is currently considering its response.

The *Pathology Services Accreditation Act* and its regulations govern the conduct of pathology testing in Victoria through a state-based accreditation system and establish the Pathology Services Accreditation Board (PSAB) to administer the legislation on behalf of the Minister for Health.

NCP obligations led to the commissioning of a review of the Act, conducted by a panel chaired by Mr Don Nardella MP. The matters considered by the review panel were not strictly limited to the issue of restrictions on competition. This approach reflects the fact that

boundaries between competition and other regulatory issues are often indistinct, together with the fact that the legislation was passed 18 years ago, suggesting a substantive review of all of its provisions is warranted.

A discussion paper was published in May 2001 that provided background information about the legislation and identified provisions that may impede competition. The paper also described the roles of the PSAB and that of the Commonwealth Government in the regulation of the pathology services industry. Twenty-six submissions were received in response to the paper. The review panel has analysed each of the submissions and, has drafted a final report that, inter alia, summarises respondents' views on each of the five reform options presented in the discussion paper.

The final report has been submitted to the Minister for Health for her consideration. The Department of Human Services is preparing a government response. It is anticipated that the release of the final report and government response will coincide.

Health profession acts

The Victorian Legislation Review Timetable (1996) listed eight core health profession acts for which reviews and reforms have been completed. The nature of these reforms were detailed in Victoria's March 2001 Report to the NCC. Proposed amendments introduced during the Autumn 2002 sittings include the following:

Advertising guideline provisions

In response to concerns raised by the NCC, amendments have been made to the advertising guideline provisions in five acts (*Medical Practice Act 1994*, *Nurses Act 1993*, *Dental Practice Act 1999*, *Psychologists Registration Act 2000* and *Chinese Medicine Registration Act 2000*) to provide for Ministerial approval of advertising guidelines.

Medical Practice Act 1994

Amendments to the *Medical Practice Act 1994* were passed in 2002 which:

- create a negative licensing scheme for the purposes of regulating corporate owners of medical practice who direct or incite medical practitioners to engage in unprofessional conduct

- establish powers for the Medical Practitioners Board to manage poorly performing medical practitioners.

Reforms to the *Nurses Act 1993*

Legislative changes to the *Nurses Act 1993* passed in 2002 session established a form of negative licensing to allow regulation of those nurses agents who pressure nurses to engage in what the Nurses Board of Victoria would regard as 'unprofessional conduct', and thus place the health and safety of the public at risk. This parallels the amendments to the Medical Practice Act regarding regulation of corporately owned medical practices.

Drugs, poisons and controlled substances legislation

The Final Report of the National Competition Review of National Drugs, Poisons and Controlled Substances Legislation was submitted to COAG in January 2001. COAG referred the Report through the Australian Health Ministers Conference and the Australian Health Ministers Advisory Council (AHMAC) to an AHMAC Working Party, comprised of representatives from the Commonwealth, NSW and Western Australia. The Working Party sought comments from jurisdictions and stakeholders and was due to report by the end of 2001, however the report has not been provided to date. The Victorian Government continues to await the outcome of the national deliberations.

14. Legal services

- The 2001 NCP assessment reported that Victoria had met its CPA clause 5 obligations in relation to legislation regulating legal practitioners, with the exception of the statutory monopoly over legal professional indemnity insurance.
- In a response released in November 2000, the Government accepted the recommendation of the 1998 Legal Practice Board Report that the monopoly scheme be retained on the basis that existing arrangements yielded a net benefit to the community.
- Following public consultations a Supplementary Report on Professional Indemnity Insurance for Solicitors in Victoria was prepared and provided to the National Competition Council (NCC) in June 2001. This report confirmed the Government's decision to retain the monopoly arrangement.

Overview of progress

Legal services are regulated in Victoria by *the Legal Practice Act 1996.* The Act followed a 1996 review of legal practitioner regulation and was assessed against the public interest test by the previous government. The 2001 NCP assessment confirmed that Victoria had met its CPA clause 5 obligations in relation to legislation regulating legal practitioners, with the exception of the statutory monopoly over legal professional indemnity insurance.

In a response released in November 2000, the Government accepted the recommendation of the 1998 Legal Practice Board Report that the monopoly scheme be retained on the basis that existing arrangements yielded a net benefit to the community. Following public consultation, this decision was reaffirmed in the Supplementary Report on Professional Indemnity Insurance for Solicitors in Victoria provided to the NCC in June 2001.

Legal professional indemnity insurance

The *Legal Practice Act 1996* provided for competition in legal profession indemnity insurance to be introduced from 1999. However, the Act provided for a further review before implementation. In June 1998 a review of legal professional indemnity insurance by the Legal Practice Board recommended that the monopoly continue. The Parliament then amended the Legal Practice Act to revert to monopoly provision.

In November 2000 the Government released the report of the Legal Practice Board review, together with a draft response accepting the recommendation that the monopoly scheme be retained on the basis that existing arrangements yielded a net benefit to the community.

In June 2001, following public consultations, the Government confirmed the decision to retain the monopoly arrangement in the *Victorian Government Response: Supplementary Report on Professional Indemnity Insurance for Solicitors in Victoria*. Further comments confirming this response were provided to the NCC on 5 June 2002.

Comment is provided below on issues raised by the NCC in the 2002 Assessment and 2003 Assessment framework.

Coverage of all registered practitioners

The level of claims against legal practitioners is not great, suggesting that insurance companies would be attracted to participating in this market under competitive arrangements.

It is not the level of claims that attracts or deters commercial insurers. Rather it is the opportunity to obtain a significant premium pool for risk which is not volatile, such that the profitability of the portfolio of business can be predicted with reasonable confidence.

The premium pool for solicitors in Victoria is very modest—in the order of $14 million for 2002–03. The underlying risk is highly volatile in that a practitioner or firm who pays a premium of only a few thousand dollars can incur multiple claims of $1.5 million each in the one policy year. In order to 'smooth out' this volatility, and to cover all of the costs of risk acquisition (preparing and marketing products, brokerage, acquiring and maintaining specialist expertise for the portfolio of business and the like), a commercial insurer would need to be satisfied that it was likely to achieve a substantial market share before it could contemplate entry to the market. Although no econometric study has been done to Victoria's knowledge, it is thought likely that indemnity insurance for solicitors could not support multiple competing insurers and would be likely to end up as a monopoly one way or another.

This approach has been highlighted by the recent crisis in the global insurance market. Underwriting capacity has contracted, most notably in areas where portfolio premium pools are low and underlying risk is volatile. Cover is still readily available at competitive prices for covers like life insurance and property damage, but is either not available, or only available at substantially increased prices, where premium pools are small and volatility is high.

This is further illustrated by the recent difficulty experienced by the Victorian Bar in obtaining insurance. Despite barristers being a very low claims risk in comparison to solicitors (primarily because of their immunity for court-related work), the Bar struggled to find an insurer for the current financial year (2002–03) which would provide adequate cover. Only two insurance companies gave serious consideration to joining the market to provide insurance to barristers and one eventually withdrew as it was not provided with a monopoly. Not only did premiums and the cost of top-up cover increase significantly but insurance companies were unwilling to provide the minimum level of cover and run-off cover specified by the Legal Practice Board. (See Victorian Government Response Supplementary Report, submitted in June 2001, pp. 16–17)

Although it is recognised that there are significant differences between the professional indemnity insurance market and the public liability insurance market, it is noted that the opposite to the Council's assertion has occurred in the current public liability insurance market. Many small enterprises have been offered premiums that have priced them out of the market (for example, a 1500 per cent increase in premium from 2001–02 to 2002–03 for a street festival), where in many cases no claims have ever been made against their insurance policy. The insurance market also does not individually risk assess not-for-profit organisations and some specific small businesses, such as adventure tourism.

Victoria's view that this assertion is not reflective of current practice was reflected in the Government's Supplementary Report (see page 7: 'Re availability of insurance') and based on advice from the world's largest insurance brokers, Marsh and McLennan. To restate this advice:

- 'It is unlikely that all Victorian solicitors will be able to obtain insurance in an open commercial market.

- This is based on the fact that decisions by commercial insurers as to whether or not to insure a solicitor, and how much premium to charge, will be based on commercial underwriting considerations and not on an assessment of the professionalism, competence or merit of a practitioner. Competent solicitors can and will be denied insurance for reasons unrelated to their professional performance, in circumstances where the bodies with the actual legal responsibility for removing incompetent or dishonest solicitors have no concerns about the professional competence of those solicitors.

- This difficulty in obtaining insurance will be greater for small firms and for country firms. This will reduce the access of consumers of legal services to the economical and locally provided services from lawyers in country and regional areas, and sole and small legal practices generally.

- This demonstrates a market failure by the commercial insurance market. Insurance is written on a per-firm, not a per-lawyer, basis. Marketing, administration, risk assessment and other overhead cost items are carried out and allocated by insurers on a per firm basis. However, while a large firm's annual insurance premium will be easily $100 000 or even more, the premium income received by an insurer from a sole practitioner will be only a few thousand dollars. In the eyes of a commercial insurer, the income received from a large firm will justify the cost of a thorough risk assessment but that of a small firm will not.

- Accordingly, information asymmetry-driven transaction costs flow from the fact that it is costly for insurers to judge the individual risk of each potential customer. This leads insurers to regularly use arbitrary risk indicators (e.g. if the lawyer has had one claim, he or she will probably have another—but the insurer does not analyse the merit of the previous claim) and to deny product to those potential customers that fail these risk indicators, rather than to attempt to properly price-in risk. This can also lead insurers to price their insurance premiums too highly for the actual risk, rather than incur the transaction cost of properly assessing and pricing the real level of risk. Smaller sized practices and practices with limited risk experiences are clearly more exposed to this insurer behaviour than medium-to-large practices.'

The New Zealand experience suggests that all or most lawyers would be covered under competitive arrangements.

New Zealand has an open market for insurance for lawyers because, unlike Australia, New Zealand has not made professional indemnity insurance compulsory. Practitioners unable to obtain insurance are not forced out of legal practice. It is therefore not an appropriate jurisdiction for comparison with Victoria.

Further, there is no provision in New Zealand for providing run-off cover for insolvent, disgraced or deceased solicitors, who will not take out such cover themselves. Accordingly, and in contrast to Victoria, clients of former solicitors without run-off cover, or of solicitors who choose not to take out (or are unable to obtain) insurance while in practice, have no protection. They do in Victoria.

The average level of insurance cover given to each solicitor in New Zealand is also less than that offered by the Legal Practitioners' Liability Committee (LPLC) in Victoria. The most extensive data on premium price in New Zealand appears to be the data collected by the University of Waitako Management Research Centre for the New Zealand Law Society Business Performance Comparison Report. This shows that the average premium in the open market in New Zealand varies and is sometimes similar to that charged in Victoria and sometimes considerably higher. It is not, however, cheaper. This is so even though the insurance cover provided in New Zealand is less than is provided by the LPLC in Victoria.

Ultimately, as insurance for lawyers is not compulsory in New Zealand, the way in which its insurance system works is of little relevance to Australian conditions and requirements, and does not provide any evidence that an open market would work in Victoria.

It could also be argued that those lawyers most likely to experience several claims should be faced with appropriately higher premiums, which would be the likely result under competitive arrangements.

This is correct. This principle applies under the LPLC scheme: Due to the risk rating of its premiums, solicitors' firms with a good claims record pay a lower premium than those with a bad record.

Because the LPLC has a fixed, predictable number of customers each year, (that is, all the solicitors of Victoria), and it has historical claims data which yields reliable risk profiles, it is able to determine the fair and appropriate level for loading bad risks. The loading provides a positive incentive to the individual practitioner or firm to improve their risk management, while at the same time it does not undermine the fundamental purpose of insurance, which is to spread and share risk.

It has been suggested that rural and regional practitioners and sole practitioners generate greater claims costs for the LPLC and that they should not be subsidised by other practitioners in the scheme. This suggestion is not borne out by statistics relating to claims handled by the LPLC. Sole practitioners comprise 50 per cent of the pool of local Victorian practices. In dollar terms, sole practitioners have incurred 31.8 per cent of the total costs of claims averaged over the last 9 years. In respect of country practices, 16.8 per cent of practitioners in local Victorian firms come from country practices. On average over the last 9 years, they have incurred 12.3 per cent of the dollar cost of incurred claims.

Multiple provision may result in more certainty about coverage than monopoly provision, because the failure of a monopoly provider would affect the insurance coverage of all solicitors.

Victoria believes that this proposition is misconceived in a number of respects.

In a competitive market, information about underlying risk is incomplete. Poor risk assessment can lead to significant underpricing. Although the report of the Royal Commission into the collapse of HIH is not yet available, it seems likely that the Commission will conclude that HIH was badly under provisioned in many areas of its business. HIH was the leading professional indemnity insurer in Australia at the time of its collapse and commercial insurers in competition with it had to set their premiums at a level that was competitive with HIH's or else continue to lose market share. As a result, there was significant risk of provider failure which ultimately materialised in its worst form and on a substantial scale with the collapse of HIH. That affected not only the buyers of its professional indemnity insurance products, but created considerable hardship for business interests and the wider community.

Similarly, it is likely that one of the major causes of the collapse of United Medical Protection Limited (UMP) and the resultant crisis in indemnity insurance for doctors was sustained under pricing of underlying risk. UMP was in competition with other mutual funds and commercial insurers for the business of insuring medical practitioners, particularly in New South Wales. It evidently priced at premium levels appropriate to attract and maintain business, rather than to prudently cover underlying risk.

There is substantially less risk of failure of a compulsory monopoly provider. If its claims liabilities or other costs increase, it can increase its premiums without risking the loss of any business. Although some may see this as a vice of a monopoly scheme, it is clearly a very substantial safeguard against insolvency.

In the case of the LPLC, the risk of failure appears particularly remote. Not only can it increase its prices from year to year to cover emerging increases in liabilities and expenses, it also has the specific power to levy practitioners if it appears that the fund would have insufficient assets to meet its liabilities. Further, the LPLC meets the Australian Prudential Regulation Authority capital adequacy requirements threefold and it is considered unlikely that it would run into difficulty. The LPLC also takes out substantial reinsurance cover to protect it against any unforeseen increase in claims.

Cost-effective coverage

The NCC requests jurisdictions to provide data which supports claims that monopoly providers are more cost-effective (Victoria has already presented such data), and to indicate why they believe competition among insurers would not drive premium costs down.

The Council notes that 'Victoria provided actuarial evidence that its monopoly fund offers 30 per cent lower premiums in the long term compared with those premiums offered by commercial insurance firms'. The Council further acknowledges that 'the mutual fund does not have to pay advertising, brokerage and commissions. Further, as a non-profit-making entity, the mutual fund does not need to include a profit margin in its premium rates (Trowbridge cited in the LPB, 1998)'. Not noted here however, is the integral role of the extensive and systematic risk management services offered to the profession by the mutual monopoly—which commercial insurers do not offer—in the lower premiums available in Victoria. Because the LPLC insures all solicitors rather than just a part of the market, it is able to identify and analyse emerging trends within the profession more quickly and with much greater accuracy. (For a fuller discussion see the Victorian Government Response Supplementary Report).

Monopoly mutual funds also offer more stable premiums which enhance their medium to long term cost effectiveness. In the case of the LPLC, it is able to predict its likely claim liabilities and with actuarial advice calculate the premium pool it requires with reasonable confidence.

On the other hand, setting premium levels with such a level of confidence is much more difficult for a commercial participant in an open competitive market. The number of clients (and therefore the amount of premium income that will be received) each year for a commercial insurer cannot be forecast with certainty and will continually change depending on external market forces. Additional margins therefore have to be built into commercial premiums to allow for this uncertainty.

In fact, mutual funds around the world have proved far more resilient than master policy schemes or commercial markets in providing stable, reliable and affordable insurance in volatile insurance industry circumstances (for example, see, the experience of mutual funds in all provinces of Canada, Hong Kong, Singapore, and Oregon).

Delivery of run-off cover

The NCC requests jurisdictions to provide information on why run-off cover would not be available under competitive arrangements. Why, for example, would private insurers not set appropriate premiums using actuarial evidence, and thus offer run-off cover?

There are a number of reasons why run-off cover is an unattractive product for commercial insurers to provide. The most fundamental is that the premium pool for the product is likely to be relatively small, but highly volatile. Practitioners in retirement or the estates of deceased practitioners are not an attractive customer base able to afford significant premiums from business cash flows.

In a commercial insurance market, unless additional run-off insurance cover is (a) readily available at an affordable price from insurers, and (b) regularly purchased by the former practitioner (or the practitioner's estate if death was the reason for ceasing practice) for each year after ceasing practice (or disbanding a practice); then any claim for negligence made against a former professional will not be covered by insurance and both former professionals and their clients will be left exposed.

It is highly undesirable, from the consumer protection perspective, for clients of retired, deceased or disgraced practitioners or disbanded firms to be dependent upon whether they were still buying (and able to buy) run-off cover at the time that the client's claim is made. Where they fail to, or are unable to, obtain cover, the client's claim may be uninsured. This gap in coverage can be fully covered by a monopoly provider, but is complex and problematical to cover in a multiple provider scheme.

The experience of the Victorian Bar has been that commercial insurers are unlikely to offer run-off cover to practitioners whom they have not previously insured. Accordingly, those who have already retired, died, become insolvent or been struck-off may not receive insurance. Ex-barristers, including some who have been appointed to the judiciary, who sought run-off cover in this insurance year (2002–03) had to apply and were not guaranteed coverage. At this stage, only the LPLC is able to provide ongoing run-off cover to barristers. Most insurers in the commercial market provide run-off cover on restricted terms only and mostly on a year-by-year basis.

Experience with other professions shows that the commercial insurance industry will generally resist providing extensive run-off cover (even if limited to one year) to all practitioners. (see Victorian Government Response Supplementary Report pp.8–11).

The LPLC cannot refuse to offer run-off cover particularly to insolvent, deceased or retired practitioners or withdraw from the market so, unlike the commercial insurers, it must ensure that it has a stable premium pool to cover claims into the future. This requires that it be compulsory that solicitors insure with them. Unlike the commercial insurance market, the LPLC provides run-off cover for an unlimited period to all former solicitors in Victoria for no additional premium. Consumers of legal services are not dependent on whether the former practitioner has chosen to take out run-off insurance year after year or on the commercial availability of run-off insurance. As explained above, the LPLC can use actuarial advice to fix future premiums very accurately and also to adjust premiums to ensure sufficient funds will be available to cover ongoing exposure to claims. Setting premium levels with such a level of accuracy is much more difficult for a commercial participant in an open competitive market for whom the number of clients (and therefore the amount of premium income that will be received) each year cannot be forecast with certainty and will continually change depending on external market forces.

Cross subsidisation and the delivery of run-off cover

The cost of 'claims made' cover of necessity reflects past claims history. The premiums which solicitors pay (and which are one of the overheads of their businesses which they might seek to pass on to the consumers of their services, but can only do so to the extent that market forces allow) reflect the premium pool required to meet the claims anticipated in the policy period. This includes not only claims against practitioners and firms which remain in practice, but claims against practitioners who are no longer practising and firms which have disbanded. The estimation of the requisition premium pool is based upon the claims history of the scheme adjusted for any emerging trends.

This is not to say that successive generations of consumers cross-subsidise one another. All that is occurring, as is inherently contemplated by any insurance arrangement, is that the cost of episodic, individual losses currently suffered by consumers of legal services (whether those services were provided today, yesterday or ten years ago) are spread

across the community of legal services through the medium of professional indemnity insurance premiums paid by solicitors.

Even if there was thought to be some degree of cross-subsidization in relation to run-off, it would be of a significantly lower scale than the cross-subsidization inherent in general 'claims made' cover, and the public benefits of both providing run-off cover and arranging professional indemnity insurance on a 'claims made' basis significantly outweigh any 'cost' of cross-subsidization.

Prudential supervision

The NCC requests those jurisdictions that believe that statutory monopoly schemes provide greater prudential certainty to explain why this is the case and indicate the extent to which they believe certainty is enhanced.

There are a number of aspects of statutory monopoly schemes which provide greater prudential certainty.

The first is that they price so as to reflect underlying risk. They have good quality information about the underlying risk because that information is not dispersed among multiple providers. There is no temptation to price to meet the market—the sole focus is on managing the portfolio risk and making adequate provisions to cover anticipated liabilities and expenses.

Secondly, statutory monopoly schemes are single purpose operations. Their exposure to risk is focussed, so they are not vulnerable to extraneous risks (e.g. natural disasters, terrorism etc).

Thirdly, because they insure the whole of the local pool, they are well attuned to established and emerging causes of claims. They have every incentive to manage risk effectively.

Finally, there is the potential for greater transparency. The LPLC publishes comprehensive accounts and its premium rating structure is fully disclosed. For reasons of commercial confidentiality, there is little transparency in multiple provider schemes. The prudential regulator and the insured profession cannot as easily see the key elements of the financial security of multiple providers as for a statutory provider such as the LPLC.

Risk management

The NCC requests the views of jurisdictions on [risk management under competitive arrangements], and any evidence that they may have (perhaps from other insurance areas where there is competitive provision) about the risk management services by competing insurance companies.

It is the experience of the Victorian Bar in a competitive, commercial market that claims history records have been poorly maintained by commercial insurers and that the only risk management undertaken has been by the Bar Council—the professional association for barristers—and not by the insurance companies. Insurance companies have shown little interest in recent history in risk management or even in keeping an accurate and detailed claims history. HIH kept a poor claims history and took no interest in risk management strategies. The Bar's current insurer, Suncorp Metway, has failed to keep claims information up-to-date and failed to include some information provided to them in the previous year. Moreover, Suncorp Metway did nothing in the 2001–02 year by way of risk management and, according to the Bar, did not see risk management as part of their function.

Unlike the LPLC, commercial insurers do not provide any substantial risk management to their insured. There is little commercial incentive for a commercial insurer in an open market to instigate risk management initiatives which may ultimately benefit its competitors if the insured person changes insurers. Indeed, in the long run, a scheme with many claims will command a higher premium pool with potentially lower volatility.

Reduced risk management means that more consumers will suffer losses, the cost of insurance will go up and will then be passed on to consumers of legal services through increased costs of legal services.

As noted above, the Council acknowledges that premiums in Victorian are 30 per cent lower and appears to attribute this to the lack of a need to pay for advertising, brokerage and commissions, as well as no need to include a profit margin in premium rates. The LPLC already offers an extensive and systematic risk management service not commonly provided by commercial insurers. Commercial insurers in a competitive market could never offer the same level of risk management services as the LPLC because a commercial insurer would only ever insure a part of the market.

Effective risk management is in the public interest because it reduces the amount and number of financial and other losses suffered by consumers of legal services across Victoria as a result of solicitors' negligence. It also prevents claims from happening in the first place and so reduces the cost of insurance. It therefore both reduces the overall cost of actual legal services to the community and reduces the amount of financial losses suffered by the community as a result of any negligent delivery of legal services.

The LPLC provides extensive and systematic risk management services to the profession. Commercial insurers do not. Further, because it insures all solicitors rather than just a part of the market, the LPLC is able to identify and analyse emerging trends within the profession more quickly and with much greater accuracy. This also allows the LPLC to provide a more targeted and effective response to emerging areas of risk for the profession than a commercial insurer could, presuming that the insurer wished to provide risk management services, which is not common.

Apart from ongoing seminars, publications, audits and general telephone advice services, the LPLC also targets specific issues as they emerge. One example of the real savings to the community that this can bring about is shown by the emergence of 'Amadio' claims as a significant new class of claims in the early 1990s. In 1994, the cost of Amadio claims in Victoria rose to $2.61 million. The LPLC targeted these claims and their causes. As a result of various risk management strategies introduced by the LPLC, the cost of Amadio claims dropped to $0.58 million in 1995 and had dropped to $0.11 million by 1997. This resulted in a concrete saving of several million dollars to Victorian consumers of legal services in relation to this class of claims alone. Commercial insurers in a competitive market would not have taken the same steps. Accordingly, those savings to the Victorian community (and the further savings that have resulted from many other targeted LPLC risk management strategies) would not have occurred if the profession had obtained its professional indemnity insurance on the open commercial insurance market.

There have been several other major examples of targeted risk management by the LPLC since the Department of Justice review in 1998. The most significant relates to the introduction of the GST. At the end of 1999, the LPLC set up an ongoing free help line specifically for Victorian solicitors to obtain oral or written advice on GST issues affecting their clients. This has resulted in over three thousand calls by October 2000 from the profession, potentially avoiding many future claims against Victorian solicitors and financial losses by their clients. In addition, significant questions and answers about GST are regularly publicised in bulletins sent out by the LPLC to the profession. By contrast, accountants obtain their professional indemnity insurance from the commercial insurance market. Although accountants have an even greater demand from their clients for GST

advice than solicitors, the commercial insurers who cover the accounting profession have provided no risk management assistance to accountants in relation to GST.

Other successful major risk management campaigns by the LPLC have involved both Y2K and WorkCover (workers' compensation) issues. The Y2K issue is a particularly interesting example. As the millennium approached, not only did none of the commercial insurers take any comparable risk management action to reduce the risk of Y2K claims but the commercial market's most common reaction to the approach of Y2K was to amend their insurance policies to exclude any liability for Y2K claims and so leave their policyholders uninsured for such claims. Unlike the commercial market, the LPLC did not exclude Y2K claims from its policy.

The LPLC is now insurer to the great majority of the large national firms. Practitioners in these firms are significant in number. The LPLC, in conjunction with Streeton Consulting, has commenced a large firms claims study to look at patterns of risk and assist firms in further developing their own existing risk management strategies.

In addition to the risk management services outlined above, practitioners are also subject to premium increases based on their risk rating. Those practitioners who incur claims are charged a higher premium by the LPLC and must pay an excess. Thus there is a monetary incentive for internal risk management systems to be put in place by practitioners.

Further specific information sought from Victoria

What impact, if any, does Victoria believe that its recent civil liability reforms will have on legal professional liability insurance?

Will there be a flow-on to the number and size of claims in this insurance area?

If so, would this alter Victoria's views about multiple provision of this type of insurance?

The recent reforms in Victoria were aimed at addressing problems associated with the withdrawal of insurance for particular groups or activities, especially in the area of public liability insurance for not-for-profit community groups and pony clubs, or for the building and adventure tourism sectors. Therefore, it is not anticipated that these reforms will impact on legal professional indemnity insurance and the questions raised are not pertinent to professional indemnity insurance for solicitors. Furthermore, as noted previously, commercial insurers are not interested in multiple provision of this type of insurance given the smallness of the Victorian market, and as evidenced by the recent experience of the Victorian Bar.

Other reviews of legal practice legislation

There are a number of other reviews of legal profession regulation that, while not required under the NCP, consider issues that may influence the level of competition in legal services.

The *Report of the Review of the Legal Practice Act, Regulation of the Victorian Legal Profession* made a number of recommendations relating to the regulatory structure of the profession and was released for stakeholder comment in November 2001. The consultation process has now been concluded and options have been developed for the consideration of the Attorney-General.

In addition, the Standing Committee of Attorneys-General is presently developing proposals (and in some cases model provisions) for national legal profession regulation, and is separately considering the question of incorporated legal practice and multi-disciplinary practice.

15. Other professional occupational and business licensing

- Victoria has implemented recommendations from the Vocational Education, Employment and Training Committee (VEETAC) National Working Party, May 1993, in relation to deregulation of some partially registered occupations. Where recommendations had not been fully addressed, the relevant legislation was included in the National Competition Policy (NCP) legislation review timetable in 1996.

Private agents

A review of the *Private Agents Act 1966*, which included the release of a public discussion paper in July 2000 and targeted consultation, has been completed. It is intended to seek Cabinet approval to introduce legislative reform in the Spring 2003 Parliamentary Sittings.

Estate agents

The review of the *Estate Agents Act 1980* recommended retention of regulation to protect against defalcation and of full licensing for residential property sales, but with less restrictive experience and education requirements. The review recommended a less restrictive form of licensing for agents not engaged in residential sales, the abolition of any requirement for corporate agencies to have licensed directors, the removal of the prohibition on commission sharing and relaxation of some other provisions.

The report was released for consultation and the Estate Agents and Sale of Land Acts (Amendment) Bill introduced in the Spring 2002 Parliamentary session included amendments stemming from the review. The Bill lapsed with the dissolution of Parliament on 5 November 2002.

Auctioneers

After review, the *Auction Sales Act 1958* has been repealed by the *Auction Sales (Repeal) Act 2001* with effect from 1 January 2003, thus removing the requirement for auctioneers of goods and livestock to be licensed.

Travel agents

A report was submitted to the Ministerial Council on Consumer Affairs (MCCA) in 2000 and subsequently released for stakeholder comment. In November 2002, MCCA agreed on a response to the national review (not yet announced), prepared with advice from the COAG Committee on Regulatory Reform.

16. Fair trading and consumer legislation

- Victoria has met its commitments in relation to fair trading.
- The report on the national review of Consumer Credit Code legislation was released for comment, after which the Ministerial Council on Consumer Affairs accepted its recommendations.
- A scoping study into the national scheme for uniform trade measurement legislation has been completed and the interstate review committee oversighting the review has prepared its response to the scoping paper. A draft Public Benefit Test report on the restriction on the sale of non-prepacked meat has been completed. The scoping paper and the PBT report are currently being circulated for public comment. Victoria has been meeting its requirements for the review and is currently awaiting the completion of the national process before it can implement any reforms.

Fair Trading Act

The *Fair Trading Act 1999* repealed the *Fair Trading Act 1985*. The 1999 Act was assessed against the NCP guiding legislative principle at the time it was introduced. The assessment found some restrictions on competition. Details of these restrictions and their justification were provided in the March 2001 Report to the NCC for the Third Tranche assessment. Victoria has met its NCP commitments in relation to its fair trading legislation.

Consumer credit code

State and Territory Governments have jointly undertaken a national review of Consumer Credit Code legislation. The report was accepted by the COAG Committee on Regulatory Reform as adequate and released for comment. The Ministerial Council on Consumer Affairs subsequently accepted the report's recommendations.

Trade measurement legislation

A scoping paper, which essentially found the *Trade Measurement Act 1995* legislation to be consistent with NCP principles, was completed in August 2001. A public benefit test was also prepared in regards to requirements on how meat can be sold. These papers are being circulated for public comment prior to the full report being finally considered by the COAG Committee for Regulatory Reform and subsequently the Ministerial Council on Consumer Affairs.

As a result of extended public consultation on the scoping paper and the public benefit test, the review of the scheme for uniform trade measurement legislation is now expected by June 2003. The review is being considered in a national context, with Queensland the lead State for the review. Victoria has been meeting its requirements for the review and is currently awaiting the national response before it can implement any reforms.

17. Finance, insurance and superannuation

- Reviews of workers' compensation arrangements and transport accident compensation arrangements were released in February 2001 together with draft Government responses. The reviews found that the WorkCover and transport accident compensation schemes have features of a welfare scheme that are uncommon in insurance products, including the competitive products offered in other States. These features entail a significant public interest.

- The Government's draft responses accepted the recommendations to retain the single manager for each scheme and to establish independent price reviews of premiums set for the schemes and other measures to enhance competition and efficiency.

Overview of progress

In December 2000, Victoria completed separate reviews of workers compensation and transport accident compensation arrangements. The Government released the reports, and a draft response to each report, in February 2001. These reviews recommended retention of the core compulsion to insure and monopoly over insurance in both schemes. The reviews however recommended independent review of insurance premiums for both schemes and, in the case of WorkCover, review of arrangements for self-insurance.

The reviews followed earlier reviews, conducted in 1998, of workers' compensation and third party compulsory insurance arrangements. The former Victorian Government rejected recommendations to remove the Transport Accident Commission (TAC) monopoly and to withdraw Victorian WorkCover Authority (VWA) from providing insurance. In its second tranche assessment, the National Competition Council (NCC) questioned Victoria's progress in these areas and proposed that jurisdictions consider a national review of existing compensation arrangements. The former Victorian Government supported the national reviews, but they did not proceed.

2000–01 reviews of legislation

The review of workers' compensation arrangements covered the Victorian workplace accident compensation legislation and associated regulations as follows:

- the *Accident Compensation Act 1985*

- the *Accident Compensation (WorkCover Insurance) Act 1993*

- the *Accident Compensation Regulations 1990*

Together these form Victoria's workplace accident compensation scheme, administered by the VWA (and known in Victoria as WorkCover).

The review of the Victorian transport accident compensation legislation covered the following Acts and associated regulations:

- the *Transport Accident Act 1986*
- the *Transport Accident (Charges) Regulations 1986*
- the *Transport Accident Regulations 1996*
- the *Transport Accident (Impairment) Regulations 1999*.

Together these form Victoria's transport accident compensation scheme. The scheme is sometimes referred to as third party personal insurance or compulsory third party (CTP).

Both the workplace accident compensation and the transport accident schemes have some features of an insurance product. However the schemes also have 'non-insurance' features, which are deemed to be in the public interest and display properties of a welfare scheme, and hence should not be viewed as simple insurance products.

The reviews identified key restrictions on competition arising from the legislation. A public interest test of each restriction on competition, including an assessment of one or more alternative approaches was conducted as part of the review. The alternatives examined included ways of introducing more competition, either by abolishing or modifying the existing restriction on competition. The final recommendation in each case is the one that provides the greatest potential public benefit.

The restrictions on competition, the review recommendations and the Government's draft response are summarised in Table 21.1 (WorkCover) and Table 21.2 (TAC).

Public interest test

As a consequence of the legislated benefits in Victoria, and common law provisions, both the VWA and TAC schemes are not standard insurance products, with maximum defined benefits. The availability of no fault statutory benefits under the schemes makes it similar to a system of welfare benefits.

One of the main objectives of both schemes is to ensure that injured persons are properly compensated and that the burden of the cost of injury is met by the schemes and reflects the full cost of the injury.

The Victorian schemes offer benefits not available in other jurisdictions with private underwriters, and are therefore not directly comparable with such schemes. In particular, the Victorian schemes are designed to provide no fault benefits to injured persons, which in some cases generates a significantly longer tail.

Jurisdictions with competitive schemes tend to have dollar caps to limit the size of the tail and traditionally, private insurers have managed liabilities by commuting long-term benefits. Schemes that provide options to minimise long-term liabilities exert greater pressure on other sources of assistance (e.g. social security payments and health care benefits), as the benefit may be expended in a short period of time.

Evidence from other jurisdictions suggests that private insurers attempt to undercut competitors, discounting premiums in order to attract business. This fierce price competition usually continues until the point where collected premiums are insufficient to fund scheme liabilities and premiums are then sharply increased. The premium charged under competition tends to fluctuate rather than being smoothed over time, as is the case with a public underwriter.

The current reviews have been thorough in their cost-benefit assessment to retain the single management structure. While the reviews support the retention of the single

manager for each scheme, the exercise highlighted certain costs that the Government intends to address, in order to improve the functioning of the schemes. Accordingly, the Government will review the functions performed by the VWA and TAC to identify if there is scope for greater contestability to be introduced.

Further, the Government's draft responses support the review recommendations for an independent review of VWA's and TAC's proposed premiums, including the consideration of risk reflective pricing, prior to making a premium order or seeking Ministerial approval. In 2002 the Parliament amended the *Essential Services Commission Act 2001* to provide for advice from the ESC on proposed premiums. A reference to the ESC is expected to be made for the 2003–04 premium orders that are normally made in May of each year.

With respect to workers compensation, the Government will also consider broadening the scope for self-insurance arrangements, with a view to moving towards performance-based premiums.

Table 2: WorkCover review findings and draft Government response

Restriction on competition	Review recommendation	Government response
1. A compulsion exists for employers to obtain WorkCover insurance in respect of their liability to pay compensation and common law damages to employees.	The charge should remain compulsory in the interests of achieving the social policy objectives of the Act.	Accepted
2. The VWA is the single manager of workers' compensation insurance.	The single manager arrangement should be maintained at this time, as it provides the greatest net public benefit. However, the Victorian Government may wish to consider the scope for improved market testing of some of the services provided.	Accepted
3. Centralised premium setting (regulated price).	The premium setting responsibility should remain with the VWA. However, an independent third party should review the premiums and associated rationale for setting the premiums. The independent review should be made public prior to the approval of the new premiums. This will provide greater transparency in the review setting process.	Accepted Accept recommendation of a third party review of premium – however further work will be undertaken to determine how the mechanism will work in practice (e.g. the appropriate party, timing of independent advice).
4. Approval of occupational rehabilitation service providers.	The ability to approve occupational rehabilitation service providers should be retained to ensure that service providers are suitably qualified to perform the tasks required of them.	Accepted

Restriction on competition	Review recommendation	Government response
5. Eligibility requirements for self-insurers.	Self-insurance requirements should be adjusted to increase flexibility and promote the expansion of self-insurance as it allows greater emphasis to be placed on innovative occupational heath and safety outcomes rather than the insurance product.	Accepted The VWA will be asked to assess the prospect of increasing self-insurance type arrangements.

Table 3: TAC review findings and draft Government response

Restriction on competition	Review recommendation	Government response
1. There is a compulsion for all registered vehicle owners in Victoria to pay a transport accident charge.	The charge should remain compulsory in the interests of achieving the social policy objectives of the Act.	Accepted
2. TAC is the single manager of the transport accident compensation scheme in Victoria. This is, in effect, a legislated monopoly	The single manager arrangement should be maintained for CTP personal insurance in Victoria at this time, as it provides the greatest net public benefit. However, the Victorian Government may wish to consider the scope for improved market testing of some of the services provided.	Accepted
3. Centralised premium setting (regulated price).	The premium setting responsibility should remain with the TAC. However, an independent third party review of the TAC's proposed premiums should occur prior to Ministerial approval. The review should be made public prior to the Minister's decision and it should examine and report on the premium methodology, and the cross subsidies that exist within the premium structure. This would provide greater transparency in the review setting process.	Accepted Accept recommendation of a third party review of premium – however further work will be undertaken to determine how the mechanism will work in practice (e.g. the appropriate party, timing of independent advice).

