Department of Treasury and Finance
Government of Western Australia

PROGRESS REPORT

Implementing National Competition Policy in Western Australia

REPORT TO THE
NATIONAL COMPETITION COUNCIL

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1. INTRODUCTION

This report provides a stock-take of National Competition Policy reforms by Western Australia as at 31 December 2001. The Western Australian Government supports the continued implementation of National Competition Policy (NCP) provided it is based on a comprehensive consideration of the public interest.

The Government considers that properly conducted reviews and public interest tests, which take into account a wide range of economic, social and environmental considerations are crucial to the successful implementation of NCP. In this light, the State's public interest guidelines have been revamped to ensure greater emphasis is placed on social and environmental objectives and appropriate consideration is given to rural and regional development.

This Report

Since Western Australia's third tranche assessment in 2001, progress has been made in all areas of NCP. Of these, emerging NCP reforms in the energy sector have by far the greatest potential to impact on the State's economy.

The Government is committed to major reform of the electricity industry. This includes introducing further competition into the electricity industry and structural reform of the state-owned, vertically integrated monopoly electricity provider, Western Power.

The reform process involves review in accord with Western Australia's obligations under Clause 4 of the CPA. An independent Electricity Reform Task Force has been established to progress reform by advising the Government on:

- the extent and phasing in of the disaggregation of Western Power;
- the structure of the electricity market to be established in Western Australia;
- a Western Australian Electricity Access Code; and
- appropriate market and regulatory arrangements to move towards full retail contestability by the Government's target date of 2005.

The Government remains committed to the establishment of a competitive gas market in Western Australia. On 1 January 2002, Western Australia's gas market became contestable for all customers consuming one or more terajoules (TJ) of natural gas per annum, such as hospitals, hotels, restaurants, laundries and bakeries. These customers account for over 96% of the gas market by volume. The last stage of legal contestability is scheduled to begin on 1 July 2002, when legal impediments to access for the small business and household customers, consuming less then 1TJ per annum, are removed.

Western Australia has established a rail access regime designed to provide a framework for the negotiation of access to the rail network owned by the Western Australian Government, and currently leased to the Australian Railroad Group. The regime became fully operative with the proclamation of the *Railways (Access) Act 1998*

on 1 September 2001 and the appointment of an acting Rail Access Regulator. The acting nature of the position is for the period leading up to the creation and appointment of the Economic Regulation Authority.

The Government has committed to the establishment of an independent economic regulator with jurisdiction over the electricity, gas, rail and water industries. The proposed framework involves the Economic Regulation Authority having an independent decision-making function with respect to access regulation and licensing, and independent advisory functions in respect of any retail pricing and inquiry powers determined by Government. Subject to Parliamentary processes, it is anticipated that the Authority will be in operation by 1 January 2003.

The bulk of the State's legislation review program has been completed. A competition policy omnibus bill to expedite the implementation of reforms arising from reviews which have yet to be implemented is to be introduced in the 2002 Autumn Session of Parliament.

The report is written in part as a response to the NCC's publication of June 2001, "Assessment of Governments' Progress in Implementing the National Competition Policy and Related Reforms" and the series of working papers provided to jurisdictions by the NCC during September 2001, but is also designed to be accessible to other interested readers.

2. LEGISLATION REVIEW

Western Australia is committed to legislation review and reform where it is in the public interest. It has continued to make strong progress in reviewing and, where appropriate, reforming legislation that restricts competition and has now completed the bulk of the review program. All reviews have been undertaken in accordance with the Competition Principles Agreement (CPA), and Western Australia's Clause 5 Legislation Review Table and Public Interest Guidelines for Legislation Reviews.

In November 2001, following a review of the NCP review process in Western Australia, the Government endorsed a new set of Public Interest Guidelines to ensure greater emphasis is placed on social and environmental objectives and appropriate consideration is given to rural and regional development. These Guidelines have subsequently been used as the standard reference on how to conduct a legislation review.

Many reviews have recommended that legislation be reformed by removing those restrictions on competition found not to be in the public interest. Equally importantly, rigorous analysis has established that there are good public interest reasons for retaining many restrictions.

2.1 Progress with Legislation Review and Reform

2.1.1 Review Program

A total of 225 legislation reviews have been completed. In addition, 30 pieces of legislation have been repealed without review. A further 31 pieces of legislation have been determined not to require review at this stage because the legislation is proposed for repeal or has been reconsidered and found not to restrict competition.

Progress with individual legislation reviews is described in the updated Legislation Review Compendium.

2.1.2 Reform Implementation

Omnibus legislation provides the central mechanism for implementing legislative reforms recommended by clause 5 legislation reviews and clause 3 competitive neutrality reviews.

The *Acts Amendment and Repeal (Competition Policy) Bill 2000* was introduced into Parliament by the previous Treasurer in May 2000. The bill proposed the repeal of a number of laws and amendment of a number of others. Due to the previous Government's sizeable legislative program and the calling of the election, the bill remained before Parliament at the time Parliament was dissolved in January 2001.

The drafting of the omnibus bill has recommenced to incorporate a number of additional amendments and repeals. The bill will be introduced in the 2002 Autumn Session of Parliament.

At the same time, many reforms are being implemented in separate amendment bills. This is likely to be the case where:

- the reforms to a sector are sufficiently substantial to warrant preparation of a specific Bill; or
- the reforms fit with other non-NCP legislative amendments.

2.2 Legislation Review Outcomes

Since Western Australia submitted its report for the third tranche assessment in 2001, 35 of the completed reviews have recommended reform that has been agreed to by the Government. Furthermore, a number of measures have been taken to advance the program of implementing reforms arising from completed reviews.

Major outcomes of the legislation review and reform program include the following:

- The *Betting Legislation Amendment Bill 2001* is implementing the recommendations of the legislation review of the *Betting Control Act 1954*. The Bill provides for the establishment of corporate licensing structures for bookmakers and the removal of the restriction on bookmakers taking bets only during race meetings.
- The *Architects Act Amendment Bill 2002* is implementing the recommendations of the legislation review of the *Architects Act 1921*. The Bill broadens the member ship of the Architects Board and removes a number of restrictions on age, advertising and the use of derivatives of the word architect where such use is not false or misleading.
- The review of the *Finance Brokers Act 1975* was completed but held in abeyance pending the decision of the Temby Royal Commission into the finance broking industry. The report of the Royal Commission was tabled in Parliament on the 19 February 2002. In response to the findings of the report the State Government is repealing the *Finance Brokers Control Act 1975*. The Government is passing control of the finance broking industry to the Federal Government under the Australian Securities and Investment Commission.
- The review of the *Veterinary Surgeons Act 1960* has recommended a reduction in the extent of barriers to entry for non-veterinarians wishing to provide veterinary services; the repeal of the restrictions on advertising and ownership of veterinary practices by non-veterinarians; as well as the repeal of the restrictive aspects of the premises registration provisions.
- The review of the *Conservation and Land Management Act 1984* recommends the repeal of a number of restrictions which were found not to be in the public interest, including eligibility criteria for the issuing of an apiary permit and a limit on the number of apiary permits a person may hold.
- The review of the *Fish Resources Management Act 1994* and a separate review of the Rock Lobster Processing Sector recommended reform the Rock Lobster fishing and processing sectors. The State has committed to remove limits on the number of rock lobster pots licensed to each boat and has undertaken to remove limits on the number of rock lobster processing licences issued for the domestic processing sector. The changes will allow lobster fishermen and and processors greater

flexibility in decision making and lead to efficiencies in fishing and processing sectors of the industry.

2.3 New Legislation

In accordance with clause 5(5) of the Competition Principles Agreement, Western Australia assesses all new legislation to determine whether it contains restrictions on competition and if so, reviews it accordingly.

Preparation of new Western Australian laws takes place in an environment where there is a high degree of awareness of competition policy principles and the State's obligations under clause 5. As part of the whole of Government commitment to NCP, the Treasurer has corresponded regularly with Ministers about the State's ongoing NCP obligations. Treasury and Finance likewise corresponds regularly on NCP matters with Departmental CEOs and Ministerial Chiefs of Staff. Western Australia's legislation review guidelines also promote the need for identifying restrictions in new legislation and reviewing the legislation where there are restrictions.

2.3.1 Gate-Keeping Process for New Legislation

Western Australia has in place an effective process for ensuring that all new legislation that may restrict competition is reviewed.

Treasury and Finance advises agencies on the State's obligations to consider all new legislation to see whether it restricts competition and to review the law where this is the case. Treasury and Finance has close links with the policy and legislation section of each agency and, through regular discussion, correspondence, meetings and presentations, encourages consideration of NCP at an early stage in preparation of all new legislation.

Agencies keep Treasury and Finance informed about proposals for new legislation from early in the process and can seek Treasury input on particular restrictions.

As a check on the above, the State's legislative process also incorporates mechanisms by which Treasury and Finance is formally informed of progress on new legislation:

- Treasury and Finance receives from the Cabinet Office a copy of all submissions to be put to Cabinet concerning proposed new laws, at least ten days prior to the Cabinet meeting; and
- Treasury and Finance receives regular reports from the database maintained by Parliamentary Counsel's Office of all new laws approved for drafting by Cabinet.

Where Treasury and Finance considers that a proposed new law has the potential to restrict competition, it liaises with the proponent agency or Ministerial Office to ensure that a review is conducted and to advise on the scope and scale of the review. Treasury and Finance's advice is normally accepted. Where it is not, Treasury has the opportunity to put its advice to Cabinet.

The process and method for conducting and implementing reviews of new legislation are the same as for existing legislation and are detailed in Western Australia's Public Interest Guidelines for Legislation Review.

2.3.2 Progress with Review of New Legislation

Since 1996, the gate-keeping process has identified 80 proposals for new laws, 15 of which have been identified in 2001, as containing potential restrictions on competition that could require review. Of these 15 proposals, 5 reviews have been completed since the third tranche assessment in 2001 and endorsed by the Government. The remaining proposals (for which reviews have not been completed) either have not proceeded, are at an early stage of preparation, or were assessed before going to Cabinet as not requiring clause 5 review.

The majority of the reviews have not recommended amendment to the new laws under review, many also finding that a new law has a significant pro-competitive impact. This appears to reflect the effectiveness of communication with agencies promoting consideration of NCP principles in developing proposals for new laws.

2.4 Matters Raised in Assessment Framework

Issues raised in the NCC's publication of June 2001, "Assessment of Governments' Progress in Implementing the National Competition Policy and Related Reforms" and the series of working papers provided to jurisdictions by the NCC during September 2001, are addressed in the following sections. In all cases where the legislation review process is still under way, Western Australia will ensure that the process is finalised and any recommended changes are implemented as soon as possible.

2.4.1 Energy

Under its legislation review program, Western Australia has reviewed a range of statutes and regulations pertaining to the electricity industry. The outcomes of these reviews were endorsed by the previous Government in August 1998, and were reported to the NCC in previous assessments.

Highlights of this legislation review program included:

- The former Government deciding upon the complementary approaches of ring-fencing and regulated access as an appropriate mitigation of Western Power's monopoly power in the circumstances.
- Progressive removal of Western Power's exclusive franchise as open access has been made available to its transmission network since 1997 and to its distribution network in a series of steps from 1998. This was consistent with the former-Government's policy.
- Lower contestability thresholds for regional and remote systems and for customers on the interconnected networks taking supply from renewable energy sources.

- Consideration of the public power procurement process to facilitate a non-discriminatory bidding environment for the private sector where significant new generation plant is required.
- Removal of a number of minor residual restrictions of a competitive neutrality nature. Western Power continues to be subject to a number of enhanced accountability provisions that both seek to emulate relevant provisions of the Corporations Law and apply the Government's general GTE accountability framework. It is also subject to a Ministerial power of direction; a requirement to obtain Ministerial approval for certain transactions.

Further reviews of the *Electricity Act 1945* and *Electricity Corporation Act 1994* are being conducted within the context of the Government's electricity industry reform agenda. Subject to the Government's response to the Electricity Reform Task Force's recommendations, there will be a need for significant review and reform of existing electricity industry legislation. The activities and scope of the Task Force's review are discussed in more depth in Section 3.1.1.

The National Review of the Petroleum (Submerged Lands) legislation was circulated in March 2001 and identified some minor issue relating to renewals of exploration permits. Western Australia awaits a legislative response from the Commonwealth so that it can adopt consistent amendments in its own legislation.

2.4.2 Gambling, Education Services and Childcare

Gambling

The implementation of a number of recommendations of the legislation review of the *Betting Control Act 1954* and the *Totalisator Agency Board Betting Act 1960* are being progressed via the *Betting Legislation Amendment Bill 2001*. The Bill was introduced to the Legislative Assembly of Parliament on 15 November 2001.

The Bill will provide for the establishment of corporate licensing structures for bookmakers and the removal of restrictions on bookmakers fielding only during race meetings. The Bill will allow bookmaking to occur on a racecourse at times other than during the conduct of a race meeting at the racecourse.