Developments in insurance markets

Since the independent report was undertaken in Victoria, there have been a number of developments in the international and Australian insurance markets. The most significant of these have been the losses from the 11 September 2001 terrorism attacks in the United States and the collapse of the HIH Insurance Group.

The collapse of the HIH Insurance Group has resulted in those State Governments with privatised schemes being required to meet liabilities arising from this collapse as follows:

- New South Wales and Queensland in relation to liabilities for CTP motor vehicle accident compensation (approximate estimate is $400 million for each State).

- Western Australia and Tasmania in relation to workplace accident compensation.

Further, the insurance industry has been withdrawing from the provision of those products it considers to be high risk and those products with long tails. This is evidenced by the difficulty currently being faced in Victoria to attract companies into the builder warranty market, which has a tail of only seven years, and the attempts to introduce tort reform to the public liability segment of the market to curb escalating prices in that segment.

Choice in public sector superannuation

Over the past few years the Government has progressively withdrawn from the direct provision of superannuation for public sector employees. All Victorian public sector employees who commenced employment after 1 January 1994, (apart from a small number of emergency services personnel), have become members of private sector superannuation funds regulated by the Commonwealth's *Superannuation Industry (Supervision) Act 1993*.

Of necessity, the Government is still closely involved with the Emergency Services Superannuation Scheme and the (now closed) State Superannuation Fund as both have substantial unfunded liabilities that directly impacts on the State's finances. Both funds are administered by independent trustee Boards.

Most departments and agencies now provide employees with at least some degree of choice regarding the fund into which employer contributions are paid. Several departments offer an unlimited choice of funds. Further policy work on the issue of choice in superannuation in public sector employment has been frustrated by the delays in the passage of the Commonwealth's own choice of fund legislation.

18. Retail

- Following completion of the March 2000 review of liquor licensing and extensive consultation with industry, in January 2001 the Government announced a phase-out of the 8 per cent cap on packaged liquor licences from the end of 2003. An earlier phase out would be subject to agreement between the Government and the industry.
- Following the announcement, discussions between the Government and the industry commenced on developing new arrangements for the packaged liquor industry. In May 2001, the Government announced that agreement on new arrangements had been reached.
- A key element of the agreement was the introduction of legislation that led to the commencement of the phase out of the 8 per cent rule from June 2002.

Overview of progress

In January 2001, the Government announced a phase-out of the 8 per cent limit from the end of 2003. This decision was reached following the March 2000 review and extensive consultations with the industry and built in flexibility to enable the commencement of the phase-out to be earlier subject to agreement with the industry.

Following this announcement, the Government engaged in industry discussions that sought to develop new arrangements for the sale of packaged liquor. In May 2002, the Government announced that industry agreement had been reached on a reform package that contained the following key elements:

- a phase out of the 8 per cent limit on packaged liquor licence holdings, commencing in June 2002 (18 months earlier than originally scheduled), with the limit to be finally abolished at the end of 2005
- transitional arrangements whereby the major chains will generally only be able to obtain licences by purchasing existing licences up to the set limits
- the establishment of a $3 million Packaged Liquor Industry Development Trust Fund to improve the competitiveness of independent liquor stores.

In June 2002, the Government introduced the *Liquor Control Reform (Packaged Liquor Licences) Act 2002*, which implemented the legislative aspects of the new arrangements. It provided for the phasing out of the 8 per cent rule in accordance with the following schedule:

Upon Royal Assent (18 June 2002)	1 July 2003	1 July 2004	1 January 2006
10%	11%	12%	Removal of cap

The Government's decision to phase out the 8 per cent limit from June 2002 has enabled Victoria to meet its NCP commitments with minimal disruption to the liquor industry.

19. Gaming

- The Victorian Government has made considerable progress in reforming gambling legislation and regulations to ensure they are consistent with the public interest.
- The Government has introduced a range of reforms, especially of public lotteries legislation that has provided scope for competition following the expiry of the current sole licence arrangements in 2004. In accordance with the legislation, the Government entered into negotiations with Tattersall's regarding 2004–07 licence arrangements in 2002.
- The Government has broadly accepted in principle the recommendations of the review of the *Gaming Machine Control Act 1991* to increase competition in the gaming industry.
- The Government has significantly amended racing and betting legislation to support more competitive practices in Victoria

Overview of progress

The Victorian Government has made considerable progress in reforming gambling legislation and regulations, particularly with regard to public lotteries legislation and the implementation of harm minimisation measures for problem gambling.

In balancing the social benefits and costs of gambling the Government has held that success is dependent upon some key principles in gambling policy. These include:

- efficient regulation of the industry
- adequate and appropriate probity
- better protection of consumers' rights, problem gamblers and the wider community.

Harm minimisation has featured prominently in the Government's gambling strategy. These reforms have been based on research, national initiatives agreed to by the Council of Australian Governments on 3 November 2000, and extensive consultation with community, industry and other stakeholders.

In July 2001 the Government's response to the review of the *Gaming Machine Control Act 1991* accepted in principle the recommendations to increase competition in the gaming industry.

The Government has continued implementation of these reforms, with recent developments outlined below. Previous progress has been detailed in the *Report for the Third Tranche Assessment on Victoria's Implementation of the National Competition Policy March 2002.*

Lotteries legislation

Legislative reform in this area was completed with the introduction of the *Public Lotteries Act 2000* (replacing the *Tattersall Consultations Act 1958).* The Act removes the existing

legislative monopoly on the conduct of lotteries at the end of the current licence. This licence extends to 30 June 2007, but does not provide a guarantee of exclusivity—the Government may issue one or more lottery licences from 1 July 2004.

In accordance with the legislation, the Government entered into negotiations with Tattersall's regarding 2004–07 license arrangements. The Minister for Gaming agreed to a premium payment of $3 million by Tattersall's in exchange for a continued exclusive licence from 1 July 2004 to 30 June 2007. The continuation of Tattersall's exclusive license will result in Victorian and New South Wales lottery licences maturing at the same time, creating an opportunity for a national lotto competition.

The extended licence was granted on the basis that as part of the negotiations Tattersall's accepted the Government's push for greater openness and transparency in the gaming sector. Tattersall's will agree on a format with the Gaming Minister that discloses the costs of operating its gaming related licences in Victoria, creating greater transparency in financial reporting.

Enhancing probity

The Victorian Government has previously implemented a range of measures to enhance probity in the gaming industry, notably the introduction of the *Gambling Legislation (Miscellaneous Amendments) Act 2000.* The recent *Gaming Machine Control (Amendment) Act 2002* further amended the gaming legislation to make a series of regulatory changes that will streamline regulatory processes. The Act establishes Victoria's participation in a national system of casino exclusions and protects the community from unscrupulous raffle organisers by providing the Victorian Casino and Gaming Authority with the power to suspend a raffle in the public interest until it is satisfied that the raffle should continue or the raffle permit should be revoked.

Gaming machine legislation

A review of the *Gaming Machine Control Act 1991* and other relevant legislation was completed in late 2000 and the Government response released in July 2001. The Government accepted, in principle, the review's recommendations to increase competition in the gaming industry and committed to review the duopoly and profit-sharing arrangements prior to the expiration of the contractual agreements between the Government and Tattersall's and Tabcorp in 2012. A summary of other major review findings, the Government's response and past reform progress is provided in the *Report for the Third Tranche Assessment on Victoria's Implementation of the National Competition Policy March 2002.*

In recent progress, the *Gaming Machine Control (Amendment) Act 2002* has implemented further reform in relation to the recommendation that there be an end to 'quasi clubs', requiring clubs demonstrate they have contributed the equivalent of the hotel tax rates for community purposes.

Responsible gaming legislation

Following comprehensive public consultation, the *Gambling Legislation (Responsible Gambling) Act 2000* introduced a range of key reforms to help combat problem gambling. These reforms have been detailed in previous reports, and included restrictions on gaming machine numbers, 24-hour trading, regional caps on gaming machines and provision for advertising restrictions.

Further responsible gambling measures were introduced as part of the *Gaming Machine Control (Amendment) Act 2002.* Harm minimisation measures included modifying game

and gaming machine design, restricting cash accessibility in gaming venues, regulating player loyalty programs, and enabling more stringent advertising restrictions to be introduced.

The gaming machine design measures include banning $100-note acceptors on machines; prohibiting the reduction of machine spin rates below the current fastest level of 2.14 seconds; banning autoplay facilities and clarifying the Minister's power to set bet limits on gaming machines in approved venues and the casino—this power has been used to set the maximum bet limit at $10. Gaming venues will be able to apply for exemptions from this and other machine design measures for some of their machines, but only if they meet strict new rules on player protection.

The cash accessibility measures include limiting access to ATM and EFTPOS facilities at venues to $200 per transaction; prohibiting cash withdrawals from credit accounts from ATM and EFTPOS facilities at a gaming venue; requiring winnings or accumulated credits in excess of $2000 to be paid by cheque, with optional payment by cheque of such winnings or credits below $2000; and prohibiting venues from cashing cheques issued by the venue.

The providers of loyalty schemes will be required to provide participants with activity statements at least once per year and provide participants with information regarding the risks associated with problem gambling. Consumers will be able to set limits on their gaming losses and the maximum time they wish to spend playing gaming machines. Loyalty club providers will also be required to enable members to opt out of the scheme, and loyalty club members will have an ongoing right of access to information held by providers about their use of gaming machines.

All clubs and hotels will now be required to provide an annual community benefit statement to the Victorian Casino and Gaming Authority outlining their contributions to the community. Each of these statements will be published by the authority, providing a tangible means of showing the public how and in what ways gaming machines provide a community benefit. Clubs will be required to show that they have contributed the equivalent of the hotel tax rate back into their community.

Review of the Club Keno legislation

The *Club Keno Act 1993* was reviewed and a report submitted to the Treasurer in September 1997. The Government is now finalising a response to this review, to be released in 2003. The Club Keno legislation will be additionally reviewed as part of the review of the post-2012 electronic gaming machine industry structure, which is to commence in the current term of Government. The 2003 review is intended to focus on reforming the Government's gaming regulatory structures and processes, rather than reforming the gaming machine and Club Keno industry structures. These structural issues will be the focus of the Government's review of the post-2012 industry structure.

Review of racing and betting legislation

Racing and betting legislation was reviewed in 1998, and the Government’s response released in August 2000. The Government’s response to the review recommendations and subsequent reform process are detailed in the *Report for the Third Tranche Assessment on Victoria’s Implementation of the National Competition Policy March 2002.* Recent progress is detailed below.

Minimum telephone bet limits

The Government continues to implement a phased reduction of minimum telephone bet limits initiated in July 2001. The limits will be reduced on an annual basis until totally abolished by July 2004.

Incorporation and partnerships

A joint Government-racing industry working party was convened to examine implementation options for the removal of legislative impediments to forming partnerships and incorporation of bookmakers and released a public discussion paper in November 2001. The working party submitted its final report to the Government, which subsequently accepted all of its recommendations. During 2002, amendments to relevant legislation were passed allowing individually registered bookmakers to form partnerships subject to approval by the Bookmakers and Bookmakers' Clerks Registration Committee (BBCRC) and licensing requirements of the controlling bodies. The amendments also allow individually registered bookmakers to form restricted corporations where only bookmakers may serve as directors or hold shares, and for the operation of such corporations to be subject to approval by the BBCRC and licensing requirements of controlling bodies.

24-hour internet trading for race betting

The Government is willing to remove restrictions on 24-hour trading on race meetings for appropriately monitored telephone or Internet betting. The Government has retained the requirement that bookmakers operate from licensed racecourses. Trading hours have been varied to allow betting from 'scratching time' (usually 8.00am) until three hours after the last race held at the venue on the day.

Internet betting may be approved by the Minister once the racing industry and the bookmaking profession develop a whole-of-industry system and an associated body of rules that will safeguard the interests of punters and the racing industry.

20. Planning, construction and development services

- The review of the *Planning and Environment Act 1987* found that the main restrictions in planning legislation were in the public interest.
- The community derived a net benefit from restrictive provisions in the Architects Act.
- The entry barrier to the profession identified in the review of the *Surveyors Act 1978* provided a net benefit to the community.

Overview of progress

The review of the *Planning and Environment Act 1987* in 2001 found that, in the main, Victoria's planning legislation achieved its objectives in an effective and efficient manner and that the restrictions identified were in the public interest.

The review of the *Architects Act 1991* in 1998–99 found that the community derived a net benefit from these restrictive provisions, primarily through consumer protection, and recommended their retention.

The review of the *Surveyors Act 1978* in 1997 identified that the entry barrier to the profession provided a net benefit to the community and recommended its retention, but recommended the removal of other restrictions such as the removal of barriers to interstate registration and increasing the number of non-surveyors on the registration board.

Planning and building approvals

The Victorian review of the *Planning and Environment Act 1987* and its subordinate legislation was completed in early 2001. Planning Legislation may restrict competition both in the market for the use and development of Victorian land, and the markets for the provision of the range of goods and services, which may be produced or provided using land. This encompasses most businesses.

The review found that, in the main, Victoria's planning legislation achieved its objectives in an effective and efficient manner and that the restrictions identified were in the public interest. The review made a series of recommendations aimed primarily at improving the manner in which the Act is administered to ensure that effectiveness and efficiency is improved and maintained. These recommendations are not just consistent with NCP principles and objectives, but also consistent with principles of good regulatory design.

The Government is currently considering its response to the review's recommendations. The majority of the report's recommendations will be implemented by way of amendments to planning schemes and administrative arrangements; only very minor legislative amendments are required, which will be included in the next amendment to the *Planning and Environment Act 1987*, anticipated for the Spring 2003 Session of Parliament.

Architects

The Productivity Commission (PC) completed a national review of legislation regulating architects. Victoria did not participate in the PC review, having already subjected the *Architects Act* and subordinate legislation made under that Act to independent NCP review in 1998–99. The review undertaken in 1998–99 also addressed Victoria's *Building Act 1993* and its subordinate legislation, in part, to enable consideration of any opportunities to integrate Victoria's building and architectural legislation. When the Government has decided its response, implementation of the joint Architects and Building legislation review will be undertaken concurrently.

National responses to the NCP reviews have taken place via an Intergovernmental Working Group sponsored by the NSW Government, and, more recently, a Government and industry working group initiated by the Australian Procurement and Construction Ministerial Council. Each of these processes has produced a position statement that is consistent with the proposed Victorian Government response.

Legislative amendments are planned for the Spring 2003 Session of Parliament, with related regulation changes to follow.

Part F:
Legislation review

Machinery of government: changes to departments

In December 2002 the Victorian Government announced a restructure of Government departments designed to deliver further improvements in the key areas of health, education, community safety and the environment. The former Department of Natural Resources and Environment (DNRE) was divided to create the new Department of Primary Industries—providing support to agriculture and fisheries, petroleum, minerals, energy and forestry industries—and the new Department of Sustainability and Environment, which assumed the environmental functions of the former DNRE and the planning functions of the Department of Infrastructure. A third new body, the Department of Victorian Communities, was created and assumed a range of portfolios central to building and maintaining strong communities. These changes were published in the Victorian Government Gazette on 5 December 2002. Earlier in 2002 the Commonwealth Games portfolio was removed from the former Department of State and Regional Development, creating the new Department of Innovation, Industry and Regional Development.

Table 1: Lists of reviews completed/response announced

Table 1 lists, by Victorian State Departments and portfolios, completed legislation reviews where the Victorian Government has announced its response.

Department of Human Services

No	Legislation	Portfolio
1	***Ambulance Services Act 1986***	Health
2	***Cemeteries Act 1958***	Health
3	***Food Act 1984***	Health
4	***Health Act 1958***	Health
5	***Health Services Act***	Health
6	***Radiation Protection Legislation (in Victoria it is Div 2AA of Pt 5 of the Health Act 1958).***	Health

Department of Infrastructure

No	Legislation	Portfolio
1	***Marine Act 1988***	Ports
2	***Transport Act 1983 (Division 5 of Part 6, provisions relating to taxis and small commercial vehicles)***	Transport
3	***Transport Act 1983 (Division 8 of Part 6, provisions relating to tow trucks)***	Transport

Department of Justice

No	Legislation	Portfolio
1	***Auction Sales Act 1958***	Consumer Affairs
2	***Consumer Credit (Victoria) Act 1995***	Consumer Affairs
3	***Gaming Machine Control Act 1991***[12]	Gaming
4	***Liquor Control Act 1987***[13]	Consumer Affairs
4	***Racing Act 1958***[13]	Racing

Department of Primary Industries[14]

No	Legislation	Portfolio
1	***Agricultural Industry Development Act 1990***	Agriculture
2	***Agricultural & Veterinary Chemicals (Control of Use) Act 1992; Agriculture & Veterinary Chemicals (Victoria) Act 1994***	Agriculture
3	***Barley Marketing Act 1993***	Agriculture
4	***Broiler Chicken Industry Act 1978***	Agriculture

[12] Previously under Department of Treasury and Finance

[13] Previously under Department of State and Regional Development

[14] Previously part of former Department of Natural Resources and Environment

No	Legislation	Portfolio
5	***Domestic (Feral & Nuisance) Animals Act 1994***	Agriculture
6	***Fisheries Act 1995***	Agriculture
7	***Meat Industry Act 1993***	Agriculture
8	***Murray Valley Citrus Marketing Act 1989***	Agriculture
9	***Petroleum Act 1958***	Resources
10	***Petroleum (Submerged Lands) Act 1982***	Resources
11	***Pipelines Act 1967***	Resources
12	***Prevention of Cruelty to Animals Act 1986***	Resources

Department of Sustainability and Environment[15]

No	Legislation	Portfolio
1	***Environment Protection Act 1970; Litter Act 1987***	Environment
2	***Flora and Fauna Guarantee Act 1988***	Environment
3	***Surveyors Act 1978***	Planning
4	***Water Act 1989; Water Industry Act 1994; Melbourne & Metropolitan Board of Works Act 1958; Melbourne Water Corporation Act 1992***	Environment
5	***Wildlife Act 1975***	Environment

Department of Treasury and Finance

No	Legislation	Portfolio
1	***Workplace Accident Compensation Legislation:*** ***Accident Compensation Act 1985,*** ***Accident Compensation (WorkCover Insurance) Act 1993,*** ***Accident Compensation Regulations 1990***	WorkCover
2	***Transport Accident Compensation Legislation: Transport Accident Act 1986*** ***Transport Accident (Charges) Regulations 1986,*** ***Transport Accident Regulations 1996*** ***Transport Accident (Impairment) Regulations 1999***	WorkCover

[15] Previously part of former Department of Natural Resources and Environment

Department of Victorian Communities

No	Legislation	Portfolio
1	***Professional Boxing and Martial Arts Act 1985***[16]	Sport

[16] Previously under Department of State and Regional Development

Table 2: Details of reviews completed/response announced

Table 2 summarises, by Victorian State Departments, completed legislation reviews where the Victorian Government has announced its response.

Department of Human Services

Legislation:	***Ambulance Services Act 1986***	**Portfolio:**	Health
Reviewer:	External independent consultant	**Date review completed:**	November 1999
Consultation:	Discussion paper released, extensive consultation, final report released, further comments received.	**Date response released:**	No formal announcement

No.	Review Recommendations	Government Response	Implementation
1	Principal recommendation that competition be introduced in provision of emergency services in the Metropolitan area.	Rejected recommendation of introduction of competition in the provision of emergency ambulance services.	N/A

No.	Restrictions on Competition Remaining	Competition Policy Justification
1	Emergency services provided by Metropolitan Ambulance Service, Rural Ambulance Victoria, one volunteer service (Alexandra and District).	Public benefit outweighs any cost of restriction on competition in this area. The objectives of public safety and confidence can only be achieved if the emergency ambulance services remain as public services. The Government is concerned that: • access to appropriate levels and standard of service for all Victorians could not be ensured, in particular services to people in regional and other less densely populated areas could be at risk; and • it would not be possible to develop contractual specifications that ensure high quality and otherwise appropriate services, in particular, there would be difficulties in managing a time critical service against a contract, and specifications to ensure that community service obligations for non-fee paying patients are met but not over serviced.

Legislation:	***Cemeteries Act 1958***	**Portfolio:**	Health
Reviewer:	In-house panel	**Date review completed:**	2001
Consultation:	Issue paper and public consultation.	**Date of response:**	July 2001

No	Review Recommendations	Response	Implementation
1	That the Act recognise the special nature of land in which human remains are interred, and give cremated remains that are interred the same tenure in the Act as human remains.	Accepted	It is intended to seek Cabinet approval to introduce legislative reform in the 2003 Parliamentary sittings
2	That replacement of the cross subsidisation of cemeteries and crematoria be adopted as a long-term objective, and investigate alternative funding sources for maintenance costs and economically unviable cemeteries.	This recommendation will be the subject of further consideration.	As above
3	That the restriction on vertical integration of the death care market in Victoria which prevents funeral directors and others in the death care industry operating cemeteries and crematoria be retained.	Accepted	As above
4	That cemeteries remain within the public sector, and crematoria which include memorial sites for interred ashes remain in the public sector, and the sale of cemeteries and crematoria with memorial sites be prohibited.	Accepted	As above

No	Review Recommendations	Response	Implementation
5	That consideration be given to merging some of the smallest cemetery trusts where there are other local cemetery trusts operating in close proximity.	This recommendation will be given further consideration. The Government is reluctant to take action to force mergers of cemetery trusts against the wishes of individual cemetery trusts, particularly where such action would result in volunteers ceasing to support the cemetery. However, there may be occasions where this action is necessary, as an alternative to appointing an administrator or where new trust members from the local community cannot be found. The Government would want to consider such mergers on a case-by-case basis.	As above
6	That a power for the Secretary to the Department of Human Services to contract out the operation of a cemetery be provided. This would give the Secretary the option of exploring contracting out arrangements as an alternative to giving responsibility for an uneconomically viable cemetery to another cemetery trust to administer.	This recommendation has been rejected. Cemetery trusts are regulated by Government but are not funded by Government. If a power to contract out the operation of a cemetery was included in the new cemeteries legislation and the power was used to contract out the operation of a cemetery, this would change the role of the Government from regulator to funding body. This would lead to an inequitable situation where contracted providers of cemetery services were being paid by the Government to provide cemetery services while cemetery trusts were not being paid for the provision of the same service.	Not applicable
7	That restrictions which are aimed at reducing public health risks (eg that graves and vaults must be water tight) be retained.	Accepted	It is intended to seek Cabinet approval to introduce legislative reform in the 2003 Parliamentary sittings.
8	That the restriction on where a crematorium can be constructed be repealed and included in planning legislation.	Accepted	As above

No	Review Recommendations	Response	Implementation
9	That the restriction that bodies are not to be buried without a burial permit and without the production of prescribed documents be retained.	The intent of this recommendation is accepted. Burial permits are intended to ensure that burial does not occur without production of a death notification under the *Births, Deaths and Marriages Registration Act 1996*, a statutory declaration that this is not possible due to special circumstances, or permission to bury under the *Coroners Act 1985.* However, it is not considered necessary for the legislation to require that a burial permit be issued provided that the prescribed documents have been submitted and been considered satisfactory by the cemetery trust or their representative, the permission of the trust or its representative has been given for a burial to take place and a record kept of the documentation submitted. A trust may choose to issue a permit for this purpose but should not necessarily be required to do so by legislation.	As above
10	That the limitation on the fees that can be charged by cemeteries be repealed and cemeteries and crematoria be allowed to set their own fees without obtaining prior approval.	Accepted with conditions. It is proposed that under new cemeteries and crematoria legislation the approval of the Secretary will be required for the establishment of new fees.	As above
11	That cemeteries and crematoria be required to lodge a copy of their full fee list with the Department of Human Services annually, and be required on an ongoing basis to advise the Department of Human Services of the introduction of any new fees.	Accepted with conditions. The new legislation could provide that fees for new goods and services will be required to be submitted to the Secretary for approval before they can be levied by the trust. This would ensure that trusts do not charge fees for services or goods that are beyond the limits of their statutory powers to provide (for example, funeral directing services). It would also give flexibility to the Act to accommodate changed practices within the industry and the community at large.	As above

No	Review Recommendations	Response	Implementation
12	That cemeteries and crematoria be required on an ongoing basis to advise the Department of Human Services of any increases in their fees that exceed increases in the consumer price index.	This recommendation is accepted, with additional requirements. Cemetery trusts will also be required to provide a written justification of the reasons why the fee increase exceeds increases in the consumer price index. The new Act could provide that fee increases that exceed the level of the CPI increase will need to be approved by the Secretary.	As above
13	That the Minister or the Secretary to the Department of Human Services has the power to investigate, disallow or give direction on fees that are unreasonable.	Accepted	As above
14	That the Department of Human Services publish annually, a publication that sets out the fees, and distribute model sets of fees that can be adopted by cemetery trusts.	Accepted	As above
15	That all cemeteries and crematoria be required to have a full fee list available, and provide consumers with a full fee list when giving price quotations.	Accepted	As above
16	That cemeteries and crematoria associations be requested to consult with their members to develop an agreed list of terms for core burial and cremation products and services, and encouraged to develop a code of practice that incorporates the agreed list of terms and requires use of those terms in price lists.	Accepted	As above

No	Restrictions on Competition Remaining	Competition Policy Justification
1	Restriction on vertical integration of the death care market in Victoria that prevents funeral directors and others in the death care industry operating cemeteries and crematoria, be retained.	The restriction on vertical integration ensures a separation between funeral directors, who are often the first point of contact for consumers and cemeteries and crematoria. The restriction reduces the risk of a conflict of interest for the funeral director when advising consumers on options for burial.

No	Restrictions on Competition Remaining	Competition Policy Justification
2	Restrictions that are aimed at reducing public health risks (eg that graves and vaults must be water tight) be retained.	Standards for graves and vaults are designed principally for public health reasons and as a result address potential negative impacts on third parties of burial practices. Accordingly, there is a net benefit to the public from standards regulation in comparison to the costs of complying with the standards.
3	Continuing fee regulation by the Secretary.	Fee regulation will be reformed to place greater emphasis on disclosure of terms, conditions and fees while retaining some residual control over excessive fees through the power to investigate and overturn excessive fees and the requirement for justification and approval for fee increased above changes in the CPI. Fee regulation is necessary due to the presence of cemeteries and crematoria on crown land and hence the Government's interest in the efficient use of that land. In addition, fee regulation serves to protect access by the community to burial sites.

Legislation:	***Food Act 1984***	**Portfolio:**	Health
Reviewer:	Australian New Zealand Food Authority (ANZFA)	**Date review completed:**	2000
Consultation:	There was extensive consultation.	**Date response completed:**	2001

No	Review Recommendations – core provisions of the National Model Food Act	Response	Implementation
1.	Nationally consistent definitions of "food", "food business", "primary food production", "unsafe" food and "unsuitable" food.	Accepted	Implemented in the *Food (Amendment) Act 2001(Vic).*
2.	Nationally consistent provisions relating to the application of food legislation to primary food production.	Accepted	As above
3.	Nationally consistent provisions relating to the following offences: handling of food in an unsafe manner; sale of unsafe food; false description of food; handling and sale of unsafe food; handling and sale of unsuitable food; misleading conduct relating to sale of food; sale of food not complying with purchaser's demand; sale of unfit equipment or packaging or labelling material; compliance with food standards code; false descriptions of food and failure to comply with an emergency order.	Accepted	As above
4.	Nationally consistent provisions relating to the application of offence provisions outside a State or Territory's jurisdiction.	Accepted	As above
5.	Nationally consistent provisions relating to the following: defences relating to publication of advertisements; defences in respect of food for export; defences of due diligence; defences in respect of handling food and defences in respect of sale of unfit equipment or packaging or labelling material.	Accepted	As above
6.	Nationally consistent provision that defence of mistaken and reasonable belief as to the facts that constituted the offence is not available for specified offences.	Accepted	As above
7.	Nationally consistent provisions relating to the following aspects of emergency powers: making of the order; the nature of the order; special provisions relating to recall orders and compensation.	Accepted	As above

Legislation:	***Health Act 1958***	**Portfolio:**	Health
Reviewer:	In-house panel	**Date review completed:**	December 2000
Consultation:	Extensive consultation took place. A discussion paper was released in November 1998 and there were public forums and public submissions received, with further targeted stakeholder consultation in relation to proposed legislative amendments.	**Date response completed:**	February 2001

No	Review Recommendations	Response	Implementation
1	That the Act be amended to provide that local councils may employ as an environmental health officer, a person with prescribed qualifications, and that the Secretary to the DHS be empowered to prescribe the qualifications of environmental health officers.	Accepted	Amending legislation passed in 2001 reflected outcomes of the review.
2	That the requirement for registration of pest control operators be repealed.	Accepted	As above
3	That the requirement that persons who apply pesticides in the course of the business of a pest control officer be licensed be retained.	Accepted	Not applicable
4	That the Act be amended to remove commercial chemical control applicators licensed under the *Agricultural and Veterinary Chemicals (Control of Use) Act 1992* from the licensing requirements of the Act and regulations where they apply pesticides in the course of a business in areas where there is no substantial risk to public health.	Accepted	Amending legislation passed in 2001 reflected outcomes of the review.
5	That the controls on the use of prescribed pesticides be repealed.	Accepted	As above
6	That the requirement that licensees submit to regular medical examinations be repealed.	Accepted	As above
7	That the Act continues to provide qualification or experience requirements for a person providing pre-test and post-test counselling.	Accepted	Not applicable
8	That the Act continues to limit which laboratories can conduct HIV testing.	Accepted	Not applicable
9	That the Act continues to require prescribed places to provide information about the incidence of HIV.	Accepted	Not applicable
10	That the Act continues to require the registration of prescribed accommodation.	Accepted	Not applicable

No	Review Recommendations	Response	Implementation
11	That Regulation 7 of the *Health (Infections Diseases) Regulations 1990* be amended to bring the room size requirement in line with NSW and South Australian requirements (one person for every two square metres) and to amend the short stay accommodation exclusion from 14 to 31 days or less.	Accepted	The new provisions are in the *Health (Infectious Diseases) Regulations 2001.*
12	That Regulation 15 of the *Health (Infectious Diseases) Regulations 1990* be amended to bring the toilet, bath and shower facilities requirement in line with the BCA requirement of one per 10 persons.	Accepted	As above
13	That Sections 230, 231, 238, 242, 245, 246, 270A, 271 and 274 of the Health Act (dealing with drugs, substances and articles) be repealed.	Accepted	Amending legislation passed in 2001 reflected outcomes of the review.
14	That Sections 305 and 309 (dealing with meat supervision) be repealed.	Accepted	As above
15	That the Act continue to require registration of premises from which the activities of hairdressing, beauty therapy and skin penetration procedures are conducted.	Accepted	Not applicable

Legislation:	***Health Services Act 1988***	**Portfolio:**	Health
Reviewer:	External consultants	**Date review completed:**	March 2000
Consultation:	Targeted consultations prior to release of public discussion paper, 75 submissions received, final report released.	**Date response released:**	July 2000

No	Review Recommendations	Response	Implementation
1	Sections 83(1)(b) and 71(1)(a)(iii) should be repealed. The Secretary of the DHS should no longer be able to take into account adequacy of health services in an area when considering applications for approval in principle or registration of new private hospital developments. The Department should remove the bed cap by withdrawing the existing Guidelines for the Development of Acute Hospital Beds.	Accepted. The Government accepts the Review's recommendation to remove the bed cap and will replace the current guidelines with a new guide for assessing applications for registration of both private hospital and day procedure developments under the Act. The new guide took effect on 22 July 2000. It will introduce new criteria for determining adequacy of services (as required under the Act) and will remove the requirement to source beds from the existing pool. Many stakeholders consider that the statutory provisions about adequacy of services have the potential to be a useful planning mechanism. It is therefore not proposed to amend the Act to remove them at this time. Instead, the Government will evaluate the impact of the new criteria for assessing adequacy once they have operated for a sufficient period to enable an assessment of their effectiveness.	The private hospital bed cap has been removed administratively. This occurred on 22 July 2000 when new criteria for assessing applications for private hospital developments (which do not involve a cap on bed numbers) were introduced. No change to legislation was necessary to achieve this outcome. Government will evaluate the operation of the new criteria before considering whether further legislative change is necessary. There are no plans to reintroduce a bed cap and this would be extremely difficult in practice.

No	Review Recommendations	Response	Implementation
2	The bed cap should not apply to day procedure centres. The necessary steps should be taken to remove the bed cap, pending the repeal of sections 71(1)(a)(iii) and 83(1)(b).	The bed cap was not reimposed for day procedure centres. This recommendation was adopted by replacing the bed cap and beds to population ratio with a guide for assessing adequacy under the Act that applies to both private hospital beds and day procedure beds. The new guide took effect on 22 July 2000. Many stakeholders consider that the statutory provisions about adequacy of services have the potential to be a useful planning mechanism. It is therefore not proposed to amend the Health Services Act to remove them at this time. Instead, the Government will evaluate the impact of the new criteria for assessing adequacy once they have operated for a sufficient period to enable an assessment of their effectiveness.	On 22 July 2000, new criteria for assessing applications for both private hospital and day procedure centre developments (which do not involve a cap on bed numbers) were introduced. Government will evaluate the operation of the new criteria before considering whether further legislative change is necessary. There are no plans to re-introduce a bed cap and this would be extremely difficult in practice.
3	The Commonwealth and the States should collaborate to develop by 1 July 2001 a set of indicators of organisation and management of care including risk-adjusted clinical performance indicators that are comprehensive, consumer focused and current. Hospitals and day procedure centres should have one year to validate the indicators and review their performance. From 1 July 2002, the Department should publish annually comparative performance information on the indicators for public and private hospitals and day procedure centres. In the absence of an agreed national set of indicators, Victoria should develop and publish its own set.	Accepted in principle subject to the development of meaningful indicators. The application of performance indicators to private hospitals and day procedure centres will be considered as part of the review of the *Health Services (Private Hospitals and Day Procedure Centres) Regulations 1991*.	Government is currently developing and piloting performance indicators, focussing initially on the public sector.

No	Review Recommendations	Response	Implementation
4	Legislation should be enacted to enable consumers of health services to have an enforceable right of access to their health records held by health providers, whether the provider is a private or public sector agency or individual health practitioner (medical or otherwise). The scope of the legislation should be similar to the *Health Records (Privacy and Access) Act 1997*. Appeals should be made to Victorian Civil and Administrative Tribunal (VCAT) against a refusal to provide access.	Accepted. Legislation was passed in 2001 that gives patients the right of access to their health information held by public and private sector organisations and individual practitioners. The legislation establishes privacy standards for health information.	The *Health Records Act 2001* was passed in Spring 2001. When it takes effect on 1 July 2002, it will give consumers of health services in both public and private sectors a legally enforceable right of access to their health records. This should assist consumers to exercise greater choice among health practitioners.
5	The Secretary of the DHS should not be able to take into account the adequacy of services in an area when considering applications for approval in principle and registration of supported residential services. Sections 71(a)(iii), 71(1)(c)(iii) and s.83(1)(b) should therefore not apply to supported residential services.	Accepted	There has never been any 'bed cap' style controls on the distribution of private sector supported residential services, and there are no plans to introduce any.

Legislation:	***Radiation Protection Legislation*** (in Victoria it is Div 2AA of Pt 5 of the ***Health Act 1958).***	**Portfolio:**	Health
Reviewer:	Australian Radiation Protection and Nuclear Safety Agency (ARPANSA)	**Date review completed:**	May 2001
Consultation:	ARPANSA consulted with State and Territory Departments responsible for regulating radiation safety and relevant independent advisory bodies (eg Victorian Radiation Advisory Committee).	**Date response completed:**	October 2001

No	Review Recommendations	Response	Implementation
1	Jurisdictions are to amend the objectives statement of their legislation to "the protection of public health and safety and the environment from the harmful effects of ionising and non-ionising radiation".	Victoria has accepted all of the recommendations of the final report by way of a letter from John Catford, Director, Public Health to ARPANSA dated 24 October 2001. However, the recommendations will need to be formally endorsed at a national level. Victoria's preferred option for the National Competition Policy Review Implementation Plan is that a summary Implementation Plan and National Response to the Final Report be prepared by ARPANSA for out of session consideration by AHMC. The existing restrictions were found to be of net public benefit.	Implementation awaiting national endorsement by AHMC.
2	Jurisdictions are to identify duplication and discrepancies between radiation protection legislation and other related legislation, standards or codes of practice and take action to minimise the duplication and discrepancies consistent with national uniformity policies.	As above	As above
3	Jurisdictions are to include nationally consistent provisions in radiation protection legislation to protect the public from the harmful effects of non-ionising radiation.	As above	As above

No	Review Recommendations	Response	Implementation
4	Jurisdictions are to retain the regulatory approach to achieve radiation protection objectives.	As above	As above
5	Jurisdictions are to consider using performance-based approaches where appropriate (that is, description of outcomes rather than the prescription of required action) based on risk management principles and all applicable quality and process standards. This is to be done in a nationally uniform manner within the framework of the National Directory for Radiation Protection.	As above	As above
6	Jurisdictions are to incorporate risk management principles in the National Directory for Radiation Protection.	As above	As above
7	Jurisdictions are to develop a uniform set of protocols on functions that can be outsourced to third-party service providers and establish national accreditation processes and guidelines for such providers. This could be done as part of the National Directory for Radiation Protection.	As above	As above
8	Jurisdictions are to legislate to review their radiation protection legislation at intervals of no more than 10 years.	As above	As above
9	Jurisdictions are to participate fully and unconditionally in the formulation and implementation of the National Directory for Radiation Protection and conduct a review of its effectiveness and efficiency within three years of its commencement.	As above	As above

No	Review Recommendations	Response	Implementation
10	The National Directory for Radiation Protection should take account of all existing standards, including those produced by ARPANSA, the National Health and Medical Research Council, the National Occupational Health & Safety Commission and Standards Australia.	As above	As above
11	Standards and codes of practice that will be adopted in the National Directory for Radiation Protection are to be, as far as practicable, consistent with relevant recommendations of international organisations and international standards.	As above	As above
12	The current systems of licensing and registration of operators, radiation equipment and radioactive substances are to be retained.	As above	As above
13	Jurisdictions are to review the need to licence dentists as part of the development of the National Directory for Radiation Protection.	As above	As above
14	Jurisdictions are to retain the prescriptive approach in their legislation.	As above	As above
15	Jurisdictions are to take into account the needs of rural, remote and Aboriginal and Torres Strait Islander communities when formulating radiation protection policies.	As above	As above
16	Jurisdictions are to remove any provision that restricts any licensee, holder of an exemption or registration from referring to that fact in any advertising or promotional material.	As above	As above

No	Review Recommendations	Response	Implementation
17	Jurisdictions are to incorporate an administrative protocol in the National Directory for Radiation Protection for the application of mutual recognition principles to the grant of licences and registrations to inter-State/Territory applicants.	As above	As above
18	Jurisdictions should recover the cost of their regulatory oversight from licensing and registration fees except for activities of the regulatory authorities that are of a public good nature.	As above	As above
19	Jurisdictions should agree on a nationally uniform system of classification for radiation incidents, accidents or emergencies and develop a cost-effective national system to collect and collate information and publish a national register for radiation incidents.	As above	As above

Department of Infrastructure

Legislation:	***Marine Act 1988***	**Portfolio:**	Ports
Reviewer:	Independent Panel	**Date review completed:**	December 1998
Consultation:	Information Paper, Discussion Paper, submissions received and further targeted consultation prior to final report.	**Date response released:**	July 2002

No	Review Recommendations	Response	Implementation
1	Rules, standards and determinations issued by the Marine Board under the Act should be consistent with NCP principles.	Accepted	All determinations, rules, and standards reviewed and amended.
2	Legislative arrangements and licensing standard for harbour masters in commercial ports should be reviewed.	Accepted	Licensing standard reviewed and amended. Preparation of a new Marine Act was deferred pending the outcomes of a review of port reform and the Port Services Act conducted by Professor Bill Russell. The independent review was completed and presented to the Minister for Ports, and publicly released with a detailed Government response in July 2002. An implementation program addressing 22 key actions has commenced, with major legislative amendments scheduled for the Autumn 2003 Session of Parliament.
3	Allocate responsibility for safe management of local ports to local authorities, and eliminate Marine Board power to appoint and licence harbour masters in local ports.	Accepted in part	Preparation of a new Marine Act and commencement of implementation program as above.