In addition to these proposed changes there are a number of amendments in the *Acts Amendment and Repeal (Competition Policy) Bill*:

- repeal of the *Racing Restriction Act 1927*; and
- amendments to the *Betting Control Act 1954, Racing Restriction Act 1917, Totalisator Agency Board Betting Act 1960*, and the *Western Australian Greyhound Racing Authority Act 1981*.

Western Australia's casino licensing arrangements meet the CPA clause 5 obligations. Consistent with the public interest evidence from the Productivity Commission inquiry, Western Australia has:

- provided no new exclusive casino licences;

- not renewed the existing licence on expiry; and
- has removed legislative barriers that forestall new entry and/or favour incumbents that have not been justified in the public interest.

The remaining exclusivity provisions relating to Burswood Casino contained in the *Casino (Burswood Island) Agreement Act 1985* can only be realistically removed or amended through negotiation or agreement with Burswood Casino. To act unilaterally would expose the Government to compensation claims which may well outweigh the benefits from revoking the remaining exclusivity provisions. The Government is currently in negotiations with Burswood Casino in relation to modifying the remaining restrictions.

In October 2000 the government announced a review of the governance structure of the WA racing industry, including the TAB. The Review Committee delivered its report in October 2001. The Report has recommended some wide ranging changes to the racing industry governance structure including some fundamental changes to the TAB's structure. These recommendations have been released for public comment and it is expected that the Minister will be in a position to finalise the Government response to the recommendations by April 2002.

The NCP review recommendation concerning the granting of additional off-course totalisator licences will be finalised and implemented on completion of the racing industry review given the related subject matter in the reviews.

Western Australia's NCP review of the *Gaming Commission Act 1987* found that the existing regulatory regime does not allow the Government to choose a supplier of State lottery products other than the Lotteries Commission. A less restrictive framework has been recommended by the previous Government for the licensing of State lottery suppliers other than the Lotteries Commission, where this is considered to be in the public interest.

Western Australia has reviewed the application of competitive neutrality to the Lotteries Commission and found that this would not provide a net public benefit. The review argued that there would be an associated reduction in community funding from the Commission without any significant improvement in the allocation of resources. While there is only one licensed provider of lotteries the implications of not applying competitive neutrality principles to the Lotteries Commission are minimal.

However, if the possibility exists that another lotteries provider will be licensed, Western Australia will reassess whether to apply competitive neutrality principles to the Lotteries Commission. Any such reassessment of competitive neutrality would necessarily examine any potential competitive advantages that may exist in the *Lotteries Commission Act 1990*.

Education Services

Western Australia is committed to the efficient provision of education services and accordingly its legislation review program is near completion. Legislation reviews have either been completed or are in the process of being finalised.

Legislation reviews of the universities' enabling Acts were endorsed by the previous Government in March 1999. The reviews concluded that most restrictions were minor and in the public interest, while recommending that the investment powers of Edith Cowan University be aligned with those of other universities. The amendments to the *Edith Cowan University Act 1984* are being progressed through the State's *Repeal and Amendment (Competition Policy) Bill.*

Matters arising from the review of the universities' legislation relating to local council rates, State taxes and land tenure were deferred to the competitive neutrality reviews of the Universities.

Childcare

At present, provisions in the *Community Services Act 1972* and the *Community Services (Child Care) Regulations 1988* regulate childcare and the registration of child carers in Western Australia. A bill to replace this and other Acts is currently being developed. Given that the drafting of this bill now appears unlikely to be finalised until the second half of 2002, a legislation review of the existing child care legislation is now underway and will be completed before July 2002. The new bill will also be checked to ensure compliance with clause 5(5) of the Competition Principles Agreement.

2.4.3 Health and Pharmaceutical Services

Health practitioners

In April 2001 the State Government approved:

- the drafting of new health practitioner Acts based on the outcome of the Review of Western Australian Health Practitioner Legislation (the Review). The effect of this approval is that replacement legislation will be developed for health professions based on a template.
- the Government has agreed to replace the majority of the State's laws regulating the practices of health professionals covering twelve professions such as dentists, nurses, psychologists and osteopaths as soon as it finalises the template legislation.
- the release of the *Key Directions* paper outlines the policy framework upon which new health practitioner registration Acts will be based.

Parliamentary Counsel has been instructed to draft the legislation. The Government is currently finalising its legislative priorities for the year.

The Government has approved the review recommendations for the removal of restrictions on:

- ownership of practices to health practitioners; and
- advertising to be replaced with provisions that reflect consumer protection legislation.

Another key recommendation of the review report is that current practice protection provisions will be replaced with core practices. A review to determine core practices has been approved by the Government. The determination of core practices is to be determined in accordance with NCP principles.

Full assessment of whether a protected practice is a 'core practice' will require assessment of the relative risk posed by an unqualified practitioner measured against the risk by a qualified practitioner, taken together with the seriousness of the loss or damage liable to result from bad practice. While appropriate core practices are being developed it is in the interests of public safety that practice protection in its current form is retained. Otherwise, the public may be exposed to the potential risk of harm.

The development of a core practice protection model is a significant reform. It will require substantial input and participation from health practitioners and other interested parties that have the expertise to be able to identify practices that should be restricted to health practitioner groups and those that should be opened up.

Dentists and dental paraprofessionals

The State Government has approved the drafting of replacement dental legislation and Parliamentary Counsel has been given drafting instructions.

In relation to the ownership of dental practices the *Key Directions* paper notes that the current restriction on ownership of dental practices will be removed in the new legislation.

Medical practitioners

The Medical Act Review is nearing completion. The legislation review has been conducted as part of the broader policy review of the Act with the aim of producing new legislation that complies with competition policy principles.

Consistent with other jurisdictions and consumer protection legislation the Government has proposed to prohibit advertising of medical services in a manner which offers a discount, gift or inducement to attract patients where the terms and conditions of such an offer are not outlined.

Occupational therapists

Cabinet endorsed the legislation review of Health Practitioner Legislation in April 2001. It accepted that a range of activities practised by occupational therapists pose a potential risk of harm to the public that outweighed the benefits of further

competition and therefore should continue to be regulated. The sorts of harmful effects raised are:

- injury and serious damage to vertebral discs;
- damage to surgical repair either by mobilising too early or not protecting graft by adequate positioning;
- invalidism through inadequate mobilisation after cardiac events; and
- inappropriate assessment leading to unsafe drivers on the road.

Optometrists and optical para-professionals

The Minister for Health has approved a Committee to review the practices of optical dispensers. The Committee members have been appointed and the first meeting of the Committee has been held. A background paper has been sent to stakeholders and interested parties inviting submissions.

Osteopaths

A legislation review of the *Osteopaths Act 1997* was approved by the Government in December 1999. Minor amendments will be made to the *Osteopaths Act* as a consequence of the Review of Western Australian Health Practitioner Legislation. However, these amendments do not significantly impact on competition policy issues.

Pharmacy

The implementation of the recommendations of the national pharmacy review is subject to the completion of the national COAG pharmacy review. The COAG review is likely to be considered by COAG out of session in the first half of 2002. Western Australia, along with most other jurisdictions, had responded to COAG by February 2002.

2.4.4 Insurance and Superannuation Services

Western Australia has made substantial progress in reviewing its insurance and superannuation services legislation. The State is committed to ensuring competitive services in this key sector of the economy.

Insurance

A legislation review of the *Workers Compensation and Rehabilitation Act 1981* has been finalised and endorsed by Government. The review recommended that the Act be amended to remove the requirement for the Workers' Compensation and Rehabilitation Commission to approve chiropractors to practise chiropractic in the workers' compensation system. The review also recommended that the other restrictions be retained as they were found to be in the public interest.

The previous Government endorsed the legislation review of the *Motor Vehicle (Third Party Insurance) Act 1943*. The review recommended the Act be amended to provide that the Minister may approve persons other than the Insurance Commission to issue

motor vehicle third party insurance policies, subject to any system change requiring further approval of Parliament.

Other recommended reforms arising from the review include amending the Act to ensure that it is obligatory to insure vehicles owned by Government agencies and removal of the restriction on who can represent claimants and defendants in claims proceedings (subject to confirmation by NCP review of the *Legal Practitioners Act 1893*). The Government is currently considering its position in relation to the review.

Superannuation

The *State Superannuation Act 2000*, which commenced on 17 February 2001, repealed both the *Government Employees Superannuation Act 1987* and the *Superannuation and Family Benefits Act 1938*. The *State Superannuation Regulations 2001* were also introduced under the Act with effect from 17 February 2001.

The Act and the Regulations changed the structure of the legislative framework previously governing the State's public sector superannuation schemes to enable the Government Employees Superannuation Board to:

- provide more flexibility for members of the Government Employees Superannuation Fund, resulting in industry standard superannuation services and new products and services;
- remove unintended anomalies and inequities from the schemes' rules;
- comply with relevant Commonwealth legislation; and
- support more efficient administration, which has the potential to deliver lower costs to members and savings to Government.

The Act and the Regulations together provide a flexible, timely and responsive legislative framework that enables new superannuation initiatives to be addressed promptly via regulations as would occur through changes to trust deeds in other superannuation funds.

An example of a major reform that was achieved under the new legislative framework is the removal of the legislative restriction on choice of investment strategy through the introduction of member investment choice on 1 July 2001. Member investment choice enables members to meet their individual superannuation needs and preferences by providing them with the ability to choose how their superannuation is invested.

A clause 5(5) legislation review of the *State Superannuation Act 2000* is currently being considered by Government.

2.4.5 Other Professional and Occupational Licensing

Legal Services

The review of the *Legal Practitioners Act 1893* and related legislation has been finalised and a number of the recommendations from this review will soon be implemented. Cabinet approval has been obtained for the drafting of an omnibus bill for implementation of part of these reforms, which will give greater flexibility and competition within the legal profession. The bill provides for:

- the incorporation of legal practices;
- the regulation of foreign lawyers wishing to practice in Western Australia; and
- national practice certificates.

Incorporation will enable lawyers to operate in multi-disciplinary practices with other professionals. A single firm would be able to offer its clients a more complete range of services than a legal practice can currently provide.

The regulation of foreign lawyers will allow them to be registered locally and be subject to ethical and practice standards, trust account controls, disciplinary arrangements and professional indemnity insurance requirements similar to those to which local lawyers are subject and ensure that they contribute to a separate fidelity fund. These arrangements reduce the barriers to entry to foreign lawyers entering the local market.

National practice certificates will provide for the automatic recognition of practice certificates issued in other jurisdictions in Australia. Current arrangements (through the Mutual Recognition Scheme) require a practitioner from one state to apply to be registered in in Western Australia, and similarly, Western Australian lawyers wishing to practice inter-state must apply for registration in the other state. National practice certificates remove the requirement to go through a registration process as the practitioner's right to practice would automatically be recognised. This will make inter-state practice less complex and considerably cheaper than under the Mutual Recognition Scheme.

Occupational Licensing

A general review of the *Auction Sales Act 1973* is presently being conducted by the Department of Consumer Protection following completion of the NCP review. The general review is taking into account issues that have come to light since the time of the NCP review, including the issues of dummy bidding and reverse auctions. It is expected that this review will be completed by 30 April 2002.

A final report of the legislation review of the *Settlement Agents Act 1981* has been completed and endorsed by Cabinet on 20 March 2002. The review report found that the requirement for settlement agents to be licensed be retained in the public interest because the benefits of reduced risk of financial loss and increased consumer confidence outweighed the costs associated with reduced competition. However a number of lesser restrictions have been recommended for amendment, including:

- That the existing requirement for agents to have "sufficient material and financial resources available to enable them to comply with the provisions of the Act" be replaced with provisions which prevent insolvent persons and persons with a recent history of insolvency from holding or obtaining a settlement agents licence, and which also prevent a licence being granted to or held by a firm or body corporate where a partner in the firm or a director of the body corporate is an insolvent or has a recent history of insolvency.
- That the requirement for natural persons to be ordinarily resident in the State be removed, as it constitutes an unnecessary barrier to entry to the market and cannot be justified on public interest grounds.
- That regulation of the maximum fees an agent can charge for service rendered be removed by the repeal of the *Settlement Agents (Remuneration) Notice 2000* and that the Act be amended to make it a disciplinary offence for an agent to receive or demand a fee which is excessive and to give the Board the power to review fees demanded or charged by an including the power to order the repayment of an excessive fee received.
- It is recommended that the requirement for all agents to hold professional indemnity and fidelity insurance be retained in the public interest but the Act be amended to give licensees the option of either arranging their own insurance at a prescribed minimum level of cover with an insurer of their choice or insuring under any master policy negotiated by the Board.

The draft review of the *Employment Agents Act 1976* has been completed and is currently with the Minister for preliminary consideration prior to the draft being referred to the Department of Treasury and Finance. It is expected that the review report will be completed in time for it to be considered by Cabinet before 30 June 2002.

The Government is currently considering a legislation review of the *Hairdressers Registration Act 1946*.

The Legislative Assembly has passed legislation amending the *Motor Vehicle Dealers Act 1973* to put into place review recommendations. It is expected that this amendment legislation will complete its passage through the Legislative Council in the Autumn 2002 Parliamentary Session.