No	Review Recommendations	Response	Implementation
4	Retain both licensing and compulsory usage of pilots, but review licensing standard for compliance with NCP principles.	Accepted	Licensing standard reviewed and amended.
5	Monopoly agreement for the provision of pilotage services should be allowed to expire – but amendments to legislation required to ensure competition will not negatively affect safety standards.	Accepted	Monopoly agreement has not been renewed. Marine Act amended in 1999 to ensure that safety is not compromised by open competition.
6	The Act should enable survey services to be undertaken by the private sector, subject to resolution of safety issues.	Accepted	Preparation of a new Marine Act and commencement of implementation program as for 2 and 3. An amendment to the Marine Act was made in late 2001 which enables the new Director of Marine Safety to engage contractors, consultants or agents, including for the provision of survey services.
7	Subject to reform at a national level, the Marine Board should continue to determine crewing levels for commercial vehicles.	Accepted	Referred to National Marine Safety Committee.
8	Retain vessel registration.	Accepted	No action required.

No	Restrictions on Competition Remaining	Competition Policy Justification
1	Retain vessel registration.	Benefits outweigh limited costs. Fee contributes to safety and provision of facilities.

Legislation:	***Transport Act 1983*** (Division 5 of Part 6, provisions relating to taxis and small commercial vehicles)	**Portfolio:**	Infrastructure
Reviewer:	KPMG Consulting	**Date review completed:**	October 2001
Consultation:	Submissions invited on discussion paper; direct discussions with key stakeholders.	**Date response released:**	May 2002

No	Review Recommendations	Response	Implementation
1	The public interest entry restrictions for taxis and hire cars should be removed. Buyback of licenses in the cruising market should be funded by a levy on the industry.	Not accepted due to the enormous financial cost to budget and inordinate length of time before benefits of reform would flow to the community. Entry restrictions are to be relaxed, through a gradual approach to opening up entry. The stream of benefits to the community will commence in 2003, far sooner than would apply with a licence buy-back approach.	There is to be a phased program of additional taxi licence releases. In the metropolitan area, 100 peak taxi licences are to be issued each year over a six-year period. As the licences reach their six-year anniversary, at least 50 per cent of these licences will convert to standard 24-hour licences. Those peak licences that convert will be replaced by an equivalent number of peak licences. This program of licence releases has begun, with tender applications for the first 100 licences having been assessed. In the first year, there is gradual implementation (25 per quarter). The first peak service taxi was on the road in January 2003. In addition, nine new taxi licences were released in the non-metropolitan area in 2002. The release of a further five non-metropolitan taxi licences is currently under consideration.

No	Review Recommendations	Response	Implementation
			Entry restrictions to the hire car market throughout Victoria have been removed (with the removal of the public interest test), and a market-based licence fee is to be paid. Within two years, there is to be a review by the Essential Services Commission (ESC) of this market-based licence fee. Special purpose vehicle licences (operated for specific activities such as weddings and specialty tours) are to be issued 'as of right', with payment of a market-based licence fee.
2	The zoning restrictions for taxi-cabs and hire cars should be removed.	Zoning restriction to continue until studies can be made.	In 2003, there are to be two reviews: one of the zoning arrangements on the metropolitan fringe, and another to examine country taxi zones.
3	In the short term, fare regulation powers in relation to the taxi market should be moved to the Regulator-General. In the long term, fare regulation in the cruising market should be removed when effective competition is achieved at ranks. No fare restrictions to apply to hire cars.	Not accepted that separate markets be created for the cruise (taxi) and pre-booked (pre-booked taxi and hire cars) markets. Taxi fares are to be established by the Minister for Transport, following an independent and transparent review by the ESC. Accepted that fare restrictions not apply to hire cars.	Legislation has been amended to allow for the Minister for Transport to be responsible for determining taxi fares, and for the independent and transparent assessment role of the ESC in the establishment of taxi fares.

No	Review Recommendations	Response	Implementation
4	Vehicle standards should be related to safety objectives. However, there should be no change to livery or to other standards. Vehicle standards should apply equally to taxi-cabs, hire cars and special purpose vehicles.	Retention of vehicle quality standards accepted.	Taxi standards are to be maintained, hire car vehicle criteria is to be broadened to introduce a wider range of 'luxury' vehicles to complement the services offered by the hire car industry.
5	In the short term, the requirement for operators to belong to a depot should be maintained. However, this should be removed in the long term. There should also be an elimination of 'excessive' authorisation requirements for depots.	Accept retention of requirement for operators to belong to a depot. No decision made in regard to the long-term situation.	
6	Taxi-cabs must have a meter.	Accepted	
7	The prohibition on route services should be removed where public transport is not operating or where under contract.	Accepted	Licence conditions amended to remove the restriction.
8	Hire cars should be eligible for Multi-Purpose Taxi Program subsidies, providing that price problems can be overcome.	Not supported	
9	There should be a standard set of license conditions for the cruising taxi-cab market, including hire on demand. There should also be a standard set of license conditions for the pre-booked market, including no plying for hire and no standing at ranks.	Not accepted (due to non-acceptance of recommendation 3).	
10	In regards to driver regulation, a driver 'demerit' point system should be introduced for breaches of certificate conditions and regulations.	The Government is committed to on-going improvement in driver training. Consideration is being given to a driver demerit points system.	

No	Restrictions on Competition Remaining	Competition Policy Justification
1	Entry restriction into the taxi market.	While the taxis entry restriction remains, this is to be relaxed through the announced program of phased release of additional licences over the next 12 years. An additional 11 licences were released in non-metropolitan Victoria in 2002.
2	Zoning restrictions remain in the short term, pending two reviews in 2003 of the zoning restrictions.	The Government is concerned that the service standards within the zones would deteriorate if zoning restrictions were removed. Taxis may move further a field, particularly to the metropolitan area, to pick up fares if business in their own zone was slow. This would leave the community in the zone under-serviced. Consequently, the Government will defer making a decision on the future of zoning until a proper study can be made. Zoning arrangements in the metropolitan fringe, and country zones, are to be reviewed in 2003.
3	Regulation of taxi fares (cruise and pre-booked)	The Government considers that there is a distinction made by passengers between taxis and hire cars. Infrequent pre-booked passengers may not be willing to negotiate fares with a taxi operator. There may be concerns by passengers travelling in a taxi with the meter not operating that the pre-booked fare they negotiated may be greater than the fare the meter would have shown. Regular pre-booked passengers, on the other hand, would not have these concerns. On balance, the Government considers that the fares for pre-booked taxis should continue to be determined by the meter, so that the fare is the same for both the cruising and pre-booked markets. While the Government is not willing at this stage to commit to the removal of taxi fare regulation, the process of fare regulation is to be improved. The Minister for Transport is to determine fares, following an independent assessment by the ESC. The ESC review is to be made public.

Legislation:	***Transport Act 1983*** (Division 8 of Part 6, provisions relating to tow trucks)	**Portfolio:**	Infrastructure
Reviewer:	KPMG Consulting	**Date review completed:**	May 1999
Consultation:	Targeted consultation with key stakeholders, written submissions from stakeholders.	**Date response released:**	October 2001

No	Review Recommendations	Response	Implementation
1	Basic licensing requirements should cover accident and trade towing. Accreditation of operators to also be considered.	Accreditation of accident attending tow truck licence holders to be adopted. Legislation to be amended to allow inclusion in tow truck licence conditions. An accreditation and code of practice has been developed in conjunction with Victorian Police, the towing and insurance industries and DOI.	Legislation to be introduced into the Autumn 2003 session of Parliament to provide the licensing authority to impose accreditation as a licence condition of accident attending tow trucks.
2	Motorcycle carriers should be exempt from basic licensing requirements. Licence requirements should allow more flexibility in vehicle type.	Accepted for non-accident (trade) towing of motorcycles. It was deemed necessary that accident towing of motorcycles be retained for the protection of damaged motorcycles left at an accident scene.	Legislation amended June 2002.

No	Review Recommendations	Response	Implementation
3	Removal of need restrictions on accident and heavy accident licences.	Not accepted. It was considered that an oversupply of accident attending tow trucks would lead to a 'law of the jungle', and adversely impact on the allocation system and cause greater distress to accident victims outside the allocation zone due to attendance of too many tow truck operators.	Not applicable
4	Amalgamate licence types and conditions into a single category.	Not accepted. It was considered necessary to distinguish between trade towing and accident towing, both within and outside of the controlled area. Licence conditions provided this distinction.	Not applicable
5	Consider accreditation of operators holding Single Holder licenses.	Accepted. Refer to item 1 above.	
6	The required hours of opening for depots should be relaxed.	Not accepted. Depots are required to open and be accessible to owners of motor vehicles which have been towed and stored at that location.	Not applicable
7	The need criterion for location restrictions should be removed.	Not accepted. This could result in areas of Victoria not being adequately serviced by accident attending tow trucks.	Not applicable
8	The Accident Towing Driver Authority should cover accident and trade towing.	Not accepted as there is no evidence of need from the community	Not applicable

No	Review Recommendations	Response	Implementation
9	The *Trade Practices Act 1974* (Commonwealth) (TPA) status of the allocation scheme should be reviewed. A franchise bidding scheme for tow truck services to be considered.	Not accepted. A further round of consultation conducted by Mr Rob McQuillen PSM, identified the existing central allocation in Melbourne and the metropolitan area as being the preferred method of operation, with self management allocation schemes (allocation run under a co-operative arrangement by the towing operators) being encouraged in urban and rural centres (presently there is no allocation – all operators can attend and offer towing services).	Not applicable in Melbourne and metropolitan areas. Urban and rural centres will continue to be encouraged to consider a self-management scheme.
10	Allocation zones should be made more transparent and more aligned with Local Government Areas (LGAs).	Accepted. Individual allocation boundaries to be included on website. Allocation boundary extension was established consistent with LGAs wherever possible.	Allocation boundary amended 1 December 2002. Information to be included on website by June 2003.
11	RACV involvement in the allocation scheme is currently subject to the TPA and therefore should be maintained.	Accepted	A public tender has recently been published for the supply of the allocation centre service. Operation of the centre will be in accordance with the TPA.
12	Dual tows to be allowed where appropriate.	Not accepted in the allocation area. Tow truck operator cannot always honour two discrete contracts. Does not produce any community benefit.	Not applicable

No	Review Recommendations	Response	Implementation
13	Allow insurance companies to monitor Advanced Technical Transfer (ATT) verification.	Not accepted. Monitoring performed by regulatory body.	Not applicable
14	Consumers to have access to information pamphlet and insurance company advice at the towing destination.	Accepted. Brochure being drafted in consultation with towing and insurance industry.	Implementation anticipated by June 2003.
15	Self-Management Areas to apply only where market failures are clearly evident and cannot be addressed more directly. A regulatory impact statement should be required where a Self-Management Area is proposed. The TPA status of the Geelong Scheme should be reviewed.	Accepted that self-management should only apply where market failures are clearly evident.	In place
16	The Office of the Regulator-General should assume responsibility for fee regulation. Fee regulation controls are not to be extended in scope.	Accepted. Minister for Transport to refer all proposed towing fee amendments to ESC for comment prior to change.	Legislation amended June 2002.
17	Repeal of the legislative prohibition on touting. Voluntary or mandatory codes of conduct should be adopted.	Not accepted as undue pressure would be placed on a victim at the accident scene and not allow them adequate consultation with others, including their insurance company, prior to making a decision with regard to repair of their vehicle.	Not applicable
18	Prohibition on drop fees to be removed. Competition between repairers to be enhanced by stricter enforcement of laws preventing retention of accident vehicles.	Not accepted. Drop fees to be passed onto vehicle owner and/or insurance company.	Not applicable
19	ATT verification of repair obligations to be retained. The 48-hour cooling off period currently allowed to customers of repairers to be retained with stronger enforcement.	Accepted. Cooling off period increased to 72 hours for greater customer protection.	Legislation passed in June 2002. To be enacted 30 June 2003 if not sooner.

No	Restrictions on Competition Remaining	Competition Policy Justification
1	Basic licensing requirements for accident towing of motorcycles retained.	The Government considers it necessary that accident towing of motorcycles be retained for the protection of damaged motorcycles left at an accident scene.
2	Need restrictions on accident and heavy accident licences retained.	The Government considers that an oversupply of accident attending tow trucks would lead to a 'law of the jungle', and adversely impact on the allocation system and cause greater distress to accident victims outside the allocation zone due to attendance of too many tow truck operators.
3	Required hours of opening for depots retained.	Depots are required to open and be accessible to owners of motor vehicles which have been towed and stored at that location.
4	Need criterion for location restrictions retained.	The Government considers that removal of the need criterion for location restrictions could result in areas of Victoria not being adequately serviced by accident attending tow trucks.
5	TPA status of the allocation scheme retained.	A further round of consultation conducted by Mr Rob McQuillen PSM, identified the existing central allocation in Melbourne and the metropolitan area as being the preferred method of operation, with self management allocation schemes (allocation run under a co-operative arrangement by the towing operators) being encouraged in urban and rural centres (presently there is no allocation – all operators can attend and offer towing services).
6	Retain restriction on dual tows in the allocation area.	Tow truck operator cannot always honour two discrete contracts. Does not produce any community benefit.
7	Legislative prohibition on touting retained.	Not accepted as undue pressure would be placed on a victim at the accident scene and not allow them adequate consultation with others, including their insurance company, prior to making a decision with regard to repair of their vehicle.
8	Prohibition on drop fees to be retained.	As identified in Mr Rob McQuillen's subsequent consultation in 2000, the insurance industry considers that, rather than 'marketing' the damaged vehicle, it is a payment of secret commissions, and is unlawful. The increase in overall repair costs is ultimately passed onto the insurance company, and in turn the vehicle owner.

Department of Justice

Legislation:	***Auction Sales Act 1958***	**Portfolio:**	Consumer Affairs
Reviewer:	Victoria University of Technology, Public Sector Research Unit	**Date review completed:**	November 1999
Consultation:	Submissions invited on public issues paper; direct discussions with key stakeholders.	**Date response released:**	February 2001

No	Review Recommendations	Response	Implementation
1	Auctioneers of goods other than cattle should no longer be required to hold an auctioneer's licence. Nor should licensing be replaced with a system of registration, notification or the like.	Accepted	The *Auction Sales (Repeal) Act 2001* commenced on 1 January 2003.
2	If the licensing of auctioneers is discontinued the exemption of licensed auctioneers in section 4 of the *Second-Hand Dealers and Pawnbrokers Act 1989* will be inapplicable. In these circumstances consideration should be given to whether, consistent with the objects of that Act, a substitute provision should be introduced exempting auctioneers generally or when acting as agents for persons who wish to sell second-hand goods.	Accepted. The auctioneer exemption is being considered as part of broader review of Second-Hand Dealers and Pawnbrokers Act.	Consequential amendments were made in the Repeal Act, preserving the effect of the exemption.
3	If the licensing of auctioneers is discontinued the exemptions in sections 42A(3) and 54(7) of the *Motor Car Traders Act 1986* will be inapplicable. In these circumstances consideration should be given to whether, consistent with the objectives of the *Motor Car Traders Act 1986,* substitute provisions should be introduced covering sales by auctioneers generally. Consideration should also be given to the relevance, if any, of any changes to the *Auction Sales Act 1958* to the provisions of the *Motor Car Traders Act 1986* relating to public auctions.	Accepted. The "licensed auctioneer" references in sections 42A(3) and 54(7) and other auction-related provisions will be addressed in developing other miscellaneous amendments to the Motor Car Traders Act.	Consequential amendments were made in the Repeal Act, preserving the effect of the exemption.
4	The Review Panel recommends that if the licensing provisions of the *Auction Sales Act 1958* are retained, the provisions preventing non-residents of Victoria from obtaining auctioneer's licences should be repealed.	Not applicable as recommendation 1 is accepted.	Not applicable as Act repealed.
5	The Review Panel recommends that if the licensing provisions of the *Auction Sales Act 1958* are retained, the provisions in section 33 preventing holders of liquor licences from obtaining auctioneer's licences should be repealed.	Not applicable as recommendation 1 is accepted.	Not applicable
6	The Act should not be amended to cover Internet auctions.	Accepted	Not applicable

No	Review Recommendations	Response	Implementation
7	Reference in the Act to farm produce should be repealed.	Accepted	Not applicable
8	Provisions of the Act relating to the playing of music, disorderliness of persons at auctions and the venues at which auctions are conducted should be repealed.	Accepted	Not applicable
9	The provisions in the Act that require the recording of transactions at cattle auctions are justified and should be preserved. However, consideration should be given to whether the provisions should be in the Act or incorporated in other legislation specifically relating to cattle, for instance, section 94A of the *Livestock Disease Control Act 1994*.	Accepted. The requirement for recording transactions at livestock auctions will be incorporated into the Livestock Disease Control Act.	The Livestock Disease Control (Amendment) Regulations 2001 took effect from 1 January 2002.
10	The licensing provisions of the Act should be replaced by provisions requiring auctioneers of cattle to be registered. There should be provision for cancellation of registration for appropriate breaches of the law, including failure to comply with any record keeping requirements. Consideration should be given to whether the provisions should be in the Act or in other legislation specifically relating to cattle. In particular, consideration should be given to extending the provisions of the *Livestock Disease Control Act 1994* to incorporate such a registration scheme for auctioneers of cattle.	Rejected. The Government does not consider that the registration of livestock auctioneers is necessary considering that other sellers of livestock are not required to be registered.	Not applicable
11	Registration of auctioneers of cattle should be automatic upon payment of a registration fee and should be ongoing.	Not applicable as recommendation 10 is rejected.	As above
12	Registration provisions for auctioneers of cattle should be administered by the Business Licensing Authority.	Not applicable as recommendation 10 is rejected.	As above
13	The registration provisions recommended in relation to auction sales of cattle should apply to persons conducting the auction sales described in section 3(2) of the *Auction Sales Act 1958*.	Not applicable as recommendation 10 is rejected.	As above
14	The definition of “cattle” in the Act or alternative legislation dealing with registration should be replaced by a broad definition along the lines of those in the *Livestock Disease Control Act 1994 or the Stock (Seller Liability and Declarations) Act 1993*.	Rejected. Livestock which is considered to pose a potential health or disease risk will be prescribed in the Livestock Disease Control Regulations 1995.	The Livestock Disease Control (Amendment) Regulations 2001 prescribe specific animal species for which records are to be kept.
15	The provisions in the Act relating to collusion should be repealed.	Accepted	Act repealed

No	Review Recommendations	Response	Implementation
16	The requirement in the *Auction Sales Act 1958* for auctioneers to establish the *bona fides* of vendors at cattle auctions should be preserved in the Act or in alternative legislation requiring registration of the details of cattle sales at auction. However, the provisions should be amended to enable proof of identity by means of the production of driver licences or the equivalent.	Accepted	Provision preserved through *Livestock Disease Control (Amendment) Act 2001.*
17	Sections 40 and 41 of the Act should be repealed. (Section 40 states that an auctioneer who complies with the provisions of the Act and does not exhibit any neglect or carelessness is exempt from the provisions of any Act enabling a Magistrates' Court to enforce repayment by a vendor of the purchase money for stolen cattle or sheep skins. Section 41 states that an auctioneer is not liable to the true owner of cattle or sheep skins sold by him if he complied with the provisions of the Act and acted in good faith and believed the vendor was the true owner.)	Accepted	Act repealed
18	There should be transitional provisions protecting the rights of current licence holders for the duration of their licences.	Not applicable as recommendation 10 is rejected.	Not applicable
19	There should be transitional arrangements requiring auctioneers to retain the records made under the *Auction Sales Act 1958*.	Accepted	Transitional provisions were made in the Repeal Act.

No	Restrictions on Competition Remaining	Competition Policy Justification
20	Nil: the Act has been repealed with effect no later than 1 January 2003.	

Legislation:	***Consumer Credit (Victoria) Act 1995***	**Portfolio:**	Consumer Affairs
Reviewer:	KPMG	**Date review completed:**	May 2002
Consultation:	Submissions invited on public issues paper; direct discussions with key stakeholders.	**Date response released:**	July 2002

No	Review Recommendations	Response	Implementation
1	Maintain the current provisions of the Consumer Credit Code and review the definitions of the Consumer Credit Code to ensure that terms sale of land, conditional sale agreements, tiny terms contracts and solicitor lending are bought within the scope of the Consumer Credit Code	Accepted	Once specific amendments have been agreed by the Ministerial Council on Consumer Affairs, the Code will be amended through the Queensland Parliament. The amendments will automatically apply in Victoria.
2	To enhance the disclosure provisions within Part 2 of the Consumer Credit Code, amend Regulation 13 to provide a simplified 'Schumer Box' format containing essential financial information. Other essential information would be provided outside the 'box' and would prominently indicate that other information was contained in the contract document.	Accepted	Once specific amendments have been agreed by the Ministerial Council on Consumer Affairs, the Code Regulations will be amended in Queensland. The amendments will automatically apply in Victoria.

Legislation:	***Gaming Machine Control Act 1991*** (and the ***Gaming and Betting Act 1994*** as it relates to a gaming operator's licence and relevant regulations)	**Portfolio:**	Gaming
Reviewer:	Marsden Jacob and Associates	**Date review completed:**	November 2000
Consultation:	Public consultation, submissions received and further targeted consultation prior to report.	**Date response released:**	18 July 2001

No	Review Recommendations	Response	Implementation
1	Two-Operator System The excessive generosity of the current licences and resulting monopoly rents should end as soon as practicable. The two-operator system should not be continued beyond the expiry of the current contracts and that a competitive model be based on Queensland. However, whichever model is chosen we strongly recommend that there be no profit sharing. It was recommended that the Victorian Government use the discretion provided by clause 8 of the Gaming Operator's Licence to: - remove the monopoly profits above the level of payments necessary to ensure competitive or regulated provision of monitoring, servicing and machine rental; and - provide the operators with a flat cost-based fee for these services to venues. Unlike the 1996 review, any future review should be public and transparent.	The Government notes that the recommendation does not directly deal with a competitive restriction and does not require Government action for the purpose of NCP compliance. However the Government notes the findings of the review with regard to the accrual and distribution of economic rents resulting from the industry arrangements. The Government agrees that a comprehensive review should be conducted closer to the expiry of the current licences to examine the appropriate industry structure beyond 2012. Without pre-empting the review, the Government is supportive of greater competition in the industry.	Any comprehensive review of the post-2012 industry structure should consider a number of the issues raised by the review, including the appropriateness of the continuation of the profit sharing arrangements, ownership structure and number of gaming operator licenses. However, the review erred in presenting the option of a further 'clause 8 review' of profit sharing and taxation arrangements. Following that review, conducted in 1996, the previous Government removed that provision from the legislation and the licences. Changes to the profit sharing and taxation arrangements before 2012 would require a fundamental alteration of the operating environment established for the terms of the licences. The Government has given an undertaking to honour the principles and commitments given at the time the licences were issued.

No	Review Recommendations	Response	Implementation
2	The Government and the racing industry should take the early opportunity to renegotiate the current open-ended Agreement Act to ensure on-going support independent of the existing duopoly and financing arrangements, so that agreed new arrangements can be in place when the existing contracts/licenses expire in 2012.	Accepted in principle	The Government accepts in principle the recommendation, noting that the review identifies support of the racing industry as an objective of the legislation.
3	The legislation should be amended to remove the requirement that monitoring and control be a requirement of the operator's licence. There would consequently be no need to require the system to be on-line, real-time.	Accepted in principle	While the intention is to retain the requirement that monitoring and control be a requirement of the operator's licence for the life of the current arrangements, the Government will consult with the Victorian Casino and Gaming Authority (VCGA) and the industry on the most appropriate way forward for monitoring arrangements. A key consideration in examining this issue will be to ensure the absolute integrity of the on-line monitoring regime.
4	The allocation of at least 20 per cent of gaming machines to non-metropolitan Victoria – this restriction should be removed from the legislation.	Rejected – issue will be monitored and addressed as the impacts of recent policy initiatives are known.	The Government notes the recommendation and will monitor the impact of the recent, more sophisticated, reforms on the distribution of machines across the State. Until the impacts of recent policy initiatives introducing regional caps and social and economic benefit tests are known the Government will retain the current restriction.
5	Club-Hotel 50:50 Split – this restriction should be retained.	Accepted	No action required.

No	Review Recommendations	Response	Implementation
6	*Quasi-Clubs* This package of measures should be adopted: a) separate liquor and gaming licences and break the presumption that award of a liquor licence automatically qualifies the venue for a gaming licence. The legislative change has already been made, but the change needs to be signalled; b) provide legislative clarity and guidance to the VCGA by explicitly listing the items to be considered in any case by case assessment of the 'reasonableness' or otherwise of commercial arrangements; c) prohibit in totality profit-sharing arrangements or prohibit, subject to specifically authorised exceptions, profit-sharing arrangements; d) require and resource the VCGA to undertake *expost* analysis of the sources and uses of funds from gaming and other activities in those clubs contracting external management contract services and leasing premises from related third parties; e) provide and enforce penalties on companies, their directors and the club directors found to be involved in non-genuine club gaming activities. For instance, banning these persons and entities from further involvement in gaming; and f) tighten direct responsibilities for clubs engaging in substantial gaming activity. For instance, amend the gaming machine control act to require directors of such clubs to be bound by the same responsibilities of directors of companies under Corporations Law.	a) Accepted (b) Accepted in-principle (c) Accepted in-principle (d) Accepted in-principle (e) Rejected (f) Rejected	The Government has already put in place measures that introduce Recommendation (a). The Government accepts in-principle recommendations (b) & (d) to provide broader scope for the assessment of club venues and the appropriateness of applying the Community Support Fund levy and to provide a mechanism for venues to demonstrate the wider community benefits of their gaming activities. The Government is considering a number of options. The Government accepts in-principle recommendation (c). However it should be recognised that some clubs have benefited from such management arrangements. The Government will examine the issue in more detail to determine the appropriate changes to the existing regime. The Government does not accept recommendations (e) & (f) believing that the principle focus of gaming legislation should be to ensure the honesty and integrity of the gaming industry and its participants, rather than duplicate Corporations Law and other legislative governance of general commercial activities.
7	Limits on machine numbers per venue – this restriction should be retained for the time being.	Accepted	No action required.

No	Review Recommendations	Response	Implementation
8	24-hour Gaming Restrictions – this restriction should be retained.	Accepted	No action required.
9	*Gaming Venues restricted to Licensed Premises only* Only venues with one of: a general licence under the *Liquor Control Reform Act 1998*, a club licence under s.10 of the same Act or a licence under Part I of the *Racing Act 1958* (or a licence issued under these sections but with conditions under s.80 of the Liquor Control Act 1987) can be approved premises (s.12A).	Accepted	The Government accepts the recommendation to restrict gaming to licensed club and hotel venues.
10	Denominations and Betting Limits The general ability to set bet limits under Ministerial Direction should be retained. We also recommend that the use of more aggressive bet limits should follow appropriate research and testing.	Accepted	The Government accepts the recommendation to retain the ability to set bet limits. The Government would wish to see research conducted into the effectiveness of bet limits to promote responsible gambling behaviour.
11	Venue Operator Cannot Have Two Premises Within 100m Where an applicant (or an associate) has an existing venue within 100m of a proposed venue, these venues must be independent of each other.	Accepted	No action required.
12	General probity requirements The existing probity restrictions should be retained and continue to be subject to ongoing independent review.	Accepted in-principle	The Government is satisfied that the barriers to entry presented by the stringent probity arrangements are in the public interest to ensure integrity and honesty in the gaming industry.

No	Review Recommendations	Response	Implementation
13	Secrecy restrictions under Section 139 More explicit guidance should be given to the VCGA on its role and responsibilities.	Accepted	While the recommendation does not strictly deal with matters of competitive restrictions, the Government supports in principle the notion of continual review of these provisions. Recent amendments to this section of the Act provide for more accountability and openness of the VCGA including the conduct of open hearings. To the extent that more public information assists competitive outcomes then the Government has already acted to remove competitive restrictions.

No	Restrictions on Competition Remaining	Competition Policy Justification
1	Recommendation 4 The allocation of at least 20 per cent of gaming machines to non-metropolitan Victoria – this restriction should be removed from the legislation	The Government notes the recommendation and will monitor the impact of the recent, more sophisticated, reforms on the distribution of machines across the State. Until the impacts of recent policy initiatives introducing regional caps and social and economic benefit tests are known the Government will retain the current restriction.
2	Recommendation 6 Provide and enforce penalties on companies, their directors and the club directors found to be involved in non-genuine club gaming activities. Tighten direct responsibilities for clubs engaging in substantial gaming activity.	The Government does not accept recommendations (e) & (f) believing that the principle focus of gaming legislation should be to ensure the honesty and integrity of the gaming industry and its participants, rather than duplicate Corporations Law and other legislative governance of general commercial activities.

Legislation:	***Liquor Control Act 1987***	**Portfolio:**	Small Business
Reviewer:	Independent review panel	**Date review completed:**	April 1998
Consultation:	Issues Paper, Discussion paper, Public consultation, submissions received and further targeted consultation prior to report.	**Date response released:**	October 1998

No	Key Recommendations	Response	Implementation
1	Removal of 'needs criteria' for assessing packaged liquor licence applications.	Accepted	Act replaced by *Liquor Control Reform Act 1998*, effective from February 1999.
2	Removal of 'primary purpose' requirements that limit that nature of business activities permitted by a licence.	Accepted	
3	Removal of 8 per cent limit on holdings of general licences.	Accepted	
4	Streamlining of licence categories – from 17 types to nine.	Accepted	

No	Key Restrictions on Competition Remaining	Competition Policy Justification
1	Limit of 8 per cent on packaged liquor licence holdings ("8 per cent rule").	Following NCC's second tranche assessment, a further review of the 8 per cent rule was conducted by the Office of Regulation Reform with the assistance of an expert reference group. The review, which was announced in March 2000, included two rounds of extensive public consultation. The report, which was publicly released in September 2000, found that both small and large businesses agree that the 8 per cent rule is becoming less effective in promoting diversity in the industry, particularly as the pool of packaged liquor licences grows over time due to the abolition of the needs criteria and the nature of liquor retailing changes. As a result, the Government announced in January 2001 that the 8 per cent rule would be phased out from the end of 2003, or earlier if industry-wide and government agreement was reached. In May 2002, the Government announced that agreement had been reached on new arrangements for the packaged liquor industry. A key element of the reform package was that the phase out of the 8 per cent rule commenced in June 2002, 18 months earlier than originally scheduled. The limit will be totally removed from the end of 2005.

No	Key Restrictions on Competition Remaining	Competition Policy Justification
2	Prohibition on licensing certain businesses (petrol stations or drive-in cinemas) and restrictions on licensing milk bars, convenience stores and mixed businesses.	Youth under the age of 18 years are often attracted to, or in proximity to, convenience stores, in response to the products offered for sale. The potential for increased underage access to liquor through convenience stores, if licensed, would be contrary to the Government's underage drinking policy. Special consideration would be given if there is no alternative supply of liquor available to the community. In its second tranche assessment, the NCC accepted that the Government's adoption of the review panel's recommendation to retain the prohibition on harm minimisation grounds is consistent with competition policy principles.

Legislation:	***Racing Act 1958***	**Portfolio:**	Racing
Reviewer:	Consultant	**Date review completed:**	November 1998
Consultation:	Issues Paper, Discussion paper, Public consultation, submissions received and further targeted consultation prior to report.	**Date response released:**	August 2000

No	Key Review Recommendations	Response	Implementation
1	Measures to allow the development of other codes of racing including providing opportunities for them to demonstrate their integrity assurance for wagering purposes.	Accepted	*Racing and Betting Acts (Amendment) Act 2001* commenced on 1 May 2001 to abolish restrictions on other codes' meetings in terms of geographic location and participation by licensed jockeys and drivers. Integrity assurance assessment process established and awaiting submissions from proponents.
2	Maintenance of prohibition on proprietary racing until proponents can provide detailed, costed recommendations for their independent regulation.	Accepted	Assessment process established and awaiting submissions from proponents.
3	Removal of restrictions on cross-border advertising by betting operators.	Accepted subject to the development of national uniformity.	Under review by the Australian Racing Ministers' Conference. Awaiting finalisation of NCP reviews in other jurisdictions.
4	Expansion of sports betting licensing regime.	Rejected on grounds of problem gambling and regulatory efficiency.	
5	Abolition of the minimum telephone bet limits for bookmakers.	Accepted – by way of a staged reduction.	First reduction effected on 1 July 2001. Limits to be totally abolished by 1 July 2004.

No	Key Review Recommendations	Response	Implementation
6	Allow bookmakers to incorporate.	Accepted in principle – subject to consultation with the bookmaking profession.	Effected by the *Racing Acts (Amendment) Act 2002* on 26 September 2002.
7	Allow 24-hour trading by bookmakers.	Accepted in principle – subject to consultation with the bookmaking profession.	Agreement has been reached to extend the allowable betting time from 'scratching time' until three hours after the last race.
8	Allow internet betting by bookmakers.	Accepted in principle – subject to consultation with the bookmaking profession.	Legislation not required – Internet betting can be authorised by Ministerial approval. Awaiting proposal from racing/bookmaker industry.
9	Deregulation of tipping services.	Accepted	Effected by the *Racing and Betting Acts (Amendment) Act 2001* on 1 May 2001.

Department of Primary Industries

Legislation:	***Agricultural Industry Development Act 1990***	**Portfolio:**	Agriculture
Reviewer:	Consultant (KPMG)	**Date review completed:**	4 January 1999
Consultation:	Release of an issues paper and call for submissions, targeted interviews	**Date response released:**	September 2000

No	Review Recommendations	Response	Implementation
1	The Murray Valley (Victoria) Wine Grape Industry Marketing Order 1994 not be renewed after it expires on 23 November 1998.	Accepted	Order has expired and will not be remade.
2	The Murray Valley (New South Wales) Wine Grape Processing Industry Marketing Order 1995 not be renewed after it expires on 30 November 1998.	Not Applicable to Victoria	Not applicable
3	Murray Valley Wine Grape Industry Development Order (Victoria) 1994 and Murray Valley (New South Wales) Wine Grape Processing Industry Marketing Order 1995: - Remove the function prescribed in sub-clauses 8(a) regarding closer relationships between industry participants and 8(c) regarding provision of resources to the Murray Valley Wine Grape Growers Council; - Retain the market information function prescribed in sub-clauses 8(b) and (d) in the short term while considering whether these could be undertaken by industry organisations; and, - Review the activities of the Grape and Wine Research and Development Corporation to determine whether it could undertake or fund the research and development currently undertaken by the Murray Valley Wine Grape Industry Development Council.	Accepted	Functions 8(a) and 8(c) were not included when the order was remade in 1999. Sub-clauses 8(b) and (d) were included in the 1999 order but industry has been given notice of further review prior to polling on the continuation of the order. Order expires on 15 June 2003 and is currently being remade. Discussion between The Murray Valley Wine Grape Industry Development Council (IDC) and the Grape and Wine Research and Development Council have developed a clear understanding of the roles of each party.

No	Review Recommendations	Response	Implementation
4	Remove from the Northern Victoria Fresh Tomato Industry Development Order 1995 and the Victorian Strawberry Industry Development Order 1996 sub-clause 10(b) which provides a power for the respective Industry Development Council to act as a purchasing agent.	Accepted	Function was removed when new Orders were made in June and July 2000.
5	Remove from the Emu Industry Development Order 1996 the discretionary function in sub-clause 11(b) of providing resources to the Emu Producers Association of Victoria.	Accepted	The order has expired. The function will not be permitted if a new order is made.
6	Review the effectiveness of the Northern Victoria Fresh Tomato, Victorian Strawberry and Emu Industry Development Councils in undertaking or funding research and development and promotion. Examine whether other statutory-based agricultural research and development and promotion bodies could undertake or fund these activities. Seek an explanation from each of these Industry Development Committees for the level of unexpended funds and examine the appropriateness of the investment of the funds.	Accepted	Reviews completed and new Tomato (1999), Strawberry (2000 and 2002) and Greater Victoria Wine Grape (2001). Orders involve increased accountability measures and revised functions. The Emu Industry Development Committee Order has lapsed.
7	Remove from the Agricultural Industry Development Act provisions relating to price recommendation and payment terms and conditions functions of Negotiating Committees. These provisions are Section 1(a)(iii), (iv) and (v); 1(b); 15(1)(d), (e) and (f); 15(2); 15(3); 15(4); 17(c); 23(5); 24(4); 35(2); 37(1) and 43.	Accepted	Repealed in the *Agricultural Industry Development (Amendment) Act 2000*.
8	Remove from the Agricultural Industry Development Act the power for an Industry Development Committee to act as a purchasing agent (Section 16(1)(a)).	Accepted	As above
9	Consider amending the Act to provide that all Orders made must require reasons for any retention of funds raised from charges to be published in the Industry Development Council financial statements in annual reports; particularly in view of the fact that Orders are limited in time to four years.	Accepted	Section 39 amended, to reflect the recommendation, in the *Agricultural Industry Development (Amendment) Act 2000.*

No	Restrictions on Competition Remaining	Competition Policy Justification
	None	

Legislation:	***Agricultural & Veterinary Chemicals (Control of Use) Act 1992; Agriculture & Veterinary Chemicals (Victoria) Act 1994***	**Portfolio:**	Agriculture
Reviewer:	Consultant (Price Waterhouse Coopers)	**Date review completed:**	January 1999
Consultation:	Release of issues paper and call for submissions, targeted interviews	**Date response released:**	January 2000

No	Review Recommendations	Response	Implementation
1	Retention of a single provider of registration decisions in Australia.	Accepted	
2	That the AgVet Code be altered to specifically provide for the identification of low risk chemicals, hence enabling potentially faster registration. This would enable unnecessary registration cost burdens on the manufacturers of these chemicals to be removed.	Accepted in part, subject to further consideration by Low Regulatory Activity Task Force.	An inter-jurisdictional Low Regulatory Activity Task Force was established by the Standing Committee on Agriculture and Resource Management (SCARM) to examine how best to regulate low risk chemicals and draft legislation prepared. All States and Territories are now awaiting national parliamentary approval processes to be undertaken before the amendments become law.
3	That sections 4 & 5 of the AgVet Code be amended to provide guiding principles for the inclusion or exclusion of chemicals by regulation. These principles should emphasise the relevant risks that the Scheme was developed to manage.	Accepted in part	As above.

No	Review Recommendations	Response	Implementation
4	That the National Registration Authority for Agricultural and Veterinary Chemicals (NRA) establish service agreements with its current suppliers and purchase assessment services on a fee for service basis.	Accepted	Not applicable to Victoria. Will follow Commonwealth administrative procedure. The recommendations of the NCP review that impact on the National Registration System (NRS) are being addressed by the NRA and AFFA. Although Victoria has been consulted regarding changes to Commonwealth legislation as required by the Ministerial agreement which underpins the NRS, Victoria is not directly involved in the implementation of the changes addressing the issues stated below: - licensing of agricultural chemical manufacturers - regulation of low risk chemicals - contestability of chemical assessment services - compensation for third party access to chemical assessment data.
5	That the NRA both accepts alternative suppliers of assessment services and actively alerts likely providers to this fact.	Accepted in principle, subject to consideration by Working Group.	Commonwealth Working Group has examined issues associated with the provision of assessment services by alternative providers in accordance with the Competition Principles Agreement. The working group is finalising its report.

No	Review Recommendations	Response	Implementation
6	That Section 14(3)(f) of the AgVet Code be amended to specify that efficacy review extends only to ensuring that the chemical product meets the claimed level of efficacy on the label.	Rejected	The decision to reject this review recommendation reflected the views of the majority of States, to which Victoria reluctantly acquiesced.
7	That the levy be changed to a simple flat rate levy with no exemptions or caps. The annual renewal fee should be abolished and a nominal minimum levy liability (per registered product) set instead.	Accepted in principle, subject to consideration by Working Group.	Commonwealth Working Group will consider the appropriateness of current levies and renewal fees charged by the NRA.
8	That application and other registration service fees be cost reflective.	Accepted	To follow Commonwealth administrative procedure.
9	That the licensing of veterinary chemical manufacturers be retained. However, Good Manufacturing Practice should be optional for manufacturers of low risk veterinary chemicals, in line with the introduction of a low risk category of registration.	Accepted in part. Licensing of veterinary chemical manufacturers is supported.	No change required
10	That the AgVet Code be amended to remove the present requirement for licensing of agricultural chemical manufacturers until the case for such an extension is made.	Rejected, subject to further consideration.	Provision retained in its exempted state until the Commonwealth completes a review of the need for the provision. Any activation would be conditional on satisfaction of requirements of a thorough Regulatory Impact Assessment.

No	Review Recommendations	Response	Implementation
11	That the compensation process provisions of the AgVet Code be modified to adopt the procedures and principles for determining third party access pricing under the various Codes in operation under Part IIIA of the *Trade Practices Act*.	Rejected, alternative arrangements in hand. Third party access to data is a complex matter associated with proprietary rights, which belong to the original provider of the data. Issues associated with access to data and in particular the aspect of third party pricing, are currently being addressed under the commonwealth review of data protection legislation with respect of the operation of the National Registration Authority.	Adequately covered as part of the current Commonwealth review of data protection that will be presented to SCARM/ Agriculture and Resource Management Council of Australia and New Zealand (ARMCANZ) for consideration. The review has been undertaken.
12	That ARMCANZ establish a control of use task force to develop a nationally consistent approach to off-label use and other control of use issues.	Accepted	It has been agreed that nationally consistent outcomes in chemical risk management are essential and that currently no areas have been identified in which there is a deficiency in desired outcomes. The taskforce has agreed that more data is required nationally to substantiate risk management performance in agricultural and veterinary chemicals across the country. This approach has been endorsed by SCARM (now Primary Industry Standing Committee PISC).
13	That the veterinary surgeon exemption in the AgVet code be retained.	Accepted	No amendments necessary.
14	That Tasmania's control of use legislation be amended to limit the exemption afforded to pharmaceutical chemists to those circumstances where they are acting under the instructions of a veterinary surgeon.	Not applicable	

No	Review Recommendations	Response	Implementation
15	That Victoria and Queensland's control of use legislation be amended to remove the exemption afforded to veterinary surgeons in respect of agricultural chemicals.	Accepted	Change made in *Agricultural and Veterinary Chemicals (Control of Use) (Further Amendment) Act 2001*.
16	That the ARMCANZ control of use taskforce addresses the veterinary exemption.	Accepted	Complete
17	That an appropriate business licensing system for AgVet chemical spraying businesses (ground or aerial) would entail no more than the relevant state AgVet authority issuing a licence; subject to: - maintenance of detailed records of chemical use - using only appropriately licensed persons to perform application activities - the provision of infrastructure to enable persons to operate at the appropriate competency level.	Accepted	A Nationally consistent aerial spraying licensing system is currently being progressed by an AVCPC working group. Addressing recommendations 1719 are a part of the terms of reference of this working group.
18	That an appropriate occupational licensing system for persons undertaking AgVet chemical spraying (ground or aerial) for fee or reward would entail no more than the relevant State AgVet authority issuing a licence, subject to: - holding accreditation of appropriate competencies (including scope for provisional accreditation of new employees) - operating at that competency level - working only for a licensed business (as above).	Accepted	As above
19	That the States and Territories examine the scope to coordinate their business and occupational licensing requirements, specifically the scope to standardise accreditations and the scope to recognise interstate licences.	Accepted	As above
20	That the exemption from business and occupational licences (but not from generic controls) be retained for persons spraying AgVet chemicals on their own land (this exemption is mainly aimed at primary producers).	Accepted	No change

No	Restrictions on Competition Remaining	Competition Policy Justification
1	The extent to which chemical efficacy rates may be determined by the NRA rather than allowing products that are correctly labelled but have relatively low efficacy to be sold.	A chemical with adequate efficacy (i.e. As determined by NRA) has the effect of minimising the quantity of chemical required to be used in a particular situation and thus minimises worker exposure to that chemical. In contrast, a chemical with inadequate efficacy (i.e. As could be determined by the registrant) could lead to excessive use of that chemical, relative to the use pattern of a chemical with adequate efficacy, to achieve an equivalent control over pests and diseases. In brief, inadequate efficacy of a chemical is likely to equate to an increased occupational health and safety risk to workers. The use of agricultural and veterinary chemicals with inadequate efficacy may also give rise to unnecessary risk to the environment. The use of inadequate efficacy products is likely to entice more frequent application and higher rates of application of a chemical in order to achieve effective control of pests and diseases.
2	Compulsory Good Manufacturing Practice (GMP) for manufacturers of low risk veterinary chemicals.	In considering the notion of different “risk” categories, especially “low risk” categories, attracting different licensing standards, it is important to note that substandard products, regardless of their prima facie risk status, may result in damage to people, crops or animals. GMP is designed to address risks associated with the chemical manufacturing process as distinct from the risks associated with the use of a chemical and addresses matters such as contamination of chemicals during manufacture.

Legislation:	***Barley Marketing Act 1993***	**Portfolio:**	Agriculture
Reviewer:	Consultant (Centre for International Economics)	**Date review completed:**	November 1997
Consultation:	Release of issues paper and call for submissions, targeted interviews	**Date response released:**	Completed in November 1998

No	Review Recommendations	Response	Implementation
1	That the domestic market for feed barley in South Australia and Victoria be formally deregulated. This can be achieved by abolishing the current permit system and exempting, in a regulation, feed barley destined for the domestic trade.	Accepted	De-regulated by the *Barley Marketing (Amendment) Act 1999*. Deregulation took effect on 1 July 2001.
2	That the domestic market for malting barley in Victoria and South Australia be deregulated. This can be achieved by removing the current requirements for maltsters and processors to have deeds of arrangements with the Australian Barley Board (ABB) and the need for licences for purchases of malting barley other than from the ABB. As for feed barley, malting barley for domestic sale can be exempted in a regulation from the current provisions to compulsorily deliver barley to the ABB.	Accepted	De-regulated by the *Barley Marketing (Amendment) Act 1999*.
3	That the ABB retains its single desk for export barley sales for the shortest practicable transition period.	Accepted	Single desk export arrangements ceased to exist on 30 June 2001. Amendments introduced as part of the *Barley Marketing (Amendment) Act 1999*.
4	That the oats market in South Australia be deregulated by removing oats from a new barley-marketing act in South Australia.	Not applicable to Victoria	Not applicable

No	Restrictions on Competition Remaining	Competition Policy Justification
	None	

Legislation:	***Broiler Chicken Industry Act 1978***	**Portfolio:**	Agriculture
Reviewer:	Consultant (KPMG)	**Date review completed:**	November 1999
Consultation:	Issues paper and call for submissions, targeted interviews.	**Date response released:**	December 2001

No	Review Recommendations	Response	Implementation
1	The Act and associated regulations should be repealed because they: - create restrictions on competition, through the use of a prescribed contract and the determination of a standard growing fee, that are not necessary to achieve the stated objectives - impose costs on the community that are likely to exceed the benefits - may expose industry participants to breaches of the Trade Practices Act.	Agreed in principle	The Government intends to retain the legislation to facilitate a transition to new industry arrangements.
2	That an authorisation from the Australian Competition and Consumer Commission (ACCC) be sought so as to allow growers to collectively negotiate with processors without the risk of prosecution under the Trade Practices Act.	Agreed	An ACCC authorisation came into effect on 24 July 2001, which allows for collective negotiations within a Code of Conduct.

No	Restrictions on Competition Remaining	Competition Policy Justification
1	The Act imposes restrictions on competition through two mechanisms, the use of a prescribed contract, and the determination of a standard growing fee.	Growers, or groups of growers, are able to negotiate contracts with individual processors under the Code of Conduct authorised by the ACCC. This represents an improvement in industry competition. Authorised collective contract negotiations between growers and processors allow a level of security of price and supply, and also provide incentives for competition and efficiency. The Act is being retained for the time being as a safety net for the industry.
2	The Minister for Agriculture appoints 11 members of the Victorian Broiler Chicken Industry Negotiation Committee (VBCINC).	The Government will advise members of VBCINC of the implications, in relation to the Trade Practices Act, of further negotiation on prices. VBCINC will be asked to monitor and assist the Government with transition to new industry arrangements.

Legislation:	***Domestic (Feral & Nuisance) Animals Act 1994***	**Portfolio:**	Agriculture
Reviewer:	Consultant (KPMG)	**Date review completed:**	November 1998
Consultation:	Release of an issues paper and call for submissions, public meetings and targeted interviews.	**Date response released:**	Legislation amended Spring 2000.

No	Review Recommendations	Response	Implementation
1	Retain the registration and Code of Practice requirements for the supply of domestic animals.	Accepted	Not applicable
2	Retain the prohibition on the supply of domestic animals from places other than premises but consider alternative instruments for achieving the legislative objectives.	Accepted in part	Consideration of other provisions will occur on an as needs basis, as there are already other instruments in place to control the sale of animals.
3	Amend the definition of Domestic Animal Business so that the exemption applies to only those registered breeders with no more than twothree animals.	Under consideration	Under consideration
4	Remove references to specific associations in the Act so that the exemptions and concessions can apply to members of all recognised dog and cat associations. Applicable organisations should be more accountable for the performance of their members in adhering to the Codes. They should be required to report on the operation of their Codes to the Bureau of Animal Welfare (BAW) annually.	Accepted	Amendments to the Act in 2000 removed the reference to specific associations. The associations will have to show compliance with Codes of Practice to ensure applicable organisation status.
5	Amend the Act and Code so as to deal on an even-handed basis with suppliers of domestic animals, by amending the definition of Domestic Animal Business to remove the term “run for profit”.	Under consideration	The issue of “run for profit” will be referred to the Domestic Animal Management Implementation Committee.

No	Review Recommendations	Response	Implementation
6	The provision requiring regulation of obedience training establishments should be repealed. Establishments that carry out protection training, whether or not they are run for profit, should be subject to regulation and the Code of Practice. Participants in the industry should nevertheless be encouraged to join an industry association to help promote best practice. Codes of Practice should undergo regular review and amendment where necessary.	Accepted in part	All Codes of Practice are subject to regular review.
7	Retain provisions relating to the regulation of boarding kennels and catteries until the industry can demonstrate that the regulations could be replaced by an effective system of self-regulation. The Codes of Practice should undergo regular review and amendment where necessary.	Accepted	All Codes of Practice are subject to regular review.
8	A mix of instruments should be pursued to improve compliance and the consistency of enforcement between Local Councils. Councils should report on performance to the BAW. An approach involving greater participation of the associations within a system of co-regulation, together with increased education and information and better resourcing should be pursued.	Accepted	Government is working closely with Councils to ensure that enforcement levels are adequate and are consistent across municipalities.
9	Consideration be given to imposing further restrictions on breeding, compulsory desexing and/or compulsory micro chipping of domestic pets.	Rejected. The recommendation is based on the erroneous assumption that that there is an oversupply problem. The legislation already allows municipalities to introduce compulsory microchipping but no municipality has yet done so.	Not applicable
10	Consideration should be given to removing the Section 50 exemption and inserting a section into Part 4 Division 1, which applies the Division to Councils as it does to private sector DAB's with the Minister as decision maker on Council regulations.	Accepted	Amendments to the Act in 2000 removed the exemption for all DAB's except pounds & shelters. Councils must apply to the Minister for registration of a DAB.
11	Local Councils should be encouraged to ensure an administrative separation of their regulatory and commercial functions in relation to domestic animal businesses.	Accepted	Addressed administratively in consultation with Councils.

No	Restrictions on Competition Remaining	Competition Policy Justification
1	Retain the registration and Code of Practice requirements for the supply of domestic animals.	The Review states that due to the relatively insignificant registration fee ($100 set by Councils), the registration system does not give rise to significant restrictions on competition because they do not create a barrier to entry. Similarly, the standards imposed by the Codes of Practice for the Operation of Pet Shops and Breeding and Rearing Establishments raise the cost of doing business, and do potentially at least, limit the number of firms in the market. However, the review found that the standards set the framework within which competition occurs, rather than restricting competition per se. The Review found that both the registration and standard requirements provide net public benefits.
2	Retain the prohibition on the supply of domestic animals from places other than premises.	The legislation aims to improve animal welfare. The main problem with the sale of pet animals at casual markets is impulse buying and the animal welfare concerns that arise with this practice. Also of concern is the adequacy of the housing facilities for the animals at the markets and the lack of provision of literature on care and husbandry of the particular animal. There is no guarantee provided on the health of the animal and often there is no possibility for a purchaser to locate the supplier at a later date for any form of compensation. The benefits of the restriction, in terms of increased levels of animal welfare, are likely to be significant. The costs of the restriction include the compliance costs for businesses and the administrative costs for Councils. On balance it is considered that the restriction provides a net benefit.
3	Provisions regulating obedience-training establishments.	The recommendation to repeal the requirements for obedience training establishments was substantially based on the high level of non-compliance by obedience dog trainers resulting in failure to meet the objectives of the legislation. Arguably this is a question of appropriate enforcement as where compliance occurs, the animal safety and responsible ownership objectives of the Act are met.
4	Establishments that carry out protection training are subject to regulation.	The benefits of regulation in relation to protection training are likely to be greater, due to the reduction in risk to public safety, than the costs.
5	Regulation of boarding kennels and catteries.	The review determined that, on balance, the benefits of compliance with minimum standards by kennels and catteries outweighs the costs.

Legislation:	***Fisheries Act 1995***	**Portfolio:**	Resources
Reviewer:	Consultant (ACIL)	**Date review completed:**	July 1999
Consultation:	Release of Issues paper and call for submissions, public meetings and targeted interviews.	**Date response released:**	December 2001

No	Review Recommendations	Response	Implementation
1	Retain current conditions associated with access licences.	Accepted	Not applicable
2	Review alternative methods for non-transferable licences such as licence buy-backs.	Accepted	Fisheries which have non-transferable licences will eventually cease to exist as licence holders exit the fishery, or the fishery converts to a transferable licence under a Fisheries Management Plan.
3	Mechanisms such as auctions, tender or ballot should be considered for efficient allocation of new licences or increases in Total Allowable Catch (TAC).	Accepted	Guidelines will be developed for the allocation of new licences or increases in TAC above threshold limits by auction, tender or ballot.
4	That licences could be granted for longer periods (up to 5 years) and that licences have automatic rights of renewal, subject to specific conditions.	Rejected	
5	Review the effects of employee limits on fishers. These restrictions may be essential in input controlled fisheries to control effort. Current definitions need clarification.	Accepted (Further investigation required for the abalone fishery)	Investigation of the Abalone Fishery found that it was necessary to retain diver limits due to the need to control effort. Regulations will be amended for other Individual Transferable Quota (ITQ) Fisheries.
6	The full cost recovery should be introduced in future to recover management costs, subject to formal policy development.	Accepted	Phased cost recovery programs to commence once a mechanism has been agreed. Expected to take fourfive years.

No	Review Recommendations	Response	Implementation
7	Broader introduction of royalties or rent taxes should be considered in the future, subject to Government policy.	Accepted	The mechanisms associated with cost recovery and royalties are currently being reviewed and will be implemented in 2003.
8	Retain the ITQ management system for Abalone fisheries as no less restrictive alternative is feasible.	Accepted	Not applicable
9	The minimum and maximum quota holding and restrictions on transfer of abalone quota should be removed or reduced.	Accepted	The method for allocating new licences and quota in the abalone fishery is scheduled for legislative amendments in mid 2003.
10	Retain the current management arrangements for scallop fisheries as no less restrictive alternative is feasible.	Accepted	Not applicable
11	Remove the regulation that enforces the requirement that there will be no shucking at sea.	Accepted in principle	An alternative management regime for shucking at sea cannot be implemented until jurisdictional issues relating to the Victorian, Tasmanian and Commonwealth fisheries are resolved. If Victoria continues to manage all or part of the fishery, implementation of an alternative management regime will be investigated.
12	Consider the introduction of an ITQ management regime for Rock Lobster Fisheries.	Accepted	*Fisheries (Rock Lobster and Giant Crab) Regulations 2001* was introduced in October 2001. The recommended replacement of input controls with output controls in the lobster fishery was implemented in November 2001.
13	Remove the restriction of limiting pot numbers per boat if an ITQ management regime is introduced.	Accepted	As above

No	Review Recommendations	Response	Implementation
14	Remove the restriction on minimum pot holdings but consider the implications of enforcement costs.	Accepted	The removal of pot numbers and the issue of minimum pot holdings in the rock lobster fishery is currently being considered under the development of the Fishery Management Plan which is due for public release in mid 2003.
15	Retain the current input control mechanisms associated with the Bay and Inlet Fisheries. An evaluation of alternative output control mechanisms such as ITQ should be investigated for some species.	Accepted	Investigations will occur under management plans. The recommendation for evaluation of alternative output control mechanisms for some bay/inlet fisheries is currently being reviewed in conjunction with the development of a Fisheries Management Plan.
16	Remove the requirement for an access licence holder to be a fit and proper person.	Accepted	The recommendation concerning the refinement of the definition of a "fit and proper person" in relation to licence ownership is due to be dealt with in the legislative framework in 2003.

No	Restrictions on Competition Remaining	Competition Policy Justification
1	Fisheries Access Licences specify conditions of the licence.	No less restrictive alternative is feasible to achieve government public-good objectives.
2	Fisheries licences are issued for one year.	The current annual issuance of an access licence is an automatic renewal (subject to specific conditions). The fee and levy structures are more efficiently managed under an annual issuance regime.
3	Abalone fisheries are subject to an ITQ management system.	No less restrictive alternative is feasible to achieve government public-good objectives.
4	Current management arrangements for scallop fisheries restrict access.	No less restrictive alternative is feasible to achieve government public-good objectives.

Legislation:	***Meat Industry Act 1993***	**Portfolio:**	Agriculture
Reviewer:	Public Sector Research Unit, Victoria University of Technology	**Date review completed:**	March 2001
Consultation:	Issues paper publicly released. Call for submissions. Targeted consultation of key stakeholders.	**Date response released:**	April 2001

No	Review Recommendations	Response	Implementation
1	The Review Panel recommends that the Act should continue to require the licensing of operators of meat processing facilities. The Review Panel has identified the relevant sections as secs.14, 16–17, 19–22, 25–26 and 40.	Accepted	No further action required.
2	The Review Panel recommends that shops selling more manufactured meat or products that contain some or no meat, than they do unmixed meat (such as supermarkets) should continue to be excluded from the Act. The Review Panel has identified the relevant section as sec.3 (1).	Accepted	No further action required.
3	The Review Panel recommends that although supermarket meat sales are covered by the *Food Act 1984*, supermarkets and independent butcher shops should both continue to observe common standards.	Accepted	No further action required.
4	The Review Panel recommends the retention of sec.15 (1) of the Act that enables a person who wishes to sell food containing Victorian meat in a place outside Victoria to obtain a licence under this Act to satisfy the requirements of the law of that place.	Accepted	No further action required.
5	The Review Panel recommends the retention of sec.25 and sec.27 of the Act that require that where a meat processing facility is operated by a corporation or partnership, an officer or partner must be nominated as the operator.	Accepted	No further action required.
6	The Review Panel recommends that the provisions requiring vehicles used for the conveyance of any carcass or meat intended for human consumption to be licensed should be maintained. The Panel has identified the relevant sections and regulations as sec. 42 A and regs. 6, 4749, 5152, 55 and 57.	Accepted	No further action required.

No	Review Recommendations	Response	Implementation
7	The Review Panel recommends that the provisions of the Act relating to meat inspection and that require that persons who provide meat inspection services must have appropriate qualifications as determined by the Authority should remain. The Panel has identified the relevant sections as secs.69 and 34(1)(b).	Accepted	No further action required.
8	The Review Panel recommends that the Act be amended to permit persons or bodies who are not approved by the Authority to be approved meat inspection services to have a right of appeal to the Victorian Civil and Administrative Tribunal (VCAT).	Accepted	Section 24 of the Act was amended in 2001 to allow right of appeal to VCAT.
9	The Review Panel recommends that the provisions of the Act that allow the Authority to attach conditions to licences should be retained. The Panel has identified the relevant sections as sec.17 (2) and 17(4). It is important that the conditions imposed on businesses continue to conform to prescribed standards.	Accepted	No further action required.
10	The Review Panel recommends that the provisions of the Act that enable the Authority to specify minimum qualifications and experience for auditors should remain. The Panel has identified the relevant section as sec.12A (2)(c).	Accepted	No further action required.
11	The Review Panel recommends that section 12A(2)(d) of the Act, which confers power on the Authority to impose restrictions on who may conduct audits, be amended to limit the exercise of the power to the imposition of restrictions related to the suitability of a person to conduct an audit.	Accepted	The Act was amended in 2001.
12	The Review Panel recommends that there be a right of appeal to VCAT in relation to the imposition of any restriction imposed by the Authority under section 12A(2)(d).	Accepted	The Act was amended in 2001 to allow right of appeal to VCAT.
13	The Review Panel recommends that the duties contained in sections 29–39 other than section 35(6) should be maintained.	Accepted	No further action required.
14	The Review Panel recommends that section 35(6) of the Act be removed and that the matter of horses and donkeys be dealt with by prescription under section 35(7).	Accepted	The Act was amended to repeal S.35(6). A new regulation will be created to prohibit the slaughter of horses and donkeys for human consumption.

No	Review Recommendations	Response	Implementation
15	The Review Panel recommends that section 5(2) of the Act be amended so that it does not permit the Minister to grant exemptions to an individual owner or meat processing facility from licensing and particular provisions of the Act.	Accepted	Section 5(2) of the Act was amended in 2001 to limit the exemption power to classes of owner and processing facilities.
16	The Review Panel recommends that section 46(2) be amended so that the Minister may not direct the Authority in regard to the circumstances of particular businesses and that directions should be limited to policy and general operational matters of the Authority.	Rejected	The Act was amended in 2001 so that the Authority will be required to undertake its functions and powers with regard to written Ministerial Directions and that any directions must be published in the Authority's annual report and the Government Gazette.

No	Restrictions on Competition Remaining	Competition Policy Justification
1	All meat processing facilities must be licensed to operate.	The licensing scheme provides a number of benefits related to the Act's objective of setting standards for meat production for human consumption. The licensing system provides a means of monitoring the operation of market participants, as well as providing a mechanism through which standards can be applied and enforced. The benefits of the licensing scheme are substantial and the costs are comparatively small.
2	Vehicles used for the conveyance of any carcass or meat intended for human consumption must be licensed.	The licensing scheme and its associated standards ensure that meat transport is undertaken in a manner that reduces the risk to public health. The benefits of the licensing scheme outweigh the costs.
3	Persons who provide meat inspection services must have appropriate qualifications as determined by the Victorian Meat Authority.	Meat inspection services ensure that animals brought to abattoirs are not diseased or unsuitable for human consumption and thus minimise the risk to public health. In practice the Authority approves inspection services for meat processing facilities rather than undertaking meat inspection itself. In approving an inspection service, the Authority must determine whether the service is provided by an appropriately qualified person and it may impose conditions on the inspection service. Although the Act does not specify the minimum required qualifications, there is a national agreement under which the Meat Industry National Training Register Accredited Course sets minimum standards that are applied by the Authority.

No	Restrictions on Competition Remaining	Competition Policy Justification
4	Licensees for meat processing facilities are subject to the condition that the licensee must comply with a quality assurance program approved by the Authority. Quality assurance programs are monitored by audits and the Authority specifies the minimum qualifications and experience to be held by an auditor.	The provisions, which ensure appropriately qualified auditors, assist in achieving the objective of public health. Although in practice the Authority uses four companies accredited under the Joint Accreditation System of Australia and New Zealand, the Authority would accept any company or individual with the same qualifications. The benefits of the provisions outweigh the costs.
5	The Minister is able to give directions to the Authority that may be in regard to the circumstances of particular businesses.	The Government considers it is reasonable that the Minister have a power to be able to direct the Authority. Provisions similar to those in the *Dairy Act 2000* would provide the Minister with a sufficient level of power to exercise his responsibilities while providing a high level of public accountability and scrutiny. The Act was amended in 2001 so that the Authority will be required to undertake its functions and powers with regards to written Ministerial Directions and that any directions must be published in the Authority's annual report and the Government Gazette.

Legislation:	***Murray Valley Citrus Marketing Act 1989***	**Portfolio:**	Agriculture
Reviewer:	Consultant (Centre for International Economics)	**Date review completed:**	July 1999
Consultation:	Release of issues paper and call for submissions, public meetings and targeted interviews.	**Date response released:**	Released to industry December 2001

No	Review Recommendations	Response	Implementation
1	That legislation should continue to underpin the operations of the Board and that its core functions which provide benefits of a "Public Good" nature should continue to be funded by compulsory levy where growers vote this to be beneficial.	Accepted	The Act is to be repealed in 2004 or earlier subject to the Board being reconstituted. The Board will be reconstituted under the *Agricultural Industry Development Act 1990*, subject to a poll of the producers. The Poll will be held within 6 months of the commencement of the legislation (expected mid 2003)
2	That in future legislation, the wording of the purpose of that legislation be changed to better reflect the current and future activities of the Board in facilitating marketing and enhancing technological innovation in the Murray Valley citrus industry.	Accepted	To be implemented through the proposed Order to reconstitute the Board under the *Agricultural Industry Development Act 1990*, following the poll in mid 2003
3	That the objectives of any future legislation should not contain reference to the "orderly marketing" of citrus fruit or to public health.	Accepted	As above
4	That the Act in each State be amended to exclude the unused regulatory powers of the board that enable it to become actively engaged in the marketing or processing of citrus fruit. Associated with this would be the removal of all penalties and other conditions directly associated with these powers.	Accepted	To be implemented by repeal of the *Murray Valley Citrus Marketing Act 1989* on 1 July 2004 or earlier.

No	Review Recommendations	Response	Implementation
5	That grower polls be held at least every four years to decide on the future existence of the Board. There should also be explicit provision for a grower poll at any time on the continuation of the Board if the majority of growers at a properly constituted meeting call for such a poll.	Accepted	To be implemented by reconstituting the Board under the *Agricultural Industry Development Act 1990*, following the poll in mid 2003.
6	That there be more accountability regarding the components of, and size of the levy and the way the Board plans to spend the money: - at each AGM, growers should approve the Board's annual operating plan and the budgeted funding for each approved activity or project - growers should also approve the levy for the forthcoming year - any substantial build up in reserves should be explained by the Board.	Accepted	Implemented by amendments to the *Agricultural Industry Development Act 1990,* in 2000 and will apply when the Board is reconstituted under the Act, following the poll in mid 2003.
7	That growers should be given the opportunity to change the nature of the levy to and *ad valorem* rate.	Accepted in principle	Government considers this issue to be one for administrative action by the Board, rather than a legislative one for the Government.
8	That the system of all formal voting be changed to better reflect the stake each grower has in total levy receipts. The principle should be adopted that the number of votes per grower should be proportional to the levy they pay.	Change to the voting system accepted in principle.	In consultation with industry, general agreement was reached to recommend the introduction of a weighted voting system based on the area of citrus a producer grows. The final form of the Order will be determined during consultation in early 2003 and be implemented when the Board is reconstituted under the *Agricultural Industry Development Act 1990*. following the poll in mid 2003.

No	Review Recommendations	Response	Implementation
9	Murray Valley levy payers should decide on the type and level of promotion, R&D and fruit fly activities as these activities are funded through the compulsory levy system. With the sale of its brands and strategy of undertaking joint generic promotions with other boards/committees, the Board should give consideration to reducing the promotion component of the levy.	Accepted in principle	The legislative framework for the accountability for activities and levies is addressed in recommendation 6. Otherwise, to be implemented by the Board in consultation with producers.
10	The Board should place greater weight on the user pays principle and directly charge individuals for those services, the benefits of which clearly accrue to individuals rather than the industry collectively. The compulsory levy should be reduced accordingly.	Accepted in principle	To be implemented through new provisions of the *Agricultural Industry Development Act 1990* that will apply when the Board is reconstituted under the Act, following poll in mid 2003.
11	The Board should give consideration to charging subscriptions for most of its market information services and reducing the size of the levy accordingly.	Accepted in principle	To be implemented through new provisions of the *Agricultural Industry Development Act 1990* that will apply when the Board is reconstituted, following poll in mid 2003.
12	The Board should cease being a member of, and paying contributions to, Australian Citrus Growers.	Accepted	Implemented by the Board in 2001.

No	Restrictions on Competition Remaining	Competition Policy Justification
	None	

Legislation:	***Petroleum Act 1958***	**Portfolio:**	Resources
Reviewer:	Consultant (KPMG)	**Date review completed:**	February 1997
Consultation:	Call for submissions and targeted interviews	**Date response released:**	March 1999

No	Review Recommendations	Response	Implementation
1	Retention of Crown ownership of petroleum resources, along with the overall permit lease system for petroleum exploration and production, to be justified under NCP.	Accepted	*Petroleum Act 1998* passed in Spring 1998 sitting.
2	That a number of changes be made to the legislation in order to remove obstacles to exploration and production of petroleum and to increase administrative efficiency, i.e. a longer term for exploration permits and greater certainty for persons wishing to move from an exploration permit to a production licence.	Accepted	See above

No	Restrictions on Competition Remaining	Competition Policy Justification
1	Crown ownership of petroleum resource with access for exploration and production restricted via permit lease system.	The permit/licence system enhances security of tenure for potential investors without compromising safety and environmental considerations. The allocation process by which tenure is secured is a process that affords maximum opportunity for participation and enhances contestability for petroleum rights. Two aspects of the permit/licence system may restrict competition due to increased compliance costs for permit and licence holders. The Act requires compensation to be paid to landowners for use and damage to freehold land. The Act also provides for the imposition of conditions on permits, leases and licences with regards to safety standards and protection of the environment. The Act also contains provisions to vary conditions upon consolidation and transfer of titles, at the request of the titleholder and otherwise at intervals of not less than 5 years. This provision recognises that the basis of project progress or development may have altered and therefore a review of the ground rules is appropriate both in terms of orderly development and public benefit.

No	Restrictions on Competition Remaining	Competition Policy Justification
		The benefits to the community from the restrictions flow from the orderly development of valuable petroleum resources with due regard to public safety and environmental protection. The legislation ensures that petroleum exploration and extraction activities are carried out with minimal effects on the environment and, as the value of recovery of petroleum is very high, that such recovery represents optimal land use without impacting substantially on other land uses. There is also provision for land to be readily returned to some alternate land use upon completion of petroleum activities. Costs to explorers or producers of petroleum arising from restrictions will arise primarily through complying with requirements for safety and environmental protection, compensation to owners of land and the payment of royalties. Such costs are considered essential in deriving optimal community benefit and to achieve the objectives of the proposal. The costs of any restrictions are considered to be outweighed in terms of returns to the operator and benefits to the community as a whole. Therefore the permit/lease system satisfies the guiding legislative principle as it pertains to national competition policy considerations.

Legislation:	***Petroleum (Submerged Lands) Act 1982***	**Portfolio:**	Resources
Reviewer:	Consultant (ACIL)	**Date review completed:**	April 2000
Consultation:	Commonwealth wide consultation, including: consultation with stakeholders, a publicly released Issues paper, and call for submissions.	**Date response released:**	March 2001

No	Review Recommendations	Response	Implementation
1	That the Act be amended to remove discretionary powers to intervene in technical (but not safety and environmental) matters.	Rejected	The Government will mirror any required amendments initiated by the Commonwealth.
2	That the objective based regulatory approach taken in the PSL Act be refined in all states & territories to remove duplication of regulations across jurisdictions and between different enactments within jurisdictions.	Accepted	The Government will initiate amendments upon the introduction of Commonwealth amendments to establish a National Offshore Safety authority expected in 2004.
3	Adopt a legislative objective for the PSLA and strategies to achieve that objective (specified in the Review).	Accepted in part	The *Petroleum (Submerged Lands) Act 1982* (PSLA) was amended in December 2001 to reflect amendments made by the Commonwealth.
4	Establishment of the ownership of the rights to abandoned reservoirs still within production licences for the purposes of storage of greenhouse gases and also the temporary storage of petroleum resources.	Accepted in part	The Government will mirror any required amendments initiated by the Commonwealth.
5	That the regulator continue to supply exploration acreage prospectively each year to satisfy the demand for exploration acreage.	Accepted	No change required.
6	The removal of the threshold financial and technical requirements for applications and transfers of permits to explore.	Rejected	
7	No change in the manner in which the regulator determines the size of exploration permits. The regulator should continue to be transparent in its decision making about the size of permit areas.	Accepted	No change required.