A draft report of the review of the *Real Estate and Business Agents Act 1978* is currently with the Minister for Consumer and Employment Protection. It is expected that the review report will be submitted to Cabinet before 30 June 2002.

2.4.6 Planning, Construction and Development Services

Western Australia has made substantial progress in reviewing legislation relating to the planning, construction and development services industries and is now moving towards the implementation of reforms. In particular, on the 5 March 2002 Cabinet approved the drafting of amendments to the *Architects Act 1921* to address restrictions identified in the legislation review.

Planning

The *Planning Appeals Amendment Bill 2001* was reviewed in accord with clause 5(5) of the Competition Principles Agreement and it was concluded that the restriction limiting parties to an appeal by legal practitioners for minor (Class 1) appeals was in the public interest.

The review of planning legislation has been delayed because Government is reconsidering its overall approach to planning legislation. The previous Government developing an *Urban and Regional Planning Bill* which was to be a consolidation of the *Town Planning and Development Act 1928*, *Metropolitan Region Town Planning Scheme Act 1959* and *Western Australian Planning Commission Act 1985*, all of which were scheduled for clause 5(9) review.

Under the previous Government, a legislation review of the *Urban and Regional Planning Bill* had been drafted and the Bill had been put out to public consultation in the form of Green Paper. The Bill is being re-activated by the Government and a new process of public consultation has been commenced with the aim to be completed in April 2002. The clause 5(5) review of the Bill will be completed as soon as the provisions to be contained within the Bill are clarified.

Construction and Development Services

The Department of Housing and Works has completed the review of the *Architects Act 1921*. This review and its recommendations were endorsed by Cabinet on 17 December 2001.

The review found that the *Architects Act 1921* should be retained and developed to meet the current and future needs of the building industry in Western Australia. To achieve this the *Architects Act Amendment Bill* is being drafted and will be introduced in the 2002 Autumn Session of Parliament. The drafting instructions are currently being examined by the Legislation Standing Committee of Cabinet.

Western Australia is a participant in the Inter-government Working Group that is examining the Productivity Commission Review of Legislation Regulating the Architectural Profession. The Working Group's draft response to the review establishes a framework of regulatory principles to be realised in each jurisdiction according to its preferred legislative vehicle and timing.

The Working Group's draft response to the review was endorsed by Cabinet on 11 February 2002.

The legislation review of the *Licensed Surveyors Act 1909* recommended the following reforms:

- To broaden the make-up of the Land Surveyors Licensing Board to include consumer representation; and
- To replace the requirement for licensed surveyors to be of good fame and character with specific provisions determining eligibility to practise.

These reforms are being implemented in the *Acts Amendment and Repeal (Competition Policy) Bill*.

New legislation is currently being drafted to replace the *Local Government (Miscellaneous Provisions) Act 1960* and the *Building Regulations 1989*. However, given this is unlikely to be finalised in the first half of 2002, a review of the existing legislation will be completed by June 2002.

The review of the *Land Valuers Licensing Act 1978* was undertaken by the Department of Consumer and Employment Protection in 1999 but was not finalised because of the Gunning Inquiry and more recently the Temby Royal Commission.

The Gunning Committee of Inquiry was commissioned on 3 April 2000 to conduct a Special Inquiry under the *Public Sector Management Act 1994* into the operations of the Boards and Committees in the Fair Trading portfolio. The final report by the Gunning Committee was published on 1 September 2000.

The Royal Commission into the Finance Broking Industry was commissioned on 11 June 2001. The Royal Commission inquired into and reported on whether there have been unlawful or improper activities or practices relating to the finance broking industry since 1 January 1994. Evidenced by the conduct of finance brokers, borrowers and those who provided services to them and to lenders, including but not limited to advisers, accountants, auditors, bankers, lawyers and valuers. The final report was published on 21 December 2001.

The Temby Royal Commission found that licensing land valuers is in the public interest because "Valuers perform a necessary social role. They must be, and are, trained. It would be a bad thing if anybody, irrespective of skill or character, could adopt the title and carry out the functions of a land valuer. It follows that land valuers should be licensed, as happens presently under the *Land Valuers Licensing Act 1978*. That Act should be retained, along with the Land Valuers Licensing Board."

The Government has endorsed the findings of the Royal Commission. The NCP review is being updated to reflect this and is expected to be completed by June 2002.

The reviews of the *Builders Registration Act 1939* and the *Home Building Contracts Act 1991* have been completed and endorsed by Cabinet. The review of the *Building Legislation Amendment Act 2000* has also been completed and endorsed by Cabinet. This legislation amended the *Builders Registration Act 1939* and the *Home Building Contracts Act 1991*. The majority of the amendment Act was proclaimed on 1 August 2001 with the remainder being proclaimed on 1 November 2001.

A general review of the *Painters Registration Act 1961,* following the NCP review, is being finalised and is expected to be completed before 30 June 2002.

2.4.7 Primary Industries

Western Australia is committed to reforming primary industry legislation where it is in the public interest. The Government has recently endorsed major reforms which will allow for greater flexibility in the broiler production industry, and remove barriers to entry and reduce production costs in the veterinary services industry. Legislative amendments to implement these reforms are currently in progress.

Other reforms currently being implemented relate to the State's forestry and conservation and land management legislation. A number of restrictions relating to apiary permits and caps on harvesting of sandal wood are being removed.

Reviews in the fisheries sector have been considered by Government, and significant reform endorsed. This will increase the productivity and flexibility of an important sector of the State economy.

Agriculture

The Government has endorsed the recommendations of the legislation review of the *Chicken Meat Industry Act 1977*, which was undertaken under the previous Government. The review recommends that the legislation be amended to allow growers to negotiate contracts with processors outside of the existing compulsory collective contract system, as well as removing other restrictions. The Act will continue to provide a "model" contract for optional use and a dispute resolution mechanism where the model is adopted.

The review recommendations are being implemented though the *Acts Amendment and Repeal (National Competition Policy) Omnibus Bill*.

A legislation review of the *Veterinary Surgeons Act 1960* has been finalised and major reform to this significant profession have been endorsed by the Government. The major review recommendations include:

- introducing a competency based licensing category known as 'veterinary service provider' to reduce the extent of barriers to entry for non-veterinarians wishing to provide veterinary services. Under these new arrangements a person will be able to perform certain acts of veterinary surgery if that person has passed a relevant course offered by a training organisation;
- repealing the advertising provisions in the Act and Regulations and for these to be replaced with voluntary guidelines or a code of conduct;
- repealing the restrictive aspects of the premises registration provisions and for these to be replaced with a voluntary code of practice;
- repealing the restrictions on ownership of veterinary practices by non-veterinarians.

The review recommendations will be implemented as soon as possible.

A legislation review of the *Grain Marketing Act 1975* commenced under the previous Government. The previous Government deferred its decision on a draft report pending the reviewers addressing criticism of the review report. The Government is currently considering a redrafted review report.

A legislation review of the *Marketing of Potatoes Act 1946* commenced under the previous Government. The previous Government deferred its decision on a draft report pending the reviewers addressing criticism of it.

The Government is now undertaking further stakeholder consultation and input to help establish the public interest before finalising the review. To facilitate this a discussion paper will be publicly released in April 2002 and submissions invited. In addition, stakeholder meetings will be held to discuss industry's views on the relevant issues. Recommendations to come out of this process will be considered by Government and reforms implemented as soon as possible.

Western Australia's *Wheat Marketing Act 1989* was enacted to give effect to the Commonwealth's wheat marketing legislation in the State. Legislative amendments made to the Commonwealth legislation in 1997 and 1998 have meant the *Wheat Marketing Act 1989* is no longer necessary and hence the Act will be repealed by the *Acts Amendment and Repeal (National Competition Policy) Omnibus Bill*.

A legislation review of the *Bulk Handling Act 1967* remains to be completed. Given that the proposed merger of Cooperative Bulk Handling Ltd (CBH) with the Grain Pool of Western Australia appears to be proceeding, all or part of the Act will be repealed. It is also important to note that the major restriction in the Act, which provides CBH with the sole right to receive grain in bulk and of handling, transporting and delivering grain received in bulk in Western Australia, expired on 31 December 2000.

Forestry

The Government has endorsed the recommendations of a legislation review of the *Conservation and Land Management Act 1984* and subsidiary legislation conducted under the previous Government. The review recommends the repeal of the following restrictions:

- limits on who can have an apiary: a person must be registered as a beekeeper under the *Beekeeper Act 1963* and must maintain at least 25 bee hives in the State to be eligible for an apiary permit;
- limits on the number of permits a person may hold: no more than four permits can be held for every 50 hives kept by the person, for the areas defined by CALM as the south-west zone; and no more than two permits for every 50 hives kept by the person, for the remainder of the State;
- administration of the CALM Act in the area of the Greenbushes State Forest being subject to the concurrence of the Minister to whom the administration of the *Mining Act 1978* is committed; and

- any increase in the value of land arising from planting of forest trees being exempt from rates if the trees are approved by the Executive Director of the Department of Conservation and Land Management.

The review recommendations will be implemented as soon as possible.

The Government is currently considering the legislation review of the *Conservation and Land Management Amendment Act 2000* and *Forest Products Act 2000*.

As reported in the last assessment, the *Sandalwood Act 1929* review recommended removal of the cap on the amount of sandalwood which could be harvested from private land. Restrictions on harvesting sandalwood on public land were retained in the public interest.

Amendments are being included in the *Acts Amendment and Repeal (National Competition Policy) Omnibus Bill* which will remove the limit on sandalwood harvesting on private land. This proposed change is significant, as it will facilitate the development of larger sandalwood plantations, which are currently prevented by the restriction.

Fisheries

The review of the *Fish Resources Management 1994 Act* has been completed and endorsed by the Government. The review will result in significant productivity increases in the rock lobster industry by allowing greater flexibility in decision making by allowing economies of scale to be exploited.

Currently there is a maximum cap of 150 pots per fishing boat, with some variation on this limit depending on the seasonal conditions and rock lobster stocks in the fishery. The reform, which will be implemented for the start of the 2003 fishing season, will allow fishers to consolidate their pot holdings on larger vessels if they choose.

The review report also recommended that the objectives of the *Fish Resources Management Act 1994* be clarified by legislative amendment to focus on the environmental and resource protection objectives of Government.

It was recommended that quotas be retained within all fisheries as it was found to be clearly in the public interest to ensure conservation of the resources.

A separate review of rock lobster processing provisions, contained within the *Fish Resources Management 1994 Act*, has been completed and the Government has agreed to implement several significant reforms. These include removing limits on the number of domestic processing licences and providing licence holders the right to establish at multiple locations. This will remove a significant barrier to entry allowing for greater flexibility within the industry.

The review of the *Pearling Act 1990* has been completed and the following reforms are to be implemented:

- incorporation of objectives of marine conservation and economic optimisation into the *Pearling Act 1990*;
- removal of the requirement that an applicant for a pearling licence have a minimum of 15 quota units which will enable greater chance of small scale operations utilising new and innovative technology or farming practices;
- decoupling of licences for pearl farms and pearl fishing which will reduce a barrier to entry by removing the requirement for vertical integration – currently a hatchery operation cannot cultivate pearls from hatchery stock unless it has a commercial connection to wild-stock licence holder;
- limit the discretion of the Executive Director (of the Department of Fisheries), by requiring that account be taken of:
    - conservation and optimisation objectives when making decisions on pearling licenses and, where conflicts arise, consider the best interests of the Western Australian community;
    - codify in regulation the criteria to be employed in reaching decisions; and
    - provide access to an independent review tribunal;
- change the composition of the Pearling Industry Advisory Committee so that it is a more balanced representation of community interests; and
- review compliance procedures and mechanisms to ensure protection of wild-stock pearl oysters and maintenance of the environment.

Two restrictions the Western Australian Government has agreed to be in the public interest at this time are:

- the practice, allowed under the Act, of giving increases in wild-stock quota to incumbents in the industry rather than auctioning or putting them out to tender; and
- limits on the amount of hatchery quota.

The Government's decision was influenced by a study by ACIL Consulting, that these restrictions provide a net public benefit.

The ACIL analysis indicated that the restriction on hatchery quotas supported the price of Australian South Sea Pearls. Given that the vast majority of pearls are sold to overseas buyers, the restriction provides a net benefit to Australia.

The ACIL study is backed by an analysis of changes to consumer and producer surplus including empirical estimates of price elasticities of supply and demand for pearls. It makes a case that removal of restrictions would result in lower prices and that retaining the quota on pearl oyster hatchery licences results in a net benefit of between $16 million and $25 million (per annum).

While there is some disputation about the assumptions used by ACIL and the estimated impacts, there is clearly a risk that a significant loss would be incurred if the restrictions were removed and the Western Australian Government considers that on balance it would be inappropriate to take this risk now, given also the substantial drop in the price of pearls on the world market with increased supply.

In recognition of the potential cost of the restriction, however, Western Australia will reconsider the matter by the end of 2005 when the current hatchery policy expires.

In regard to the option of introducing auctions for wild stock pearl licences, the Minister has accepted the public interest argument by ACIL that auctions would not result in better utilisation of the resource and could pose a risk to the conservation of the pearl beds.

The *Fisheries Adjustment Schemes Act 1987*, *Fishing Industry Promotion Training and Management Levy Act 1994* and the *Acts Amendment (Marine Reserves) Act 1997* have been examined and found to contain, respectively, only redundant or trivial restrictions on competition and no restrictions on competition at all.

In view of the above, it has been agreed by the Government that these acts be removed from the Legislation Review Table.

Mining

A review of the *Gold Corporation Act 1987 and Regulations*, undertaken to meet both competitive neutrality and legislation review obligations, recommended several measures to remove the competitive advantages enjoyed by the Gold Corporation and subsidiaries. These include:

- the Gold Corporation paying a fee for its Government guarantee;
- removing the Western Australian Mint's statutory exemptions from rates and taxes; and
- applying an income tax-equivalent regime to the Gold Corporation.

These measures are being implemented through the *Acts Amendment and Repeal (Competition Policy) Bill.*

In August 2001, the Western Australian Government approved the drafting of the *Dangerous Goods Bill* which will be introduced to the 2002 Autumn Session of Parliament. The Bill will introduce reforms which lessen the restrictions on competition while recognising that some restrictions on the use of dangerous goods need to be retained in the public interest. Changes include:

- aligning the licensing requirement for the manufacture of explosives with existing performance based controls for other chemicals;
- amending the licensing restrictions on the storage of explosives to remove requirements for approval by inspectors and shift responsibility for safety to the industry;

- replacement of the requirement for a permit for each fire-works display be with an accreditation system and audit process; and
- removal of the present advantage granted to certain persons in the issue of permits to be replaced with a system based on competency criteria.

The following changes arising from the review have already occurred:

- the restriction requiring pre-inspection and licensing of vehicles used for the transport of explosives has been removed and replaced with the system currently being implemented for other dangerous goods in the new national transport legislation; and
- the system of classification of dangerous goods and the authorisation criteria for explosives has been amended to directly reference the United Nations criteria.

The *Iron Ore Processing (Mineralogy Pty Ltd) Agreement Bill* was reviewed in accord with clause 5(5) of the Competition Principles Agreement by independent consultants. The review found that several minor restrictions were in the public interest. However, the review resulted in an amendment to one restriction in the final Bill, which was to extend the rail access provision to goods other than iron ore products.

2.4.8 Retail Trading And Consumer Protection

Western Australia is in the final stages of reviewing legislation that regulates retail trading arrangements. The State is committed to closely examining the benefits and costs of government intervention in relation to these arrangements. Reforms judged to be in the public interest will be implemented.

The legislation review report of the *Retail Trading Hours Act 1987* is currently with the Minister for Consumer and Employment Protection. The report is expected to be submitted to Cabinet before 30 June 2002.

The legislation review report of the *Liquor Licensing Act 1988* is currently with the Minister for Racing and Gaming. The report is expected to be submitted to Cabinet before 30 June 2002.

A general review of the *Fair Trading Act 1987* and the *Consumer Affairs Act 1971* is now being undertaken as part of the Consumer Justice Strategy. The Strategy places renewed emphasis on the investigation of complaints and imposition of sanctions on those who contravene acceptable standards. The review is not scheduled for completion until December 2002. This review will include an examination of any restrictions on competition to ensure they are in the public interest.

New legislation to replace the *Weights and Measures Act 1915* is currently being drafted. The new legislation will replicate the uniform legislation operating in other jurisdictions and thereby contribute to national consistency.

A national review of the uniform legislation will be considered by the Ministerial Council of Consumer Affairs prior to its release for public comment. This is expected

to occur later this year. The national review's findings will be used as support for the introduction of the new legislation in Western Australia.

Amendments to the *Credit (Administration) Act 1984* and the *Hire-Purchase Act 1959* are being made in the *Acts Amendment and Repeal (Competition Policy) Bill*. The introduction of this Bill is scheduled for the Autumn 2002 Parliamentary Session.

A final report of the legislation review of the *Petroleum Products Pricing Amendment Act 2000* and the *Petroleum Legislation Amendment Act 2001* has been completed and endorsed by Cabinet. The review report found that regulation of the petroleum industry is in the public interest since it protects consumers, encourages stability in pricing and provides for transparency in pricing.

2.4.9 Transport: Taxis, Rail, Ports and Shipping, Other Transport

Taxis

Western Australia is committed to undertaking appropriate regulatory reform of the State's taxi industry. It has conducted its legislation review of the *Taxi Act 1994* and, as a result of the review, is implementing a package of reforms that have been designed to meet the needs of the wider community and improve the efficiency of the industry. The reforms include:

- lessening Government regulation of the industry, by removing restrictions such as the minimum period of taxi operation and times of compulsory operation;
- reducing the impact of the restriction on taxi plate numbers through putting out to tender additional multipurpose and peak period taxi plates;
- defining and monitoring taxi companies' performance standards including telephone waiting time, time elapsed from phone call to taxi arrival, the number of jobs not covered and the handling of complaints, directly addressed the primary concerns expressed in the review by consumers; and
- improving the education and training of drivers and introducing other initiatives to lift driver performance in line with consumer expectations identified in the review.

The Steering Committee which conducted the review for the previous Minister for Transport commissioned the following two consultancies:

- a survey of public opinion on the industry and what aspects of it need improvement by the Boshe Group; and
- a review of the *Taxi Act 1994* by BSD Consulting.

Both of these consultancies influenced the Steering Committee's report and recommendations, which were accepted by the previous Government.

The opinion survey provided an indication of the public interest in relation to taxi industry performance and resulted in the emphasis on performance standards and driver performance in the package of reforms.

Reforms accepted and implemented include most of the recommendations of the BSD legislation review which include:

- retaining a cap on retail fares;
- removing the restriction on negotiating fares by telephone but retaining them for the rank and hail markets;
- introducing a comprehensive driver training regime;
- removing the requirement to inform the Taxi Dispatch Service of the driver's whereabouts;
- removing restrictions on lease fees charged by plate holders;
- retaining restrictions requiring plate owners to be 'fit and proper' persons;
- retaining record keeping requirements;
- retaining Taxi User Subsidy Scheme vouchers so that government can continue to subsidise fares of disabled people; and
- maintaining and even improving the existing safety standards.

The major recommendation by BSD Consulting that was not supported by the previous Government was the buy-back of taxi plates and the deregulation of plate numbers.

While the new Government does not support wholesale deregulation, it recognises there is a public interest case for a buy-back of taxi plates. Although it is recognised that there are limitations with buy-back, it provides a feasible means of implementing more substantial reform to the industry. However, Western Australia will not proceed with buy-back unless it is convinced that the benefits exceed the costs and risks of funding it.

Rail

The recommendations from the clause 5(5) legislation review of the *Government Railways Act 1904* have been addressed by the introduction of the Rail Access Regime, the sale of Westrail's rolling stock and freight contracts, and the transfer of responsibility for safety regulation to the Department of Transport under the *Rail Safety Act 1998*.

The rail access regime, which comprises the *Railways (Access) Act 1998* and the *Railways (Access) Code 2000*, became fully operative with the proclamation of the Act on 1 September 2001 and the appointment of an acting Rail Access Regulator.

Ports and Shipping

As previously reported, the eight acts governing Western Australia's major ports were repealed by the previous Government and replaced with the less restrictive *Port Authorities Act 1998*. As part of the reform, port authorities were commercialised and became subject to local government rate equivalents and all State taxes. Furthermore, exclusive licensing provisions for port services, such as port towage and pilotage, can

only occur where the Minister considers the public benefits of such exclusivity outweigh the public costs.

Other Transport

Reform of administrative intra-state licence fee provisions, contained in the *Transport Coordination Act 1966,* for aircraft has proceeded with landing fees being phased out over a period of two years, saving the domestic airline industry about $3.5 million per year.

For details on the review of the *Explosives and Dangerous Goods Act 1961* please refer to mining legislation in Section 2.4.7.

3. STRUCTURAL REFORM

Structural reform is part of a package of State reforms of government businesses, which includes corporatisation, privatisation, and the application of competitive neutrality principles. The reforms also build on reforms in the early 1990s, preceding National Competition Policy (NCP), such as the separation of the State Energy Commission of Western Australia into Western Power and AlintaGas, and corporatisation of the Water Corporation.

Western Australia continues to meet its structural reform commitments in accordance with Clause 4 of the Competition Principles Agreement (CPA). This section outlines Western Australia's progress with structural review and reform. Where appropriate, it also provides detail on matters raised in the NCC's Assessment Framework working papers.

3.1 Electricity

The Western Australian electricity industry is characterised by a mixture of public and private participants. Western Power Corporation (Western Power), a wholly government-owned corporatised business entity, is the State's major generator, transmitter, distributor and retailer of electricity, operating two major interconnected transmission and distribution systems – the South West Interconnected System (SWIS) and the North West Interconnected System (NWIS). Western Power also operates 29 isolated regional systems.

The remainder of the electricity industry is characterised by a number of private companies throughout the State that generate electricity primarily to supply their own mining, mineral processing or other operations and in some instances public and private townships.

Western Power was created under the *Electricity Corporation Act 1994* on 1 January 1995 when the former State Energy Commission of Western Australia (SECWA) was split into separate vertically integrated government-owned electricity and gas utilities. Since then Western Power has been progressively exposed to competition through the provision of open access rights to its transmission and distribution systems to allow private generators to supply electricity to contestable customers.

Reflecting the changing nature of the industry, and the desire to promote further competition, the Government has moved to reform the electricity industry. The focus of the industry restructure is on developing an appropriate framework to support a competitive industry. The processes currently under way for introducing competition into the electricity industry and structural reform of the state-owned monopoly electricity provider accord with Western Australia's obligations under Clause 4 of the CPA. A key part of the process has been the establishment of the independent Electricity Reform Task Force.

3.1.1 The Electricity Reform Task Force

In order to progress the electricity reform agenda, the Minister for Energy established the independent Electricity Reform Task Force in August 2001. The Task Force has been charged with responsibility for developing detailed recommendations on:

- the extent and phasing in of the disaggregation of Western Power;
- the structure of the electricity market to be established in Western Australia;
- a Western Australian Electricity Access Code; and
- appropriate market and regulatory arrangements to move towards full retail contestability by the Government's target date of 2005.

The main objective is to achieve, where practicable, sustainable lower electricity prices for all customers while maintaining the uniform tariff for residential and small business customers, and ensuring adequate reliability, security, quality and safety of electricity supply.

A reasonable balance between the interests of electricity generators, transmitters, distributors, retailers, customers and the broader community is to be achieved while ensuring consistency between gas and electricity access regulation.

The Task Force's review process aligns with the State's NCP obligations in regard to examining the merits of separating the monopoly elements from potentially competitive elements of the incumbent public monopoly. The Task Force is also examining other issues relevant to Clause 4 obligations, such as separating regulatory legislation for the electricity industry from Western Power's enabling legislation, ensuring competitive neutrality is achieved, and ensuring transparent funding arrangements for the delivery community service obligations.

Structural Reform and Market Design

The main purpose of the structural reform process is to remove impediments to competition in the wholesale and the retail sectors of the electricity supply industry in Western Australia. Competition in electricity generation, transport and trading is desired to promote efficient investment decisions and encourage efficiencies in operations. Competition in retailing electricity is desirable to pass on the lower costs in the supply chain to businesses and residential consumers.

The Government has committed to retaining the assets of Western Power in public ownership, however it is likely that structural reform in the Western Australian electricity sector will involve substantial changes to the structure of Western Power, and consequently substantial revision to the *Electricity Corporation Act 1994*. The Task Force will be considering options regarding the extent and phasing in of the disaggregation of Western Power, and making recommendations on the design of the electricity market to be established in Western Australia.

The Task Force will be evaluating options for creating a wholesale market, possibly a combination of bilateral contracts and a spot market mechanism, to enhance efficiency in the generation and trading of electricity. The design of the electricity market is

intended to send price signals to facilitate an appropriate level of new generation investment as well as encourage demand management, energy conservation, end-use efficiency and the establishment of renewable energy generation and distributed generation, where appropriate.

The financial losses by Western Power due to providing electricity in regional areas at uniform tariffs are currently borne internally by cross-subsidisation. It is Government policy that uniform tariffs across Western Australia be retained. The Task Force will consider which mechanism is best able to cover these losses in a transparent manner, as the competitive market is introduced.

Regulatory Reform

The current regulatory regime is more suited to a state-owned electricity industry. Due to the restricted focus of Section 7 of the *Electricity Act 1945*, the Government currently has limited ability to set service standards and ensure the monitoring and reporting of the performance of private electricity market participants against those standards. The need for change is recognised.

One of the issues being considered by the Electricity Reform Task Force is which sectors of the electricity market should be regulated in terms of participant licensing and auditing of performance. Licensing would allow the State to identify operators, and to monitor and report their performance in relation to specific criteria for prudential and service standards.