No	Review Recommendations	Response	Implementation
8	The legislation retain the current permit terms and provisions for renewal.	Accepted in part	The Government will enact amendments to reflect the amendments made by the Commonwealth in September 2002.
9	That in the event of tied bids in relation to work program bidding the award of the permit should be decided by drawing the winner out of a hat.	Rejected. Supplementary bid system in place considered being pro-competitive.	
10	That both works program and cash bidding be retained in the PSL Act and used for the award of permits. The inefficiencies of work program bidding can be avoided by choosing to use the system in permit areas that are not likely to attract a large number of bids (say 3 or less).	Accepted in part	No change Each jurisdiction to use the system it deems appropriate to the acreage offered.
11	That the Act is amended to remove the retention lease provisions that provide for the regulator to influence the timing of development of discoveries.	Rejected	Government to discuss any perceived deficiencies in decision making for these matters.
12	That the application and re-evaluation provisions be abolished for retention leases. These provisions should also be abolished if the alternate approaches for limiting retention lease tenure are adopted.	Rejected	The Government will enact amendments to reflect the amendments made by the Commonwealth in September 2002.
13	That the link between exclusive exploration and production rights and the provisions allowing these rights to be exercised as long as production continues.	Accepted	Government to participate in national consideration of options to encourage exploration of “fallow” acreage, while recognising the rights of the licensee.
14	That the Act be amended to remove the provisions whereby a regulator may direct the time and rate the permit holder recovers petroleum.	Rejected	Government to articulate the criteria that would be used in deciding to issue a Direction.
15	That the Act be amended to remove the provisions requiring applicants for pipeline licences to provide details of their financial and technical resources, to provide consistency with recommended changes to requirements for permits.	Rejected	

No	Review Recommendations	Response	Implementation
16	That the provisions of the act requiring work to be completed on pipelines within a specified time could be safely removed.	Rejected	Government to articulate criteria for assessing applications to re-schedule pipeline construction.
17	That the common carrier provisions should be removed and replaced by open access arrangements.	Rejected at this time	The Government will mirror any required amendments initiated by the Commonwealth.
18	That the provisions of the act pertaining to infrastructure licence provisions be retained in their current format.	Accepted	No change required.
19	That the provisions of the act regarding the access authority, special prospecting authority and scientific investigations be retained.	Accepted	No change required.
20	That the data release provisions as they apply to title areas be retained. However, the provisions should be continually reviewed to ensure the greatest amount of data is made available consistent with the security of tenure offered by the title.	Accepted	On-going review of data release provisions
21	That the data release provisions applying to speculative surveys be kept under continuous review to maximise the amount of work done by private operators.	Accepted	On-going review of data release provisions for speculative surveys
22	That the general data release provisions be retained as they do not contravene NCP principles.	Accepted	No change required.
23	That the remaining Directions regarding good oil field practice be converted to objective based regulations because of the prescriptive provisions that they contain.	Accepted	The Government will mirror any required amendments initiated by the Commonwealth.
24	That the unconditional approval of transfers of title currently provided for in the PSLA be retained.	Accepted in principle Reserve power to refuse an application for transfer of title will be retained.	Government to articulate the objectives and criteria considered in applications to transfer title.
25	That the requirement of the Act for approval of dealings over a title be removed.	Rejected	The Government will mirror any required amendments initiated by the Commonwealth.

No	Review Recommendations	Response	Implementation
26	That formal policy be developed identifying the objectives and the relevant criteria to be used by the regulator when deciding on a case-by-case basis the extent to which infrastructure must be removed before the expiration of titles.	Accepted	Pending Commonwealth de-commissioning guidelines.
27	That the legislation be re-written in plain English to remove some of the complexity involved in the processes regulated by the Act.	Accepted	The Federal PSLA is currently the subject of an overall review that is expected to be completed in 2004. The Government will mirror any required amendments.

No	Restrictions on Competition Remaining	Competition Policy Justification
1	The regulator has discretionary powers to intervene in issues of the "good oilfield practices" of licence holders.	The legislation provides that companies exploring for, or producing petroleum must follow good oil field practice. The concept is not intrinsically prescriptive and evolves with community and professional standards, and with advances in technology. Regulators interpret good oil field practice to include those things necessary to manage negative externalities in relation to safety and the environment, and other externalities that may occur in the course of exploration, production and decommissioning. Exploration companies have a strong interest in maximising the value of the resource and can usually be relied on to follow good oil field practice. Occasionally situations occur where commercial considerations or imperatives over-ride considerations of good oil field practice and substantial negative externalities may result. Any one instance of market failure in resource management could entail costs to the community through an inability to recover resources and loss of government revenue, in some cases hundreds of millions of dollars. On the other hand, compliance costs incurred by regulators and industry as a result of government involvement are of an entirely lower order of magnitude.
2	Regulators assess the financial and technical resources available to applicants for exploration permits, and may choose not to award title to an applicant that fails to demonstrate that it has the resources.	The objective of the provisions is a prudential one, and in practice, a rarely used reserve power. The transaction costs to the industry and regulators are small in comparison to costs to the community if an inexperienced or inadequately resourced company failed to meet title conditions. In addition, the costs are negligible relative to development costs.

No	Restrictions on Competition Remaining	Competition Policy Justification
3	Regulators assess the financial and technical resources of applicants for pipeline licences, and may choose not to award title to an applicant that fails to demonstrate that it has the resources.	See above under exploration permits.
4	Retention leases are granted for 5 years for resources shown to be non-commercial (but likely to become so within 15 years). The holder must re-apply after five years and may be required to review non-commercial status during the period of the lease.	The Review Committee comments that this issue is largely a matter of theoretical rather than practical importance. There is an underlying presumption in the legislation that, once discovered, commercial resources will be promptly developed. This is normally in the best interests of both the developer and the wider community. Where those interests differ, the Committee argues that the Crown is entitled to weight its own preferences about the value of present versus future production. Furthermore, it argues, allowing developers to "stockhold" resources may be detrimental to Australia, as other petroleum producing nations presume prompt development. The Committee notes that retention leases have costs to the leaseholder, however a secure title is provided to non-commercial discoveries.
5	The regulator may direct a licensee to recover petroleum that is not currently being recovered in a licence area. Similarly, a regulator may direct the licensee to increase or decrease the rate of recovery.	These provisions form a reserve power to avert market failure regarding timing of extraction in exceptional circumstances. In worst-case situations the power to intervene has substantial benefits, especially to address negative externalities. Unless exercised, they entail no compliance or administrative costs. Other petroleum producing nations have similar provisions.
6	A pipeline licence can be granted subject to the condition that the licensee shall complete construction within a specified period.	Provisions for pipelines to be completed within a specified period are intended to protect the interests of other users of the sea. Construction work may entail loss of amenity in the vicinity of the work, impacting others' costs and convenience. The provision is a reserve power. In practice, licensees usually achieve expeditious construction, and an assessment of externalities is rarely necessary.
7	Licensees must apply to transfer title of a licence. Regulators have the power to refuse the transfer.	This is a reserve power to apply in situations where the regulator has serious concerns that the proposed transferee would be in a position to acquit the conditions of title. In some circumstances, there is potential for very large negative externalities.

Legislation:	***Pipelines Act 1967***	**Portfolio:**	Resources
Reviewer:	Consultant (Alex Dobes and Associates)	**Date review completed:**	February 1997
Consultation:	The Act is currently undergoing a broader review, which is seeking public comment, NCP issues will be taken into account also at this time.	**Date response released:**	July 2002

No	Review Recommendations	Response	Implementation
1.	That the Government should initiate moves to introduce a consistent or harmonised regulatory regime for pipelines in Australia.	Accepted	AS 2885 has been adopted as part of a Victorian move to harmonise with national practice.
2.	The Act should include a definition of which pipelines are covered by the Act.	Partially Accepted	A copy of the Gazette notice that gives information on exempted pipelines is to be available on the DPI web site.
3.	Consideration should be given to formalising timelines for the Government assessment of pipeline projects.	Not accepted	Timelines are negotiated with proponents on a case-by-case basis to enable an appropriate level of consideration to be undertaken for each project.
4.	The system of separate permits and licences should be clarified and consideration be given to the introduction of a further preliminary stage which could have the effect of reducing the costs for proponents.	Not accepted	A process similar to that recommended by the consultant already exists and no further action is considered necessary.
5.	Restrictions on tradability of pipelines, permits and licences should be relaxed in a way that removes possible delays from the mergers and acquisitions process.	Partially accepted	The recommendation is partially accepted. The restriction on tradability is required to ensure that a company is capable of operating a pipeline. However, as part of the review of the Act, consultation will be sought on development of guidelines for Ministerial approval of transfers.

No	Review Recommendations	Response	Implementation
6.	Unilateral powers of regulators to alter permits or licences should be subject to appeal to VCAT	Accepted in principle	The regulator's ability to alter permits or licences is considered to be in the public interest given the 21-year licence period. Further consultation with regard to the inclusion of appeal provisions will take place as part of the broader review of the Act.
7.	The restriction on transporting only authorised substances should be retained on public safety grounds.	Accepted	
8.	Open access provisions in the Act should be removed and governed by the forthcoming National Third Party Access Code for Natural Gas Pipelines.	Partially Accepted	Victoria is bound by the National Third Party Access Code for natural gas pipelines, making it unnecessary to have third party access provisions in the Pipelines Act for gas. For other substances, such as liquid petroleum, the third party access provisions in the Pipelines Act should be strengthened. The necessary amendment to the Act will be considered as part of the broader review of the *Pipelines Act*.
9.	Safety requirements in the Act should be based on guidelines being developed by the Department of Treasury and Finance.	Not accepted	With the introduction of the Pipelines Regulations 2000 the majority of the prescriptive regulations have been removed. Those that remain are considered necessary on safety grounds. AS 2885 has been developed in consultation with industry and regulators and deals with pipelines construction and operation in a safety case manner.

No	Review Recommendations	Response	Implementation
10.	Absolute prohibitions on damage during the construction of pipelines should be modified to allow agreed compensation for damage.	Accepted	This prohibition has been removed and is not contained in the *Pipelines Regulations 2000*
11.	The liability of operators for damage should be extended beyond two years.	Accepted in Principle	New compensation and liability provisions similar to those in the *Mineral Resources Development Act* and *Petroleum Act* will be considered as part of the broader review of the Act.
12.	The Government should consider issues with respect to future rehabilitation and compensation expenses as it relates to the decommissioning of pipelines.	Accepted	The provisions will be reviewed as part of the broader review of the Act along with the issue of compensation and liability.
13.	The report considered native title matters to be beyond the scope of an NCP legislation review and declined to make any recommendations.	N/A	Native title provisions are being considered separately from this review.
14.	Maintain control over development period but qualify Ministerial discretion with the use of guidelines.	Accepted	The restriction will be retained and guidelines for the use of the power will be developed.
15.	Government should examine opportunities for the introduction of electronic lodgement of documents.	Accepted	Electronic lodgement is currently allowable within legal and practical constraints.
16.	Government should consider using the internet for the public display of maps.	Accepted	DPI will introduce electronic technology where appropriate.

Legislation:	***Prevention of Cruelty to Animals Act 1986***	**Portfolio:**	Agriculture
Reviewer:	Consultant (KPMG)	**Date review completed:**	November 1997
Consultation:	Release of issues paper and call for submissions, targeted interviews.	**Date response released:**	September 1998

No	Review Recommendations	Response	Implementation
1	Retain requirement for a registered veterinarian to be present at rodeos.	Accepted	Not applicable
2	Retain requirement that a registered veterinarian inspect animals and remain on stand-by at rodeo schools.	Accepted	Not applicable
3	Remove requirement that an Australian Professional Rodeo Association (APRA) stock contractor supply animals to rodeos and rodeo schools. Stock contractors are to be any stock contractors subject to the introduction of a Code of Practice.	Accepted	A Code of Practice was tabled in Parliament in Spring 2000, Regulations have been drafted and the Regulatory Impact Statement (RIS) is due for completion in 2003. The Code of Practice was gazetted on 23 January 2003.
4	Remove the requirement that rodeo school instructors are APRA accredited.	Accepted	See above
5	Retain requirements on scientific establishments to adhere to minimum standards concerning animal housing, cleanliness, equipment, record keeping and reporting.	Accepted	Not applicable
6	Retain minimum space and other requirements contained in the animal farming and transport codes of practice.	Accepted	Not applicable
7	Retain requirement for minimum cage floor areas in egg production.	Accepted	Not applicable

No	Restrictions on Competition Remaining	Competition Policy Justification
1	Requirement for a registered veterinarian to be present at rodeos.	No alternative as a practitioner must be able to administer drugs and perform surgery.
2	Requirement that a registered veterinarian inspects animals and remains on stand-by at rodeo schools.	No alternative as a practitioner must be able to administer drugs and perform surgery.
3	Requirements on scientific establishments to adhere to minimum standards concerning animal housing, cleanliness, equipment, record keeping and reporting.	The requirements do not impose a burden on institutions above that which they would do as a matter of course.
4	Minimum space and other requirements contained in the animal farming and transport codes of practice.	The requirements do not have a substantial effect on competition in the market for production and transport of animals. Further, they contribute to reducing the chance of foreign markets imposing trade sanctions on animal welfare grounds under the relevant WTO agreement.
5	Requirement for minimum cage floor areas in egg production.	Benefit of improved bird welfare outweighs small increase in egg prices. The previous voluntary code was found to be ineffective.

Department of Sustainability and Environment

Legislation:	***Environment Protection Act 1970; Litter Act 1987***	**Portfolio:**	Environment
Reviewer:	Allen Consulting Group	**Date review completed:**	August 2000
Consultation:	Release of issues paper and call for submissions and targeted interviews or meetings	**Date response released:**	No formal response released

No	Review Recommendations	Response	Implementation
1	The objectives of the Act should be clearly stated to provide clarity to industry, the community, and the EPA. The objectives should be developed with reference to the principles listed in the *Intergovernmental Agreement on the Environment*, the principles of competition policy and the objectives used in similar Acts in other jurisdictions.	Accepted	Completed. The Government has passed legislation to amend the *Environment Protection Act* to incorporate clear objectives.
2	The EPA, as the authority with expertise and experience in environment management, is the body that is best placed to create State Environment Protection Policies (EPP), Industrial Waste Management Policies (IWMP) and regulations. To the extent possible, policy and regulation creation should be undertaken in a transparent manner that maximises industry and public input.	Accepted	Completed. In developing SEPPs, IWMPs and regulations, EPA continues to maximise opportunities for industry and public input.
3	That pollution sources, whether from point or diffuse sources, should be treated equitably. Furthermore, point source polluters, through existing fees and levies, should not be required to subsidise regulation and monitoring of diffuse source pollution. Possible fees or levies on diffuse source polluters should be considered where practicable.	Accepted	Completed. Recent statutory policies such as the SEPP (Air Quality Management) have an appropriate emphasis on diffuse point sources. The *Environment Protection (Fees) Regulations 2001* are designed to ensure that there is no cross subsidisation from point sources to diffuse sources because the 'Polluter Pays' principle is applied.

No	Review Recommendations	Response	Implementation
4	The use of economic instruments should be made clearly available to EPA under the Act. The development of an economic measure should be treated in the same manner as the development of a regulation—the objectives of the instrument should be clear; an impact statement should be prepared; and the measure should be periodically reviewed.	Accepted	Completed. The Government has passed legislation to amend the *Environment Protection Act* to allow for the use of the full range of economic instruments. The amendment specifies that economic instruments need to be developed under statutory process requirements.
5	Premises should continue to be scheduled according to function, and the degree of environmental impact should continue to be addressed by regulatory tools.	Accepted	Current arrangements to continue.
6	That the requirement for Works Approval be retained as the competition restriction is outweighed by the benefits of certainty to industry and the community	Accepted	Current arrangements to continue.
7	The Works Approval fee structure should be revised to cap the fee as a proportion of works for small firms to no greater than 5 per cent of the value of the works. Further down the track, the fee for works approvals should be calculated based on a reflection of user pays principles that more closely matches the time and financial cost of EPA resources, rather than on the size of the works. Changes to fee calculation should be considered when the Fees Regulations are reviewed in the near future.	Partially accepted. The 5% suggestion was considered during the recent review of the *Environment Protection (Fees) Regulations*. Consultation and analysis revealed that this is not a significant issue for works approval applicants and the suggested change would have compromised the principles of simplicity and polluter pays which underlie the fees system.	Completed. Suggestions considered during review of *Environment Protection (Fees) Regulations*. Options for establishing the user pays basis for works approval were considered and it was decided that the size of works provides the most practical way of matching EPA costs to a works approval.
8	While the four month rule for processing of works approval applications is appropriate for the most complex of processes, the EPA should consider a shorter allowable maximum processing period for Works Approval assessments of a less complex nature to minimise delays and avoid potential disadvantage to the applicant.	Rejected. The Government does not consider that the maximum period is unnecessarily long, particularly given the need for referral of applications to other relevant agencies.	Completed. Current arrangements to continue. EPA to continue to investigate ways of making the works approval process more efficient.

No	Review Recommendations	Response	Implementation
9	Variations to licensing that reduce compliance costs, such as greater use of co-regulatory approaches and amalgamation of licences should be explored and further applied, where appropriate, to introduce greater flexibility into licensing and minimise the regulatory burden on business.	Accepted	Ongoing. EPA to further explore and, where appropriate, apply co-regulatory and other approaches (eg. Industry covenants) which reward environmental innovation and leadership in industry and to reduce the regulatory burden on business.
10	The case for the introduction of a more explicit load–based licensing scheme should be considered when the Fees Regulations are reviewed. The present system already provides some incentives for pollution reduction, and there may be other less costly means of reducing pollution, such as through greater communication of the benefits of cleaner production to industry.	Accepted. These suggestions were considered during the recent review of the *Environment Protection (Fees) Regulations*.	Completed. Load-based licence regime retained and refined and new incentive mechanisms are incorporated into the revised *Environment Protection (Fees) Regulations*. New approaches in EPA's cleaner production programs, such as supporting supply chain arrangements, have been put in place.
11	The Accredited Licensee Scheme (ALS) should be made more attractive to firms of all sizes to encourage greater participation. EPA should consider options for communicating the benefits of ALS and should also examine whether there are benefits in developing an alternative or modified scheme for smaller firms.	Partially accepted. While the ALS is available to all licensees, it was always understood that it would be, at least initially, most attractive to larger firms.	Ongoing. EPA will continue to discuss the ALS with stakeholders, including smaller firms. EPA will also consider any new mechanisms to reward good environmental performance from smaller firms.
12	The Environment Protection Levy should be reviewed with the purpose of more clearly defining its objectives (and effectiveness in meeting those objectives), abolished, or incorporated into the licence fee.	Rejected. The Environment protection levy was reviewed and it was decided that the Act provides a clear definition of its objectives. This was confirmed during the review of the *Environment Protection (Fees) Regulations*.	Completed
13	That the requirement for financial assurance be retained.	Accepted	Completed

No	Review Recommendations	Response	Implementation
14	The EPA should consider combining the permit requirement for transport of waste with the licensing system to reduce administration costs. Greater use of electronic technology should also be considered to reduce administration and compliance costs. Increased levels of enforcement should also be considered to monitor compliance.	Accepted in part. Permits are used to control vehicles while licences relate to premises, and therefore there is no scope to combine the two authorisations.	Completed. Recent changes to regulations have facilitated the use of electronic technology. Increased enforcement of prescribed waste requirements is occurring.
15	Industry Waste Reduction Agreements (IWRAs) should be retained and continue to be developed where State or National agreements do not exist. Rigorous analysis of the economic and public benefit justifications for IWRAs should continue to be undertaken by both EPA and the industry.	Accepted	Ongoing. IWRAs and similar voluntary mechanisms will be retained and further developed and used where appropriate.
16	The objectives of the landfill levy to reduce waste and provide funds for waste management and reduction processes should be made clearer in the Act. The economic justification for the metropolitan/rural difference in fees, if any, should be made clear. If no such justification can be made, the differential should be eliminated.	Partially accepted. The objectives of the landfill levy were clearly stated in the *Environment Protection (Resource Recovery) Act 1992*.	Ongoing. The suite of landfill levies under the Act is currently subject to review to see whether there is a need for reform including any justification for differential levies.
17	The Act should be amended to include provision for the appointment of auditors and set out general criteria for such an appointment consistent with competition policy principles. More specific criteria should continue to be published in the guidelines.	Accepted	Completed. The Government has passed legislation to amend the Act to strengthen the statutory process for the appointment of Auditors.
18	The Act should be amended to include a requirement that auditors reveal any potential conflicts of interest in undertaking an audit required by the Act.	Accepted. The Act specifies that an Auditor must not conceal any relevant information or document from the Authority. Audit guidelines issued under the Act that do not currently require auditors to disclose conflicts of interest will be updated accordingly.	Partially completed. Review of all Audit Guidelines is presently underway.
19	The availability of third party enforcement is a policy decision for Government rather than a competition issue. There does not appear to be significant evidence from the review that the current approach is not effective.	Accepted	Ongoing. The Government will continue to explore opportunities to improve enforcement of environment protection legislation.

No	Review Recommendations	Response	Implementation
20	EPA should expand its role as the delegated authority to assist local councils to better understand alternative systems to septic tanks.	Accepted	Ongoing. EPA enhanced the information contained on its website regarding alternative wastewater treatment facilities and has developed a number of Information Bulletins regarding these options. In conjunction with MAV EPA is also developing a model management plan to deal with septic tanks and their alternatives.
21	The suggestion to transfer the regulatory function that currently resides with the water authorities to the EPA would sit well with existing regulations for septic tanks and should be considered in the NCP Review of the *Water Act*. It is not perceived that the regulatory function would lead to any competition issues under the auspices of the EPA because the EPA is not in the business of installing or maintaining sewerage systems.	Accepted	Provisions in the *Water Act 1989* that permit water authorities to require premises to connect sewerage systems constructed by those authorities are considered in the recently released NCP Review of Water Legislation.
22	The impact of new regulations on the overall regulatory burden should be assessed, where appropriate, under EPA's Protocol for the Development of Regulations and the Preparation of Regulatory Impact Statements.	Accepted	Ongoing. The impact of new regulations on the overall regulatory burden will continue to be assessed, where appropriate, under EPA's Protocol for the Development of Regulations and the Preparation of Regulatory Impact Statements.
23	The *Environment Protection Act* should be amended to include the *Litter Act* to make the *Litter Act* a more forceful piece of legislation. The new provisions should be subject to a competition policy test and allow EPA to employ economic measures to limit litter in Victoria.	The Government is considering incorporating the *Litter Act* into the *Environment Protection Act*.	Currently subject to consideration by Government.

No	Restrictions on Competition Remaining	Competition Policy Justification
1	The requirement for works approval restricts the undertaking of works subject to the conditions set by EPA.	The requirement for works approval is justified under the precautionary principle. The competition restriction is outweighed by the benefits of certainty to industry and the community.
2	Licensing of premises where operations pose a potentially significant risk to the environment.	Licensing as a regulatory tool is a fundamental restriction on competition because it dictates who can operate a business, by restricting the activities of a business and prohibiting those firms that cannot meet the requirements of the licence from operating. There are no restrictions on who can obtain a licence other than meeting standards, which are designed to protect the environment. The licensing system is justified on public benefit grounds.
3	The requirement for financial assurance imposes a cost on companies due to the cost of funds.	Although it is likely that companies would insure against liability of environmental hazard anyway, the risk that this may not occur, added to the potential delays and costs of litigation, are sufficient to justify the retention of financial assurance requirements.
4	The requirement for a permit is a restriction on competition as it restricts who can transport waste.	There are no restrictions on who can obtain a permit other than meeting standards, which are designed to protect the environment from spills and leakages. The restriction passes the public benefit test under the precautionary principle.
5	Some provisions of the Act, such as those that prohibit placing advertising leaflets on motor vehicles, may also be seen to be placing competitive restrictions on smaller operators who cannot afford major electronic advertising campaigns.	Restrictions under the Act are justified under the public benefit.

Legislation:	***Flora and Fauna Guarantee Act 1988***	**Portfolio:**	Environment
Reviewer:	Consultant (KPMG)	**Date review completed:**	February 1999
Consultation:	Issues paper and call for submissions, targeted interviews.	**Date response released:**	January 2002

No	Review Recommendations	Response	Implementation
1	No change to the listing process for species under the Act.	Accepted	
2	No legislative change to the provisions detailing Interim Conservation Orders, the provisions provide a 'safety net' for protection of native flora and fauna. However, they have the potential to be restrictive if applied in a discriminatory manner.	The Department of Sustainability and Environment will continue development of a new instrument for funded management agreements. It is intended that these agreements will be with landholders who address biodiversity conservation priorities on their properties through changing their land use practices or carrying out on-ground works.	A pilot version of this approach, the BushTender Trial, is currently being implemented.

No	Review Recommendations	Response	Implementation
3	No legislative changes to the current permit provisions for native flora collection. However, there are effects on competition created by the division of the permit system by land ownership (public or private) and the pricing of these permits. Charging for permits should reflect full costs, including opportunity costs of alternative land uses. Decision guidelines for issuing of permits should facilitate transparency and reflect awareness of competition issues.	The Government agrees in principle that a user-pays approach should be adopted in relation to the taking of protected flora from public land where this is done for commercial purposes. However, the arrangements to achieve this may vary according to land tenure and reservation, and the protected flora being taken.	The Government is currently finalising a management program for the commercial harvesting of tree fern; a further management program for flowers and foliage will then be prepared. The Tree-fern Management Program proposes that fees should be charged for tree-fern tags to cover the costs of administering harvesting in Victoria. This would require an amendment to the *Flora and Fauna Guarantee Act 1988*. This amendment will be considered among other priorities in the Government's legislative program. Fees for tree-fern tags would apply equally to tree ferns harvested from private and public land.
5	Decision guidelines should be developed for the issuing of permits on public and private land in order to facilitate transparency and reflect awareness of competition issues. These guidelines could note that the primary objective of the permit is to ensure the conservation of the taxon or community. As a secondary matter it should be indicated that permits should be issued in a way that is compatible with the maximisation of efficiency and competition.	Decision guidelines for the issuing of protected flora permits already exist within the Department of Natural Resources and Environment (now DSE). The Government intends to update these guidelines in line with the review recommendations.	The Department of Sustainability and Environment will finalise management programs for the wild harvesting of tree ferns, flowers and foliage for submission to Environment Australia and will then update the guidelines for making protected flora permit decisions and to better reflect competition issues. It will also prepare explanatory material for distribution to stakeholders.

No	Restrictions on Competition Remaining	Competition Policy Justification	
1	No retained restrictions		

Legislation:	***Surveyors Act 1978***	**Portfolio:**	Sustainability and Environment
Reviewer:	Consultant (Southbridge)	**Date review completed:**	July 1997
Consultation:	Call for submissions, targeted interviews	**Date response released:**	January 2003

No	Review Recommendations	Response	Implementation
1	The restrictions on entry to the cadastral surveying market should be retained, in order to safeguard the security of the Victorian property system.	Accepted	Registration and licensing arrangements are being replaced with legislated minimum requirements to practise. Legislation in the form of *the Land Surveying Bill 2001* was introduced to Parliament in May 2001. The Bill proceeded to the Upper House, but was not debated. It lapsed in November 2002 following the calling of an election and the consequent proroguing of Parliament. The nature and timing of any replacement legislation is a matter for the newly elected Government to consider.
2	Entry to the surveying profession should continue to be regulated by a single body. This body should continue to impose a high-uniform standard of entry.	Accepted	Not applicable
3	The regulatory body should have the power to accredit postgraduate practical training courses as an alternative to training under supervising surveyor.	Accepted	Implemented by Surveyors Board.
4	Integrity criteria barring entry to the surveying profession should be specific.	Accepted	See implementation comments for item one above.
5	Integrity criteria for removal from the surveying profession should be the same as criteria barring entry to the profession.	Accepted	See implementation comments for item one above.

No	Review Recommendations	Response	Implementation
6	The requirement for surveyors or related professions to form a majority of members/directors of a firm/corporation engaging in cadastral survey work should be removed.	Accepted	See implementation comments for item one above.
7	Victoria should consider an agreement with other States to make interstate registration/licensing costless.	Accepted in Principle	Surveyors Board is addressing costless interstate licensing through Reciprocal Surveyors Boards of Australia & New Zealand (RSBANZ).
8	Victoria should consider an agreement with other States to make registration / licensing in one jurisdiction sufficient for automatic practise in all reciprocating jurisdictions, without a need for application to the local regulatory authority.	Accepted in Principle	Surveyors Board is addressing automatic interstate practising through RSBANZ.
9	Victoria should prioritise negotiations with other jurisdictions to coordinate cadastral law.	Accepted in Principle	Surveyors Board is addressing coordinated interstate cadastral laws through RSBANZ.
10	There should be thorough examination of all options for extending mutual recognition beyond current boundaries.	Accepted in Principle	Surveyors Board is addressing extending mutual recognition through RSBANZ.
11	Non-surveyors should form a greater proportion of members of the regulatory body than at present.	Accepted	See implementation comments for item one above.
12	The Government should remove the power of the regulatory body to set fees for surveying services.	Accepted	See implementation comments for item one above.

No	Restrictions on Competition Remaining	Competition Policy Justification
1	Entry to the surveying profession is restricted to persons meeting minimum qualification / training standards.	The legislative restrictions on entry to the cadastral surveying market safeguard the security of the Victorian property system. The consultant found the present form of regulation by a statutory body is the lowest cost means of maintaining a high level of quality of plans lodged. Any new legislation should make changes to registration and licensing arrangements, allowing legislated minimum requirements to practise.

Legislation:	***Water Act 1989; Water Industry Act 1994; Melbourne & Metropolitan Board of Works Act 1958; Melbourne Water Corporation Act 1992***	**Portfolio:**	Water
Reviewer:	Marsden Jacobs and Associates	**Date review completed:**	June 2001
Consultation:	Issues paper publicly released. Call for submissions. Targeted consultation with key stakeholders.	**Date response released:**	June 2002

No.	Review Recommendations	Government Response	Implementation
1	Exclusive licences within defined areas should be retained as the preferred model for the provision of water and sewerage services, subject to the implementation of: - independent price regulation - efficiency benefits from contracting out, and - 'vetted competition' for cross-border developments.	Accepted. The Government announced it was satisfied with the current single service provider model for the delivery of core water and sewerage services and that it would continue to pursue measures to increase the efficiency of the industry. The Government stated that competition for the provision of future infrastructure, in line with the Partnerships Victoria policy, would be encouraged to achieve efficiency benefits in service delivery.	Legislation to transfer economic regulation of the water industry to the Essential Services Commission from 1 January 2003 was scheduled for introduction in the 2002 Spring Sitting of Parliament. The November 2002 State election precluded release of the Government's final proposals for regulation of the water industry by the Essential Services Commission as originally proposed. Government is giving consideration to a revised timeframe for implementation. Project evaluations conducted under the Government's *Investment Evaluation Policy and Guidelines* are expected to include consideration of all delivery mechanisms, including *Partnerships Victoria*.

No.	Review Recommendations	Government Response	Implementation
2	Competition for the right to supply major new developments, on the basis of cost efficiency, should be encouraged, i.e. to represent 'vetted-competition' against a cost benchmark. A formal protocol should be developed to specify the objectives, criteria and process to be followed. This process should be subject to scrutiny by the Office of the Regulator-General.	Accepted The Government agreed that the introduction of vetted competition, on the basis of cost efficiency, for new developments on the border of existing businesses should be encouraged. The Government also agreed that to be effective, consistent financial and regulatory frameworks should underpin vetted competition in the water industry. It announced that: • A financial framework for all water businesses would be developed by December 2002 and would be fully implemented by 30 June 2003. • Proposals for introducing vetted competition would be developed in the first half of 2003. • A formal protocol to guide vetted competition for new developments on the border of existing businesses would be developed by December 2003.	Work has proceeded during 2002 to achieve a consistent financial framework for all Victorian water businesses. A key program of this work has been the introduction of a more rigorous and commercial approach to corporate planning, and the reporting of actual achievements by regional urban and rural water authorities. Consultation to develop a scoping paper for introducing vetted competition will commence in March 2003. The scoping paper will provide the basis for developing proposals during the first half of 2003 for formally introducing vetted competition for new development sites. These proposals will inform the development of a formal protocol to guide vetted competition during the second half of 2003.
3	The Government should implement a review of the costs and benefits of introducing a formal access regime, under Clause 6 of the Competition Principles Agreement, for third party access rights to essential water infrastructure in Victoria. The objective of the regime would be to establish appropriate objectives and criteria, subject to oversight by the Office of the Regulator-General, to ensure that access was consistent with wider Government objectives, such as: - protecting the rights of existing users of the assets, - demonstrating significant cost efficiencies, and - ensuring high standards of accountability for drinking water quality.	Accepted The Government announced that it would review the role of a formal statewide access regime for third party access rights to essential water infrastructure in Victoria in enhancing contestability in markets where competition is sustainable and likely to improve efficiency and transparency. It announced that the review would begin within 12 months of the introduction of the Essential Services Commission as the economic regulator of the water industry.	Work to develop a scoping paper to develop terms of reference for a review of the role of a formal statewide access regime is subject to the Government's consideration of a revised timeframe for implementation of arrangements for Essential Services Commission regulation.

No.	Review Recommendations	Government Response	Implementation
4	The following alternative approaches to service delivery should be implemented:		Proposals for a new regulatory framework for drinking water quality have been developed with a view to introducing legislation in the Autumn Sitting of Parliament 2003. The new framework was developed following extensive community and water industry consultation and incorporates a total system approach to managing the risks from the catchment to the consumer. The legislation will also provide for the setting of drinking water quality standards by regulation after a satisfactory public regulatory impact assessment process. The proposed Office of Drinking Water Quality Regulator will oversee the implementation of the proposed framework.
	a. Customers and groupings of customers should be allowed to supply themselves, subject to compliance with health and environmental standards.	a. Accepted The Government agreed to retain alternative approaches to service delivery, subject to compliance with existing health, environment protection and consumer protection obligations. It also stated its intention to improve drinking water quality regulation, which would enable entities other than water businesses to be brought under the statewide regulatory regime after consideration of the benefits and costs on a case-by-case basis.	
	b. All supply by an entity to customers should be licensed (if greater than a set trigger). Licensees must comply with health, environmental and pricing guidelines.	b. Not Accepted The Government did not agree that additional regulation, such as a licensing regime, was required.	
5	The following suite of reforms should be implemented regarding Water Entitlements and water trading:		Proposals for leasing arrangements are included in *The Value of Water: A Guide to Water Trading in Victoria*, which outlines the framework within which water-trading activity in Victoria occurs. *The Value of Water* was released in July 2002. Consultation on the proposals is expected to conclude in April 2003. The differential rate of return on bulk supplies for regional urban and rural users was discussed in the
	a. All remaining links between the ownership of land and the ownership of water should be progressively removed, subject to an implementation plan which takes account of incidence effects.	a. Not Accepted The Government noted that it was in the process of removing the remaining links between the ownership of water and the ownership of land that it considered impacted adversely on water markets. The Government said that it would release for public comment legislative proposals to allow leasing arrangements of water entitlements between farmers by the end of 2002.	

No.	Review Recommendations	Government Response	Implementation
	b. The interpretation of bulk entitlements and their relationship to individual rights (whether implicit or explicit) should be clarified.	b. Not Accepted The Government did not agree that the relationship between bulk entitlements and individual entitlements lacked clarity and impeded trade.	Government's *Proposals Paper on Establishing the Essential Services Commission as the Economic Regulator of the Victorian water Industry*, which was released in April 2002.
	c. The discriminative approach to bulk-water pricing should be reviewed. Alternative arrangements should be implemented which ensure compliance with the Strategic Framework and minimise adverse effects on the water markets.	c. Accepted The Government agreed that the differential rates of return on bulk supplies to regional urban and rural users should be reviewed. It agreed that a review would take place before the Essential Services Commission commenced price setting for bulk water in 2003.	
	d. The cap on trades should be progressively removed as wider trading rules and protocols become established.	d. Not Accepted The Government did not accept that the 2 per cent rule that applies to water trades should be removed, however it committed to review the rule and announced that it would release a Guide to Water Trading to assist in canvassing other options for managing structural change. The Government indicated that it would seek public comment with a view to developing any legislative proposals for change in 2003.	
6	The power to require connection in S147 of the *Water Act* should be amended, in line with the provisions in S65 of the *Water Industry Act*, to separate: - the power to require connection - infrastructure provision and service delivery - the power to hear appeals.	Accepted The Government agreed that, subject to appropriate appeal rights, compulsory connection powers should be retained. The Government also agreed that section 147 of the *Water Act 1989* should be amended to separate the roles of infrastructure provision and service delivery. The Government indicated that it would develop and further consult on the details of a proposal to place statutory obligations on property owners to connect to a reticulated sewerage scheme.	Consultation on proposals for compulsory connections is expected to be completed in March 2003. Legislative proposals will be developed with a view to introducing legislation in the Spring Sittings of Parliament 2003. In the meantime, protocols are in place to ensure services are only provided where a municipal council and the Environment Protection Authority have established the need.

No.	Review Recommendations	Government Response	Implementation
7	The provisions, in the *Water Act*, for the making of by-laws should be amended to reflect current practice, with responsibility for drafting those by-laws to be held by the Minister, subject to an Authority proposing minor amendments to reflect local circumstances.	Accepted The Government agreed to introduce changes to the by-law making powers contained in the *Water Act 1989* and the *Melbourne and Metropolitan Board of Works Act 1958* to minimise the risks associated with authorities being seen to both set and enforce regulatory requirements. The Government indicated it would develop and further consult on the details of proposed changes to the current by-law making powers.	Consultation on proposals to introduce public scrutiny to the by-law making process is continuing and is expected to conclude in March 2003. Legislative proposals will be developed with a view to introducing legislation in the Spring Sittings of Parliament 2003.
8	The current restrictive legislative provisions for the licensing of individuals for drilling, and the associated arrangements, should be retained.	Accepted	No action is required.
9	A single regulatory and legislative framework should be established to ensure a consistent unitary approach to the different water supply entities. That framework will need to be implemented in a way that reflects and recognises the widely different characteristics of those entities.	Accepted The Government supported the establishment of regulatory and legislative frameworks to ensure a consistent approach for all water businesses which also takes into account the different characteristics of the businesses. The Government announced that work to develop a comprehensive legislative framework for Victoria's water businesses would commence in 2003.	Work to develop a scoping paper for establishing a legislative framework for Victoria's water businesses is expected to commence during the second half of 2003.