In addition to the licensing arrangements, the Task Force will be making recommendations on the development of a "Western Australian Customer Service Code", to be adopted by electricity retailers and distributors. The Code is to detail the service standards that residential and small business consumers of electricity can expect to receive. The "Code" could be enforced within the retail and distribution licensing arrangements.

The Task Force will also make recommendations on appropriate functions and powers of an Energy Ombudsman for electricity, consistent with those expected from the Gas Retail Deregulation Steering Group. An Energy Ombudsman would deal with complaints from small use consumers concerning supply of electricity and gas. It is proposed that the Energy Ombudsman would be given determination powers to impose on retailers, distributors and marketers remedies to consumer complaints, as appropriate.

The target for the Government is to have a fully contestable market for electricity by 2005. As part of its deliberations on full retail contestability, the Electricity Reform Task Force will likely make recommendations to the Government on the need for an analysis of the costs and benefits prior to any move to full retail contestability. This issue is addressed in more depth in Section 6.2.2.

Over time the gas and electricity retail markets are likely to converge and the full retail contestability mechanisms established in the electricity retail market should preferably be consistent with those established in the gas retail industry.

The Government has committed to the establishment of an independent economic regulator with jurisdiction over the electricity, gas, rail and water industries. The Department of Treasury and Finance is co-coordinating this establishment process. It is expected that the independent economic regulator (the Economic Regulation Authority) will regulate access to both public and private electricity transmission and distribution systems [see Section 3.3 below].

Third Party Access

The Electricity Reform Task Force is to develop recommendations for Government in regard to implementing a Western Australian Electricity Access Code. The work of the Task Force on this issue is elaborated upon further in Section 6.2.2.

Public Consultation

The Electricity Reform Task Force's work program will include extensive stakeholder consultation and participation. On 15 November 2001, the Electricity Reform Task Force issued its first discussion paper "A Background Paper on the Reform Process" in order to seek public input into the deliberations of the Task Force. This background paper was developed to stimulate comment from interested parties on key electricity reform issues.

The Task Force received a good response to its first consultation paper, with the issues raised in the 90 submissions received currently being analysed by the Task Force and its four Working Groups as it develops proposals for reform. Another round of public consultation is planned during April, following the release of a detailed discussion paper.

Timetable for Reform

Under the Terms of Reference, the Electricity Reform Task Force is to develop proposals for the timetable for reform in the electricity sector.

The Electricity Reform Task Force is to consult widely and submit its recommendations to the Minister for Energy on the disaggregation of Western Power, the revised market structure, the Electricity Code and arrangements for the movement towards full retail contestability.

It is expected that the Task Force will deliver its recommendations to the Western Australian Government by August 2002.

3.2 The Downstream Gas Industry

Since 1995, Western Australia has implemented a broad range of structural reform initiatives in the gas industry to ensure a competitive market conducive to private investment. These initiatives have included:

- disaggregation of the major domestic gas supply contracts and compulsory third-party access to the transmission and distribution networks;

- separation and corporatisation of the former State-owned gas and electricity utilities;
- structural separation of the gas transmission and distribution functions; and
- the subsequent privatisation of transmission and distribution/retail activities of the formerly government owned corporation, AlintaGas.

The Government is committed to the establishment of a competitive gas market in Western Australia. Reforms to the gas access regime and preparations for the move to full retail contestability are addressed in more detail in Section 6.1.

3.3 Economic Regulator

The Government is committed to the establishment of an independent Economic Regulation Authority (ERA) with functions across the gas, rail, water and electricity industries. Establishment of such a multi-industry economic regulator was a central feature of the Government's pre-election electricity reform policy statement and was a significant recommendation of the Machinery of Government (MoG) Task Force report.

The ERA will perform a range of economic regulatory functions currently performed by Ministers, sector-specific regulators and public sector officials. It is proposed that the ERA will:

- independently regulate access to significant economic infrastructure under industry-specific access regimes. It would initially assume responsibility for the existing gas and rail access regimes. Responsibility for a future electricity access regime is likely to follow from the recommendations of the Electricity Reform Task Force;
- independently grant industrial licences and ensure compliance with terms and conditions applying to licences;
  - the ERA would initially assume responsibility for water industry licensing;
  - gas industry licensing functions would be transferred at a later date, which is expected to follow the implementation of Full Retail Contestability;
  - electricity industry licensing functions are likely to emerge from the recommendations of the Electricity Reform Task Force; and
- make expert recommendations to Government about tariffs and charges for government monopoly services, and any other matters requested by the Government.

The ERA will comprise of at least one and up to three Commissioners with a supporting office. It is to be established as an independent statutory authority under a centre-piece enabling Act. A range of industry-specific legislation will then define the functions, and ensure the independence of the ERA for each industry.

Like the existing independent Gas Access and Rail Access Regulators, the ERA will be an independent, specialist regulatory body with technical expertise and a clear

regulatory mandate. The design of the ERA has focussed on best practice regulatory principles and is consistent with the Government's vision of competitive utilities markets.

The Government will remain responsible for the laws administered by the ERA, and to support this function will establish an advisory committee drawn from the relevant government policy agencies.

Industry consultation is occurring on the basis of a discussion paper outlining the framework and key issues surrounding the establishment of the ERA. The National Competition Council was provided with a copy of the Public Consultation Paper.

Following the public consultation process, the Government intends to introduce legislation creating the ERA into Parliament during the first-half of 2002. Subject to Parliamentary processes, it is anticipated that the Authority could be in operation by 1 January 2003.

4. COMPETITIVE NEUTRALITY

The application of competitive neutrality to all significant government businesses is an integral part of the State's ongoing reform of government owned businesses, to increase efficiency and generate benefits to the community. Western Australia's commitment is outlined in the State's Policy Statement on Competitive Neutrality (June 1996) which also includes an implementation schedule for significant business activities.

Western Australia's program of competitive neutrality implementation and review is substantially complete. The State's biggest utilities have been subject to competitive neutrality for a number of years.

These businesses have accounted for more than 80 per cent of the business revenues earned by the Government and provide the bulk of the benefits expected to be received from implementing competitive neutrality.

4.1 Significant Government Businesses: Review and Implementation

Since the second tranche assessment Western Australia has focused its attention on the smaller government agencies that are considered to be significant on the basis of criteria outlined in the State's Policy Statement on Competitive Neutrality. This has involved conducting reviews to see whether implementing competitive neutrality is in the public interest, and if so how competitive neutrality should be introduced. Western Australia has completed 23 competitive neutrality reviews of significant business activities.

- The review of the **Western Australian Tourism Commission** was endorsed by Cabinet in December 2001. The review recommended that the WA Tourism Network be subject to full-cost competitive neutrality pricing, except for the 'no-frills' entry-level service. Essentially the Tourism Network provides members with a number of marketing benefits, which vary according to the cost of membership. The review also recommended that competitively neutral costing be applied to the WA Tourist Centre, which provides tourist booking and information services, so that the true cost of running the Centre is transparently reported. However the pricing of the services of the Tourist Centre should not necessarily reflect the full cost of services because of the external public benefits of the services.

- The review of the **Rottnest Island Authority** will lead to the introduction of competitive neutrality through full cost pricing of some of the Authorities tourism and accommodation services. The review noted that Rottnest Island holidays are a longstanding social tradition for the community and that, for the more modest end of the market, this tradition should remain affordable to all Western Australians. As such, it was not in the public interest for full cost, competitive neutral pricing to be introduced for standard classes of accommodation as this would preclude many Western Australians.

- The **Bunbury Water Board (Aqwest)** and **Busselton Water Board** competitive neutrality reviews were completed and endorsed by the Government. The recommendations to implement competitive neutrality include introducing the payment of local government rate equivalents; the requirement to earn a rate of return on assets; provision for payment of dividends to the budget and removal of the exemption from State Government taxes.

  Legislative amendments to implement the reform from competitive neutrality reviews of the operations of the Bunbury and Busselton Water boards and the legislation review of the *Water Boards Act 1904* are being drafted.

  In addition to these reviews, the Western Australian Government has commenced implementing important Machinery of Government reforms which will, amongst other matters, establish separate shareholder, regulatory and industry policy responsibilities at ministerial level and an independent economic regulator. These reforms also necessitate substantial additional amendments to the Act.

  Given the extent of legislative amendments required, consideration is being given to including these amendments in new enabling legislation, or through the development of umbrella legislation for statutory authorities. Umbrella legislation would contain generic provisions applicable to all government business enterprises, with a separate class of generic provisions that relate only to the subset of these agencies that are corporatised and commercialised.

- Matters arising from the clause 5(5) review of the **universities**' legislation relating to local council rates, State taxes and land tenure were deferred to competitive neutrality reviews of the universities, which are now almost complete. An inter-agency working group has been established in order to finalise the implementation of the competitive neutrality review of universities.

- A competitive neutrality review of the **native forest timber operations** has been completed by independent consultants and is currently being considered by Government.
- The competitive neutrality review of the **Valuer General's Office** completed in November 2000 recommended that the Office operate in a competitively neutral manner. This has now been implemented through pricing on a competitively neutral basis. As a result, the Office has changed its cost and pricing structures.
- A competitive neutrality review of **TAFE colleges** is near completion.

4.2 Competitive Neutrality Complaints Process

4.2.1 Clause 3 Statement and Process

Western Australia has in place a competitive neutrality complaints mechanism in accord with its obligations. Western Australia's clause 3 policy statement notes that '*the complaints mechanism will apply only to public sector agencies which are required to comply with competitive neutrality and to in-house bids taking part in a formal tender process*'.

Complaints may be made by individuals, businesses and industry groups in the private sector and agencies of other jurisdictions (which are already subject to competitive neutrality) who:

- are, or may be, directly and adversely affected by the competitive advantage alleged to be enjoyed by the Western Australian Government agency carrying on a significant business activity; and
- compete in a particular market with the Western Australian Government agency, or seek to compete in a particular market with the Western Australian Government agency but are prevented from doing so by the competitive advantage alleged to be enjoyed by the agency.

Responsibility for handling complaints under the Government rests with the Expenditure Review Committee which is a sub-committee of Cabinet. A Competitive Neutrality Complaints Secretariat (the Complaints Secretariat) situated within the Department of Treasury and Finance provides administrative support.

Complaints against local government for non-compliance with competitive neutrality are dealt with under a separate process coordinated by the Department of Local Government.

4.2.2 Complaints Handling Process

The complaints handling process involves complainants initially making contact with the agency alleged not to be complying with competitive neutrality to discuss (and, if possible, resolve) the allegation. If resolution of an allegation of non-compliance with competitive neutrality between the complainant and the relevant agency cannot be reached, complainants should then lodge a complaint in writing with the Complaints Secretariat. Allegations of non-compliance need to be accompanied by sufficient evidence to establish a prima facie case for investigating an agency's pricing strategy, cost structure and behaviour.

The Complaints Secretariat is responsible for the initial screening of the complaint. The Secretariat will determine whether the complaint falls within the scope of the complaints mechanism and warrants further investigation.

Where a complaint meets the criteria the Complaints Secretariat will carry out the investigation in accord with the clause 3 policy statement. The Complaints Secretariat reports its finding to the Expenditure Review Committee. The report contains an assessment of whether the Government agency enjoys a competitive advantage by virtue of its ownership by Government, and whether the removal of this advantage is in the public interest.

- Where the Complaints Secretariat concludes there has been no breach of competitive neutrality and the Expenditure Review Committee concurs with that recommendation, the Complaints Secretariat will advise the complainant in writing of this outcome. There is no appeal mechanism.

- Where the Expenditure Review Committee concurs with a finding by the Complaints Secretariat that there is a breach of competitive neutrality then the Cabinet committee may determine that the competitive advantage should be removed.

The Expenditure Review Committee will decide on a case by case basis what action should be taken if an allegation of non-compliance is proven, taking account of the seriousness and nature of the non-compliance. Monitoring implementation of any Government decision with respect to the removal of competitive advantages will subsequently be undertaken by the Treasury.

4.2.3 Complaints Received

The Complaints Secretariat has received no written formal complaints about the activities of Government owned businesses or businesses linked to Government where a concern or allegation of non-compliance to the policy competitive neutrality was raised.

The Secretariat has however received the following informal complaints:

- The private provider of radiation oncology services has contended that the pricing policy of the Charles Gairdner Hospitals' radiation oncology service may be in breach of competitive neutrality principles. The complainant contends that the radiation oncology service of Sir Charles Gairdner Hospital may not be commercially priced and could, as a result, unfairly compete with its services. In Western Australia, the operations of State owned hospitals are not subject to the principles of competitive neutrality however a competitive neutrality review has now commenced.

- A provider of tree seedlings has been concerned with the policy of the Department of Conservation and Land Management to provide trees below cost through funding provided through the Natural Heritage Trust. CALM is not subject to competitive neutrality however a competitive neutrality review of CALM's business activities is being undertaken. The complainant has been informed that the contract for production of the seedlings was let out to competitive tender and that the seedlings have been provided at less than their market price for environmental purposes, with the support of subsidy from the Federal Governments Natural Heritage Trust.