No.	Restrictions on Competition Remaining	Competition Policy Justification
1	Licensing of larger scale supply arrangements	Victoria's response did not accept the need for additional regulation of larger scale supply arrangements, other than what is proposed in the new regulatory framework for drinking water quality. Any private or public provider of services currently must comply with general duty of care obligations and with consumer and environment protection legislation. These supply arrangements are not common and vary in scale and scope. While the response agrees that supplying larger groupings of customers should be subject to regulation, Victoria is not persuaded that the merits of introducing a licence regime for these arrangements outweighs the costs of doing so at this stage.

2	Links between the ownership of land and water	Victoria's response did not accept that the linkage between the ownership of land and the ownership of water should be completely removed. Proposals to allow leasing arrangements between farmers have been released and consultation is expected to conclude in April 2003. However, in considering changes to further relax the restrictions on the ownership of water rights, Victoria will be guided by identifiable gains to the efficient use of water resources and the efficient management of any transitional issues. The establishment of the water trading exchange *Watermove* is an important initiative in encouraging water trade in Victoria.
3	Lack of clarity in the relationship between bulk water entitlements and individual entitlements	Victoria did not accept that trade is impeded by any lack of clarity between bulk entitlements, issued to regional urban and rural authorities, and individual entitlements, such as licences and irrigator's water rights. While the nature of these entitlements differs, Victoria is not persuaded that there are any practical difficulties arising from these differences. Temporary trades in bulk entitlements and individual entitlements on the water market do take place and are not affected by the nature of these instruments.
4	The 2 per cent cap on water trades	While Victoria did not accept that the 2 per cent rule on trades should be removed, it committed to review the rule. Victoria is confident that the rule does not have a significant impact on trade. The rule has only been invoked on two occasions, and in both cases, it delayed trade for a few months at most. Options for managing structural change have been released and public consultation is continuing with a view to developing any legislative proposals for change in 2003.

Legislation:	***Wildlife Act 1975***	**Portfolio:**	Environment
Reviewer:	Consultant (KPMG)	**Date review completed:**	September 1998
Consultation:	Issues paper and call for submissions, targeted interviews	**Date review completed:**	October 2001

No	Review Recommendations	Government Response	Implementation
1	Differences in licensing systems and enforcement practices between States and Territories should be reviewed, and possibly harmonised, to minimise monitoring and enforcement problems.	Agree in principle	Victoria participates in an Australia and New Zealand Environment and Conservation Committee (ANZECC) Working Group on Wildlife Conservation and Management. This Working Group is reviewing legislation in this area to assess the opportunities for harmonisation of legislation across jurisdictions. Victoria will continue to take this, and other opportunities that arise, to work towards more common approaches to legislation across jurisdictions.
2	The current licensing system does not restrict competition and should be retained. However, there is potential for the current system to be simplified.	Agree	*The Wildlife Regulations 2000* were reviewed and simplified licence categories were introduced (compared with those in the 1992 Regulations). For instance, private wildlife licence categories were reduced from 4 to 2.
3	More visible mechanisms, such as education campaigns, in conjunction with increased enforcement, should be used to ensure compliance with the provisions of the Act.	Agree with principle of education and enforcement, current actions adequate.	Government currently provides considerable information to the public to promote awareness of threatened species and wildlife conservation. Enforcement is targeted towards auditing and investigating transactions involving species of high conservation significance, recidivist offenders or commercial quantities of wildlife. Enforcement operations are widely publicised to ensure the maximum deterrent effect.

No	Review Recommendations	Government Response	Implementation
4	The provisions requiring authorisation before commercial harvesting of kangaroos can be undertaken are not a significant restriction on competition. The present decision not to grant authorisation is apparently based on current government policy.	Agree	
5	Permits should continue to be issued to cover tourist activities related to dolphins in Port Phillip Bay. Industry development and dolphin numbers should be monitored to ensure that the activities of active permit holders enable close interaction with dolphins up to the sustainable limits. Once the sustainable threshold of interaction is reached, permits should be auctioned periodically.	The Government agrees that a permit system should be retained for dolphin tour operators in Port Phillip Bay. It also agrees that these permits should be allocated competitively when the ecologically sustainable threshold for dolphin swim-tours is determined.	DSE is currently reviewing the interaction between dolphins and tourist activities in Port Phillip Bay and will use the findings as a basis for establishing the ecologically sustainable threshold for swim-tours. *The Wildlife Act 1975* was amended in 2002 to: - enable the number of swim-tour permits to be regulated within an ecologically sustainable threshold; - enable swim tour permits to be allocated by tender; and - enable permits to be granted for up to two-years.
6	Estimates of the value of alternative uses for wetlands used for waterfowl hunting should be undertaken to determine if there are other, more highly valued uses. Then the opportunity costs can be reflected in the fees charged for waterfowl hunting licences.	The Government does not agree that licensing waterfowl hunters excludes competing wetland uses.	Fees for game licences have been reviewed during 2001. Fees will continue to be set in line with user pays principles.

Department of Treasury and Finance

Legislation:	***Accident Compensation Act 1985 Accident Compensation (WorkCover Insurance) Act 1993***	**Portfolio:**	WorkCover
Reviewer:	Consultant (PricewaterhouseCoopers and Minter Ellison Lawyers)	**Date review completed:**	December 2000
Consultation:	Advertisements were placed for the receipt of submissions, targeted stakeholder consultation was also undertaken	**Date response released:**	February 2001 (Draft Response).

No	Review Recommendations	Response	Implementation
1	*Restriction on Competition* A compulsion exists for employers to obtain WorkCover insurance in respect of their liability to pay compensation and common law damages to employees. *Review Recommendation* The charge should remain compulsory in the interests of achieving the social policy objectives of the Act.	Accepted	Retain status quo.
2	*Restriction on Competition* The Victorian WorkCover Authority (VWA) is the single manager of workers' compensation insurance *Review Recommendation* The single manager arrangement should be maintained at this time, as it provides the greatest net public benefit.	Accepted	Retain status quo. However, the Government will continue to review the functions preformed by the Victorian WorkCover Authority (VWA) to identify if there is scope for greater contestability to be introduced.

No	Review Recommendations	Response	Implementation
3	*Restriction on Competition* Centralised premium setting (regulated price). *Review Recommendation* The premium setting responsibility should remain with the VWA. However, an independent third party should review the premiums and associated rationale for setting the premiums. The independent review should be made public prior to the approval of the new premiums. This would provide greater transparency in the review setting process.	Accepted	Further work will be undertaken to determine how the mechanism will work in practice (e.g. the appropriate party, timing of independent advice).
4	*Restriction on Competition* Approval of occupational rehabilitation service providers. *Review Recommendation* The ability to approve occupational rehabilitation service providers should be retained to ensure that service providers are suitably qualified to perform the tasks required of them.	Accepted	Retain status quo.
5	*Restriction on Competition* Eligibility requirements for self-insurers. *Review Recommendation* Self-insurance requirements should be adjusted to increase flexibility and promote the expansion of self-insurance as it allows greater emphasis to be placed on innovative occupational heath and safety outcomes rather than the insurance product.	Accepted	VWA to assess the prospect of increasing self-insurance type arrangements.

No	Restrictions on Competition Remaining	Competition Policy Justification
1	A compulsion exists for employers to obtain WorkCover insurance in respect of their liability to pay compensation and common law damages to employees.	Retention of the compulsory scheme is justified on the grounds of meeting the legislated objectives, which may not be achieved in the absence of compulsory workers' compensation. These objectives aim to improve the health and safety of people at work and to reduce the economic and social costs to the Victorian community of workplace accident compensation.
2	The VWA is the single manager of workers' compensation insurance.	The retention of a single supplier is justified on the basis that the review identifies a net benefit in the retention of a single supplier arrangement. However, it should be noted that the Government would continue to review the functions performed by the VWA to identify if there is scope for greater contestability to be introduced.
3	Centralised premium setting (regulated price).	Given the recommendation to retain a single supplier is endorsed, it is not possible to introduce competition into the premium setting process. However, it has been agreed that a third party review mechanism be introduced. Further evaluation of how this will be done is to be undertaken.
4	Approval of occupational rehabilitation service providers.	The retention of the existing accreditation process is on the basis that service providers with reputable credentials provide services to those persons injured in the workplace.
5	Eligibility requirements for self-insurers.	This restriction is to be retained while consideration is given to the extension of this program. However, it is not anticipated to eliminate this restriction as to do so may jeopardise the long-term viability of the scheme.

Legislation:	***Transport Accident Act 1986***	**Portfolio:**	WorkCover
Reviewer:	PricewaterhouseCoopers and Minter Ellison Lawyers	**Date review completed:**	December 2000
Consultation:	Advertisements were placed for the receipt of submissions, targeted stakeholder consultation was also undertaken.	**Date response released:**	February 2001 (Draft Response).

No	Review Recommendations	Response	Implementation
1	*Restriction on Competition* There is a compulsion for all registered vehicle owners in Victoria to pay a transport accident charge. *Review Recommendation* The charge should remain compulsory in the interests of achieving the social policy objectives of the Act.	Accepted	Retain status quo.
2	*Restriction on Competition* The Transport Accident Commission (TAC) is the single manager of the transport accident compensation scheme in Victoria. This is, in effect, a legislated monopoly. *Review Recommendation* The single manager arrangement should be maintained for Compulsory Third Party personal insurance in Victoria at this time, as it provides the greatest net public benefit. However, the Victorian Government may wish to consider the scope for improved market testing of some of the services provided.	Accepted	Retain status quo. However, the Government will continue to review the functions performed by the TAC to identify if there is scope for greater contestability to be introduced.

No	Review Recommendations	Response	Implementation
3	*Restriction on Competition* Centralised premium setting (regulated price). The transport accident charge is determined by the TAC, subject to provisions in the Act and approval by the Minister. *Review Recommendation* The premium setting responsibility should remain with the TAC. However, an independent third party review of the TAC's proposed premiums should occur prior to Ministerial approval. The review should be made public prior to the Minister's decision and it should examine and report on the premium methodology, and the cross subsidies that exist within the premium structure. This would provide greater transparency in the review setting process.	Accepted Accept recommendation of a third party review of premium.	Further work will be undertaken to determine how the mechanism will work in practice (e.g. the appropriate party, timing of independent advice).

No	Restrictions on Competition Remaining	Competition Policy Justification
1	There is a compulsion for all registered vehicle owners in Victoria to pay a transport accident charge.	Retention of the compulsory scheme is justified on the grounds of meeting the legislated objectives, which may not be achieved in the absence of compulsory transport accident compensation. The scheme aims to achieve broader social policy objectives through universal coverage, access to fair and just benefits, affordable premiums for all users, and through an emphasis on accident prevention and rehabilitation.
2	The TAC is the single manager of the transport accident compensation scheme in Victoria. This is, in effect, a legislated monopoly.	The retention of a single supplier is justified on the basis that the review identifies a net benefit in the retention of a single supplier arrangement. However, it should be noted that the Government would continue to review the functions performed by the TAC to identify if there is scope for greater contestability to be introduced.
3	Centralised premium setting (regulated price). The transport accident charge is determined by the TAC, subject to provisions in the Act and approval by the Minister.	Given that the recommendation to retain a single supplier is endorsed, it is not possible to introduce competition into the premium setting process. However, it has been agreed that a third party review mechanism be introduced. Further evaluation of how this will be done is to be undertaken.

Department of Victorian Communities

Legislation:	***Professional Boxing and Martial Arts Act 1985***	**Portfolio:**	Sport
Reviewer:	In-house	**Date review completed:**	August 1999
Consultation:	Discussion Paper, submissions received and further targeted consultation prior to report.	**Date response released:**	November 2000

No	Review Recommendations	Response	Implementation
1	Streamline contestant registration system so that the Act refers to competing in a professional contest, rather than either a boxing contest or a martial arts contest.	Accepted	Amending legislation was passed by the Parliament during the Spring 2001 sittings. The Act's name was also changed to the *Professional Boxing and Combat Sports Act 1985.*
2	Examine the scope for replacing detailed Rules and Conditions of contests with less prescriptive national or international industry standards.	Rejected. As the industry is fragmented into different bodies that follow various rules, it is not possible for it to adopt one set of rules.	
3	Amend the provision that exempts the Victorian Amateur Boxing Association from the Act's requirements to enable other suitably qualified amateur boxing associations to be exempted.	Accepted	As above

No	Restrictions on Competition Remaining	Competition Policy Justification
1	Occupational regulation of professional contestants, promoters, trainers, match-makers, referees and judges.	Requirements have a minimal impact on the community, generate a net public benefit and are consistent with the Act's objectives of promoting safety and reducing the risk of malpractice.
2	Individual promotions – business regulation and conduct requirements.	Business conduct requirements (e.g. obtaining a permit to conduct a promotion) do not impose a heavy compliance burden or have an appreciable impact on competition. Their retention is necessary to meet the objectives of the Act.

Table 3: Lists of reviews completed/report released

Department of Human Services

No	Legislation	Portfolio
1	***Adoption Act 1984*** ***Adoption (Inter–Country Fees) Regulations 1992***	Community Services
2	***Pharmacists Act 1974***	Health

Department of Infrastructure

No	Legislation	Portfolio
1	***Architects Act 1991, Building Act 1993***	Planning
2	***Planning and Environment Act 1987***	Planning

Department of Justice

No	Legislation	Portfolio
1	***Estate Agents Act 1980***	Consumer Affairs
2	***Travel Agents Act 1986***	Consumer Affairs

Department of Primary Industries[17]

No	Legislation	Portfolio
1	***Extractive Industries Development Act 1995***	Resources
2	***Plant Health and Plant Products Act 1995***	Agriculture
3	***Livestock Disease Control Act 1994: Stock (Seller Liability & Declarations) Act 1993***	Agriculture

Department of Sustainability and Environment[18]

No	**Legislation**	**Portfolio**
1	***Forests Act 1958***[19]	Environment

[17] Previously part of former Department of Natural Resources and Environment

[18] Previously part of former Department of Natural Resources and Environment

[19] Revised response to review pending

Table 4: Details of reviews completed/report released

Department of Human Services

Legislation:	***Adoption Act 1984*** ***Adoption (Inter–Country Fees) Regulations 1992***	**Portfolio:**	Justice, Community Services
Reviewer:	In House (Departments of Justice and Human Services)	**Date review completed:**	Late 1998
Consultation:	Notice and call for submissions, targeted interviews (various organisations representing domestic and inter-country adoption agencies, birth mothers, adoptees and adoptive families).		

No	Review Recommendations
1	That adoption legislation meets the guiding legislative criteria that the benefits to the community as a whole outweigh the costs, and the objective of the legislation can only be achieved by restricting competition.
2	In order to protect the interests of children, and meet Australia's obligations as signatory to the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption, that legislative safeguards remain in place in relation to each section of the Adoption Act and the Adoption (Inter–Country Fees) Regulations identified as containing competitive restrictions.

Legislation:	***Pharmacists Act 1974***	**Portfolio:**	Health
Reviewer:	External review – for COAG	**Date review completed:**	February 2000
Consultation:	Senior Officials Working Group Report on National Review released in August 2002. Discussion paper released by Victoria late 2002 and submissions currently being considered.		

No	Review Recommendations
	The following summarises some of the main national recommendations incorporated into Victorian Discussion Paper. Refer to the national review report for a complete list of recommendations.
1	Legislative restrictions on who may own and operate community pharmacies are to be retained (confined to registered pharmacists).
2	Remove residential requirements for pharmacy ownership. Retain requirements that pharmacists must be registered in a jurisdiction in order to own a pharmacy – pending adoption of national arrangements.
3	Retain pharmacy ownership structures, and in addition, corporations with shareholders of defined types.
4	Lift restrictions on the number of pharmacies a person may own or have interest in, but monitor effect of lifting restriction on market; retain requirements that pharmacists must be in charge of, or under direct supervision of, a registered pharmacist.
5	Friendly societies may continue to operate pharmacies, but no new friendly societies to be owned, established or operated; all corporately owned pharmacies to be restricted under grand parenting provisions. Refer financial and corporate arrangements of pharmacist and friendly-society owned pharmacies to the ACCC and take into account findings in legislative reform.
6	Retain some form of restriction on the number of pharmacies as outlets for the Pharmaceutical Benefits Scheme (PBS). Parties to the Australian Community Pharmacy Agreement consider, in the interests of greater competition in community pharmacy, a remuneration system for PBS services that restricts the overall number of pharmacies by rewarding more efficient pharmacy businesses and practices.
7	Pharmacy remains a registrable profession, and that legislation governing registration should be the minimum necessary to protect the public interest by promoting the safe and competent practice of pharmacy. Legislative requirements restricting the practice of pharmacy, with limited exceptions, to registered pharmacists are retained. Legislative limitations on the use of the title “pharmacist” and other appropriate synonyms for professional purposes are retained. Legislative requirements for a registered pharmacist, to have particular personal qualities, other than appropriate proficiency in written and spoken English, and good character, are removed. Legislative requirements for membership of a professional association or society as being necessary for registration as a pharmacist are removed. Legislative requirements specifying qualifications, training and professional experience needed for initial registration as a pharmacist are retained, but States and Territories should move towards replacing qualifications-based criteria with solely competency-based registration requirements if, and as appropriate, workable assessment mechanisms can be adopted and applied.

Department of Infrastructure

Legislation:	***Architects Act 1991, Building Act 1993***	**Portfolio:**	Planning
Reviewer:	Consultant (Freehills Regulatory Group)	**Date review completed:**	February 1999
Consultation:	Targeted consultation, working groups conducted		

No	Review Recommendations
1	Retention of title restriction and registration requirements for architects
2	Ownership provisions be amended to ensure that in firms which use the title “architect”, or hold themselves out as offering architectural services, at least one director or partner is a qualified/practising architect.
3	Constraints on acting as developer and architect on same project, on using the title “architect” when carrying on the business of developer and on advertising as an architect when acting for a developer should be repealed. Amended regulations to require an architect, acting as both developer and architect, give the client notice in writing of the scope of his or her different roles.
4	Repeal the specific prohibition on architects endorsing, for profit, a specific building material, component, service or product, but retain other regulations that achieve the same benefits at a lower cost.
5	Repeal specific constraints on accepting financial advantages from suppliers, contractors and tradespeople of the project, except as a client, but retain other regulations that achieve the same benefits at a lower cost.
6	Repeal exemptions for public sector employed architects provisions to ensure that all architects, including private and public sector employees, are treated equally by the provisions.
7	Repeal constraints on seeking business from clients of other architects because contract law provides adequate redress for an architect in the event of breach by a client.

No	Review Recommendations
8	Companies and partnerships should be subject to the registration requirements. To avoid eroding the meaning of the building practitioner titles and to further address the objectives of the Legislation, Section 176 should be clarified to provide that all practitioners, whether sole practitioners or employed by companies or partnerships, are required to register. However, relevant orders should exempt building practitioner employees of adequately insured companies and partnerships. Registration levels and compliance levels should be reported by the BPB and should be one of the BPB's key performance indicators with regular review of the registration categories and classes to assess and report on the ongoing need for these categories. If new categories or classes of Building Practitioner are to be added, an appropriate Regulatory Impact Statement should be prepared.
9	Retention of the Minister's power to issue compulsory insurance orders. When deciding to issue or revoke such orders, a competition analysis and cost-benefit assessment should be undertaken to assess the case for the relevant order.
10	Increased use of audits of building surveyors to ensure that standards are maintained and fostered. Consideration should be given to conducting a study into the case for integration of aspects of the planning permit application process and the building permit provisions.
11	Repeal of the provisions that grant exemptions to public sector employees, public authorities and the Crown. Retention of exemptions of certain high security Crown buildings from the requirement to lodge permit documents with the relevant council
12	The Building Permit levy should be based on a formula that is cost-reflective and includes incentives for cost-effective administration of the legislation. The regulatory bodies develop Key Performance Indicators (KPIs) and provide greater disclosure.
13	Potential net benefits from integration of the Architects Legislation and the Building Legislation. Integration, subject to any appropriate transition period, should procure administrative cost savings and should allow consistent application of construction industry policy to all participants.

Legislation:	***Planning and Environment Act 1987***	**Portfolio:**	Planning
Reviewer:	Consultant (Deacons Lawyers)	**Date review completed:**	March 2001
Consultation:	Discussion Paper released, public call for submissions advertised and targeted consultation undertaken.		

No	Review Recommendations
1	That the Government develop and maintain a database providing information re number of planning scheme amendments/planning applications by type, number of objections by type, number of appeals by type and number of successful appeals by type.
2	That the Government scrutinise provisions in the legislation (including those relating to Responsible Authorities and monopoly powers, zoning and overlay controls, activity centre provisions and development contribution plans), and give consideration to either removing the restriction imposed, or modifying it to lessen restriction.
3	That planning-specific NCP guidelines and workshops be implemented to assist Planning and Responsible Authorities to ensure that the public benefit outweighs the costs of any planning intervention. If the guidelines and workshops are not effective, an overarching public benefit test should be inserted into the Act.
4	That section 60 of the Act be amended to make it consistent with other parts of the Act.
5	That (where it is cost-effective to do so) performance-based overlays and particular provisions be used in preference to potentially costly prescriptive criteria.
6	That costs associated with restrictions on competition under activity centre controls be reduced.
7	That consistency of planning decisions concerning planning scheme amendments and permit applications be improved.
8	Ensure that exceptions to Particular Provisions, zones, overlays and particular State Planning Policy Framework (SPPF) and Local Planning Policy Framework (LPPF) policies (including those relating to activity centres) are consistent with NCP principles and objectives and are regularly reviewed to determine whether additional exceptions are appropriate.
9	That exemptions of land use or development by Responsible Authorities either be removed from the Ministerial permit process, or that the application of exemptions be narrowed.
10	That the Home Occupation Particular Provision be amended to make it more consistent with performance criteria, and ensure that exceptions reflect community preferences.
11	That costs associated with Section 173 Agreements be reduced.
12	That costs associated with economic objections, and with the lack of enforcement of existing provisions of the Act intended to prevent economic objections, be reduced.

No	Review Recommendations
13	That a review be conducted to determine whether it is feasible to remove from Planning Authorities and Responsible Authorities the monopoly on provision of certain administrative functions that may be performed by other parties at lower cost.
14	That consideration be given to the introduction of a sunset clause in permits for alternative uses, where the likely community benefits associated with an alternative use will not outweigh the costs, and the alternative use generates a major negative externality.

Department of Justice

Legislation:	***Estate Agents Act 1980***	**Portfolio:**	Consumer Affairs
Reviewer:	Consultant (KPMG Consulting Pty Ltd)	**Date review completed:**	October 2000
Consultation:	Submissions invited on public issues paper; direct discussions with key stakeholders.		

No	Review Recommendations
1	Two levels of licensing be introduced: 1. an estate agent licence for residential sales; and 2. a general estate agent licence.
2	Applicants for a general estate agent's licence should be required to meet the eligibility criteria currently specified in clause 14(5) of the *Estate Agents Act 1980;* and would need to comply with existing regulations relating to trust accounts and the legislative code of conduct.
3	Applicants for residential sales licence should meet minimum competency standards; and the eligibility criteria currently specified in clause 14(5). Residential sales agents would also need to comply with existing regulations relating to trust accounts and professional conduct. In the event that agents fail to observe any of these regulations they would be subject to the same disciplinary procedures, as currently applies to agents.
4	In addition to the existing prescribed qualifications, other persons should be eligible for a residential estate agents licence via: an amendment to the *Estate Agents Act 1980* to include a general deeming clause, with the specific qualifications eligible for deeming spelled out in the regulations (e.g. legal profession qualifications); and prescribing alternative competency standards in regulations.
5	Applicants be able to choose between a one-year internship with an agent or the completion of a practical training course.
6	Agents' representatives working in residential sales should complete the agents' representatives course as currently prescribed.
7	The requirement that an employer sight a police check not more than 14 days old before employing a person as an agent's representative be replaced with requirements that the employer sight a police check and—where a police check more than 12 months old is relied upon—within 6 weeks sight a police check not more than 6 weeks old.
8	Corporations should be able to obtain a licence if: every director meets the probity requirements of clause 14(5); and the corporation has a licensed agent or agents who supervises all agents representatives and is responsible and accountable for all real estate transactions. This could be satisfied by the current officer in effective control provisions requiring a licensed agent to supervise each place of business; or alternatively, businesses could make a case to the Business Licensing Authority that their arrangements meet the supervision, responsibility and accountability objectives of the Act.

No	Review Recommendations
9	The restrictions on shareholdings for agents' representatives be removed.
10	Part (e) of the definition of an estate agent, including compiling information and preparing reports on property transactions within the estate agents monopoly, be removed.
11	The restrictions on soliciting of listings be removed.
12	The restrictions on commission sharing should be removed.
13	The restrictions on representatives not being employed by more than one agent be removed.
14	The *Estate Agents Act 1980* be amended to provide a 30-day period in which an agent's representative may apply to VCAT to show cause why he or she should not become ineligible following an offence being proven or a fund claim allowed.
15	Advertising provisions contained within the *Estate Agents Act 1980* be maintained.
16	Clause 36(1) provisions restricting flexibility in business naming be repealed.
17	The *Estate Agents Act 1980* should be amended to provide an auditor qualification similar to the *Legal Practice Act 1996*.
18	The Estate Agents Guarantee Fund be retained. However, there is merit in Consumer and Business Affairs Victoria investigating the feasibility of giving agents the choice of being covered by EAGF or taking out an alternative form of fidelity guarantee protection, such as private-professional indemnity insurance, to a prescribed level.

Legislation:	***Travel Agents Act 1986***	**Portfolio:**	Consumer Affairs
Reviewer:	Consultant (Centre for International Economics)	**Date review completed:**	March 2000
Consultation:	Submissions invited on public issues paper; direct discussions with key stakeholders.		

No.	Review Recommendations
1	The qualification and experience specified for licensing should be removed.
2	The main reason for retaining a fit and proper person test would be to facilitate a mandatory insurance or compensation scheme. If there were no such scheme the fit and proper person test should be dropped on the ground that demonstrated benefits do not exceed the costs.
3	The requirement for TCF membership should be dropped.
4	In reference to alternative methods of regulation, a competitive insurance system whereby private insurers would be allowed to compete with the TCF—according to prescribed rules and conditions—is the best of the available options.
5	The current positive licensing framework should remain, and be administered by the present state licensing authorities. However, licensing functions should be limited to a fit and proper person test and a check that any compulsory insurance requirements are satisfied.
6	A 'voluntary' or 'no legislated requirements' model with no mandatory membership of the TCF or prescriptive licensing is the long-term recommendation for the regulation of travel agents. Licensing would be unnecessary and a registration system providing a basis for monitoring trace back and sanctions would be sufficient.

Department of Primary Industries

Legislation:	***Extractive Industries Development Act 1995***	**Portfolio:**	Resources
Reviewer:	Consultant: Peter Day Consulting	**Date review completed**:	July 2002
Consultation:	Issues paper publicly released. Call for submissions.		

No	Review Recommendations
1	The review identified the requirement to obtain a permit to search for stone and the restriction of land available for searching as restrictions to competition. However the review considered any restriction on competition was justified on public benefit grounds and made no recommendations in relation to this issue
2	That the Act be amended to allow the Minister to approve a work plan and to set conditions.
3	That conditions be appealable by applicants to the Victorian Civil and Administrative Tribunal (VCAT).
4	That parameters be prescribed in regulation beyond which a variation of a work plan should be made.
5	That the process be simplified by reducing to one these approvals. This can be done by abolishing the work authority and relying on the Work Plan.
6	Should the work authority remain, that: - conditions of a work authority be appealable by applicants to VCAT - any variation to a work authority should include consultation with the landowner.
7	That the work authority number be recorded on the relevant planning permit.
8	That the required data be obtained from one government agency, either the DNRE or the ABS, and be made available by that agency to the other body.
9	That the requirement for a work authority holder to submit quarterly accident returns be abolished.
10	That the Act be framed to allow a flexible approach to progressive rehabilitation.
11	That the responsibilities of work authority holders and landowners in relation to the site be clearly identified in the legislation. It must be clear that the first level of responsibility for restoration and compliance with the Act must be with the holder and in default, the second level of compliance must be with the landowner.
12	That an incentive system be devised that in a tangible way rewards work authority holders who actively rehabilitate their sites in an ongoing manner.

No	Review Recommendations
13	That the extractive industry associations be encouraged to take a more active role in industry regulation matters. This can be achieved by the associations: - developing appropriate codes of practice for good quarry practice including efficient and effective methods of site restoration; - developing effective processes and procedures to deal with members who infringe the codes of practice; and - developing close relations and protocols with Minerals and Petroleum Victoria's (MPV) inspectorate to ensure all sites are managed in accordance with the Act and Regulations.
14	That enforcement of the Act and Regulations by MPV continue to be undertaken in a fair, consistent and rigorous manner. It is suggested that the MPV, in consultation with the industry bodies, develop a system of regular audits of all sites and that such audits be conducted on a full cost recovery basis.
15	That a review should be conducted of the guidelines used in setting bonds to ensure that the application of the guidelines provide for the optimum level of outcome in terms of restoration while providing the least costs of compliance for industry. In identifying appropriate guidelines for bond setting, the review should consider the potential risks (environmental and safety) associated with various types and sizes of quarry operations and determine a level of risk below which a bond is not required. The review should consider the equity of existing levels of bonds and recent increases relative to the reviewed guidelines. The review should also consider the potential for independent assessments, against agreed guidelines, of restored sites and the provision of appeal rights for work authority holders following the determination of a bond level. The review should be conducted by DNRE with representation from the industry bodies, landowners and local government.
16	That for transparency reasons the guidelines for bond setting and to the extent appropriate, the process of bond setting and its exemption criteria, should be included in regulations.
17	As the Auditor-General identified that the value of bonds held was less than the estimated funds required for rehabilitation, it is recommended the exact nature of any liability in this area be ascertained.
18	That royalty rates for stone from Crown land should be set by the responsible land manager (Minister), possibly with advice from the DNRE.
19	That royalty rates be reviewed on a regular basis, say each year, to ensure the beneficiaries obtain fair market value for the product.
20	That a review of the setting of the rate be undertaken to provide advice about all the matters that should be considered in the setting of the rate. This may be provided in a formula.
21	That the certification of quarry managers be discontinued. This should be done over a reasonable period (say, 2–3 years) to enable the industry time to develop its own accreditation or other similar process.

No	Review Recommendations
22	In the interim or should the certification process continue in the same format it is recommended: - assessment for certification purposes only relate to the Act's objectives and not include other competencies. - certificates of quarry manager be issued for a fixed term, say, 5 years, or alternatively, for the period the person remains as an operating quarry manager; - that the inquiry process be reviewed to ensure: (a) the work authority holder is consulted about the process; and (b) the inquiry investigate and recommend appropriate action.
23	That administration of extractive industry controls remains with the DNRE and these controls are retained in the existing Act.
24	That: - the Act be amended to require the applicant for a work authority to obtain the consent of the MRDA licensee - consideration be given to abandoning the current purpose in the Act for the notification procedure.
25	That a review be conducted of the operations of government quarries to establish whether any receive net competitive advantages and to provide options for establishing competitive neutrality in their operations.

Legislation:	***Plant Health and Plant Products***	**Portfolio:**	Agriculture
Reviewer:	Consultant (PriceWaterhouse Coopers)	**Date review completed:**	March 2002
Consultation:	Issues paper publicly released. Call for submissions.		

No	Review Recommendations
1	The Review Team recommends that the existing package of disease control powers be retained. The continued development of codes, standards or protocols to provide guidance on how the powers contained in the Act are invoked in particular cases is to be encouraged.
2	The Review Team recommends that the cross border restrictions remain in place, though noting that greater convergence between the powers conferred under the Act for interstate and Victorian produce would be desirable.
3	The Review Team recommends that: 1. the provisions for the labelling and packaging of plants and plant products in Victoria be retained to permit effective trace back; and 2. unless the provisions in section 38 can be explicitly linked to the objectives of the Act, section 38 should be repealed.
4	The Review Team considers that provisions for Certification Schemes should remain in place.
5	The Review Team considers that the provisions for Compliance Agreements should remain in place.

Legislation:	***Livestock Disease Control Act 1994: Stock (Seller Liability & Declarations) Act 1993***	**Portfolio:**	Agriculture
Reviewer:	Consultant (PriceWaterhouse Coopers)	**Date of Completion**	January 2002
Consultation:	Submissions invited on public issues paper; direct discussions with key stakeholders.		

No.	Review Recommendations
1	The Review Team considers that the package of disease control measures that currently exist within the LDC Act should be retained. The Review Team notes that although the actual purpose and expected outcomes from the powers are capable of achieving a net public benefit, there is an opportunity to present the powers in a clearer manner to the community and inspectors.
2	In general (and in the absence of any inter-jurisdictional requirements) it appears unnecessary to distinguish between exotic and general disease control measures within the legislation, so long as a full selection of disease control powers is made available. Should the distinction be removed however, those few additional powers available to livestock inspectors for the control of exotic diseases could also be available to use in response to general disease outbreaks. The Review Team notes, however, that while separate identification of disease control measures may be deemed as otherwise unnecessary, at present the distinction should be retained to comply with inter-jurisdictional disease control measures.
3	That the requirement to license chicken hatcheries, register beekeepers, license semen collection premises and authorise the providers of artificial insemination courses be retained.
4	The provision to pay compensation for losses caused by exotic and certain endemic livestock diseases should be retained. The level and structure of any compensation scheme should provide the correct incentives for disease prevention, or notification in the event of an outbreak.
5	The Review Team considers that the voluntary National Vendor Declaration scheme appears not to operate as a restriction and hence no recommendation for change is made.
6	The Review Team recommends that the Secretary's power to refuse to register a declaration or to remove an ongoing declaration from the register be retained, however a maximum time period for suspension from the register should be specified within the legislation. The introduction of a formal appeals process should also be considered, as a complement to the Secretary's power to refuse a declaration or remove it from the register.

Department of Sustainability and Environment

Legislation:	***Forests Act 1958***	**Portfolio:**	Environment
Reviewer:	Consultant (KPMG)	**Date review completed:**	April 1998
Consultation:	Call for public submissions, public meetings and targeted interviews.		

No	Review Recommendations
	A government response to the review of the Forests Act was released in 1999 and detailed in previous reports. A revised response is now being prepared.
1	The Act should be amended to include a specific objective, which sets out the balance required between commercial exploitation and non-commercial uses of forests, such as protection of flora and fauna.
2	The Act should be amended to clarify Section 5 in respect of the activities included in the term “control and management” and regarding exclusive control of the forests by DNRE. The possibility of an alternative provider of commercial forest management services should be considered.
3	The sustainable yield provision should be clarified to make clear that DNRE is not required to supply sawlogs up to the sustainable yield level regardless of demand. The sustainable yield level should be unambiguously a maximum level of supply only, not a minimum.
4	The Act should specify broad criteria or guidelines for licences where these relate to rights to commercially exploit forest produce. These should require: - transparent criteria and process for issue, renewal and revocation; - market-based allocation where practicable; and - regular reporting by the administering Department.
5	That DNRE consider amending the provisions of the Act relating to commercial activities, such as hardwood resource allocation and pricing, to include a more pro-competitive approach.
6	That a comprehensive assessment of the effects of separating the commercial and regulatory/policy functions of forest management be undertaken.
7	That the current administered allocation and pricing policy in relation to sawlogs be changed to a more market based determination of log prices.

No	Review Recommendations
8	That DNRE reform its practices for issuing licences and permits to incorporate: - clear explicit criteria for issue - transparent processes for issue, including review mechanisms where applications are refused or licences revoked - charges to reflect competitively neutral cost of provision of the relevant forest product - comprehensive reporting on the operation of licensing schemes.

Table 5: Reviews completed/report not released

Table 5 summarises, by Victorian State Departments, legislation reviews completed where the report has not yet been released.

Department of Human Services

No.	Legislation	Portfolio	Reviewer	Consultation	Date Review Completed
1	***Drugs, Poisons and Controlled Substances Act 1981***	Health	External reviewer–review for COAG.	Sought as part of review process, including written submissions and meetings with stakeholders in all jurisdictions.	Submitted to COAG in January 2001. COAG referred report to AHMC and AHMAC to an AHMAC Working Party, which has sought comments from jurisdictions and stakeholders but is yet to report.
2	***Pathology Services Accreditation Act 1984*** ***Pathology Services Accreditation (General) Regulations 1984***	Health	External Panel, supported by in-house program area	Discussion paper released in May 2001. Submissions were received and incorporated in final report.	December 2001 The report will be released concurrently with the Government response.

Department of Justice

No	Legislation	Portfolio	Reviewer	Consultation	Date Review Completed
1	***Club Keno Act 1958***	Gaming	In house—DTF. Review drafted under the supervision of DTF's steering committee for all NCP reviews.	Consultation with two key industry stakeholders, Tattersalls and Tabcorp. The response is currently being finalised by the Government.	August 1997
2	***Legal Aid Act 1978***	Attorney-General	KPMG	Targeted consultation with key stakeholders	1998
3	***Private Agents Act 1966***	Police and Emergency Services	Freehills Regulatory Group (for review of currently regulated categories, completed November 1999) PricewaterhouseCoopers (for current review of unregulated activities)	Public discussion paper released July 2000. Departmental review and consultation ongoing.	May 2001 (PWC review)
4	***Trustee Act 1958***	Consumer Affairs	Consumer & Business Affairs Victoria	Targeted	December 2001.

Department of Sustainability and Environment[20]

No	Legislation	Portfolio	Reviewer	Consultation	Date Review Completed
1	***Land Act 1958; Crown Land (reserves) Act 1978 and related Acts***	Environment	The Allen Consulting Group	Issues paper publicly released. Call for submissions. Targeted consultation with key stakeholders.	July 2001
2	***National Parks Act 1975; Water Industry Act (Part IV)***	Environment	The Allen Consulting Group	Issues paper publicly released. Call for submissions. Targeted consultation with key stakeholders. Final Report received from reviewer. Draft Government response being prepared for public consultation. Draft response to be released with Final Report.	September 2002 The report will be released concurrently with the Government response.