- A private company has made an informal complaint against the Department of Justice Prison Industries Programme in relation to a product manufactured in prisons which competes with products he sells. The complainant asserts that a 40% decline in his business turnover has resulted from the prison undercutting the market price by the use of cheap prison labour. Prisons in Western Australia are not subject to competitive neutrality, however a competitive neutrality review of the Prison Industries Programme is being finalised.

5. RELATED REFORMS

Western Australia is committed to the agreement to implement related reforms in the areas of water, gas, electricity and road transport and has substantially met its reform obligations. Sections 5.1 to 5.4 provide an outline of Western Australia's progress on each of the related reforms.

5.1 Water

Western Australia is committed to the effective implementation of the COAG agreements. In line with this commitment, significant reform has been undertaken in the adoption of two-part tariffs, further consideration of externalities and cross-subsidies across the State and the commitment by the WA Government to the establishment of an independent Economic Regulation Authority, which will have a role in the water industry. Finalisation of the move from gross rental based charges to a two part tariff structure, which already applies to almost all of the water customers across the State, will provide a more effective way to ensure water service users pay the right amount for their water usage, taking into account both the economic and environmental cost of that usage.

5.1.1 Pricing and Cost Recovery

Consumption Based Pricing

Water Supply Services

There are three main providers of water services in Western Australia: the Water Corporation; Aqwest (formerly the Bunbury Water Board); and the Busselton Water Board (BWB). All three organisations have made significant progress in eliminating free water allowances and gross rental values from water and wastewater charges and has implemented reforms for metropolitan commercial waste water services.

The Water Corporation has completed all water reforms for residential and business customers. Sewerage charges for metropolitan commercial customers have met COAG requirements with a two part tariff consisting of a fixed charge based on the number of major fixtures and a usage charge based on the volume of water discharged to the sewerage system. This reform required an overall reduction in business sewerage charges of $26 million per annum to align business sewerage revenue with costs.

Increases to the charges associated with the reform of metropolitan commercial wastewater services have been limited to 10 per cent per annum. The majority of increases required to align charges with usage have been completed.

There are no free water allowances for water service customers, except for a relatively small group of metropolitan 'exempt' properties that include local government community facilities, churches, hospitals, sporting facilities, museums and private schools. Water Corporation is removing these allowances and replacing them with a more suitable charging structure.

A discharge allowance of 200kL per annum is provided to commercial sewerage customers. This allowance avoids the cost of assessing discharge factors for properties where the resulting volumetric charges would be relatively small. All effluent must be discharged to the as a community health service. The discharge allowance will therefore not influence the frequency of use of the service.

The Water Corporation tariff reform program has progressively converted valuation based charges to a two-part tariff structure. These reforms are complete for water and the conversion for vacant land should be complete in 2002/03.

Sewerage and Drainage Services

The methodology for calculating business sewerage charges in the metropolitan area converted from GRV to a service and volume charge in 1995. This reform sought to reduce the cross subsidy between business and residential customers and introduce a cost reflective two-part tariff. A phase in period of six years was originally agreed. Lack of funding available for reductions has delayed the completion of this reform. A revised phase-in period has been proposed this year, with the program now anticipated to be completed by 2003.

The move towards a standard residential charge for sewerage in the metropolitan area is anticipated to be completed in 2008/09 if increases to the minimum charge are maintained. Options for dealing with financial hardship cases that may arise as part of these reforms are also being considered.

Options similar to the metropolitan charging structure have been developed for country commercial sewerage customers. The analysis indicates that there will need to be a significant redistribution of charges that will impact primarily on tourism and health industries. The government is still reviewing options for this reform.

Residential vacant land sewerage charges are still based on GRV however increases in the minimum rate (capped at 10 per cent plus a standard general price increase) have been applied.

Drainage charges to metropolitan residential and business customers (in catchment areas only) are based on property valuations. For residential customers, increases in the minimum rate will allow for conversion to a standard charge.

It is intended to convert the GRV charge to a land area based charge for metropolitan drainage business customers. A cross-subsidy still exists between business and residential charges. Currently, commercial properties occupy 5 per cent of the land but contribute in excess of 40 per cent of the revenue. Options for considering and addressing this issue are being evaluated.

Full Cost Recovery

The three main providers of water services in Western Australia have in place water supply tariffs based on achieving full cost recovery, in accordance with COAG requirements. In addition, the majority of Western Australia's urban wastewater services are now recovering costs consistent with CoAG commitments.

Tax Equivalent Regimes

The Water Corporation, Aqwest and the Busselton Water Board are subject to the National Tax Equivalent Regime in accord with the principles of competitive nuetrality. In 2000-2001, the Water Corporation paid over $160 million in income tax equivalents, payroll, land and other statutory taxes.

In 2000-2001 Aqwest made income tax equivalent payments of $1.0 million whilst the Busselton Water Board had an income tax equivalent credit of $11,700.

The City of Kalgoorlie-Boulder, as a local government entity, is not subject to the National Tax Equivalent Regime and hence pays no tax or tax equivalents.

Consideration of Externalities

Western Australia is committed to externalities being accounted for in important decisions involving water resources.

While regulation of the use of water resources is the mechanism currently used for internalising externalities, Western Australia is considering how best to value externalities through the use of a distribution rule for direct inclusion in prices. There are significant issues that require careful consideration before this can be finalised and implemented. A major challenge is to determine an appropriate level of charging to internalise the externality.

Externalities are however considered in all cases as part of the resource management decision making process and are therefore indirectly factored into the cost of any action which has the potential to produce environmental externalities.

For example, In the Perth coastal plain the environmental water requirements of wetlands are taken into consideration to ensure water table levels are maintained before allocations of groundwater extraction is considered. Examples include:

- The utility licences in the Gnangara mound area in the northern suburbs of Perth: These licences have conditions, which allow water to be extracted provided that water levels in nearby lakes and expression of ground water at historic spring and wetland locations is maintained.
- Between 40 and 50 major utility wells are shut down to maintain groundwater levels and tree health in the Perth area. This is a considerable cost met to minimise externalities, particularly as last year inflow to Perth surface catchments was just over 10 per cent of the required 270 gigalitre.

Asset valuation by Aqwest, Busselton Water Board and the City of Kalgoorlie-Boulder

The issue of asset valuation is being considered by both Aqwest and the Busselton Water Board in conjunction with the evaluation of a two-part tariff structure for their tariff system.

The City of Kalgoorlie-Boulder will be encouraged to adopt the deprival approach to asset valuation for the City's wastewater assets, which constitute approximately 1% of wastewater service assets of the State.

5.1.2 Institutional Reform

The institutional structure in the Western Australian water industry demonstrates substantial commitment to the strategic framework. Restructuring and corporatisation of the Western Australian Water Authority has resulted in the establishment of the Water Corporations, the Office of Water Regulation and the Water and Rivers Commission.

The Western Australian Government has committed itself to the establishment of an independent Economic Regulation Authority (ERA) with functions across various industries including water. The Authority will comprise of at least one and up to three Commissioners reporting to the Western Australian Treasurer, whilst water services will remain the portfolio responsibility of a separate Minister.

The ERA will perform a range of economic regulatory functions currently performed by Ministers, sector-specific regulators and public sector officials. It is proposed that the ERA will:

- independently regulate access to significant economic infrastructure under industry-specific access regimes;
- independently grant industrial licences and ensure compliance with terms and conditions applying to licences;
- make expert recommendations to Government about tariffs and charges for government monopoly services, and any other matters requested by the Government.

Management of Irrigation Services

Western Australia has made further progress in giving irrigators more responsibility in the management of the remaining irrigation schemes.

<u>Ord River Irrigation Scheme</u>

The Water Corporation currently owns Stage 1 of the Ord Irrigation Scheme, including the distribution system and the headworks (the Ord Main Dam and the Ord Diversion Dam). The Ord Irrigation Cooperative (OIC) has operated and maintained the distribution system under an operations and maintenance contract with the Corporation since 1996.

The Water Corporation and the Ord Irrigation Cooperative (OIC) have reached an agreement to devolve, subject to government approval, local management and plan to finalise arrangements by 30 June 2002.

The Corporation will continue to supply OIC with bulk water under a Water Supply Agreement. OIC will own, operate and maintain the Ord Irrigation Scheme (Stage 1)

distribution system and will have responsibility for retail water service delivery to growers in the Scheme. The Corporation would continue to own, operate and maintain the headworks, the M1 channel and the Hillside Levies.

Carnarvon Irrigation Scheme

In August 2001 an Operation and Management contract was signed (effective till October 2002) between the Water Corporation and the local irrigation cooperative. Subject to government approval, the transfer of the Carnarvon Irrigation Scheme to the irrigation cooperative is also planned for 30 June 2002. The Carnarvon Irrigation Cooperative will hold responsibility for:

- Retail water service delivery to irrigators within its designated district.
- Operations, maintenance and renewal of the pipe distribution system, service connections.
- Water resource management within its designated area including meter reading and measuring water quality.

5.1.3 Water Allocation and Trading

Water Allocations and Property Rights

Western Australia has continued to progress water allocation and property rights reform. A new registry system has been developed to register water licence holders. It includes the necessary forms to be completed by persons changing the status of their water holding or usage. The registry is expected to be available to the public in June 2002.

The registry is a resource registry maintained by a resource manager. Financial concerns, other than registration of a financial interest, are considered a matter for the justice system and courts. The Commission has no role in resolution of disputes of anything other than resource matters.

The uncertainty associated with the introduction of trading in water has led to some concern on the part of lenders with respect to security of loans previously made on land with tied water rights as land values will probably decrease as water is separately licensed and will now have a separate value. The Commission is committed to ensuring that financial uncertainty not be a hindrance to the operation of the water markets.

The Commission, industry and financial organisations have established a working group which is at present engaged in discussions to clarify issues arising from the registration of securities on licences when loans have been granted and security is required. A report on progress to date will be issued for further discussion in March 2002.

Provision for the Environment

Western Australia continues to progress the implementation of water allocations for the environment. The Rights in Water and Irrigation Act 1914 formalises Western Australia's approach to providing water for the environment through a tiered system of statutory water management plans (regional, sub-regional and local).

Environmental water provisions are set in water management plans in either the form of a notional or interim allocation limit, or through formal assignment in areas that the resource is highly or fully committed.

The table below indicates the current status of water management plans in Western Australia. The table includes a list of existing plans and the date of effect of these plans for both surface and groundwater systems. These plans continue indefinitely but are reviewed every seven years. However if water use has not increased the plans may be deferred.

Reviews are undertaken after:

- Plans have become outdated. The update takes into account increasing demand and changing water and land use patterns resulting in revised forecasts for future use, climate change etc.
- Where it is decided older plans do not have the comprehensive environmental allocation analysis required to establish environmental water requirements.
- Further data acquisition and analysis yields a better hydrological understanding leading to a revision of allocations with some being increased and some being decreased.
- A sharp increase in demand for allocatable water required a more comprehensive and exact determination of environmental water requirements and resource limits being undertaken.
- In some cases where greater 'in depth' public consultation was undertaken.

Table 1: Groundwater Allocation Plans & Management Reports Completed

Plan	**Year**	**Review Status**
Goldfields Regional	1994	Under Review
South West Coastal Groundwater Management Review	1989	Deferred
Broome Subregional	1994	Deferred
Derby Local	1992	Review 2001/02
Exmouth Local	1999	Review 2002/03
Jurien Subregional	1995	Review Completed 2001/02
Arrowsmith Subregional	1995	Review Completed 2001/02

Plan	**Year**	**Review Status**
Gingin Subregional	1993	Under Review
Gnangara Groundwater Resources, Environmental. Review and Management Program	1986/92	Under Review
Swan Subregional	1997	Under Review
Perth Northwest Corridor Groundwater Management Plan	1992	Deferred
Wanneroo Local	1993	Under Review
Rottnest Groundwater Management Review	1987	Deferred
Bolgart Groundwater Management Review	1990	Deferred
Cockburn Subregional	1993	Under Review
Rockingham/Stake Hill Subregional	1988	Under Review
Jandakot Groundwater Review	1991	Deferred
Busselton-Capel Subregional	1995	Under Review
Bunbury Subregional	1994	Review 2002/03
Collie Water Resource Management Strategy	1988	Review 2002/03
Murray Subregional	1997	Under Review
Albany Local	1991	Under Review
Esperance Local Draft	1997	Under Review 2000/01
Bremer Bay Groundwater Protection	1995	Review 2001/02
La Grange Subregional		In Progress (2002/03)
Pilbara Regional		In Progress (2001/02)
Kimberley Regional		In Progress (2002/03)
Carnarvon Local		In Progress (2001/02)
Gascoyne Junction Interim Local		In Progress (2001/02)
Marbellup Interim Local		In Progress (2001/02)
Kemerton Local		In Progress (2001/02)
Cape to Cape (Vasse) Subregion		In Progress (2001/02)
Bremer Bay local		In Progress (2001/02)
SURFACE WATER ALLOCATION PLANS COMPLETED		
Harvey Basin Regional	1998	
Perth-Bunbury Regional	1997	
Ord River	1997	Draft Interim
Murray		In Progress (2001/02)
Sub Regional		In Progress (2001/02)

Water Trading

Western Australia has in place a fully operational system for water trading. The new guidelines for water trading are formally established in '*Statewide Policy No.6 Transferable (Tradeable) Water Entitlements for Western Australia*' released by the Minister for Water Resources in 2001.

The policy was advertised in newspapers throughout the State plus a mailout to key stakeholders inviting comment. Written submissions were received from 31 stakeholders. The policy document follows the changes to legislation allowing for the transferable water entitlements from 31 July 2001.

The legislation sets out to give clear, appropriate and enforceable rights and responsibilities for all users of the resource. It separates the roles of government as sustainability manager from the roles of the rights holders and their commercial interests. It allows a 'bottom up' approach through local initiative to achieve economic efficiency and resource access.

It gives secure title to water and manages the resource on the basis of sustainability to ensure that the water provided under the title is available. The title is exclusive in that the rights give entitlement to manage and use the water as the owner chooses. The exclusivity and use of the licence are both enforceable through the courts. Although the licence is granted for a period of about 10 years the title is permanent in that it is normally renewed as long as the conditions of the licence are met and the resource managed in a sustainable manner. The title is transferable to enhance economic efficiency.

It is anticipated that Western Australian water trading will be characterised by a series of small localised markets with very thin levels of activity. At this time the only substantial water trading is in the South West Irrigation Scheme.

The Commission is working with regional communities to establish management groups. Groups in three areas have met and are well on the way to becoming formally established. These groups will have the responsibility to manage the resource.

The practice in the past in WA has been to reclaim licences that are not used (sleepers) and reissue the allocation. The introduction of markets has required a reassessment of former practice so the Commission is preparing a policy on sleeper licences.

The Commission may introduce a licence for a finite short/medium term that accesses resources that are reserved for future town supply. Discussion as to the feasibility for this form of licence and demand for the licence is currently being held.

Western Australia has few management areas that are fully allocated. Those that are fully allocated are mostly on the urban fringes of Perth.

The sale of land to effect a change of land use from horticulture to housing with the expansion of the urban fringe has in the past freed associated allocated water for

reallocation by the resource manager. This situation has now changed as retiring horticulturalists can now sell their water allocation.

For example management areas in the Gingin area north of Perth have recently become fully allocated and have purchasers seeking more water. This is an area that has recently changed the intensity and type of agricultural/horticultural enterprises.

By contrast to the south of Perth in the Pinjarra area, irrigation scheme water is available. In this area water is used for pasture irrigation and agriculture has shown limited signs of change to date. However, where soils are suitable some intensification to horticulture is taking place. Trading of water between scheme users has been operating for some years with most trades being a seasonal trade at about the cost of water from the cooperative. In most years there is still a surplus available.

For most areas of the state there have been low demands made on water sources. In addition, provisions have been made for environmental requirements before allocations for extractive uses have been made. It therefore does not have to take back allocation for environmental purposes. For these reasons the pressure of a reducing level of supply is not significant in WA and is not among the drivers to create a market in water trading.

5.1.4 Environment and Water Quality

Water Quality Management Strategy

Western Australia is committed to implementing the national water quality management strategy. The State Strategy was released in May 2001 and has been fully adopted as State Government Policy. It reflects Western Australia's response to the National Water Quality Management Strategy.

The State Water Quality Implementation Plan is soon to be released for public comment.

The National Water Quality Management Strategy guidelines for fresh and marine water, water quality monitoring, reporting and drinking have been sent to government stakeholders. Comment has been received and is incorporated in the draft. The next stage will be a non-governmental stakeholder workshop in March 2002.

A Senior Review Panel of Government representatives Chaired by the Commission is responsible for implementing the State Strategy. This Panel will be active in ensuring the necessary work commitment across the Commission and other Government departments is recognised and prioritised.

A Community and Industry Advisory Committee formed to assist in the implementation of the State Strategy held its first meeting on 8 February 2002. This Committee is involved in strategic level policy formulation, guideline preparation and water quality management programs, objectives and strategies.

Protection plan processes for water supplies have continued. For example source protection plans are progressing for Quinninup and Preston Beach, have been completed for Derby, and are in progress with the Water Corporation for several Perth Hill Catchment sources.

The plans for Quinninup and Preston Beach have been released for public review. In the case of Quinninup the development of the plan has been an excellent example of the consultation process. The initial public meeting to commence the development of the Source Protection Plan encountered major opposition from the local community who saw an imposition of water quality protection on a recreational water supply.

As a result a local Advisory Group was formed and worked through all of the relevant issues concerning the use of a water source for supply and recreation. After a period of twelve months of detailed consultation and regular meetings, the Advisory Group unanimously decided to ban all recreational pursuits on and around the water source in order to preserve the quality of the water.

Integrated Catchment Management

Cabinet has endorsed an Integrated Catchment Management–Natural Resource Management (NRM) policy for the State. This policy excludes fisheries and minerals.

The Minister for Agriculture and the Minister for Environment oversee the NRM processes. A Senior Officers group on NRM has been formed from departments associated with Agriculture, Conservation and Land Management, Water and Rivers Commission, Department of Environmental Protection, Ministry for Planning and the Department of Land Administration.

Partnership agreements between Government and NRM groups are in development to provide support, clarify expectations and quantify deliverables.

The management operates through five NRM groups, namely South Coast, South West, Swan, Avon and Northern Agriculture which put into practice the relevant aspects of NRM policy. It is intended to establish additional NRM groups in the Pilbara and Kimberley soon. Each NRM group has a number of subcatchment groups and these in turn have a number of local action groups. Membership includes representatives from across the community and Government.

Chair persons of the NRM groups, senior government representatives and representatives of the Pilbara and Kimberley form a Regional Chairs Coordinating Group.

The Commission is in the process of developing a high value water way strategy which will be taken through the normal public consultation process. Allocation planning for extractive use will take into consideration the high value waterway strategy.

A statewide waterways needs assessment methodology is used to assess each waterway in terms of value, condition of the waterway, the pressure on the waterway and required management response. The rigour of each assessment is tailored in

accordance with the demands and condition of the waterway and includes environmental, social and economic parameters usually on a subjective assessment basis.

5.2 Gas

Western Australia has implemented a broad range of structural reform initiatives in the gas industry to ensure a competitive market conducive to private investment. These initiatives have included disaggregation of the major domestic gas supply contracts, separation and corporatisation of the former State-owned gas and electricity utilities, structural separation of the gas transmission and distribution functions, and privatisation of the separate state-owned transmission and distribution systems. These initiatives have been reported in section 3.2 dealing with Structural Reform of the Downstream Gas Industry.

Other major commitments in implementing free and fair trade in gas relate to the implementation of a nationally consistent regime for access to gas pipelines and the move towards full retail contestability. Progress in this regard is reported in section 6.1 on Access issues and the Downstream Gas Industry.

In relation to the regulation of prices, the *Energy Coordination (Gas Tariffs) Regulations 2000* provide for the regulation of gas retail tariffs. The Gas Retail Deregulation Project Steering Group (see section 6.1.2) is considering issues associated with the regulation of retail tariffs in the transition to full retail contestability. This includes considering the role of the proposed Economic Regulation Authority.

The Coordinator of Energy assists the Minister for Energy in planning and coordinating energy supply in Western Australia. Part 2A of the *Energy Coordination Act 1994* enables the Coordinator of Energy to issue gas distribution and retail trading licences, the Governor to exempt or cancel a licence, and the Minister for Energy to enforce compliance with a licence. It is proposed that the gas industry licensing function would be transferred to the Economic Regulation Authority upon a future date to be proclaimed by the responsible minister. This date is expected to coincide with the commencement of full retail contestability.

In terms of safety regulation, the Director of Energy Safety is authorised to deal with safety and technical issues in relation to the supply and use of gas, including the licensing of gas fitters and the adoption of appropriate technical standards for installations, appliances and supply systems.

5.3 Electricity

Western Australia continues to take very seriously its need to ensure ongoing electricity reform despite not being able to participate in the national electricity market. Western Australia is encouraging competition through increasing the number of contestable customers, providing access to the transmission and distribution systems, and promoting private sector involvement in the industry.

Under its legislation review program, Western Australia has reviewed a range of statutes and regulations pertaining to the electricity industry. This was reported in section 2.4.

The Government is committed to major structural reform and associated review of how the Western Australian electricity industry is regulated. As reported in section 3.1, the Government has established the independent Electricity Reform Task Force to progress the electricity reform agenda. The review being conducted by the ERTF accords with Western Australia's obligations under Clause 4 of the CPA.

The implementation of an effective third party access regime and the move towards full retail contestability are reported in section 6.2.

With the electricity industry becoming increasingly competitive, in December 2001 the Government established the *Electricity (Supply Standards and System Safety) Regulations 2001* under the *Electricity Act 1945*. The regulations set out technical and safety obligations for those operating electricity supply networks. The Director of Energy Safety is authorised to deal with safety and technical issues in relation to the supply and use of electricity, including the licensing of electricity operatives (electrical workers and electrical contractors), and the adoption of appropriate technical standards for installations, appliances and supply systems.

5.4 Road Transport

5.4.1 Second Tranche Reforms

Western Australia is committed to the adoption of the package of road transport reforms agreed to by the Australian Transport Council as required under the Agreement to Implement National Competition Policy and Related Reforms.

The majority of the National Driver Licensing Scheme reforms were introduced in Western Australia in early 2001 following the passage of the *Road Traffic Amendment Act 2000*. The remaining reforms will be introduced via further amendments to the Road *Traffic Act 1974* and associated regulations contained in the Road Traffic Amendment Bill 2002. The drafting of that Bill is well advanced and it is expected to be introduced into Parliament during the Autumn 2002 session.

Reforms to vehicle operations and heavy vehicle registration and standards, via the *Road Traffic Amendment Act 2001*, were assented to on 21 December 2001 and the associated regulations are to have a commencement date of 1 July 2002.

Attachment 1 entitled 'Progress on National Road Transport Reforms" includes detail of the status of implementation for the road transport reforms.

5.4.2 Third Tranche Reforms

The NCC has not finalised the Third Tranche Assessment Framework for road transport reforms. Nevertheless, the third tranche assessment table in Attachment 1 has been drafted on the basis of the proposed framework. It shows that the reforms that are part of the draft framework are either not required or have already been implemented in Western Australia.

6. ACCESS

The Western Australian Government remains committed to access to services provided through significant infrastructure facilities, where appropriate, because it enhances the competitiveness of Western Australian businesses and will generate savings to consumers and small businesses. Access on reasonable terms to the services of gas pipelines and transport facilities, for example, is important in development of the State's vast but isolated oil, gas and mineral reserves.

Access, at the correct price, permits competition to emerge in markets that rely on monopolistic providers for key infrastructure based services. The benefits of competition can include lower prices for business and household consumers, improved export competitiveness, and overall improvements in the allocation of scarce resources.

Access regulation should seek to balance investment incentives and reasonable returns to the provider against the broader social and economic benefits of reducing the scope for monopoly pricing and increasing competition. There is some scope to improve the Part IIIA framework so as to provide greater certainty in its application and ensure that incentives to invest in key infrastructure industries are not distorted.

6.1 Downstream Gas Industry

A legal right of access to gas transmission and distribution systems has been created by the *Gas Pipelines Access (Western Australia) Act 1998*, which implemented the National Third Party Access Code for Natural Gas Pipeline Systems in Western Australia. The covered pipelines include the major gas transmission pipelines and the gas distribution system in WA. Having established an independent Gas Pipelines Access Regulator in 1999, and with the gas access regime certified as effective under the *Trade Practices Act 1974* in May 2000, Western Australia stands to benefit from the enhanced competition and efficiencies that effective access regulation will bring.

The *Gas Pipelines Access (Western Australia) Act* (excluding the Gas Pipelines Access Law), is scheduled for review by the Minister in November 2002, to consider the effectiveness of the operations of the Western Australian Independent Gas Pipeline Access Regulator, the Western Australian Gas Review Board, and the Western Australian Gas Disputes Arbitrator. As a national regime any significant changes to the Code must be agreed unanimously with other jurisdictions.

It is envisaged that the functions of the independent Gas Pipelines Access Regulator will be subsumed by the proposed Economic Regulation Authority upon its establishment. Subject to Parliamentary processes, the Authority is expected to be established by 1 January 2003. Further details on the Economic Regulation Authority are provided in Section 3.3.

6.1.1 Pipeline Access

A number of proposed Access Arrangements for pipelines covered by the Code have been lodged with the Gas Pipelines Access Regulator for approval. The Regulator in each case reviews the proposal and conducts a public submission process to make an informed decision whether to approve or request amendment to the Arrangement. The Regulator also enforces the ring-fencing arrangements of the Code.

Significant decisions made by the Regulator thus far include approvals of Access Arrangements for the AlintaGas Mid-West and South-West Gas Distribution Systems, the Tubridgi Pipeline System and the Parmelia Pipeline.