[20] Previously part of former Department of Natural Resources and Environment

Table 6: Reviews commenced but not completed

Table 6 summarises, by Victorian State Departments, legislation reviews commenced and progressing within target completion dates.

None

: Reviews expected to be delayed

Table 7 summarises legislation reviews commenced but progressing towards completion dates beyond those initially scheduled

Department of Justice

No	Legislation	Portfolio	Scheduled Completion Date	Expected Completion Date	Comment
1	***Trade Measurement Act 1995***[21] (Uniform Trade Measurement Legislation)[21]	Small Business	Mid 2002	Approval of proposed response by Committee for Regulatory Reform and MCCA by June 2003. Any legislation arising from the review would be implemented once the national approach was finalised.	Scoping Paper completed and assessed August 2001 broadly considered that restrictions on the method of sale (relating to meat, beer and spirits, and pre-packaged goods) appear to have little if any adverse impact on competition but provide benefits to consumers. The paper's concerns regarding the costs of restrictions on the sale of non-prepacked meat are being examined through a separate public benefit test. The scoping paper and PBT are currently being circulated for public consultation prior to the full report being finally considered by the COAG Committee for Regulatory Reform and subsequently the Ministerial Council on Consumer Affairs. Other restrictions on competition are considered to be sound, imposing few costs while potentially generating widespread and significant benefits. These restrictions relate to the oversight of measurement standards, the prohibition of end-and-end weighing at public weighbridges and the licensing of services

[21] Formerly under Department of State and Regional Development

No	Legislation	Portfolio	Scheduled Completion Date	Expected Completion Date	Comment
					organisations and public weighbridges.
					As a result of extended public consultation on the scoping paper and the public benefit test, the review of the scheme for uniform trade measurement legislation is unlikely to be completed by June 2003 as it is being considered in a national context. Queensland is the lead state for the review. Victoria has been meeting its requirements for the review and is currently awaiting the national response before it can implement any reforms.

Table 8: Reviews removed

Table 8 summarises, By Victorian State Departments, legislation reviews which have been removed from the review schedule.

Department of Human Services

No	Legislation	Portfolio	Reason for Removal
1	***Housing Act 1983***	Housing	Reassessment of this Act demonstrated that there are no restrictions on competition contained in the Act. Its removal from the timetable of review has been accepted.

Department of Infrastructure

No	Legislation	Portfolio	Reason for Removal
1	***Electricity Industry Act 2000***[22]	Energy Industries	The Act gives effect to Victorian reforms that are in line with the introduction & implementation of a national electricity market. An independent legal consultant audited the predecessor Act in 1998 and concluded that while there are some restrictions on competition, these restrictions were necessary to achieve the public interest and government's policy objectives.
2	***Gas Industry Act 1994***[22]	Energy Industries	The *Gas Industry Act 1994* has been replaced by the *Gas Industry Act 2001*. This Act gives effect to Victorian reforms that are in line with the introduction and implementation of full retail competition. The *Gas Industry (Residual Provisions) Act 1994* now contains provisions of historical import, particularly the restructure and privatisation of the gas industry.

[22] Formerly under Department of Natural Resources and Environment

Department of Justice

No	Legislation	Portfolio	Reason for Removal
1	***Building Societies Act 1986***	Consumer Affairs	Repealed. Jurisdiction has passed to the Commonwealth under financial sector reforms.
2	***Business Investigations Act 1958***	Consumer Affairs	Act repealed.
3	***Co-operation Act 1981***	Consumer Affairs	Replaced by the *Co-operatives Act 1996*.
4	***Financial Institutions (Victoria) Act 1992***	Consumer Affairs	Repealed. Jurisdiction has passed to the Commonwealth under financial sector reforms.
5	***Fundraising Appeals Act 1984***	Consumer Affairs	Repealed and replaced by the *Fundraising Appeals Act 1984.*
6	***Retirement Villages Act 1986***	Consumer Affairs	The Office of Regulation Reform undertook an assessment of the Act, and reported that the Act complies with competition principles as it does not contain substantive restrictions on competition, and recommended that the Act be removed from Victoria's National Competition Policy review schedule. Its removal from the timetable of review has been accepted.

Department of Primary Industries[23]

No	Legislation	Portfolio	Reason for Removal
1	***Biological Control Act 1986***	Agriculture	National legislative scheme. It is not considered to restrict competition because it requires a transparent public inquiry process and review to determine the net public benefit of a biological control release.
2	***Dried Fruits Act 1958***	Agriculture	Act repealed by the *Dried Fruits (Repeal) Act 1998* following industry decision to wind-up the Dried Fruits Board.

[23] Previously part of former Department of Natural Resources and Environment

No	Legislation	Portfolio	Reason for Removal
3	***Mines Act 1958***	Resources	This Act has largely been repealed. The few remaining provisions relate to occupational health and safety. These will be reviewed in consultation with the WorkCover Authority with a view to consolidating them with the *Occupational Health & Safety Act*.
4	***Veterinary Surgeons Act 1958***	Agriculture	Act has been repealed and replaced by the *Veterinary Practice Act 1997*.
5	***Victorian Plantations Corporation Act 1993***	Agriculture	The assets of the Corporation were sold in December 1998. Consequently most of the Act will be repealed leaving only provisions related to the Crown's residual interests in the land, licence and legislated supply agreements.
6	***Wheat Marketing Act 1989***	Agriculture	The legislation is redundant and is inconsistent with the Commonwealth legislation, which was reviewed in 2000. It is anticipated that the Act will be repealed at the first available opportunity.

Department of Sustainability and Environment[24]

No	Legislation	Portfolio	Reason for Removal
1	***Alpine Resorts Act 1983***	Environment & Conservation	Act replaced by the *Alpine Resorts (Management) Act 1997.*
2	Order–authorises the Alpine Resorts Commission to act as a gas undertaking solely within the Mount Buller Alpine Resort.	Environment & Conservation	Order made under Gas & Fuel Corporation Act. Amendments made by an order under the Gas Industry Act make this order redundant.
3	***Catchment and Land Protection Act 1994***	Environment and Conservation	The Act does not restrict competition and it ensures competition in relevant markets is sustainable in the long term. An integrated Victorian Pest Management Framework is being developed by DSE in consultation with key stakeholders as part of the stated Government policy to establish a Rivers and Catchment Restoration program. The Victorian Pest Management Framework will provide the directions for the strategic management of existing and introduced pests in Victoria over the next 5 years. The Framework was released in June 2002 for implementation. The provisions of Part 7 of the Act that relate to extraction of material have been superseded by the *Extractive Industries Development Act 1995* and will be repealed when the Act is next amended.
4	**Forest Agreement Acts** (primarily for softwoods) including: Victree Forests Agreement; Australian Newsprint Mill Limited; Bowater-Scott Agreement; Laminex Industries Agreement; Pulpwood Agreement; and Wood Pulp Agreement.	Environment & Conservation	These are contractual agreements between the owner of the Victorian Plantations Corporation (VPC) and private parties. They were taken on by the newly privatised VPC on behalf of the Government. Several of these agreements have expired/terminated and the legislation will be repealed. These include the Victree Forests Agreement & Bowater-Scott Agreement. The Australian Newsprint Mill Ltd, Laminex Industries Agreement & Woodpulp Agreement remain and have been exempted from review by the Premier so that the Government is not exposed to damages from breach of contract.

[24] Previously part of former Department of Natural Resources and Environment

Table 9: List of new restrictive legislation

Department of Justice

No	Legislation	Portfolio
1	***Legal Practice (Amendment) Act 1998***	Attorney-General

Department of Infrastructure

No	Legislation	Portfolio
1	***Electricity Safety (Installations) (Amendment) Regulations 2001***[25]	Energy Industries
2	***Gas Industry Act 2001***[25]	Energy industries

Department of Primary Industries[25]

No	Legislation	Portfolio
1	***Fisheries (Rock Lobster and Giant Crab) Regulations 2001***	Agriculture
2	***Livestock Disease Control (Amendment) Act 2001***	Agriculture

[25] Previously part of former Department of Natural Resources and Environment

Department of Sustainability and Environment[26]

No	Legislation	Portfolio
1	***Forestry Rights (Amendment) Act 2001***	Environment
2	***Water Industry (Waterways Land) Regulations 2002***	Water
3	***Wildlife (Whales) (Logan Beach) Regulations 2001***	Environment

[26] Previously part of former Department of Natural Resources and Environment

Table 10: Details of new restrictive legislation

Department of Justice

Legislation:	***Legal Practice (Amendment) Act 1998***		
Portfolio:	Attorney-General	**Date passed:**	Spring 1998

No	Restrictions on Competition Introduced	Competition Policy Justification
1	Retention of statutory mutual fund monopoly on supply of compulsory professional indemnity insurance for solicitors.	Retention of the statutory mutual fund monopoly on supply of compulsory professional indemnity insurance for solicitors will: - prevent an inappropriate contraction in the competitive market for legal services in Victoria including rural and regional areas - provide proper compensation to all consumers suffering a detriment as a result of negligent or otherwise deficient legal services - reduce, due to systematic risk management, the number and amount of losses suffered by consumers in Victoria as result of such deficient services. On balance the evidence supports a net benefit to the community as a whole from the current arrangements.

Department of Primary Industries

Legislation:	***Electricity Safety (Installations) (Amendment) Regulations 2001***		
Portfolio:	Resources	**Date passed:**	30 January 2001

No	Restrictions on Competition Introduced	Competition Policy Justification
1	Prescribed regulations for the installation of electrical equipment, and the quality of materials, fittings and apparatus used.	The regulations reflect changes in work practices brought about by the release of a new Australian/New Zealand standard, AS/NZS 3000:2000–Wiring Rules. The objective of the regulations is to continue to enhance and promote public safety and minimise risk to persons and damage to property resulting from electrical accidents. The regulations do not limit the number of persons or organisations supplying electrical services to the market, but will require that their knowledge base or skill set remains up to date. The benefits to the public are considered to be significant, and to outweigh the costs.

Legislation:	*Fisheries (Rock Lobster and Giant Crab) Regulations 2001*		
Portfolio:	Resources	**Date passed:**	30 October 2001

No	Restrictions on Competition Introduced	Competition Policy Justification
1	Introduction of a Quota Management System QMS) for the rock lobster and giant crab fisheries.	The QMS restricts competition by limiting the overall catch of the fishery. The NCP review of fisheries legislation found that quota managed fisheries are an efficient approach to regulation that achieve the objectives of the Act with minimal restrictions on competition, and recommended its introduction for rock lobster and giant crab.
2	The giant crab fishery has a closed season, coinciding with the rock lobster closed season.	The closed season restricts the availability of the resource, but not the ability of a person to enter or operate within the fishery. The restriction is justified on sustainability grounds, as the fishery is closed during a critical phase in the reproductive cycle.
3	The giant crab fishery access licence is linked to a rock lobster fishery access licence (for the first two years of the operation of the fishery).	This requirement raises the costs of entering the giant crab fishery, as new fishers must hold or purchase a rock lobster fishery licence. This is a transitional restriction (will sunset after 2 years) to allow fishers to adjust to the creation of a giant crab fishery separate from the rock lobster fishery.
4	Maximum pot limits for giant crab are specified on the licence.	The NCP review found that pot limits for rock lobster prevented the attainment of scale economies and raised the cost of catching rock lobster. A similar restriction for giant crab is likely to have a similar effect. The restriction on pot numbers will be retained for only 2 years, and is considered a transitionary arrangement during the establishment of the new fishery. It is a precautionary measure to ensure sustainability of the stocks.

Legislation:	*Gas Industry Act 2001*		
Portfolio:	Resources	**Date passed:**	7 June 2001

No	Restrictions on Competition Introduced	Competition Policy Justification
1	An exclusive franchise to supply gas to a new area may be granted by the ESC	The Gas Industry Act promotes competition in the retail gas market–retailers compete against each other to provide services to all customers. The exclusive franchise for a defined period allows the development of services in a new area, so that the costs to the developer of building new systems may be recovered. The restriction is considered necessary to encourage supply in a new area. Section 27 of the *Gas Industry Act 2001* provides for the Essential Services Commission to regulate the granting of exclusive franchises in accordance with criteria ('franchising principles') established in the 1997 Inter-Governmental Agreement (IGA), which are substantially reflected in an Order in Council made in October 2001.

Legislation:	***Livestock Disease Control (Amendment) Act 2001***		
Portfolio:	Agriculture	**Date passed:**	5 December 2001

No	Restrictions on Competition Introduced	Competition Policy Justification
1	The mandatory permanent identification scheme introduced by the Act increases compliance costs in the livestock industry.	The compliance costs apply to all industry participants. The additional costs are not considered to be a significant barrier to entry. The costs are outweighed by the benefits of effective livestock disease control.
2	The Act limits the removal of cattle from sewage farms for slaughter.	This may represent a restriction on competition, but is outweighed by the benefit of preventing *Cystericercus bovis* entering the food chain and leading to tapeworm infestations in humans.

Department of Sustainability and Environment

Legislation:	***Forestry Rights (Amendment) Act 2001***		
Portfolio:	Environment	**Date passed:**	2 May 2001

No	Restrictions on Competition Introduced	Competition Policy Justification
1	A person who wishes to enter a forest property agreement must obtain the consent of registered encumbrance holders before the agreement can be registered. Consent must also be obtained before a registered agreement is amended or terminated.	The Forestry Rights Act provides for the creation of forest property rights and for the ability to protect those rights by registering agreements. The requirement to obtain consent is necessary to ensure that forest property agreements do not adversely impact on the rights of other parties. The costs of obtaining consent are outweighed by the potential adverse impact on the rights of registered encumbrance holders. The restriction is minor in comparison to the likely benefits of an expanded market for carbon rights and plantations.

Legislation:	***Water Industry (Waterways Land) Regulations 2002***		
Portfolio:	Environment	**Date passed:**	25 June 2002

No	Restrictions on Competition Introduced	Competition Policy Justification
1	Requirements for commercial boating operators to seek a permit to operate on regulated waterways land and for applicants to provide certain information with a permit application. Persons in charge of a vessel cannot access waterways land to berth a vessel unless the operator has a lease or licence to use waterways land or adjacent Crown land, or has a written authority under the regulations. Persons seeking to organise a commercial activity must have a written authority under the regulations. Persons seeking to organise an event must have a written authority issued under the regulations.	The restrictions on competition are necessary to ensure that the variety of stakeholders with an interest in accessing regulated waterways land do not have their rights impinged upon by a large number of commercial vessel movements or unruly conduct of commercial operators, and to protect the intrinsic values of regulated waterways land. Unlimited commercial activity would pose risks to the recreation, leisure, tourism and water transport values of regulated waterways land through excessive pressure on the natural environment and conflict between users.

Legislation:	*Wildlife (Whales) (Logans Beach) Regulations 2001*		
Portfolio:	Environment	**Date passed:**	30 January 2001

No	Restrictions on Competition Introduced	Competition Policy Justification
1	The regulations prohibit all boating in Logans Beach while Southern Right Whales are in residence from 1 June to 31 October each year.	The prohibition restricts the ability of people to conduct boat-based whale watching in this area. (The prohibition also applies to professional fishers. However, they already stay out of the area while the whales are in residence under a voluntary Code of Practice.) The regulations ensure that Southern Right Whales (listed as endangered) are protected from disturbance at the part of the coastline where they regularly come close to shore to calve. The restriction is considered necessary to ensure the long-term conservation of the whales. The economic impact of the restriction on the local community is likely to be small in comparison with the total tourism dollars from land-based whale watching.

Table 11: Regulatory Impact Assessment

None.

Part G:
Competitive Neutrality

Table 12: Public Enterprises and business activities applying Competitive Neutrality

Department of Education and Training

Relevant business activities	Competitive Neutrality Application as at December 2002	How does the enterprise handle community service obligations (CSO)?
Significant business activities of post secondary education institutions, viz: TAFE Institutes, Universities, and Centre for Adult Education.	All post secondary education agencies have reported that they have complied with the application of competitive neutrality (CN) principles to their business activities.	The overriding CSO of ensuring the provision of high quality education, training and employment services to all Victorians is applicable to all of these business activities.
Adult Multicultural Education Services (AMES)	As a service agency, AMES receives no State recurrent funding and is therefore obliged to apply pricing principles that reflect full cost attribution.	No applicable CSOs
Competitive tendering between TAFE institutes and registered private training providers for taxpayer funded education and training programs	CN is being applied by TAFE institutes in Victoria in all competitive tendering for Government funded programs. This matter is the subject of mandatory reporting in the annual report for each institute.	No applicable CSOs
Tuition of full fee paying students in universities	The application of CN is subject to consultation with the other States and the Commonwealth because of national implications and joint State/Commonwealth funding arrangements. The tuition of full fee paying students in universities in Victoria is based on full cost attribution.	Universities as distinct entities are required to comply with all legislation and agreements covering public institutions. Victorian universities include in their annual report to Parliament a statement on the extent of progress in implementation and compliance with NCP. No other applicable CSOs.
Full fee paying overseas students in Government schools	Standard fees are set for Government schools—the relevant entity being the Government school system rather than individual Government schools. In setting fees, the Department is mindful of the need to apply full cost attribution to avoid any suggestion of unfair competition with non-government schools.	No applicable CSOs

Department of Human Services

Public Trading Enterprises	Competitive Neutrality Application as at December 2002	How does the enterprise handle community service obligations (CSOs)?
State Cemetery and Crematorium Trusts: - Anderson's Creek Cemetery Trust - Ballarat General Cemeteries Trust - Bendigo Cemeteries Trust - Cheltenham and Regional Cemeteries Trust -Trustees of the Fawkner Crematorium and Memorial Park - Geelong Cemeteries Trust - Keilor Cemetery Trust - Trustees of the Lilydale Memorial Park and Cemetery - Memorial Park Cemetery Trust - Mildura Cemetery Trust - Trustees of the Necropolis Springvale - Preston Cemetery Trust - Templestowe Cemetery Trust - Wyndham Cemeteries Trust.	Services provided by cemetery trusts on a monopoly basis (such as the cremation of bodies and the provision of 'rights of burial') are priced on a full-cost recovery basis, with a margin included to cover CSOs, current maintenance and the future cost of maintaining cemeteries and crematoria in perpetuity. As bodies are interred in perpetuity in Victoria cemetery trusts require sufficient reserves to maintain the cemetery when all burial sites have been sold and fees for services are no longer a source of ongoing revenue. A small number of services (e.g. the provision of plaques) are provided in competition with the private sector. In these cases, the application of CN principles is relevant and Trusts have been instructed by the DHS to ensure compliance with CN pricing guideline.	Cemetery trusts are required under the *Cemeteries Act 1958* to provide for the burial of poor persons at no charge when an order is issued by a magistrate to do so. In addition, cemetery trusts may also choose to offer a reduced fee or no fee for burial or cremation of a poor person in circumstances where an order has not been given. It is intended that any amending legislation will give effect to CN principles.
Relevant business activities		
Commercially provided ancillary services undertaken by public hospitals	The DHS has encouraged hospitals to apply CN pricing to their business activities to support more transparent pricing structures and foster competition for the provision of support services. Individual hospitals have applied CN principles to their business activities since 30 June 1998.	Victorian public hospitals have the legal status of independent public statutory bodies and all qualify as Public Benevolent Institutions to which CN does not apply. There are no CSOs relating to the ancillary services.

Department of Infrastructure

Public Trading Enterprises	Competitive Neutrality Application as at December 2002	How does the enterprise handle community service obligations (CSOs)?
Hastings Port (Holding) Corporation (HPHC) HPHC was incorporated under the *Port Services Act 1995*	The HPHC is a statutory corporation (or 'shell'), which holds the freehold titles, and head leases to the land and seabed that make up the commercial Port of Hastings. It is liable for GST payments and would be liable for payroll tax if it employed enough people (which is not the case, as it employs no staff at all).	The HPHC administers the port management agreement with a private operator, but has no regulatory powers or obligations to provide CSOs.
Melbourne Port Corporation (MPC) MPC was incorporated under the *Port Services Act 1995*	The MPC is subject to all State and Federal taxes, including compliance with the Victorian Income Tax Equivalent System. The MPC is subject to all local government rates and charges, and is also subject to the State Government's Financial Accommodation Levy, which aims to offset the competitive advantage associated with government guarantees. The MPC is subject to all State and Federal regulations applying to private sector organisations. One of the results of the Review of Port Reform commissioned by the Minister for Ports in early 2001 is a recommendation that a new single corporation with a broader charter to manage both the land and water assets of the Port of Melbourne be established. The Government has accepted this recommendation, and it is proposed that legislation targeted for Autumn 2003 will implement this initiative. It has been agreed that the new entity (which will replace MPC and assume a number of functions of the Victorian Channels Authority) will be subject to CN principles and financial and accountability mechanisms similar to those applying to other GBEs, including adherence to dividend and tax equivalence frameworks.	The MPC does not undertake CSOs unless directed by the Treasurer in accordance with Section 38 of the *Port Services Act 1995* and financially compensated accordingly.

Public Trading Enterprises	Competitive Neutrality Application as at December 2002	How does the enterprise handle community service obligations (CSOs)?
Spencer Street Station Authority (SSSA) SSSA was incorporated under the *Rail Corporations and Transport (Amendment) Act 1999*	The SSSA commenced operations on 1 July 2000, and has implemented CN pricing principles. In addition to enabling the provision of commercial services (i.e. food and beverages, toilet and car parking facilities) for users of Spencer Street Station, the SSSA, through the Infrastructure Projects Division of DOI, entered into a process to undertake a major redevelopment of the Spencer Street Station. On 2 July 2002, the Premier announced Civic Nexus Pty Limited (Civic Nexus) as the successful consortium for the Spencer Street Station Redevelopment. On this day, the SSSA (the Authority), under Ministerial Direction 37A of the *Rail Corporations Act 1996*, and Civic Nexus (in its capacity as Trustee of the Civic Nexus Unit Trust) entered into the Spencer Street Station Transport Interchange Facility: Services and Development (SDA) for the redevelopment of Spencer Street Station. Under the SDA and subsequent Deed of Variation, Civic Nexus has agreed to provide a world-class intermodal transport interchange facility at the Spencer Street Station site. The State's appointment of Civic Nexus Pty Limited was governed by the Partnerships Victoria policy of the DTF. Under that policy, the CN principle is applied to allow for a like by like comparison of public sector delivery and private sector delivery.	The SSSA has not been directed to undertake CSOs. It provides financial assistance for Travellers Aid.
Urban and Regional Land Corporation (URLC) URLC was established under the *Urban Land Authority Act 1979* and made a state-owned company on 3 February 1998 under the *Urban Land Corporation Act 1997,* which was subsequently amended to become Urban and Regional Land Corporation Act in 2001	The URLC is subject to all State and Federal taxes, including compliance with the Victorian Income Tax Equivalent regime. The URLC operates in a competitive environment in an open market. It enjoys no preferential access to government land purchase or services. It operates under the provisions of the *Victorian Financial Management Act 1994*, rather than the Corporations Law, and is subject to all State and Federal regulations applying to private sector organisations.	The URLC does not undertake CSOs unless directed to do so by the Treasurer. The URLC has never been so directed.

Public Trading Enterprises	Competitive Neutrality Application as at December 2002	How does the enterprise handle community service obligations (CSOs)?
Victorian Channels Authority (VCA) VCA was established under the *Port Services Act 1995*	The VCA is subject to all local government rates and charges, and to all State and Federal taxes, including compliance with the National Tax Equivalent Regime. The VCA is also subject to the Government's Financial Accommodation Levy, which aims to offset the competitive advantage associated with government guarantees, although the VCA currently does not have any external borrowings requiring government guarantees. The VCA is subject to all State and Federal regulations applying to private sector organisations. One of the results of the Review of Port Reform commissioned by the Minister for Ports in early 2001 is a recommendation that a new single corporation with a broader charter to manage both the land and water assets of the Port of Melbourne be established. The Government has accepted this recommendation, and it is proposed that legislation targeted for Autumn 2003 will implement this initiative. It has been agreed that the new entity (which will replace the MPC and assume a number of functions of the VCA) will be subject to CN principles and financial and accountability mechanisms similar to those applying to other GBEs, including adherence to dividend and tax equivalence frameworks.	Not applicable
Victorian Rail Track Vic Track was established under the *Rail Corporations Act 1996*	Vic Track is subject to full tax equivalent status, is levied a capital asset charge by Government and is subject to the normal planning and approval processes and environmental process faced by the private sector. All Vic Track charges are market-based and fully recover costs.	Vic Track separately identifies activities undertaken for the public good, as opposed to its commercial undertakings.

Relevant business activities		
VicRoads: Bituminous Surfacing	Processes are in place to assure CN applies to this business.	Not applicable

Department of Innovation, Industry and Regional Development[27]

Public Trading Enterprises	Competitive Neutrality Application as at December 2002	How does the enterprise handle community service obligations (CSOs)?
Overseas Projects Corporation of Victoria Ltd Made a state-owned company on 1 July 1996 under the *State Owned Enterprises Act 1992*.	The Overseas Projects Corporation is subject to the Commonwealth Tax Equivalent Regime administered by the DTF.	Not applicable
Melbourne Convention and Exhibition Trust (MCET) MCET was established under *Melbourne Convention and Exhibition Trust Act 1996*.	MCET recognises the requirements of the NCP relating to CN pricing of products. The Trust continues to review its prices having regard to the obligations outlined in the CN Policy aiming to achieve these obligations over the medium term.	Not applicable

[27] Previously part of former Department of State and Regional Development

Department of Justice

Relevant business activities	Competitive Neutrality Application as at December 2002	How does the enterprise handle community service obligations (CSOs)?
Victorian Government Solicitor's Office (VGSO)	CN applies to legal services. The Victorian Government Solicitor provides legal services to the Executive Government, Administrative Bodies, and Statutory Authorities.	Not applicable–VGSO is only permitted to undertake work for Executive Government, Administrative Bodies, and Statutory Authorities.
Provision, inspection and servicing etc of fire equipment by Metropolitan Fire Brigade (MBF) or Country Fire Authority (CFA)	MFB has fully developed and implemented a commercial business unit that complies with CN principles and requirements for the provision of inspection and servicing of fire equipment. The CFA has now implemented full CN principles in the conduct of their Fire Equipment Management services.	Previously the activity was undertaken in part on a voluntary basis reflecting CSOs.
Emergency management planning and training consultancy services by Victoria State Emergency Service	CN applies to services.	
Greyhound Racing Victoria[28] (GRV) GRV was established under the *Racing Act 1958*.	GRV complies with the requirements and application of principles in respect to CN policy. It is noted that GRV operations do not include any operation whereby it could be seen to have a competitive advantage.	Not applicable
Harness Racing Victoria[28] (HRV) HRV was established under the *Racing Act 1958*.	HRV is not a government–funded service. Approximately 80 per cent of the Board's income is derived from Tabcorp Holdings Limited pursuant to a Joint Venture agreement with the remainder being derived from 'arms length' business operations.	Not applicable

[28] Previously under former Department of State and Regional Development

Department of Primary Industries[29]

Public Trading Enterprises	Competitive Neutrality Application as at December 2002	How does the enterprise handle community service obligations (CSOs)?
Agriculture Victoria Services Pty Ltd (AVS) AVS is a company established under Corporations Law owned by the Government. It is the vehicle for the commercialisation of intellectual property developed in the DNRE, and for the research and development contracts entered into by the research institutes.	AVS competes with other providers for research and development funding. The research institutes undertake commercial research projects using a pricing model developed by AVS, consistent with competitive neutrality pricing policies.	AVS does not have any specified CSOs.
Australian Food Industry Science Centre (AFISC) AFISC was established by the *Australian Food Science Centre Act 1995.* All of the operations of AFISC are conducted through Food Science Australia (FSA), an unincorporated joint venture with the CSIRO	FSA provides contract research and development, testing, consulting and conferences at full cost recovery pricing to the food industry. AFISC makes price adjustments to commercial activities to achieve competitive neutrality.	AFISC does not have any specified CSOs.

[29] Previously part of former Department of Natural Resources and Environment (DNRE).

Public Trading Enterprises	Competitive Neutrality Application as at December 2002	How does the enterprise handle community service obligations (CSOs)?
Melbourne Market Authority (MMA) MMA was established under the *Melbourne Market Authority Act 1977* and is responsible for the operation of the Melbourne Wholesale Fruit and Vegetable Market and the National Flower Market Centre.	MMA is progressively addressing full cost recovery pricing to comply with CN policy. It makes a relatively modest return on its assets and re-invests profits in on-site capital development to support industry requirements. The Act specifies an obligation on the MMA to operate at its current site close to the city. A review is currently being conducted on the future location of the Market, and is due to be completed in June 2003.	The MMA does not have any specified CSOs

Department of Premier and Cabinet

Public Trading Enterprises	Competitive Neutrality Application as at December 2002	How does the enterprise handle community service obligations (CSOs)?
Cinemedia Corporation	Ceased operations on 31 December 2001. The Cinemedia Corporation Act was repealed by the *Film Act 2001*.	
Federation Square Management Pty Ltd (FSM) FSM is a company incorporated under the Corporations Law.	FSM was established to: - manage the operations of Federation Square once it was built. - manage the construction of the facility. A Crown Grant has been issued to FSM allowing FSM to hold title to the land at Federation Square. Fed Square is now open. As such, it is not anticipated FSM will receive further operating funds from DPC. Going forward it is FSM's responsibility to source its own operating budget from revenue/rent.	FSM does not have any CSOs.
Geelong Performing Arts Centre Trust (GPAC) GPAC was established under the *Geelong Performing Arts Centre Act 1980.*	CN Policy may apply to some of GPAC's activities, and a project is currently underway to ensure full compliance where appropriate. Of the range of activities that GPAC undertakes, the staging of performing arts events may compete with private industry or organisations in the market place. However, the majority of these performing arts events are non-commercial and not profitable, and are generally provided to the Geelong community on the basis of community service obligations. A project is currently underway to clearly define GPAC's activities within a fully costed output framework.	GPAC's community service obligations are to: - encourage more people from all backgrounds to enjoy and value the performing arts - develop a culturally participatory and involved Geelong community - contribute to the professional development of the performing arts participants. GPAC handles its CSOs by delivering programs, expertise and entrepreneurial events for the whole community. It also provides reduced rate hiring, workshops and placement opportunities for the Geelong performing arts industry.
Queen Victoria Women's Centre Trust The Trust was established under the *Queen Victoria Women's Centre Act 1994*.	The Trust is established as a statutory authority independently from Government under its own Act of Parliament. Full CN principles apply.	The Trust does not have any CSOs.

Public Trading Enterprises	Competitive Neutrality Application as at December 2002	How does the enterprise handle community service obligations (CSOs)?
Victorian Arts Centre Trust (VACT) VACT was established under the *Victorian Arts Centre Trust Act 1979*.	CN policy may apply to some of VACT's activities, and a project is currently underway to ensure full compliance where appropriate. Of the range of activities that VACT undertakes, the staging of performing arts events may compete with private industry or organisations in the market place. However, it should be noted that the majority of these performing arts events are non-commercial and not profitable, and provided for Government subsidised arts companies. At this stage it is not possible to definitively determine the costs and revenues against Government agreed outputs. A project is currently underway to clearly define all of VACT's activities within a fully costed output framework.	VACT's community service obligations are to:· - encourage more people from all backgrounds to enjoy and value the performing arts - contribute to improved education through performing arts experiences - improve access to the performing arts for socio-economically or culturally disadvantaged groups - improve artist and creative development - contribute to Victorian civic pride and confidence. VACT handles its CSOs in delivering programs, exhibitions and entrepreneurial events for the whole community. It specifically provides venues for non-profit Government subsidised performing arts companies to support the Victorian performing arts industry.
Victorian Interpreting and Translating Service (VITS) VITS was made a state-owned company on 1 January 1999 under the *State Owned Enterprises Act 1992*.	VITS is subject to the Commonwealth Tax Equivalent regime administered by the DTF. VITS pays a dividend to the Government	Not applicable

Relevant business activities		
Ancillary activities of Cultural Centres Museum Victoria, Geelong Performing Arts Centre, National Gallery of Victoria, Victorian Arts Centre Trust, the State Library of Victoria and Australian Centre for the Moving Image.	All venues have implemented CN policy in relation to ancillary activities (such as venue and facility hire, function centre type activities and catering) of major venues.	Not applicable

Department of Sustainability and Environment[30]

Public Trading Enterprises	Competitive Neutrality Application as at December 2002	How does the enterprise handle community service obligations (CSOs)?
Alpine Resorts Management Boards (ARMB) The ARMB were established under the *Alpine Resorts (Management) Act 1997:* - Falls Creek ARMB - Lake Mountain ARMB - Mount Baw Baw ARMB - Mount Buller ARMB - Mount Hotham ARMB - Mount Stirling ARMB.	The Boards do not comprise significant business entities within the total tourism business in the areas that they manage. The Boards apply full cost reflective pricing to contestable operations. Some Boards contract out some of their functions, e.g. waste collection. They establish visitor pricing for resort entry within guidelines prescribed by the *Alpine Resort (Management) Regulations 1998*.	The Boards do not have any specified CSOs.
Forestry Victoria Forestry Victoria was established in August 2000, to separate the commercial and regulatory functions of forestry within DNRE.	Forestry Victoria was established in August 2000 as a departmental business unit with a clear commercial focus and separate and transparent financial and reporting arrangements. Work is underway to determine the most appropriate model for the establishment of VicForests, which will further separate commercial functions from the regulatory functions. The Timber Pricing Review, completed in September 2002, is being used to develop a new market based pricing and allocation system.	Forestry Victoria does not have any specified CSOs.

[30] Previously part of former Department of Natural Resources and Environment

Public Trading Enterprises	Competitive Neutrality Application as at December 2002	How does the enterprise handle community service obligations (CSOs)?
Parks Victoria (including Yarra Bend Park Trust) Parks Victoria is a statutory authority established under the *Parks Victoria Act 1998* Parks Victoria provides management services to Yarra Bend Trust (for Yarra Bend Park) and to Melbourne Water (for the reservoir parks).	Only 9% (approx) of Parks Victoria's total revenues are subject to specific pricing decisions, a little less than half of which is market based (independent valuations) with the balance being set under Government regulations. Parks Victoria is moving towards full cost recovery in making its recommendations to Government on these latter prices.	Parks Victoria does not have any specified CSOs
Phillip Island Nature Park Board of Management Inc. PINP is a Committee of Management established under section 14(2) of the *Crown Land (Reserves) Act 1978* to administer and manage Crown land reserves on Phillip Island.	PINP establishes fees and charges for commercial activities on a cost reflective, commercial basis. The PINP receives no recurrent public funding. Its main source of funding is from visitors and all receipts are spent for the benefit of the Crown land it manages.	The PINP does not have any specified CSOs
Zoological Parks and Gardens Board (ZPGB) ZPGB is a statutory authority and operates under the *Zoological Parks and Gardens Act 1995.*	The Board's funding comes from Government grants, donations, admissions and other trading activities. Admission prices are set by regulation and reflect Government policies. The Board applies Competitive Neutrality to any undertakings that compete with the private sector. Catering operations at Melbourne Zoo and Victoria's Open Range Zoo at Werribee are contracted out.	Discounted admission is offered to some identified groups, particularly children, pensioners and people with disabilities.

Public Trading Enterprises	Competitive Neutrality Application as at December 2002	How does the enterprise handle community service obligations (CSOs)?
Non-metropolitan Urban Water Authorities (NMU) NMUs were established under the *Water Act 1989* to provide water and wastewater services. - Barwon Water - Central Highlands Rural Water Authority - Coliban Water - East Gippsland Rural Water Authority - Gippsland Water - Glenelg Water - Goulburn Valley Water - Grampians Water - Lower Murray Water - North East Water - Portland Coast Water - South Gippsland Water - South West Water Authority - Western Water - Westernport Water.	The NMUs use full cost recovery pricing. They were subject to a State income Tax Equivalent Regime (TER) from July 2001 prior to the introduction of the National TER in July 2002.	The NMUs administer concessions for eligible pensioners, low-income households and other benefit cardholders on behalf of the Department of Human Services. The Government funds these in a transparent way ensuring authorities continue to charge full cost recovery prices.
Rural Water Authorities (RWAs) RWAs were established under the *Water Act 1989* to provide and manage water in rural Victoria. - First Mildura Irrigation Trust Goulburn- - Murray RWA - Southern RWA - Sunraysia RW - Wimmera-Mallee RWA.	The RWAs use full cost recovery pricing. They were subject to a State income Tax Equivalent Regime from July 2001 prior to the introduction of the National TER in July 2002.	RWAs also administer, on behalf of the Department of Human Services, concessions for eligible pensioners, low-income households and other benefit cardholders receiving domestic water supply. The Government funds these in a transparent way ensuring authorities continue to charge full cost recovery prices.