The Regulator has also issued final decisions on the ring fencing arrangements for the Tubridgi Pipeline System, the Parmelia Pipeline and the Associate Haulage Contract Between AlintaGas Networks Pty Ltd and AlintaGas Sales Pty Ltd

Significant matters remaining with OffGAR include the Access Arrangements for the Dampier to Bunbury Natural Gas Pipeline, and the Goldfields Gas Transmission Pipeline. Draft decisions have been released for each of these pipelines and final decisions are not expected until some time after the Supreme Court actions underway against the Regulator's Draft Decision for both these pipelines are finalised.

In October 2001, the NCC received an application of revocation of coverage of the Parmelia Pipeline under the *Gas Pipelines Access (WA) Act 1998*. The application was submitted by CMS Gas Transmission Australia, the operator of the Parmelia Pipeline. The NCC's final recommendation was that coverage should be revoked because it could not be satisfied that all four of the criteria in section 1.9 of the National Gas Access Code were met. In particular, the NCC was not satisfied that coverage of the pipeline would promote competition in either the upstream or downstream market or that it would be uneconomic for anyone to develop another pipeline to provide the services provided by means of the pipeline. After considering the recommendation submitted by the NCC the Minister for Energy made the decision on 13 March 2002 to revoke coverage of the Parmelia Pipeline effective from 1 April 2002 (subject to appeal to the WA Gas Review Board).

6.1.2 Full Retail Contestability

The Government is committed to the establishment of a competitive gas market in Western Australia. Allowing customers to choose their preferred gas retailer is an outcome of the Government's energy industry reform process, and will meet Western Australia's obligations under the Competition Principles Agreement, and the recently agreed CoAG National Energy Policy. The *Gas Pipelines Access (WA) Act 1998* sets out Western Australia's timetable for access to the AlintaGas distribution system.

The phased implementation of gas contestability is an ongoing process in the Western Australian gas market. Contestability is designed to bring about a lower cost and reliable energy supply. On 1 January 2002 the market became contestable for those customers consuming one or more terajoules (TJ) of natural gas per annum, such as hospitals, hotels, restaurants, laundries and bakeries.

The last stage of legal contestability is scheduled to begin on 1 July 2002, when legal impediments to access for over 440,000 small business and household customers, consuming less then 1TJ per annum, are removed. However, contestability is likely to be delayed in practice until mid-2003. This reflects the longer than anticipated time required for putting in place the necessary rules, systems and regulatory framework to support a fully contestable gas market.

The Minister for Energy established in July 2001 the Gas Retail Deregulation Project Steering Group (GRDPSG) to consider issues necessary to facilitate full retail contestability.

The GRDPSG has been designed to involve all key stakeholders in an appropriate manner and to take advantage of the expertise and commitment of the gas industry, customer groups and other major stakeholders to achieve Full Retail Contestability. Membership of the GRDPSG comprises gas industry, government representatives and consumer interests, and is supported by a series of technical working parties.

The principle responsibility of the GRDPSG is to consider the transition of the Western Australian gas retail market from a regulated to an open market with due regard to inter-governmental agreements and with the objective of delivering net benefits to gas customers. The GRDPSG is also to agree on and endorse the systems, rules codes and other specific arrangements necessary to support Full Retail Contestability and the processes and mechanisms by which they will be implemented.

In accordance with its Terms of Reference, the GRDPSG is to specifically address the following matters in relation to a fully contestable gas retail market:

- determination of a market operator to manage systems, rules and provide services in order for the retail market to operate;
- systems, rules, services and specific arrangements to manage customer transfers between retailers and for the determination and allocation to retailers of gas deliveries to consumers, balancing of gas supplies and deliveries and settlement of accounts;
- consumer protection and education, including the need for and establishment of an Energy Ombudsman;
- emergency gas supply management and procedures;
- back-up retailer arrangements (retailer of last resort) and marketing code of conduct;
- operational issues related to differing ownership of gas distribution systems; and
- pursuing consistency with other jurisdictions, where appropriate.

6.2 Electricity

Open, transparent and non-discriminatory access to network services is a prerequisite to a competitive electricity market. The Government of Western Australia has a third party access regime in place for Western Power's electricity transmission and distribution systems. The *Electricity Corporation Act 1994* provides for the Minister for

Energy to issue Access Orders that prescribe the manner and timing for the granting of access. Schedules 5 and 6 of the Act, and the *Electricity Transmission Regulations 1996* and the *Electricity Distribution Regulations 1997* provide the framework for access.

6.2.1 Access Regime

Open access has been made available to Western Power's transmission network since January 1997 and to its distribution network in a series of steps since July 1997. This was consistent with the former Government's policy of introducing competition in a phased fashion, without undue risk to system stability. Lower contestability thresholds apply in respect of off-grid regional locations and for energy supplied from renewable sources. The services provided by Western Power's transmission and distribution networks in the South West Interconnected System are currently the subject of an application for declaration under Part IIIA of the *Trade Practices Act, 1974*.

In addition, in consultation with stakeholders the triennial review of the pricing methodology and economic principles underpinning the determination of pricing for access to Western Power's transmission and distribution networks has been completed. Access pricing papers that contain the prices Western Power may charge third parties to transport electricity through Western Power's wires to users have been published.

Impediments to access are continuing to be addressed through Ministerial consultative committees (that recommend changes to the access regime). For example, the balancing regime has been relaxed for smaller loads and renewable energy and the charge for stand-by capacity has been reduced.

6.2.2 Electricity Access Code

It is anticipated that a Western Australian Electricity Access Code will be implemented to complement the structural and market design reforms required for Western Australia. The Electricity Reform Task Force is to develop recommendations for Government in regard to this Electricity Access Code. Such a Code is to be, where appropriate, consistent with the National Electricity Code and National Gas Code, ultimately meeting the requirements for certification under the Part IIIA of the *Trade Practices Act 1974*.

Depending on the timing of its creation, it is possible that the Economic Regulation Authority may assume interim responsibilities under the existing Western Power access regime in anticipation of the commencement of the Electricity Access Code.

6.2.3 Full Retail Contestability

Contestability thresholds are being progressively lowered. In July 2001 the threshold was lowered from an average load of at least 1,000 kilowatts or 8,760 megawatt hours per annum to the current level of an average load of 230 kilowatts or 2,000 megawatt hours per annum at a single site. This represented an increase in the number of contestable customers from 120 to around 450, meaning that contestability extended to approximately 40 per cent of Western Power's total sales.

From January 2003, customers using an average load of at least 34 kilowatts or 300 megawatt hours per annum will become contestable. This extension of open access to Western Power's electricity networks will increase the number of contestable customers to around 2,500, representing approximately 50 per cent of Western Power's total sales.

As indicated in Section 3.1 the Government aims to give all electricity customers freedom to choose their own supplier by a target date of 2005, extending contestability to 100 per cent of Western Power's total sales. As part of its deliberations on full retail contestability, the Electricity Reform Task Force will likely make recommendations to the Government on the need for an analysis of the costs and benefits prior to any move to full retail contestability.

6.3 Rail

Western Australia has established a rail access regime designed to provide a framework for the negotiation of access to rail services provided by the State's public rail network.

The Rail Access Regime, which comprises the *Railways (Access) Act 1998* and the *Railways (Access) Code 2000*, became fully operative with the proclamation of the Act on 1 September 2001 and the appointment of an acting Rail Access Regulator. The acting nature of the position is for the period leading up to the creation and appointment of the Economic Regulation Authority (see Section 3.3). The acting Rail Access Regulator has all of the functions and powers of a permanent Rail Access Regulator.

The rail freight network subject to the regime was owned by the Government agency, Westrail, until its lease to the Australian Railroad Group in late 2000. The urban passenger rail network, which is also subject to the regime, continues to be owned and operated by the Government. The access regime does not cover other privately owned railways such as the iron ore railways in the Pilbara.

As part of the State's application to the NCC to certify the Western Australian access regime for rail services, the Code was developed through two national public consultation processes as part of the NCC's assessment. These national and State consultation processes raised many issues concerning the detailed content of the Code, and the Code underwent significant amendments to address the concerns raised, including the establishment of the Office of the Rail Access Regulator. There is now broad agreement among the parties within Western Australian on the Code.

At the national level, the NCC agrees that the Western Australian regime meets the requirements for an effective access regime under Part IIIA of the *Trade Practices Act 1974*. However, there is a remaining issue, which from the NCC's perspective is a barrier to certification, regarding nationally consistent access arrangements for interstate operators. The State withdrew its application for certification in October 2000.

7. CONDUCT CODE

Western Australia has met its core obligation under the Conduct Code Agreement (CCA) by implementing the schedule version of Part IV of the *Trade Practices Act 1974* (TPA) through its enactment of the *Competition Policy Reform (Western Australia) Act 1996*.

Since that time, Western Australia has continued to comply with the CCA by notifying the Australian Competition and Consumer Commission (ACCC) of any statutory exceptions occurring in Western Australian legislation to the application of Part IV of the TPA. The exceptions have effect under Commonwealth law due to the operation of section 51(1) of the TPA.

Western Australia has notified the ACCC, in accord with clause 2(3) of the CCA, that Western Australia had one law which existed as of 11 April 1995 and continued to provide exemption from the application of the *Trade Practices Act 1974* beyond 20 July 1998. The statutory exception is contained in clause 42 of the Agreement set out in the Schedules to the *North West Development (Woodside) Agreement Act 1979* and was introduced by the *North West Gas Development (Woodside) Amendment Act 1994*.

Western Australia subsequently notified the ACCC, in accordance with clause 2(1) of the CCA, of a further statutory exception introduced into the *North West Development (Woodside) Agreement Act 1979* as clause 41A of the Agreement by the *North West Gas Development (Woodside) Agreement Amendment Act 1996*.

Western Australia continues to be an interested participant in the consultative mechanisms set out in clauses 4 and 6 of the CCA, relating respectively to appointments to the ACCC and to amendments affecting the operation of Part IV of the TPA.

ATTACHMENT 1:

Progress on National Road Transport Reforms

Second Tranche Assessment Framework

Reform Project	Legislation/action required	Current implementation status and change since last report to the NCC
National Heavy Vehicle Registration Scheme National Reform Project 2	To be introduced via amendments to the *Road Traffic Act 1974* and Regulations.	The amending Act was assented to on 21 December 2001. The drafting of supporting subsidiary legislation is well advanced.
National Driver Licensing Scheme National Reform Project 3	**Part 1** Introduction of the National Drivers' Licence Classifications and compulsory photographic licences is to be achieved via passage of a Bill to amend the *Road Traffic Act 1974*. **Part 2** The remainder of the Scheme to be introduced via additional amendments to the *Road Traffic Act 1974* and Regulations.	**Part 1** An amending Act was assented to in 2000. Its provisions and supporting regulations commenced operation on 7 May 2001. **Part 2** Drafting of an amendment Bill is well advanced. The amendment Bill is expected to be introduced into the Parliament during the Autumn 2002 session.

Reform Project	Legislation/action required	Current implementation status and change since last report to the NCC
Vehicle Operations National Reform Project 4 **Heavy Vehicle Standards** National Reform Project 5	Introduction of the following national models: • Australian Vehicle Standards Rules; • Mass and Loading; • Oversize and Overmass Vehicles; and • Restricted Access Vehicles; is to be achieved via amendments to the *Road Traffic Act 1974* and Regulations.	The *Road Traffic Amendment Act 2001* was assented to on 22 December 2001. The supporting amendment regulations will be considered by the Executive Council of Western Australia in March 2002, and will have a commencement date of 1 July 2002.
One Driver / One Licence National Reform Project 9	To be introduced via amendments to the *Road Traffic Act 1974* and Regulations.	As for "National Driver Licensing Scheme, National Reform Project 3".
Enhanced Safe Carriage and Restraint of Loads National Reform Project 13	Regulations to adopt the national model were disallowed by the West Australian Parliament in 1998. The amending regulations will be reintroduced when amendments to the regulation-making powers contained in the *Road Traffic Act 1974* are in place.	As for "Vehicle Operations, National Reform Project 4" and "Heavy Vehicle Standards, National Reform Project 5".

Reform Project	Legislation/action required	Current implementation status and change since last report to the NCC
Interstate Conversion of Drivers Licences National Reform Project 15	Linked with the National Driver Licensing Scheme. Introduction will require minor amendment to Regulations made under the *Road Traffic Act 1974*.	The enabling Regulations commenced operation on 18 September 2000.

Draft Third Tranche Assessment Framework

Reform Project	Implementation target	Comments
Combined Vehicle Standards	June 2002	The *Road Traffic Amendment Act 2001* was assented to on 22 December 2001. The supporting amendment regulations will be considered by the Executive Council of Western Australia in March 2002, and will have a commencement date of 1 July 2002.
Australian Road Rules	Already implemented in WA	
Combined Bus and Truck Driving Hours	Not required	ATC Ministers have agreed this reform will not be applied in WA.
Consistent On-Road Enforcement for Roadworthiness	Already implemented in WA	
Second Charges Determination	Already implemented in WA	
Axle Mass Increases for Ultra-low Floor Buses	Already implemented in WA	