Department of Treasury and Finance

Public Trading Enterprises	Competitive Neutrality Application as at December 2002	How does the enterprise handle community service obligations (CSOs)?
Rural Finance Corporation of Victoria (RFC) The Corporation was established under the *Rural Finance Act 1988*.	The corporatisation model applies including full application of the Commonwealth tax equivalent regime and State taxes and charges. RFC administers schemes including: Young Farmers' Finance Scheme, FarmBis, Productivity Enhancement Program, Ovine Johne's Disease Loan Scheme, Land Aggregation Program, Natural Disaster Relief, Regional Rural Adjustment Initiatives and Rural Adjustment Scheme Interest Subsidies.	RFC administers several concessional lending and State Government Schemes pursuant to directions received from the Treasurer.
State Trustees Limited The company became a state-owned company under the *State Trustees (State Owned Company) Act 1994*.	The corporatisation model applies including full application of the Commonwealth tax equivalent regime and State taxes and charges.	Fully explicit CSO with a contract between State Trustees Limited and the Minister for Community Services.
Transport Accident Commission TAC was established under the *Transport Accident Act 1986*.	The corporatisation model applies including full application of the Commonwealth tax equivalent regime and State taxes and charges.	Not applicable
Tricontinental Holdings Ltd and Controlled Entities	A fully corporatised entity under Corporations Law subject to Commonwealth taxes.	Not applicable
Victorian Funds Management Corporation The Corporation was established under *Victorian Funds Management Corporation Act 1994*.	The corporatisation model applies including full application of the Commonwealth tax equivalent regime and State taxes and charges.	Not applicable
Victorian Managed Insurance Authority The authority was established under the *Victorian Managed Insurance Authority Act 1996*.	Victorian Managed Insurance Authority is a corporatised entity.	Not applicable

Public Trading Enterprises	Competitive Neutrality Application as at December 2002	How does the enterprise handle community service obligations (CSOs)?
Victorian WorkCover Authority WorkCover was established under *Accident Compensation Act 1985*	The corporatisation model applies including full application of the Commonwealth tax equivalent regime and State taxes and charges.	Not applicable
City West Water Limited A company limited by shares became a state-owned company under the *State Owned Enterprises Act 1992.*	The full corporatisation model applies including full application of the Commonwealth tax equivalent regime, financial accommodation levy, State taxes and charges, and relevant regulations.	A transparent concessions policy applies for eligible pensioners and other relevant cardholders in which the costs are explicitly identified and reimbursed through the budget process.
Gascor Pty Ltd Gascor is a company incorporated under Corporations Law. Established under the *Gas Industry (Residual Provisions) Act 1994*.	The corporatisation model applies including full application of the State tax equivalent regime and State taxes and charges. Shares in Gascor are to be transferred to the three incumbent gas retailers in 2003.	Not applicable
Melbourne Water Corporation Melbourne Water is a statutory corporation constituted under the *Melbourne Water Corporation Act 1992.*	The full corporatisation model applies including full application of the Commonwealth income tax equivalent regime, local government rate equivalent regime, financial accommodation levy to offset the advantage of government guarantees, State taxes and charges, and relevant regulations.	Melbourne Water does not have any specified CSOs. Melbourne Water provides major drainage services, manages designated waterways and undertakes the operational functions of floodplain management to the greater Melbourne area.
South East Water Ltd A company limited by shares became a state-owned company under the *State Owned Enterprises Act 1992.*	The full corporatisation model applies including full application of the Commonwealth income tax equivalent regime, financial accommodation levy, State taxes and charges, and relevant regulations.	A transparent concessions policy applies for eligible pensioners and other relevant cardholders in which the costs are explicitly identified and reimbursed through the budget process.
Yarra Valley Water Ltd A company limited by shares became a state-owned company under the *State Owned Enterprises Act 1992.*	The full corporatisation model applies including full application of the Commonwealth income tax equivalent regime, financial accommodation levy, State taxes and charges, and relevant regulations.	A transparent concessions policy applies for eligible pensioners and other relevant cardholders in which the costs are explicitly identified and reimbursed through the budget process.

Public Trading Enterprises	Competitive Neutrality Application as at December 2002	How does the enterprise handle community service obligations (CSOs)?
VicFleet Management and Leasing (VML)	VML provides services in competition with private sector fleet managers. During 2001 VML arranged a professional review of its pricing model to ensure that it was based on full cost recovery and competitive neutrality principles. The new model was implemented across VML clients during 2002.	VML is a DTF business unit providing motor vehicle fleet management services to a range of Government Departments and agencies. CSOs are not applicable.
State Government Vehicle Pool (SGVP)	SGVP provides services in competition with private sector car hire companies. Following the review of VML's pricing model (see above), SGVP made similar adjustments to its pricing model to reflect Competitive Neutrality principles. The new pricing structure was implemented across all clients during 2001.	SGVP is a DTF business unit providing motor vehicle hire services to a range of Government Departments and agencies. CSOs are not applicable.
Property Management Services	Property management services are provided under service contracts outsourced by competitive processes to the private sector. Accordingly, the property management services provided by DTF relate to strategy, policy, whole-of-government coordination and contract management and do not compete with the private sector.	Property management services entail: - the sale of surplus government property (land and buildings) at market rate - the purchase of property (land and buildings) for government agencies - leasing of offices for government agencies at market rates - management of leased and government owned offices for government agencies - fitout and refurbishment of offices for government agencies. In addition property advisory services are provided to government agencies, generally related to public interest rather than commercial issues for which no fees are charged. This is the only CSO.

Department of Victorian Communities

Public Trading Enterprises	Competitive Neutrality Application as at December 2002	How does the enterprise handle community service obligations (CSOs)?
Emerald Tourist Railway Board[31] The Board was established under the *Emerald Tourist Railway Board Act 1977*.	The Railway receives no recurrent funding or operating subsidies from Government and hence must remain commercially focused at all times. It is Board policy to review fares on an annual basis.	Not applicable
Melbourne and Olympic Parks Trust[31] The Trust was established under the *Melbourne and Olympic Park Act 1985*.	Generally applies CN to its significant business activities.	Not applicable
The Melbourne Sports and Aquatic Centre Trust* established under *Melbourne Sports and Aquatic Centre Act 1994* Has been renamed the State Sport Centres Trust.	The Trust applies the principles of CN to all its significant business activities in accordance with the Victorian CN Policy, where it is in competition with private sector enterprises.	Where the provision of services or facilities by the Trust is deemed to be in the public interest, full cost reflective pricing is not implemented.

[31] Previously under former Department of State and Regional Development

Table 13: Public Enterprises and business activities not applying Competitive Neutrality

Department of Human Services

Relevant business activity	Reason for non application of Competitive Neutrality as at December 2002
Treatment of private patients in public hospitals	Any decision to apply CN will need to be made in consultation with other States and the Commonwealth because of the national implications and joint Commonwealth-State funding arrangements. The final Health Services review report (July 2000) recommended that the State Government should no longer prescribe fees for private patients in public hospitals and should not set targets for private patient activity. The State Government response was that this is a complex issue and implementation is difficult. Policy options are constrained by Commonwealth policy on access by private patients in public hospitals to default benefits and the behaviour of private health insurance funds. The expansion of the private hospital market has seen declining numbers of private patients being treated in public hospitals over the past 10 years. In view of this and the difficulties associated with implementation, it is questionable whether the costs of moving to a policy of full cost recovery for private patients would outweigh the benefits. It is not proposed to explore the costs and benefits until such time as the Commonwealth takes the necessary first step towards feasibility by making second tier benefits available to private patients in public hospitals.
Office of Housing	While notionally a state business activity, public rental housing almost exclusively meets the needs of a client group who cannot access or afford private housing market opportunities. Funding for this program continues under the 1999-2003 CSHA. Current funding arrangements for State Housing Authorities are built around significant subsidy levels and CSO's in recognition of the low incomes of those being housed. Due to the Commonwealth-State Housing Agreement, no unilateral decision can be made by any State on the issue of CN pricing. No significant change in these arrangements is expected in the medium term.

Department of Infrastructure

Relevant business activity	Reason for non application of Competitive Neutrality as at December 2002
Building Services Agency	The Building Services Agency was sold to technology consulting group Sinclair Knight Merz in April 1999.
VicRoads: - Land Information and Survey - Road and Bridge Design - Urban Traffic Control Systems - Printing Services	Reviewed under CN policy—the business activity is small in relation to the size of the market, has minor influence or competitive impact on that market and employs a relatively low level of resources.
Public Transport Corporation (PTC) PTC was established under the *Transport Act 1983*.	Following the franchising of public transport in Victoria in August 1999, the PTC ceased to operate public transport services. Legislation to abolish the PTC has been passed and is currently awaiting proclamation. The OneLink Ticketing contract is now the chief purpose for the continuing existence of the PTC, as the Government party to the contract. At present it is anticipated that the PTC will continue with that role while consideration is being given to any changes which will flow from the Public Transport Franchise Review Taskforce (which is expected to complete its task early in 2003) and from the Public Transport Ticketing Taskforce, which is reviewing ticketing options to replace the OneLink contract.

Department of Innovation, Industry and Regional Development[32]

Relevant business activity	Reason for non application of Competitive Neutrality as at December 2002
Australian Grand Prix Corporation Incorporated under the *Australian Grand Prix Act 1994*.	Not applicable—its task of staging this major event is not in competition with other private sector activities.
Victorian Medical Consortium Pty Ltd Trustee company limited by guarantee established under Corporations Law.	CN not applicable—VMC acts as a trustee for the Institutes of Biotechnology Trust. In 2001–02, the company did not trade in products or services and has made neither a profit nor a loss.

[32] Previously part of former Department of State and Regional Development

Department of Primary Industries[33]

Relevant business activity	Reason for non application of Competitive Neutrality as at December 2002
Dairy Food Safety Victoria (DFSV) DFSV was previously the Victorian Dairy Industry Authority (VDIA). The *Dairy Industry Act 1992* was repealed and replaced by the *Dairy Act 2000*.	DFSV is not a significant trading enterprise. DFSV operates as the regulator of food safety, issuing licences and auditing quality control assurance systems. Its main source of funding is through the licence fees and service fees for audits. Fees are based on the outputs.
Geological Survey of Victoria (GSV) GSV is a branch of Minerals and Petroleum Victoria (MPV)	GSV is not a significant trading enterprise. GSV maintains and develops Victoria's geoscience database, contributing to MPV's broader objective of promoting the development of the State's minerals and extractive industries. GSV sells and makes available to the public information from the database.
Murray Valley Citrus Marketing Board (MVCMB) MVCMB was established under the *Murray Valley Citrus Marketing Act 1989*.	MVCMB is not a significant trading enterprise. MVCMB was established to provide marketing services for citrus growers on both the Victorian and NSW sides of the Murray river. Growers fund the activities of the MVCMB. It does not trade in produce, but provides services to growers based on an Annual Action Plan, consistent with its objectives and statutory functions.

[33] Previously part of former Department of Natural Resources and Environment

Relevant business activity	Reason for non application of Competitive Neutrality as at December 2002
Murray Valley Wine Grape Industry Development Committee (MVWIDC) Northern Victorian Fresh Tomato Industry Development Committee (NVFTIDC) Victorian Strawberry Industry Development Committee (VSIDC) The *Agricultural Industry Development Act 1990* promotes agricultural industry development by establishing development committees. Orders are usually made for four years.	The three committees MVWIDC, NVFTIDC, and VSIDC are not significant trading enterprises. MVWIDC was established to promote the Murray Valley wine grape industry through market research and the development of improved vineyard management practices. NVFTIDC was established to fund research into the breeding, production and the promotion of domestic and export marketing of fresh tomatoes. VSIDC was established to fund the domestic market promotion of fresh strawberries grown in Victoria and research and development to improve industry productivity.
Victorian Meat Authority (VMA) The VMA was established under the *Meat Industry Act 1993*	The VMA is not a significant trading enterprise. VMA is a food standards regulator, responsible for licence approval and accreditation and the setting of food safety standards (national and Victorian standards). It is funded from industry fees and has an annual turnover of $1 million.

Department of Sustainability and Environment[34]

Relevant business activity	Reason for non application of Competitive Neutrality as at December 2002
Catchment Management Authorities (CMAs) CMAs were established on 1 July 1997 under the *Water Act 1989* and/or the Catchment and Land Protection Act 1994: - Corangamite CMA - East Gippsland CMA - Glenelg Hopkins CMA - Goulburn Broken CMA - Mallee CMA - North Central CMA - North East CMA - West Gippsland CMA - Wimmera CMA.	CMAs are not significant trading enterprises. CMAs advise the Government on the management of land and water resources in their regions; oversee the preparation and implementation of regional catchment management strategies, and promote the sustainable land and water resource management in partnership with other agencies and local government. Investment by State Government in CMA programs in 2000–01 amounted to $33 million. CMAs also access Commonwealth Government funding programs.
Environment Protection Authority (EPA) The EPA is established under the *Environment Protection Act 1970*	The EPA is not a significant trading enterprise. The EPA develops programs to protect the air, water and land from adverse impacts of waste, and for the abatement of noise and litter. Its commercial consultancies are at normal market rates, however income from consultancy is not significant.

[34] Previously part of former Department of Natural Resources and Environment

Relevant business activity	Reason for non application of Competitive Neutrality as at December 2002
Regional Waste Management Groups (RWMG) RWMG are established under section 50F of the *Environment Protection Act 1970*: - Barwon RWMG - Calder RWMG - Central Murray RWMG - Desert Fringe RWMG - East Gippsland RWMG - Eastern RWMG - Gippsland RWMG - Grampians RWMG - Highlands RWMG - Mildura RWMG - Mornington Peninsula RWMG - Northern East Victorian RWMG - Northern RWMG - South Eastern RWMG - South Western RWMG - Western RWMG.	The RWMG are not significant trading enterprises. Their role is to facilitate and foster best practice in discarded resource management in the Region pursuant to its functions and powers under the Act. These groups meet their statutory obligations usually through "as of right" funding from the State landfill levy, contributions from member organisations, for example councils within regions, and seeding funds from EcoRecycle Victoria.
Sustainable Energy Authority Victoria (SEAV) SEAV was established under the Sustainable *Energy Victoria Act 1990*.	The SEAV is not a significant trading enterprise. SEAV is a provider of information on energy efficiency for the benefit of the Victorian community, business and government enterprises. It also promotes the reduction of green house gas emissions. Most funding is from the Government. Non-government income of approximately $600 000 annually is largely derived from sponsorship.
Water Training Centre The Centre was established under the *State Owned Enterprises Act 1992*	The Water Training Centre is not a significant trading enterprise. It exists to plan, develop and deliver training courses to people working in water and other industries. It does apply CN pricing principles to its services. The fee structure for the delivery of training is based on the payment of a notional taxation at the corporate rate and the distribution of 50 per cent of the after tax profit as a dividend to the Treasurer.

Department of Treasury and Finance

Public Trading Enterprise	Reason for non application of Competitive Neutrality as at December 2002
Treasury Corporation of Victoria Corporation established under *Treasury Corporation of Victoria Act 1992*.	Not applicable—centralised borrowing service for State Government operating in a non-competitive environment.
Gas Transmission Corporation	Shell entity of Gascor Pty Ltd. Sold in 1999. GTC was restructured as Transmission Pipelines Australia.
Gascor Holdings No 1 Pty Ltd	Shell entity of Gascor Pty Ltd. Sold in 1999. Company limited by guarantee incorporated under Corporations Law.
Gascor Holdings No 2 Pty Ltd	Shell entity of Gascor Pty Ltd. Sold in 1999. Company limited by guarantee incorporated under Corporations Law.
Gascor Holdings No 3 Pty Ltd	Shell entity of Gascor Pty Ltd. Sold in 1999. Company limited by guarantee incorporated under Corporations Law.
Gas Release Company Pty Ltd	Operating subsidiary of Gascor Pty Ltd. Sells gas to new entrant retailers at cost.
Generation Victoria (Ecogen)	Sold in May 1999.
State Electricity Commission of Victoria (SECV) was established under the *State Electricity Commission of Victoria Act 1958*.	SECV is now a shell entity that trades electricity to the aluminium smelters under the Electricity Supply Agreements together with managing residual issues and non-commercial contracts following industry restructuring in a non-competitive environment.
Vic Fleet Pty Ltd	Vic Fleet is a non-trading shell entity that reports to Parliament annually. Company limited by guarantee incorporated under Corporations Law.
Victorian Energy Networks Corporation (VENCorp) VENCorp is a statutory authority under the *Gas Industry Act 2001* and the *Electricity Industry Act 2000.*	Not applicable—centralised transmission operator ensuring reliable and secure supply in non-competitive environment.
Victorian Power Exchange	Victorian Power Exchange—wound up and transferred to VENCorp.

Department of Victorian Communities

Public Trading Enterprise	Reason for non application of Competitive Neutrality as at December 2002
Melbourne 2002 World Masters Games Ltd[35] Company limited by guarantee incorporated under Corporations Law in July 1998.	Not applicable—its task of staging this major event is not in competition with other private sector activities.
Melbourne 2006 Commonwealth Games Pty Ltd[35] Company limited by guarantee incorporated under Corporations Law in July 1999.	Not applicable—its task of staging this major event is not in competition with other private sector activities.
Victorian Institute of Sport Ltd[36] Trustee company limited by guarantee established under Corporations Law.	Not applicable—the Victorian Institute of Sport's key task is the allocation of scholarships to athletes.

[35] Previously under former Department of State and Regional Development

Appendix to 5: Water

Progress on agreed Second Tranche Implementation Program

Water allocation and trading framework

Bulk Entitlement Program

Table 4: Bulk Entitlements finalised and granted

Supply Systems	Year Finalised
Goulburn	1995
Moorabool	1995
Latrobe	1996
Otway rivers–urban supplies	1997–98
Glenelg region–urban supplies	1997
East Gippsland rivers–urban supplies	1997
South Gippsland rivers–urban supplies	1997
Central Gippsland rivers–urban supplies	1997–98
Werribee	1997
Kiewa/Rubicon (Southern Hydro)	1997
North East region–urban supplies	1995–99
Central Highlands region–urban supplies (part)	1998
Murray	1999
Campaspe	1999–00
Maribyrnong	2000–01
Thomson/Macalister	2001
Barwon	2002
Central Highlands–major urbans	2002

Table 5 – Bulk Entitlements commenced but not finalised

Supply System	Comment
Melbourne	Awaiting review of approach to conversion – environmental assessment complete.
Tarago system	Closely tied to Melbourne system and subject to resolution of Melbourne conversion approach – environmental assessment complete.
Ovens	Final stages of negotiation.
Broken	Process complete, order being drafted.
Wimmera-Mallee	Process commenced late 2000 and continuing.
Grampians urban	Part of Wimmera-Mallee process.
Loddon	Process commenced 2002 and continuing.

Bulk Entitlement Conversion Process not yet commenced

Birch Creek

Management of unregulated rivers

Streamflow Management Plans (SFMPs)

Criteria for setting priorities for SFMPs

In the context of the work program for the development of SFMPs, the following criteria were used to set priorities:

- level of consumptive use (i.e. ecological impact due to changed flow regimes)
- conservation value
- demand for new licences
- frequency of rosters/restrictions
- history of management problems
- recreational value
- community expectations of the need for a SFMP.

Three year work program

Progress against the agreed second tranche implementation program is set out in table 7.3 below (milestone numbers below are used in the table). The current status of each SFMP is presented in terms of the key milestones:

- development of background report from collation of existing information on environmental values, hydrology and water use
- commencement of environmental flow study

- establishment of a steering committee from key water use, environmental and recreational stakeholders
- development of hydrologic model
- development of draft plan
- release of draft plan for public comment
- submission of final plan to Government.

Delays experienced in the preparation of SFMPs are mainly due to:

- the environmental flow methodology requires a reasonable range of flows during survey periods. The 1998 to 2000 drought resulted in delays of more than a year in obtaining survey results. A new methodology, currently under development, reduces the dependence on flow surveys. This will benefit SFMPs yet to be initiated
- many of these high priority SFMPs are over-allocated. In these cases, more time needs to be devoted to the consultation process. Providing better environmental flows would have a significant impact on reliability of supply for existing users, and therefore, the consequences in terms of farm viability are likely to be extreme. The approach to dealing with this is to negotiate an interim environmental flow with a timeframe for meeting the target minimum environmental flow. Negotiating the interim environmental flow takes a considerable time.

Table 6:Progress on Streamflow Management Plans Program

Second Tranche Estimated Timing completion date	River	Current status (Milestones achieved)	Revised date of completion
SFMPs completed and under operation			
Dec 1999	Merri River (draft plan prepared)	All	June 2001
Dec 1999	Upper Latrobe River	All	Dec 1999
Dec 1999	Gellibrand River (draft plan prepared)	All	June 2001
SFMPs commenced but not finalised			
	Avon/Valencia/ Freestone Creeks	1,2,3,4,5 (restarted)	June 2003
	Barwon/Leigh Rivers	1,2	June 2003
	Hopkins River	1	June 2003
	Mitchell River	1	June 2003
June 2000	Moorabool River	1,2,3,4,5,6 (operating under interim rules)	Dec 2003
June 2000	Upper Maribyrnong River	1,2,3,4,5	June 2003

SFMPs commenced but not finalised			
Mar 2001	Kiewa River	1,2,3,4,5,6,7	June 2003
Mar 2001	Hoddles Creek	1,2,3,4,5,6	June 2003
	Morwell River	1	June 2004
	Tarra River	1	June 2004
	Ovens River above Myrtleford	1,2,3,4,5	Dec 2003
	Yea River	1,2,3,4,5,6,7	June 2003
	King Parrot Creek	1,2,3,4,5,6,7	June 2003
	Seven Creeks	1,2	June 2004
	Nariel Creek	1,2	June 2004
	Loddon above Cairn Curran	1	June 2004
	Diamond Creek	1,2,3,4,5,6	June 2003
	Plenty River	1,2,3,4,5	Dec 2003
	Worri Yallock Creek	1,2	June 2004
	Watts River	1,2	June 2004
	Stringy Bark Creek	1,2	June 2004
	Little Yarra	1,2	June 2004
	Pauls Steel and Dixon Creek	1,2	June 2004
	Olinda	1,2	June 2004
	Upper Wimmera	1,2,3,4,5	June 2004
	Avoca River	1,2	June 2004
	Mt William Creek	1,2	June 2004
	Avon Richardson River	1,2	June 2004
SFMPs not yet commenced			
	Narracan Creek Snowy River Tambo River		Rescheduled to commence in 2003
	Bunyip/Tarago River Moe River Albert River Dandenong Creek Fitzroy River	1,2,3	Under review (part of Melbourne Water bulk entitlement – Schedule to be determined).
	Delatite River		June 2004
	Badgers Creek		June 2004
	Wandon Yallock Creek		June 2004

Source: Department of Sustainability and Environment

Management of stressed rivers

Regional River Health Strategies

Table 7 – Status report Regional River Health Strategies January 2003

Catchment Management Authority	Current status
East Gippsland	Public draft completed; DSE comments proceeding
Glenelg-Hopkins	Population of data complete and high value river reaches prioritised.
North Central	Population of data complete and high value river reaches prioritised
Goulburn-Broken	85% of data (Triple Bottom Line values) completed. Prioritisation of high value reaches to commence shortly.
Port Phillip and Westernport	Undertaken jointly with Melbourne Water; 60% of data populated in the 'gap' area.
Mallee	Data populated (as part of a previous project). Further work to be progressed in February 2003.
North East	All available data (30% overall) populated; further work is proceeding to collate balance data.
Corangamite	Work has commenced with 5% data populated.
West Gippsland	To start in March 2003.
Wimmera	To start in February 2003

Table 8 – Status report of flow rehabilitation plans for priority stressed rivers January 2003

Thomson and Macalister Rivers Flow Rehabilitation Plans
The Thomson and Macalister flow rehabilitation plans, which are being developed separately, will be completed by June 2003
Any proposed actions will be formulated and assessed together. Implications for water users in both catchments as well as in Melbourne will need to be considered because the water supply system in the Thomson, Macalister and Yarra catchments are integrated. Therefore, alterations to water management in either river have the potential to affect the security of supply of all water users.
A Ministerial Taskforce has been established to consider the recommendations of both the Thomson and Macalister River flow rehabilitation plans in conjunction with the social and economic implications of changing the current Bulk Entitlement provisions. The Taskforce will report their recommendations to the Minister towards the end of 2003.

Maribyrnong River Flow Rehabilitation Plan
The flow rehabilitation plan is complete.

Maribyrnong River Flow Rehabilitation Plan
The Port Phillip and Westernport Catchment Management Authority will assess the report in light of their Regional Catchment Strategy, which is currently being developed, and their Regional River Health Plan. Based on this assessment, the Authority will decide whether to apply for funds to implement the recommended actions.

Lerderderg River Flow Rehabilitation Plan
The flow rehabilitation plan will be completed by March 2003.
The environmental flow assessment is complete and a draft flow rehabilitation plan has been released for comment.

Badger Creek Flow Rehabilitation Plan
A brief report, identifying the flow issues, the expected solutions and Melbourne Water's work program, has been completed.
A report rather than a flow rehabilitation plan has been prepared because the cause of and the solution to the flow stress are well understood. The flow stress is caused by extractions to supply water to Healesville and to provide the recommended flows will unacceptably impact on the town's water supply. The solution is to connect Healesville to an alternate water supply (Melbourne). An upgrade that will achieve this is scheduled for 2010. In the interim Melbourne Water has identified a range of works to improve the health of Badgers Creek.

Avoca Flow Rehabilitation Plan
The flow rehabilitation plan is due by December 2003.
The Stream Flow Management Plan is under way and the environmental flow assessment component of the plan is complete. The Lower Avoca Wetland Management study has also commenced.

Broken Creek Rehabilitation Plan
The flow rehabilitation plan is due by December 2003.
The Bulk Entitlement Conversion is not complete. However the environmental flow assessment component of the plan is complete and in principle agreement has been given to providing the recommended flows.

Wimmera Flow Rehabilitation Plan
The flow rehabilitation plan is due by December 2003.
The Wimmera/Glenelg Bulk Entitlement Conversion and the Upper Wimmera Stream Flow Management Plan are under way. The environmental flow assessment component of the plans is complete.
The expectation is that the bulk entitlement conversion will be completed in the second half of 2003. This will impact on the ability to develop a flow rehabilitation plan by December 2003.
An additional consideration is the proposal to pipeline the remainder of the Wimmera Mallee domestic and stock system with a predicted return to the environment of 80,000ml of water. Given the significance of this project, the flow rehabilitation plan may need reconsideration to ensure that it is developed in conjunction with the pipeline project.

Glenelg Flow Rehabilitation Plan
The flow rehabilitation plan is due by December 2003.
The Wimmera/Glenelg Bulk Entitlement Conversion and the environmental flow assessment component of the plan are complete. The Wannon Stream Flow Management Plan will not commence until late 2003 or early 2004.
The expectation is that the bulk entitlement conversion will be completed in the second half of 2003. A rehabilitation plan can probably progress without the completion of the Wannon Stream Flow Management Plan but the delay in completing the bulk entitlement will delay the development of the rehabilitation plan.
An additional consideration is the proposal to pipeline the remainder of the Wimmera Mallee domestic and stock system with a predicted return to the environment of 80,000ml of water. Given the significance of this project, the flow rehabilitation plan may need reconsideration to ensure that it is developed in conjunction with the pipeline project.

Loddon Flow Rehabilitation Plan
The flow rehabilitation plan is due by December 2004.
The bulk entitlement conversion process is under way and the environmental flow assessment component of the plan is complete.

Snowy River Rescue Plan
The Snowy River Rescue Plan involves the return of 21% of the flow (212,000 ML) to the river over 10 years. The plan is proceeding to the design phase. Overall there has been a slight delay in the project due to the prolonged community consultation process.

Source: Department of Sustainability and Environment

Groundwater Management

Groundwater Management Plans

When allocations reach 70 per cent of Permissible Annual Volume (PAV), a mechanism to establish a Groundwater Supply Protection Area (GSPA) is triggered and a Groundwater Management Plan developed. A consultative committee comprised mainly of farmers, but representing all relevant interests, is responsible for developing the management plan. The management plan must address issues such as metering and monitoring, allocation arrangements including transferable water entitlements, and costs associated with implementing the plan.

Progress to date

Progress against the agreed second tranche implementation program and revised targets and timetables is set out in Tables 7.6 and 7.7.

Table 9 – Declared Groundwater Supply Protection Areas

Groundwater Supply Protection Areas	Declared	Consultative committee	Management plan (Target)	Current status	Revised targets
Completed					
Koo Wee Rup – Dalmore	Long established	Task completed	In place	Completed	NA
Shepparton Irrigation Area	Sept 1985	Task completed	In place	Completed	NA
Murrayville	Dec 1998	Task completed	In place	Completed	NA
Neuarpur	Feb 1999	Task completed	In place	Completed	NA
Yangery	Feb 1999	Task completed	In place	Completed	NA
Nullawarre	Feb 1999	Task completed	In place	Completed	NA
Spring Hill	Dec 1998	Task completed	In place	Completed	NA
Underway					
Denison	Nov 1998	Established	Dec 2001	Draft plan submitted to Minister for approval	April 2003
Campaspe Deep Lead	Dec 1998	Established	Dec 2001	Draft plan submitted to Minister for approval	Mar 2003
Katunga	Dec 1998	Established	Dec 2001	Draft plan submitted to Minister for approval	May 2002
Sale	Apr 1999	Established	Dec 2001	Draft plan submitted to Minister for approval	April 2003
Wy Yung	May 1999	Established	Dec 2001	Draft plan submitted to Minister for approval	Mar 2003
Deutgam	Jan 2000	Established	Dec 2002	Draft plan submitted to Minister for approval	Mar 2003

Underway					
Warrion	Aug 2000	Established	Dec 2002	Draft plan submitted to Minister for approval	Mar 2003
Telopea Downs	Jan 2001	Established	Jun 2003	Initial meetings of Committee held	NA
Condah	June 2001	Established	Jun 2003	Initial meetings of Committee held	NA
Bungaree	Apr 2001	Established	Jun 2003	Initial meetings of Committee held	NA
Wandin Yallock	Apr 2001	Established	Jun 2003	Initial meetings of Committee held	NA
Apsley	In progress	To be established	Jun 2004	Minister's declaration sought	NA
Upper Loddon	In progress	To be established	Jun 2004	Minister's declaration sought	NA
Mid Loddon	In progress	To be established	Jun 2004	Minister's declaration sought	NA
Yarram	In progress	To be established	Jun 2004	Minister's declaration sought	NA

Source: Department of Sustainability and Environment

Table 10: Three-year program for new Groundwater Supply Protection Areas

Groundwater Management Area	Current status
Murmungee	Data Collection Phase
Nagambie	Data Collection Phase
Kinglake	New proposal
Wa De Lock	New proposal
Lake Mundi	New proposal
Rosedale	New proposal

Source: Department of Sustainability and Environment

Abbreviations

ABARE	Australian Bureau of Agricultural and Resource Economics
ABB	Australian Barley Board
ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
AFFA	Department of Agriculture, Fisheries and Forestry Australia
AFISC	Australian Food Industry Science Centre
AgVet	Agricultural and Veterinary
AHMAC	Australian Health Ministers Advisory Council
AHMC	Australian Health Ministers' Conference
AIDA	Agricultural Industry Development Act 1990
AIEF	Australian International Education Foundation
ALRM	Alpine Resorts Management Boards
ALS	Accredited Licensee Scheme
AMES	Adult Multicultural Education Services
ANZECC	Australian and New Zealand Environment and Conservation Council
APRA	Australian Professional Rodeo Association
ARMCANZ	Agriculture and Resources Management Council of Australia and New Zealand
ARPANSA	Australian Radiation Protection and Nuclear Safety Authority
ARTC	Australian Rail Track Corporation
ATC	Australian Transport Council
ATT	Advanced Technical Transfer
AVCPC	Agricultural and Veterinary Chemicals Policy Committee
AVA	Agriculture Victoria Services Pty Ltd
B2B	Business to Business
BAW	Bureau of Animal Welfare
BBCRC	Bookmakers and Bookmarkers' Clerks Registration Committee
BE	Bulk Entitlements
BMP	Basic Meter Profiling
BPB	Building Practitioners Board
BRLE	Bairnsdale Regional Livestock Exchange
BSA	Building Services Agency
BSE	Bendigo Stock Exchange
CALP	Catchment and Land Protection

CATS	Customer Administration and Transfer Systems
CCA	Conduct Code Agreement
CCT	Compulsory Competitive Tendering
CFA	Country Fire Authority
CIE	Centre for International Economics
CIS	Customer Information Systems
CMAs	Catchment Management Authorities
CN	Competitive Neutrality
CNU	Competitive Neutrality Unit
COAG	Council of Australian Governments
CPA	Competition Principles Agreement
CPI	Consumer Price Index
CRICOS	Commonwealth Register of Institutions and Courses for Overseas Students
CSHA	Commonwealth/State Housing Agreement
CSOs	Community Service Obligations
CUAC	Consumer Utilities Advocacy Centre
DAB	Domestic Animal Business
DB	Distribution Businesses
DE&T	Department of Education and Training
DFSV	Dairy Food Safety Victoria
DHS	Department of Human Services
DIIRD	Department of Innovation, Industry and Regional Development
DNRE	Department of Natural Resources and Environment
DOI	Department of Infrastructure
DOJ	Department of Justice
DPC	Department of Premier and Cabinet
DPI	Department of Primary Industry
DSE	Department of Sustainability and Environment
DTF	Department of Treasury and Finance
DTLC	Don Tatnell Leisure Centre
DVC	Department of Victorian Communities
EAGF	Estate Agents Guarantee Fund
EMG	Energy Markets Group
EPA	Environment Protection Authority
EPP	Environmental Protection Policies
ESC	Essential Services Commission
EWOV	Energy and Water Ombudsman Victoria

FDR	Farm Dams Review
FRC	Full Retail Contestability
FSA	Food Science Australia
GBEs	Government Business Enterprises
GMPs	Groundwater Management Plans
GPAC	Geelong Performing Acts Centre Trust
GRP	Gaming Research Panel
GRV	Greyhound Racing Victoria
GSO	Government Superannuation Office
GSPA	Groundwater Supply Protection Area
GST	Goods and Services Tax
HPHC	Hastings Port Holdings Corporation
HRV	Harness Racing Victoria
IDC	Industry Development Council
ISC	Index of Stream Condition
ITQ	Individual Transferable Quota
IWMP	Industrial Waste Management Policies
LDC	Livestock Disease Control
LGA	Local Government Area
LPLC	Legal Practice Liability Committee
LPPF	Local Planning Policy Framework
MAV	Municipal Association of Victoria
MCCA	Ministerial Council on Consumer Affairs
MCET	Melbourne Convention and Exhibition Trust
MDBC	Murray Darling Basin Commission
MFB	Metropolitan Fire Brigade
MIRN	Meter Identification Registration Number
ML	Megalitres
MMA	Melbourne Market Authority
MPC	Melbourne Port Corporation
MPV	Minerals Petroleum Victoria
MRA	Mutual Recognition Agreement
MSATS	Market Settlement and Transfer System
MSAC	Melbourne Sports and Aquatic Centre
MVCMB	Murray Valley Citrus Marketing Board
MVWGIDC	Murray Valley Wine Grape Industry Development Committee
NAP	National Action Plan

NCC	National Competition Council
NCP	National Competition Policy
NEC	National Electricity Code
NECA	National Electricity Code Administrator
NEM	National Electricity Market
NEMMCO	National Electricity Market Management Company
NHT	National Heritage Trust
NMU	Non-Metropolitan Urban
NRA	National Registration Authority
NRMC	Natural Resource Management Council
NRS	National Registration System
NTR	Network Tariff Rebate
NWQMS	National Water Quality Management Strategy
NVFTIDC	Northern Victorian Fresh Tomato Industry Development Committee
NVWE	Northern Victorian Water Exchange
OFOF	Our Forests Our Future
ORG	Office of the Regulator-General
ORR	Office of Regulation Review
PAV	Permissible Annual Volume
PBS	Pharmaceutical Benefits Scheme
PBT	Public Benefit Test
PC	Productivity Commission
PINP	Phillip Island Nature Park
PPS	Profile Preparation Services
PSAB	Pathology Services Accreditation Board
PSLA	Petroleum (Submerged Lands) Act
PTC	Public Transport Corporation
QMS	Quota Management System
RACV	Royal Automobile Club of Victoria
RCSs	Regional Catchment Strategies
RIS	Regulatory Impact Statement
RMPs	Regional Management Plans
RMW	River Murray Water
RRPs	River Restoration Plans
RSBANZ	Reciprocal Surveys Boards of Australia and New Zealand
RWAs	Rural Water Authorities
RWMG	Regional Waste Management Groups

SCARM	Standing Committee on Agriculture and Resource Management/Agriculture
SEAV	Sustainable Energy Authority Victoria
SEPP	State Environment Protection Policy
SFMPs	Streamflow Management Plans
SGVP	State Government Vehicle Pool
SPP	Special Power Payment
SPPF	State Planning Policy Framework
SRSs	Supportive Residential Services
SSSA	Spencer Street Station Authority
TERs	Tax Equivalent Regimes
TAC	Transport Accident Commission
TAFE	Technical and Further Education
TAP	Technical Audit Panel
TCF	Travel Compensation Fund
TJ	Terajoule
TPA	*Trade Practices Act 1974* (Commonwealth)
UMP	United Medical Protection Limited
URLC	Urban Regional and Land Corporation
VBINC	Victorian Broiler Industry Negotiation Committee
VCA	Victorian Channels Authority
VCAT	Victorian Civil and Administrative Tribunal
VCGA	Victorian Casino and Gaming Authority
VDIA	Victorian Dairy Industry Authority
VEETAC	Vocational Education, Employment and Training Committee
VENCorp	Victorian Energy Network Corporation
VET	Vocational Education and Training
VGCF	Victorian Gas Contestability Forum
VGRRC	Victorian Gas Retail Rules Committee
VGSO	Victorian Government Solicitor's Office
VICSES	Victorian State Emergency Services
Vic Track	Victorian Rail Track Corporation
VMA	Victorian Meat Authority
VMC	Victorian Medical Consortium Pty Ltd
VML	Victorian Fleet Management and Leasing
VPA	Veterinary Practices Act
VPC	Victorian Plantations Corporation
VRHS	Victorian River Health Strategy

VSIDC	Victorian Strawberry Industry Development Committee
Vic Track	Victorian Rail Track Corporation
VWIA	Victorian Water Industry Association
VWA	Victorian WorkCover Authority
WACC	Weighted Average Cost of Capital
WSAA	Water Services Association of Australia
WSC	Water Services Committees
WTO	World Trade Organisation
ZPGB	Zoological Parks and Gardens Board